

TRANSCRIPT OF PROCEEDINGS

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CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

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MRS M. DOOGAN, CORONER

15

CF No 154 of 2003

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CANBERRA

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

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DAY 20

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Wednesday, 3 March 2004

45

[10.35am]

<IAN MOUNTFORD BENNETT, RESWORN

5 <EXAMINATION-IN-CHIEF BY MS CRONAN

MS CRONAN: Q. Mr Bennett, if I could take you back to the planning meeting on the afternoon of 15 January. I think you said yesterday that you  
10 were aware that Mr Koperberg had earlier that day spoken to Mr Lucas-Smith and made an open-ended offer of assistance to Canberra in relation to resources; is that correct?

A. Yes.

15

Q. How did you become aware of that offer of assistance?

A. I am unsure as to whether or not it was via a direct conversation with Peter Lucas-Smith or  
20 whether or not it was essentially raised in that afternoon meeting of the 15th.

Q. What did you understand that offer to be?  
What did you understand it to involve?

25 A. Essentially that the ACT Bushfire Service and the New South Wales Rural Fire Service had reached an agreement where they would use resources collectively to combat the fires.

30 Q. Did you become aware that day at any stage that Mr Koperberg had done an interview with 'Stateline' in which he said that "this is probably the worst threat to this part of the state in many decades"?

35 A. No, I was not aware at the time.

Q. You didn't hear any conversation about that interview around ESB --

A. No, I did not.

40

Q. I take it it was not discussed at that planning meeting that afternoon?

A. Certainly not what I recall.

45 Q. When you were at the planning meeting do you recall any conversation about preparing to brief Cabinet on the situation with the bushfires?

A. No, I don't recall any discussion in relation to that.

Q. You were not told anything about that?

5 A. No, I was not involved.

Q. When you say you don't recall that, is it the case that you were definitely not told that?

A. Yes, I believe so at the time, yes.

10

Q. If I could just take you to the notes of that planning meeting, which are at [ESB.AFP.0110.0154] at 56. If you could just look at the top paragraph of those notes that were taken at 15 the planning meeting. Do you see "worst fires of careers. Monday worst weather potential. 1 in 20. 1 in 40 fc" - I can't interpret that.

A. Fire conditions.

20

Q. "For Monday". Do you recall those words being used?

A. Yes, I do.

Q. What was the context?

25

A. Essentially, as I recall, it was a statement made by the planning officer, Mr McRae, at the completion of the report given by the liaison officer from the Bureau of Meteorology.

30

Q. What did you understand him to be saying to the meeting at that point?

A. I understood that collectively the group could expect no immediate respite from the fire conditions and that potentially we were moving 35 into something that many people, if not all people, in that room had the potential to encounter.

40

Q. Go to page 157. Go about halfway down the page. You see the words, "McIntyre's" - something - "pretty good. South and east sides contained. Weather may change north north-west. Sign diff Yass S". If I take you to the last line of that paragraph, "Doctor's Flat Road north-east 45 side trail hard to hold." Do you recall that part of the conversation?

A. No, I don't specifically. I at this stage was

still endeavouring to orientate myself with the specific rural locations.

Q. So you were not following the meaning of what 5 was being said in the meeting?

A. Certainly when it got to specific locations I was not. I think, as I mentioned yesterday, my focus was predominantly on what were seen as the outcomes of these meetings in relation to what 10 was to be undertaken.

Q. So if they were talking about "Doctor's Flat Road, north-east side, trail hard to hold", you would not interpret that as a threat to the ACT? 15

A. Not specifically, no.

Q. Were you told that day that another request had been made by ESB for Commonwealth assistance to assist with bushfire fighting efforts? 20

A. I was aware that a request had been made. As to the specific time that I became aware, I am uncertain. But certainly there had been a second request.

25 Q. How did you become aware of that second request?

A. I am unsure, I am sorry, whether it was in the - essentially part of the briefing or possibly a subsequent conversation.

30

Q. Were you shown the request for Commonwealth assistance?

A. No, I wasn't.

35 Q. Were you aware that it said, "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"? 40

A. I was not aware of that document at the time. I was aware of - in relation to weather, I was aware of what the Bureau of Meteorology liaison officer had spoken about, but not aware of that 45 document at that time.

Q. So really the only thing you got out of

Wednesday's meetings was we were about to have bad fire weather?

A. Essentially the weather would continue to pose challenges, yes.

5

Q. Did anybody specifically tell you at ESB on that day that the predicted weather would cause concern for the urban environment in your responsibility?

10 A. No, I don't believe so.

Q. So if we could go then to 16 January, paragraph 34 of your statement, which is [AFP.AFP.0110.0330]. Paragraph 34 is at 336. You say on 16 January to the best of your recollection you attended the morning and afternoon planning meetings. Do you have an actual recollection of attending the morning planning meeting on the 16th?

20 A. Yes, I do.

Q. Do you recall who else was present at that planning meeting?

A. I have been able to or I have attempted to actually establish the exact people who were there primarily by reference to the planning minutes. I am aware that this particular planning meeting was chaired by the operations officer, Mr Graham. I believe Mr McRae was there accompanied by some other people from the planning cell. Mr Ingram.

30 Q. If I could take you to [ESB.AFP.0004.0219], at 20. Is it the case, Mr Bennett, that you took a more active participation in this planning meeting than you had at previous planning meetings?

A. In relation to reporting on what our intended activities would be in the near future, that was, I believe, the extent of any verbal input I had to that meeting.

40

Q. Can you recall essentially what you said at the planning meeting?

A. Yes. In essence, yes. That, as I mentioned yesterday, I had approached Mr Lucas-Smith on the Wednesday in order to establish an appropriate time to provide an overview and briefing to additional fire service officers. In fact, what

I was reporting to that meeting was that - to that planning meeting, was that this meeting was to occur that afternoon, and that following on from that meeting we would be looking at what plans we 5 needed to put in place, subject to requests for further involvement.

Q. It says there:

10 "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."

15 Is that the meeting you were referring to in that paragraph, the meeting you had with Mr Lucas-Smith in the afternoon?

A. I guess what that sentence is encapsulating is 20 that, following on the briefing that Mr Lucas-Smith was to give, we would be looking at a potential increased involvement outside the urban area subject to the requirements.

25 Q. So you would be sending your tankers and light units outside the urban area?

A. At this stage we needed to plan for that. It had not occurred to date. The ACT Fire Brigade to 30 this point in time had had no direct response activities in relation to these fires.

Q. So you had stood up your extra crew members but you had not had to respond?

A. Not to the vicinity of these fires. These 35 extra crews were responding to, if I could use the term, routine calls unassociated with the events that were occurring to the west.

Q. And those routine calls were in what vicinity?

A. Well, certainly the majority of our responses 40 at that time would have been standard call responses for an urban fire service. But, as I understand, there had been some isolated occurrences where we had responded to grass fires 45 in or around the interface area.

Q. What information did you possess on

the morning of the 16th that led you to believe you would have to have an increased participation in the rural areas outside of Canberra?

A. Essentially at this point in time I was basing  
5 the bulk of my thoughts on the weather that had been predicted, and the fact that it was evident that the bulk of the resources of the ACT Bushfire Service were engaged, and that collectively we would need to be able to cope with any further  
10 escalation.

Q. Did you have any idea at this stage where you might have to do that?

A. Not specifically, no.

15 Q. It also says there:

"The ACT Fire Brigade and the ACT Ambulance Service are to meet to discuss urban  
20 contingencies".

Can you tell the coroner what is meant by that particular sentence?

A. My reading of that sentence was that during  
25 that meeting, I think probably at the time, I told the meeting that we would be having this planning meeting that afternoon. The representative of the ACT Ambulance Service asked if it would be possible for some ACT Ambulance Service personnel  
30 to also attend that meeting. So I believe that that is a reference to the same meeting that was to occur that afternoon, where an invitation was extended to the Ambulance Service to attend.

35 Q. What were the urban contingencies that you were going to discuss?

A. Essentially it was looking at our capacity to escalate, if required, and to look at the possibility of establishing strike teams that  
40 were going to respond outside our primary jurisdiction, and whether or not we had the appropriate resources in order to do that.

45 Q. But the contingencies that are referred to there are urban contingencies within your normal sphere of operations; is that correct?

A. I am not - yes, I have taken that to be a

reference to predominantly the fire brigade and the Ambulance Service, who are predominantly based within an urban environment as opposed to the rural environment.

5

Q. Do you recall any discussion at that meeting about contingencies needing to be looked at in the context of a threat to the urban environment?

A. Not specifically at that meeting, no.

10

Q. Could I ask you to look at - this might assist your memory - [ESB.AFP.0110.0108] at 112. Just go down to where it says "FB". I presume it is "fire brigade". "Focus on outlying structures in south-west Tidbinbilla". Was that discussed at the meeting, do you recall?

A. I guess it was, yes.

Q. Can you recall that?

20 A. Not specifically, I am sorry.

Q. It says:

25 "Planning meeting this afternoon. Potential for structural and rural task force".

Is that the recollection you have just told us about?

A. Yes, it is.

30

Q. It says "urban activities quiet". Was there a discussion about what you were currently doing in the urban environment?

A. Yes. I probably gave just an update. It 35 would have been more likely to have involved what our activities were like on the interface in relation to the expanded role that we were playing on behalf of the Bushfire Service.

40 Q. Is there anything else of significance that was mentioned at this meeting that you can recall?

A. No. The weather was --

45 Q. The weather was the thing that stuck in your mind?

A. Was the key thing to me.

Q. Did anybody say to you before that meeting or during that meeting that there was any threat to the urban environment of Canberra from the fires that were burning in the mountains?

5 A. No.

Q. So what was your understanding of the situation when you left that meeting?

A. Essentially that the work that was currently 10 being conducted in those western areas in and around the ACT would be of particular importance over the next couple of days; that the window for continued containment or successful containment had somewhat narrowed; and, as I mentioned before, 15 it was probably the time at which we looked - or I was considering that we would go from an essentially passive role outside these fires to needing to be in some way, shape or form prepared should we be called upon.

20

Q. What was your level of understanding of what might occur if containment was not successful?

A. At --

25

Q. At that point in time?

A. Well, it was nothing accurate or clear other than the fact that the potential for our response further afield from our response area was more likely than not.

30

Q. Was anything said at the morning planning meeting about Mr Castle and Mr Lucas-Smith going off to brief Cabinet that morning?

A. Yes, I believe that is how Mr Graham opened 35 the meeting, explaining why he was actually chairing that meeting, because Mr Lucas-Smith and Mr Castle were attending another meeting, a government meeting.

40

Q. Were you told why they were at a Cabinet meeting?

A. I understood it to be that they were providing a briefing to Cabinet.

45

Q. Do you know what the nature of the briefing was?

A. No, I didn't at that point in time.

Q. Are you aware now that part of that briefing that they gave to Cabinet included the words:

5 "However" - this is in relation to the New South Wales fires - "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 forest pines and subsequently the urban  
10 area."

A. I am aware now. I was not aware at that point in time.

15 Q. You were not aware on the morning of the 16th?  
A. No.

Q. When did you first become aware that that was contained in the Cabinet meeting?  
A. When that was contained in the Cabinet  
20 meeting?

Q. Yes.  
A. Not until this stage of the coronial inquiry actually commenced.

25 Q. You are aware now that the Cabinet was also briefed that assets under potential threat included the urban edge?

A. I am aware of that now, yes.

30 Q. When did you first become aware of that?  
A. At the same time that I became aware of the document. I had not seen that document nor at any stage was I specifically aware of what  
35 the contents of that particular briefing was, or were.

Q. Do you have any explanation or can you offer any explanation to the coroner why Mr Lucas-Smith and Mr Castle would brief Cabinet about that threat and not advise you in explicit terms about that threat?

45 MR JOHNSON: Could I object to that. I think the witness has said that he was aware there was going to be a Cabinet briefing because Mr Graham said something like that on the morning of

the 16th. He was not involved in it. He had not seen any briefing document. He has learned that those words were in the briefing document for the first time in this inquest. But then to ask  
5 him to explain in the way that it has been put, in my submission, goes beyond this witness's role to date. If there are questions of this witness as to what he learned perhaps during the course of 16 January himself, that may ultimately allow some  
10 question as to what was his state of knowledge at that day.

But all that has been established to date is that he did not see the Cabinet briefing document until  
15 this inquest, and so that formula of words typed in that document, he had not seen those.

So I would submit to invite him to comment in the type of way that he is being asked at this  
20 stage is not helpful and is premature. Perhaps the better course, and it is obviously a matter for my friend and your Worship, it being your Worship's inquiry, is to explore further what Mr Bennett did come to learn during the 16th. So  
25 I would ask that that course might be taken at this stage, your Worship.

THE CORONER: He is only being asked to comment on whether he is aware of any reason why he was not informed of this information. That is all. He can comment on that. He can say, "Yes, I was" or "no, I was not". He can comment on that, Mr Johnson. I am sure he will be asked as to exactly what he became aware of in the discussion  
35 of the 16th with Cabinet and any other events of the 16th. So he can certainly comment on whether or not he was aware of any reason why, and that is what he is being asked.

40 MR JOHNSON: Any reason why?

THE CORONER: Does he know of any reason; that is the question.

45 MR JOHNSON: Any reason for what, your Worship? This is the question. He is being asked is there any reason why --

THE CORONER: As far as he knows; to his knowledge. He may have learnt something subsequently. He may not have. I don't know. But it is not an unfair question of him. If he 5 can't answer it, he can't answer it and I am sure Mr Bennett will say so.

MS CRONAN: Q. So you have given evidence that you were not told explicitly about that threat 10 that Cabinet were actually briefed on that morning. Do you know of any reason why you were not briefed by Mr Lucas-Smith and Mr Castle in those explicit terms in which Cabinet was briefed? A. At that time?

15 Q. Do you know why you weren't told? A. At that time, no, I don't. I assume that this was information that was prepared leading up to that briefing. I don't believe I had any contact 20 with Mr Lucas-Smith or Mr Castle prior to that briefing occurring, and I would assume that that is why that information was not at this time provided to me.

25 Q. Because you didn't have any contact with them? A. Yes.

MS CRONAN: I will leave that there for the minute. Your Worship, I am told that 30 the computers are not working. We cannot get any documents up and there is no real-time transcript. Perhaps if we could adjourn shortly to see what the problem is with the computers.

35 THE CORONER: Yes, I will take a short adjournment and we will see if we can rectify the situation.

**SHORT ADJOURNMENT**

[11.05am]

40 **RESUMED** [1.35pm]

THE CORONER: Mr Bennett, I should say to you I am told that the system has been fixed. It is unfortunate this has happened in the middle of 45 your evidence. I am assured at least it will get through the afternoon and then hopefully from thereon in. We will just keep our fingers

crossed.

5 MR LAKATOS: Before Ms Cronan resumes, if I might say, Mr Johnson has been detained. We can continue. He attends his apologies. There is no sign of disrespect. They are matters that need to be looked after.

10 MS CRONAN: Q. I think you said, before we had to adjourn, you didn't see either Mr Lucas-Smith or Mr Castle before the planning meeting in the morning of the 16th; is that correct?

A. I didn't see them prior to them attending the cabinet meeting.

15 Q. You did have a meeting with Mr Lucas-Smith at 2 o'clock that afternoon; is that correct?

A. That's correct.

20 Q. Did you have any contact with either Mr Lucas-Smith or Mr Castle between the morning planning meeting and the 2pm meeting?

A. No, I don't believe I did.

25 Q. When you went to the meeting at 2pm, you said earlier that you had recalled some of your senior firefighters to attend that meeting; is that correct?

A. Yes, that's correct.

30 Q. Who did you call to attend that meeting?  
A. Essentially at that point in time I was very keen to have more officers attached either to headquarters or working in command areas within 35 our fire brigade operations teams brought up to speed with what the situation had been and what the current situation was. As a result of that, I tried to ensure that all senior personnel that were rostered for duty in addition to a number of 40 acting district officers that were not rostered for duty could be recalled.

In addition to that, I actually cancelled the leave of I believe two officers that at that stage 45 were occupying positions within the day work management team of the fire brigade.

Q. Do you recall the names of the people who attended that meeting?

A. I could probably. At the risk of perhaps not by intention excluding people, there was

5 Mr Prince, Mr Newham, Mr Thorntwaite, Mr Hobbs - Peter, Mr Collins, Mr Canham, Mr Barr, Mr Cartwright, Mr Ross.

Q. Was there anyone from the Ambulance Service?

10 A. Yes, I believe there were at least two ambulance officers there, Mr Dutton and I believe Mr Hanson. And in addition to that I understand that there were several communications people also attended that briefing, a Mr Shore, a Mr McCleary. 15 There may well have been other fire officers that I have omitted to reference at this point in time but, to the best of my recollection, those people were there.

20 Q. In paragraph 34 of your statement you say:

"At approximately 1400 hours Peter Lucas-Smith briefed approximately 12 senior members of the fire brigade about the developments with each of the fires then burning and the current fire management strategies being utilised."

30 Can you recall now what he said about the development of the fires and the fire management strategies?

A. Essentially Mr Lucas-Smith provided, with the assistance of maps, initially a bit of a history lesson for urban firefighters in some significant 35 fires that had occurred within the district over the past 60 or 70 years. Two fires in particular, I believe to be the '39 and '52 fires.

With the aid of a map Mr Lucas-Smith demonstrated 40 to us what the extent of those two particular fires were at those times.

Q. Can you describe for us now what he demonstrated on the map?

45 A. Essentially my understanding of it was that he indicated that, in the two significant fires that I've referenced, essentially they started either

to the north or the north-west or the west of the ACT and I guess in a rough mapping showed what the extent of the fire travel was in relation to the ACT.

5

Q. Where did it travel in relation to the ACT as he showed you?

A. At one of those fires, I am not sure which one, I recall Mr Lucas-Smith telling us that that 10 fire had reached what today would be the Canberra Hospital.

Q. Did he say why he was showing you the historical fire runs?

A. This was part of, I guess, a bit of a history so we could get a sense for these sorts of fires and what these fires potentially can have the capacity.

20 Q. "Potentially". Did he tell you what that potential was conditional upon?

A. For the 2003 fire?

Q. Yes.

25 A. Obviously reference was made, following on from that discussion on those historic fires, to what the current situation was in relation to the fires in Namadgi and the Brindabellas. While I don't recall the specifics, Mr Lucas-Smith did 30 point out and I believe referenced on a map the basic containment strategies that had been developed and were being implemented by the Bushfire Service in relation to that particular - those particular fires as at Thursday the 16th.

35

Q. Do you recall if he gave you a percentage or a probability of containment lines successfully holding those fires?

A. No, I don't recall a definite figure or 40 percentage being quoted. Mr Lucas-Smith was obviously referencing points during that briefing that the overall success of various containment lines would be contingent on what the weather conditions would be.

45

Q. Perhaps if I could show you a document [ESB.AFP.0026.0195], and if we could go down to

the bottom section of that page. I am showing you what we understand to be probably the only set of contemporaneous notes taken at that meeting.

These were taken by Officer Cartwright. Do you  
5 know Officer Cartwright?

A. I do, yes.

Q. Can you read there where it says:

10 "Peter Lucas-Smith briefed meeting on fires in Brindabella. Two fires had merged approx 50/50 chance fires would break containment lines with strong westerly winds."

15 Do you recall anything like that being said whilst you were listening to the briefing?

A. No, I don't. But I have no reason to doubt Mr Cartwright's contemporaneous notes.

20 Q. But you personally don't recall?

A. No, I don't personally recall.

25 Q. What's your best recollection of Mr Lucas-Smith's predictions of successfully containing the fires behind the containment lines as he showed you?

30 A. As I mentioned, it was largely dependent upon the weather. Mr Lucas-Smith was not specifically - to my recollection, certainly didn't give us an ironclad guarantee that these fires would stay contained.

35 Q. But when you say it was largely conditional upon the weather, what did he say to you about the weather?

40 A. These are my thoughts, not necessarily paraphrasing what Mr Lucas-Smith said, but certainly the weather that was expected over the weekend, particularly with the winds from the north-west, you know would, as I understand it, put some strain or pressure on those containment lines. There was a need for the work they were currently doing to be completed prior to the weekend.

45 Q. What did he tell you would or may occur if the containment lines were not successful?

A. Again, I don't recall specifically. I think I drew my own conclusions that this would obviously have the potential to threaten, certainly at that point in time in my thinking, the forests that sat to the west of Canberra.

5 Q. Which forest did you have in mind?

A. I guess the pine forests, the Uriarra pine forests.

10

Q. Were you thinking in terms of the Stromlo pine forest?

A. Not specifically at that point in time, me personally.

15

Q. When he drew the path of the historical fires on the map to indicate the sweep of those fires into Canberra, did that indicate anything to you about the potential of these fires behaving in a similar fashion?

20

A. Well it showed what the historic fire behaviour had been. I think to some extent the reference to those fires, and I believe Mr Lucas-Smith may well have mentioned this, was tempered by the fact that the resourcing, the technology and the fire management strategies that were in existence and certainly were available in 2003 would make a significant difference to the fires of '39 and '52.

30

Q. Essentially he was telling you that fires have come into the ACT in the past, there's a possibility that containment lines won't be successful but we have better resources than they had back in '39 and '52?

A. Yes, ma'am.

35

Q. Did you consider that you were being put on alert to prepare for the possibility that fires might come into Canberra?

40

A. Certainly being put on alert that the level of activity that the fire brigade was currently undertaking, which was basically nothing in a response phase, could quite possibly be escalated, and certainly gave us notice that we should start preparing to ensure that we had the capability to escalate over the next five days.

Q. Can we just break that down. To ensure that you had the capability to escalate, what did you consider at that point of time that you needed the capability to do over the next five days?

5 A. In order to escalate men?

Q. No, why would you need to escalate?

A. Okay. There was probably a reference to that in these minutes of this morning, that for the  
10 first time I believed there was the potential that we would possibly respond outside the interface area ACT fire brigade crew vehicles in direct support of the Bushfire Service operations. That was probably the significant potential for  
15 escalation that I saw at that time. That in itself then raised some logistical issues from an ACT Fire Brigade point of view in quite clearly there would be a need to continue with the elevated crew sizes that we had had in operation  
20 now for eight or nine days, and also this was the trigger or point in time where we started looking at what additional capability could we muster.

Q. For the purpose of going outside of Canberra?

25 A. Well, specifically at that point in time but also in preparation for any potential involvement closer to the urban edge.

30 Q. So you were considering potentially responding at the urban edge at that meeting?

A. We needed to have the capability to do that, yes, ma'am.

35 Q. Did you gain from that meeting any understanding of when you needed to have that capability by?

A. As a result of that meeting, I left that meeting quite clearly believing that Monday the 20th was going to be, at that point in time, a  
40 potential day of probably the worst conditions that we'd experienced to date.

Q. Did that accord with what you heard Mr McRae say on the afternoon before about weather  
45 conditions that were forecast?

A. Yes, I believe it did.

Q. Did you recall Mr Lucas-Smith telling the meeting about how they should treat the information he was giving to the fire brigade and the ambulance?

5 A. Yes, ma'am, I do - vaguely.

Q. What did he say about that?

A. It's my recollection that very early on in the meeting Mr Lucas-Smith did make a reference that  
10 the information that he was providing to us should not leave the room. I took that to be a reference, because I think Mr Lucas-Smith opened his address, he advised us that essentially the briefing that we were being given was the same as  
15 the meeting that had been given to cabinet that morning. At the time I didn't think anything about that particular statement. To be honest, I have not thought again about that statement until the issues were raised in this court recently.

20

Q. If I could refer you once again to Mr Cartwright's notes. Specifically where he said:

25 "Advised didn't want alarm public and media. This info not to leave room. Said he would deny it if it got to the media."

Do you recall any words like that being used?

30 A. Yes, I do, ma'am.

Q. What words do you recall?

A. Probably not as specific as what has been referenced by Mr Cartwright. But there was a  
35 reference I believe towards the end of the meeting where Mr Lucas-Smith indicated that - words to the effect that, if this got to the media or if the media asked him about it, he would deny it.

40 But I'd like to point out that I took that to be a reference in jest as a bit of a tension breaker and I personally didn't take that either as a threat or anything else. The meeting, believe it or not, had some tinges of humour associated with it in order to, I guess, break the tension.

45 It was again my understanding that the comment was

certainly made or words to that effect were certainly made. I didn't take those comments seriously at all.

5 Q. But you complied with his request, did you, to keep the information confidential?

A. Well, no, not explicitly. As I said, I didn't really pay much heed to that. I mean, the purpose of that particular meeting was to allow the other 10 agencies of the Emergency Services Bureau to commence their planning operations. As referenced earlier, both the fire brigade and the ACT Ambulance Service was there. The purpose of the meeting was to allow us to do that. If we were to 15 keep the information within the room it wouldn't have allowed us to basically undertake any planning.

Q. You said you were told you were getting 20 essentially the same briefing as was given to the cabinet that morning; is that right?

A. As I understand it, by way of introduction Mr Lucas-Smith did reference the fact that he had that morning provided a briefing to cabinet. I 25 took that in his statement to be in the context that this was basically or essentially the same information.

Q. Was there any discussion then at this meeting 30 that you had about what to do if you needed to implement or activate a state of emergency?

A. No, I don't believe there was any reference to that component within our meeting. It was, I guess, a briefing tailored to the audience. No, 35 certainly I don't recall any reference to the state of emergency being mentioned.

Q. If I can refer you again to Mr Cartwright's notes where he has made a record:

40 "Suburbs at possible risk from Namadgi fires was western suburbs of Tuggeranong and Weston Creek."

45 Do you recall any words used by Mr Lucas-Smith identifying specific areas of risk?

A. I personally don't, ma'am. As I say it would

accord with the information. I have no reason to doubt the contemporaneous notes that Mr Cartwright would have taken.

5 Q. You said that Monday was identified as the bad fire day at that meeting; is that right?

A. That was certainly the impression I was left with.

10 Q. Was there any discussion at all about the forecast weather conditions for Saturday that you can recall?

A. Yes, ma'am, there was. They were quite similar to the weather - I guess the weather 15 outlook that had been provided at the briefing that morning by the Bureau of Meteorology liaison officer.

Q. Did you notice that the forecast weather 20 conditions provided that morning were essentially the same weather conditions forecast for the Monday, the following morning?

A. Yes. Yes. I believe - I distinctly recall the Monday being referenced as the worst day 25 because I guess in tone with some of the comments made a throw-away line to the officer that was rostered for duty on that particular Monday, I was hoping that I'd see him at work on that particular day. That is what made it stick in my mind.

30 Q. Getting back to the afternoon meeting on the 16th, what if anything did Mr Lucas-Smith tell you about the weather conditions on Saturday in comparison or in addition to the weather 35 conditions on Monday?

A. Well, my understanding was, as I said, essentially it was as it was provided. There were no good days coming up, with the exception possibly of a small respite on Sunday; but more or 40 worse was yet to come.

Q. So you knew following the morning planning meeting and this afternoon briefing that Saturday was going to be a bad fire day; is that the case?

45 A. It was certainly the conditions, the weather conditions were becoming worse.

Q. Immediately after that meeting the brigade's IMT was established; is that right?

A. Yes, ma'am.

5 Q. Did you stay around at ESB to assist with the establishment of the IMT or did you go back to the Winchester Centre with Mr Lucas-Smith?

A. No, I didn't. The officers or some of the key officers, as I said some officers had been called  
10 in off-duty and had either commitments or get ready for the afternoon roster. But a number of core officers went off to start working on our planning arrangements. And I immediately accompanied Mr Lucas-Smith into Mr Castle's  
15 office, the briefing with CPO Murray and Commander Newton occurred at the ESB.

Q. So you didn't have any opportunity to speak to your senior officers before you went to the  
20 Winchester Centre?

A. No, I didn't.

Q. Can you recall when you arrived at the Winchester Centre - sorry the briefing of the  
25 chief police officer took place at --

A. It actually occurred at Mr Castle's office at ESB.

Q. Who was present at Mr Castle's office when you  
30 arrived?

A. Mr Castle obviously, CPO Murray and Commander Newton. I don't believe anybody else was present.

Q. Can you recall what took place for the period  
35 that you were in the room?

A. To the best of my recollection, ma'am, when Peter and I arrived, Mike had been - well, I guess essentially briefing. He had commenced a brief to Mr Murray and Ms Newton. Shortly after Peter's  
40 arrival, I believe Peter took the lead role in providing a briefing or a similar briefing to what the fire brigade had received to Mr Murray and Ms Newton, again referencing maps.

45 Q. Was it the same map that was used in your briefing?

A. No, I don't believe so. I believe Mr Castle

may have had the same - a copy of the same map or in fact Mr Castle may have had the map that was used in cabinet. I'm not 100 per cent sure. But certainly when I walked in with Mr Lucas-Smith, he 5 had the map with him that had been used in the fire brigade briefing.

Q. What was drawn on the map that was used to brief the Chief Police Officer?

10 A. It was almost a carbon copy of the plotting of those historical fires again, those same two fires.

Q. Do you recall if there was any discussion in 15 this meeting about the probabilities of fire again coming into the urban environment of Canberra?

A. No, I don't, ma'am. I don't recall there - again, those percentage figures, I have no recollection of those.

20 Q. What conversation did you hear in relation to where the fires might --

A. As I said, really, it was basically the same briefing as we got in relation to where those 25 previous fires were. And there would have been or there was reference again to what the current position was in relation to the establishment of control lines or containment lines that the Bushfire Service collectively with the New South Wales Rural Fire Service had been working on.

Q. Was there a discussion about the difficulty of holding the fires at those containment lines?

35 A. I think the discussion particularly in relation to the weather outlook was consistent with the information that we were given.

Q. Was there any discussion about the difficulties that they were facing in successfully 40 holding the fire at the containment lines?

A. I don't recall specifically. But there would have been, by inference, at least that the weather conditions would severely test the containment lines that the Bushfire Service had been working 45 to.

Q. Specifically the gusting north-west winds?

A. Yeah, the north-west winds forecast for the weekend.

5 Q. Whilst you were in the room was there any mention to the CPO about cabinet having been briefed?

A. I don't recall that, no. I would assume that that would have been part of Mr Castle's preamble.

10 Q. Do you recall whether or not the Chief Police Officer was told at that briefing that there was perhaps a 40-60 per cent chance of a state of emergency being need to be called?

A. Certainly not while I was in the room, no.

15 Q. Was there any mention of a state of emergency?  
A. Not that I can recall, at the time that I was actually in the room.

20 Q. I take it you weren't at that time a member of the Emergency Management Committee; is that right?

A. Yes, I was. The position of Fire Commissioner has occupied a position on the Emergency Management Committee for quite some time.

25 Q. If we could go to paragraph 36 of your statement. You say:

30 "Although various contingency planning occurred from the fire brigade's perspective through that afternoon, no operational response tasks were undertaken in relation to bushfires. The planning was essentially ensuring that all fire brigade appliances  
35 (including the reserve fleet)" --

The reserve fleet, what was that?

40 A. In addition to the 9 pumbers that we operate throughout our stations, we also have some older vehicles, some older appliances, usually between 10 and 15 years of age that certainly I refer to as our reserve fleet - or at that stage it was our reserve fleet. These vehicles are used from time to time to replace a front-line pump that may be off the road for either routine maintenance or as 45 a result of any other aspect that deems it to be non-operational at that point in time.

So at that point in time, as I recall, we had three pumpers in our reserve fleet. I believe we had a fourth pump or pumper that arrived some time that week but wasn't fitted out for operations responses.

5 My reference in paragraph 36 was in relation to ensuring that those vehicles which don't normally remain fully equipped with the relevant 10 firefighting equipment, breathing apparatus as such were replenished as part of an ongoing escalation strategy, if we needed to and actually could call up more crews further down the track.

15 Q. Essentially that afternoon you made sure that all your 9 pumpers and vehicles were fully operational and your reserve fleet could be called up?

A. That was work taken up by members of the fire 20 brigade. It commenced then. It continued on certainly for the next 24 hours.

Q. Then you say "towards the end of that day I spoke with various members of the brigades IMT and 25 received briefing on their preparation planning activities". If I could take you now to a document [AFB.AFP.0001.0001]. I might hand you a copy of this document if I could. Do you recognise that document?

30 A. Yes, I do, ma'am.

Q. That's the fire brigade's report - the Fire Brigade Incident Management Team report on their activities during the 2003 January bushfires; is 35 that correct?

A. Yes. I understand it to be actually a report developed by the planning component but essentially I have read the document.

40 Q. Did you participate in compiling this report?

A. No, ma'am. I understand this document, certainly at this stage that it is at now, occurred either just before or just after I went on leave. I hadn't seen this document until late 45 last year.

Q. If you go to 0003, which is page 3 of that

report, it says:

5           "Based on the information received from  
Mr Peter Lucas-Smith, it was felt by the  
senior officers that there was a possibility  
of an urban rural interface fire occurring.  
Also based on the information received from  
Mr Peter Lucas-Smith, it was felt that the  
likely time the wildfire would reach the  
10          suburbs would be on Monday, 20 January. As  
such an ACTFB IMT was established consisting  
of Fire Commissioner Ian Bennett."

I take it you were the incident controller of the  
15          IMT?

A.          As head of the organisation, I would be  
ultimately responsible; that's right.

Q.          Were you the incident controller of the IMT?

20         A.          Yes, in a sense. We did not, in effect,  
conduct, certainly before the 18th, any formal IMT  
meetings where the key representatives all  
attended. Essentially at this point in time and  
certainly up to the 18th, it was very much in a  
25         planning phase. I relied on getting intelligence  
from the various cells more so one on one rather  
than meeting collectively as a group. That said,  
I would be the incident controller for any fire  
brigade activities at that level.

30

Q.          I think in your statement at paragraph 35 you  
say:

35         "On that day 16 January the brigade's IMT was  
comprised of Superintendent Peter Newham,  
(operations), Acting District Office Mick  
Collins (Planning) and Acting District  
Officer Phil Canham (Logistics)."

40         Is that right?

A.          Yes, that's correct, ma'am. By reference, I  
would sit across the top of those people.

45         Q.          Every IMT needs to have an incident  
controller, don't they?

A.          Certainly, yes.

Q. What specifically was that incident management team formed to do?

A. To develop up - I think I've started to reference some of those - to develop up contingencies that the ACT Fire Brigade may need to draw on in relation to being able to, as I said before, escalate or transition up or turn into response - move from I guess a passive role to a response role as seamlessly as we could. For example, the logistics area under Mr Canham was essentially responsible for ensuring that he could source the appropriate equipment that needed to be placed on those spare vehicles so that they would meet our requirements and be deemed operational.

15 Mr Collins looked at issues associated with planning, some of which I have referenced in my statement. Whereas the operations cell, as I understand it at that time, were predominantly looking at ensuring that we could continue to draw on our off-duty firefighters to maintain that enhanced crewing level.

25 Q. All of this contingency planning was for the purpose of making sure you could deal with the possibility of the fire coming upon the urban/rural interface, wasn't it?

A. Well, not just that. It was also at that point in time, as I think I mentioned earlier, my perception was that we may well need to respond, I guess, outside the interface area into the rural area in support of the Bushfire Service. So really it was planning for a response role.

35 Q. Were you planning to respond to any fires coming into the urban environment of Canberra as of the evening of 16 January?

A. That was certainly within our planning arrangements, ma'am, yes, or being prepared if that situation eventuated.

Q. I think the IMT had a meeting at 3pm that afternoon - when you say in your statement paragraph 36:

45 "Towards the end of the day I spoke with various members of the brigade's IMT and

received a briefing on their preparation and planning activities."

5 I assume you received a briefing from them on their meeting at 3pm that afternoon?

A. Yes. Yes, I did. And what work was in progress.

10 Q. If we could go back to page 3 of the fire brigade report. The result of that 3pm fire brigade planning meeting was that the planning liaison officer would be Mr Moore, the media liaison person would be Acting Superintendent Prince and station officer Hannon. Contingency 15 planning was a team effort with no specific officer assigned; is that correct?

A. As I understand it, ma'am, yes.

Q. Was this reported to you that afternoon?

20 A. Not in this level of detail.

Q. There was also, would you agree from this report, a weather and Bureau of Meteorology liaison person, Station Officer Whittle?

25 A. Yes, ma'am.

Q. An AFP liaison person was Station Officer Whittle?

A. Yes.

30 Q. And the risk assessment of vulnerable areas of the western urban/rural interface was tasked to Station Officer Nester?

A. Yes.

35

Q. What is SFQ?

A. Senior firefighter qualified.

40 Q. F Prichard. The legislation and government solicitor's office liaison was Acting District Officer Collins, and fire safety systems and regular business was station officer Biggs. There were a number of other appointments over the page. Significantly being rural community liaison - that 45 is Uriarra, Pierce's Creek, Stromlo forestry settlements, was also Station Officer Biggs. Do you agree that all occurred amongst your senior

planners that afternoon, to your knowledge?

A. Look, I was not aware at that point in time of essentially the people that were assigned to those tasks. Certainly at that time I was more 5 interested in what the tasks the team as a whole were conducting.

Q. Perhaps I could ask you, what were you told when you were briefed at the end of that day that 10 your senior officers were actually tasked to do, regardless of who was doing --

A. In relation to the planning cell?

Q. Yes.

15 A. Basically part of the planning was to make contact with ACTEW in relation to water supplies on the western edge, as I understand it. I think there may well have been an inquiry made, I believe it was Station Officer Biggs - I didn't know this at the time - as to whether or not there 20 was any way in which the pressure could be supplemented for those areas.

There was also contact made with some key 25 institutions, as I understand, or representatives from ACT Housing, to be more specific, in relation to just checking on what level of preparedness from a fire position the outer lying settlements or what state they were actually at.

30 I am aware there was also contact made with the captain of southern brigade, Mr Jeffery.

Q. Val Jeffery?

35 A. Val Jeffery. Just to confirm what we believed to be the case that the water supply in the Tharwa area is not without assistance appropriate for firefighting. And again I guess I'm using my statement more so for reference, there was also 40 contact made with representatives of the ANU in relation to the Mt Stromlo Observatory or with the fire safety officer from the ANU. That was from a planning perspective.

45 In addition to that, the logistics cell as I mentioned earlier was liaising with the Bushfire Service SMT, more specifically the logistics

officer attached to the SMT, Mr Ingram, to avoid any duplication in acquiring any resources that were required. He was concentrating his efforts predominantly on, as I've said before, ensuring  
5 that we had the appropriate levels of equipment that would be required. From an operations point of view, again as I mentioned, I spoke to Mr Newham, and my concern there or the key issue for me at that point in time was to be our ability  
10 to sustain the increased numbers of firefighters.

Q. Perhaps if I could take you to page 0008 of that report. If you have a look at the movements of Station Officer Biggs that day, he effectively  
15 between 3.30 and 5.30pm on that day:

20 "Made contact with Mr Dymke from ACTEW. Made contact with Mrs Bernadette Scargill from ACT Housing to warn her of the fire threat to Uriarra Road, Pierce's Creek and Stromlo  
forestry/rural settlements. And he recommended evacuation arrangements should be considered and all onsite firefighting equipment is checked to ensure it is  
25 functioning as designed."

Were you aware that that specific contact had been made that day?

A. Yes, I wasn't aware by who and to who at that stage, but essentially I knew that our planning cell had been in touch with ACT Housing with specific reference to those particular areas.

35 Q. Whose responsibility did you understand it to be that afternoon to actually warn the residents of the forestry settlements about the possible threat from the fires? Was it your incident management team or ACT Housing or the Bushfire Service? Did you have an understanding of whose  
40 responsibility it was?

A. Not at that point of time a clear understanding. I was keen to ensure that anything we did would complement the overall objectives and strategies of the Bushfire Service. I understand  
45 that liaison was occurring between our shadow IMT and the Service Management Team that existed within the Bushfire Service to avoid several

things - a duplication of effort or an inconsistent message being passed out.

5 Q. So can we be clear, you did not consider it to be - I am not suggesting it was - the responsibility of your IMT to physically warn those residents on the 16th of January?

A. I didn't see it as being our personal or, you know, exclusive to the ACT Fire Brigade. It was a 10 team effort. Any actions and strategies to be taken in relation to those sorts of efforts would have been complementary to anything being undertaken by the Bushfire Service.

15 Q. Do you know what was the purpose of contacting ACT Housing?

A. I think it was just to ensure that they had been put on notice. It is, I guess, consistent with the fact that at that point in time that's 20 where we saw the potential threat.

Q. Further down at the end of the page notes that Officer Biggs also on the afternoon of 16th:

25 "Made contact with D. Ingram from the Bushfire and Emergency Services operations and made inquiries as to the assistance, support and warnings being provided to rural residents, lessees and land owners."

30 Are you aware from Officer Biggs about what information he received from Mr Ingram that afternoon about the warnings being given?

A. No, ma'am, I'm not. I didn't directly speak 35 with Mr Biggs on that particular day.

Q. At the bottom of that page your senior officers you will see made contact - one of them, Mr Hannon, made contact with Ms Amy Lowe regarding 40 necessary warnings and messages to be sent to the public regarding the bushfires?

A. My understanding of that would be that that 45 would have been more of a courtesy to Ms Lowe to advise her that, if she needed to source any information through the fire brigade, the planning section had assigned someone to be a key point of contact.

Q. You don't understand that Mr Hannon received any information from Ms Lowe about what was planned in relation to giving out warnings?

5 A. No, I don't believe that that would have been the purpose for that particular conversation.

Q. If we could go over the page to page 10, the last paragraph. You will see:

10 "Station officer Nester that afternoon also made contact with the fire safety officer for the ANU and Mt Stromlo to warn them of the pending bushfire threat. Station Officer Nester was advised that evacuation strategies  
15 were in place and the onsite firefighting equipment was functioning correctly."

Did you have any information from Mr Nester about his movements that afternoon in relation to  
20 Stromlo forest?

A. No, not directly. Essentially the advice I was given by I believe Mr Collins was that officers working within that area - these were amongst the activities that they had to undertake.  
25 I certainly wasn't aware of the extent of individuals at that point in time. And not to this extent until I actually first saw this document some time late last year.

30 Q. But you were aware that your senior officers were undertaking this type of activity?

A. Yes, I was. I was aware that they were undertaking precautionary methods.

35 Q. They were under your command whilst doing this?

A. Most certainly.

Q. You are aware now that Station Officer Nester 40 also contacted Natasha someone from ACT Forests to warn her of the pending bushfire threats, Uriarra and Pierce's Creek rural settlements"?

A. Yes, I am aware of that now. I wasn't at the time.

45 Q. If you can go to page 12 of that report. Were you aware on that afternoon that Senior

Firefighter Prichard, who had been tasked to do a risk assessment of vulnerable areas on the western urban/rural interface, made contact with Acting District Officer Cartwright and advised him to have operational crews to check all access gates and trails on the urban/rural interface and become familiar with the parks at the rear of the urban infrastructure; were you aware of threat?

5 A. No, I don't believe I was specifically aware of that at that particular time. A lot of these things were occurring simultaneously by a group of people. Really at that point in time I was looking at it more from an overall perspective.

10 Q. These things weren't being done under your direction?

A. Not under my specific direction, ma'am, no.

15 Q. These sort of standard routine tasks that you would expect if there was a pending threat?

A. They are the activities that we would expect to be carried out. Certainly in recent years I don't believe that we've been - we've had to scale up to this level of preparedness. But these are 25 the types of activities that I would expect people to undertake during these times.

Q. You went to the afternoon planning meeting for the Bushfire Service?

30 A. Yes, I did, ma'am.

Q. That was held at its normal time at 4 o'clock on 16 January? We could go to [ESB.AFP.0010.0168]. Do you have a copy of those 35 in front of you?

A. Yes, I do.

Q. I note looking at them that there is nothing 40 in the minutes about any possibility of the fires impacting on the urban/rural interface. Was that not something that was discussed at the afternoon planning meeting?

A. No. It's quite likely that at that point of time it wouldn't necessarily have been discussed. 45 These meetings essentially were again, as I understood them to be the bringing together of the Bushfire Service Service Management Team to share

information and to articulate what the strategies would be for the next period of time.

5 Q. There is nothing also in the planning minutes about the Fire Brigade and the Ambulance Service having been alerted to escalate their operational response capabilities at least?

10 A. There is no reference to that, ma'am. I guess at the time this meeting commenced those activities were under way, but they either weren't referenced by myself or another brigade person present at that particular meeting or didn't appear in the completed minutes.

15 Q. Did you brief the SMT about what your IMT were doing that afternoon?

A. I don't recall specifically speaking on that particular path. It was something that was occurring. I believe if I had said anything significant it would have appeared in the minutes.

Q. You don't recall saying anything about your brigade's responses?

25 A. No, ma'am. I would not at that point of time have been aware of the extent of the planning that was being undertaken by the fire brigade, based on the fact that I accompanied Mr Lucas-Smith to the briefing with Mr Murray. And I don't believe I saw any of my officers between the completion of 30 that meeting and the commencement of the 4 o'clock meeting.

Q. You would have gone to the 4 o'clock meeting and then been briefed by your own IMT after that?

35 A. After that meeting.

Q. Is it essentially the case that, on the afternoon of the 16th of January, your IMT was operating separately and on its own from the SMT 40 with points of contact between the two management teams?

A. That was the intent at that point of time. This is around about the time I believe when we started to experience some physical restraints 45 because of the layout of the building and the people actually occupying the building.

So the various areas of the fire brigade were working in quite separate locations across the building. The key thing was that each were to establish some form of liaison, of communication back with the centralised Bushfire Service Service Management Team.

Q. Do you recall anything being said at that meeting about the McIntyre's Hut fire?

A. I don't recall specifically any particular reference to it.

Q. Do you recall any reference to aerial ignitions being made?

A. I have a recollection of people raising the issue of aerial ignition. What I don't have a clear recollection of is at which particular meeting did that actually occur.

Q. When you left the planning meeting on the afternoon of 16 January, what was your understanding about the level of risk of the fire reaching the urban interface?

A. I don't think that level of risk had actually changed in any way, shape or form from the earlier briefing that Mr Lucas-Smith had provided. The situation remained, as I understood it, as it was that particular day.

Q. So you went to the planning meeting at 9.30am on the 17th of January?

A. Yes, ma'am.

Q. Have a look at [ESB.AFP.0110.0868]. Were you present while Mr Mason, I think it was, gave the weather briefing that morning?

A. Yes, I was.

Q. Did you note that the prediction given on Friday morning was that the fire weather conditions for Saturday were in fact now going to be more severe than those anticipated for the following Monday?

A. Did I know at that particular meeting?

45

Q. Did you know?

A. It was not something that I was - how can I

put this - I was looking at it that the weekend weather was worse than had been anticipated. I guess at that point in time I was not contrasting it to what yesterday's prediction was as far as 5 Monday was concerned. It was certainly indicated to the meeting that --

Q. Sorry, my understanding of your evidence is that, when you were briefed by Mr Lucas-Smith on 10 the afternoon of the 16th, you believed that the contingency of the fires impacting on the urban interface of Canberra was pretty much totally contingent on the weather; is that right?

A. Yes, ma'am, and the success of the containment 15 strategies which would be impacted on by the weather.

Q. The success of the containment strategies in 20 your mind at that meeting were reliant upon the weather conditions?

A. That's correct.

Q. So, I assume, therefore, you were paying particular attention to Mr Mason's briefing when 25 you went to the planning meeting the next morning?

A. Yes, ma'am.

Q. Did you notice that his predictions for the Saturday now indicated that it would be a worse 30 fire day, if I can call it that, than the following Monday?

A. No, not as direct as that. What I did notice was that the weather for Saturday would be worse than what the Bureau of Meteorology had predicted 35 for Saturday the day before. So obviously I knew that the conditions were potentially going to deteriorate.

Q. How, if at all, did that change your planning 40 in your IMT?

A. We continued following that meeting. We actually continued at the same - along the same lines that we had.

45 Q. I take it you continued with it in mind that you needed to have your plans complete by the Saturday, which was now going to be a very bad

fire day?

A. Certainly in relation to staff availability and to the availability of the additional vehicles, we had set ourselves Friday as a 5 deadline for that.

Q. You have 24 hours before the possibility may occur; you are aware of that as of the planning meeting --

10 A. I am aware now. I was not aware at that point in time that the fire was going to impact on the ACT - on the Canberra area on the Saturday.

Q. Sorry, could you repeat that?

15 A. Yes, ma'am. I was not aware at this point in time on the Friday that the fires would impact on the urban area of the ACT on the Saturday.

20 Q. But you were aware, given this weather forecast, that it was a possibility if the containment lines didn't hold?

A. Yes, I was aware that the threat would increase to the urban area, yes, ma'am.

25 Q. Can I just repeat that: you were aware at the morning planning meeting that, if the containment lines did not hold, there was a possibility the fires would impact on the urban area of Canberra?

A. No. I'm not sure that's exactly what I said.

30 Q. You were aware there was a threat. What was the threat that you were aware of then?

A. That essentially that the fires could move towards the urban area and I think, as I've said 35 before, my focus then was that we would perhaps go into response phase outside the urban area. The potential was there.

Q. You also knew the potential was there for them 40 to move not only towards Canberra but into Canberra. You knew that? There was a possibility - I am not asking you to quantify it.

A. Okay, sure.

45 Q. You knew there was a possibility that the fires would not just come towards Canberra but would keep coming and enter Canberra?

A. While they continued in a north-west direction that was always a possibility, ma'am, yes.

Q. In these planning minutes there is no  
5 description of the level of risk to Canberra,  
would you agree?

A. Yes, I would, ma'am.

Q. Can you recall whether or not a level of risk  
10 was discussed?

A. I don't recall it being discussed in terms of  
a level of a risk to urban Canberra, no.

Q. Given the weather forecast you just heard, did  
15 you have any discussions with anybody from the SMT  
about the level of risk?

A. No, not directly.

Q. Is there any reason you didn't have any  
20 discussions with them to find out what exactly the  
risk was to Canberra that you were gearing up to  
meet?

A. At this point in time I didn't see that the  
risk had changed. The impact was - what we had  
25 been referring to earlier was whether that was yet  
to come, not at that point in time.

Q. So the weather that was to come the following  
day?

30 A. Yes, over the following days.

Q. Could I ask you to look at [ESB.AFP.0110.0952] at 54. What I am showing you is what I understand  
35 to be handwritten notes taken from that meeting.  
Under the heading "fire behaviour" Rick has said  
"fires" something?

A. "Burning around terrain", perhaps.

Q. "Burning around terrain worst" - can you read  
40 that?

A. No. But something from the south-east.

Q. The next line "potential blow up day today  
when north-west hit"?

45 A. Yes.

Q. "no" something "containment lines". Do you

understand the bottom --

A. "Not strong containment lines".

Q. "not strong containment lines today"

5 something --

A. "Aware of" --

Q. "tomorrow"?

10 THE CORONER: Is the original any better,  
Ms Cronan, than this copy?

MS CRONAN: No, I don't think so, your Worship.

15 Q. Do you recall Mr McRae talking about a potential to blow up today when the north-west winds hit?

A. No, not in reference to this particular meeting. I mean, as I understood it, Mr McRae's job was to try and predict fire behaviour and at regular meetings he would give his opinions on what would occur. I mean, I would assume that that is consistent with what Mr McRae said at that particular meeting. But my understanding of that 20 would be it was a blow up day for the crews in fighting those particular fires and in relation to fire behaviour and the associated safety aspects.

25 Q. Do you recall him saying at that planning meeting that the containment lines were not strong and people needed to be aware today of extreme fire behaviour?

A. I have some recollection of Mr McRae saying something along those lines, yes. This is where there was I noticed a considerable shift in focus 30 to actually ensure that firefighters' safety on the fire ground was at the forefront of everybody's minds. Mr Lucas-Smith stressed that on a number of occasions.

40

Q. So you knew that the north-westerly winds were due to hit that afternoon and there would be problems from Friday afternoon?

A. I don't know if I knew there would be 45 problems. I certainly knew this was not going to aid the effort of the firefighters.

Q. If I could take you back to the planning meeting minutes [ESP.AFP.0110.0868] at 870. Looking at the third paragraph there, do you recall Peter Lucas-Smith raising concerns about the aerial incendiary back-burning operations at McIntyre's Hut's fire?

5 A. Yes, I do.

Q. Do you recall him saying:

10 "There is a potential for many uphill runs, with spot overs at potentially 10kms, with a north-west wind impacting on the ACT"?

15 A. Yes, I don't believe in relation to the aerial incendiaries, but I do recall coming away from that meeting with an understanding that, with the weather conditions and the associated fire activities, long distance spotting could occur.

20 Q. Up to 10 kilometres. And you were aware where McIntyre's Hut fire was at that point in time?  
A. Yes, I was.

25 Q. Directly north-west of Canberra?  
A. North-west - yes, I do.

Q. And you were aware that it was - how many kilometres away from Canberra, the urban interface, did you believe it was at that point in time?

30 A. I understood it was around about the border. I'm not sure in kilometre terms at this point in time.

35 Q. You thought it was at that point in time on the ACT/New South Wales border?  
A. Or very close to it, yes.

40 Q. What's between the ACT/New South Wales border and the urban interface?  
A. In what area, ma'am?

Q. In a direct line between where the fire was and Duffy?

45 A. I certainly don't profess to be well versed in rural topography, but I understand there's a

combination of forests, pine forests and grassland areas.

Q. So that all that was between the fire and  
5 Duffy was fully cured grasslands; would you agree?

A. No. I would not have had that level of understanding.

Q. There was forest, grassland, pine forest  
10 grassland and pine forest, would you agree with that? Does that sound - tell me if you simply don't know?

A. I don't know specifically. There was hills, mountains, rivers, roads. Essentially there were  
15 assets to the north-west, as I understood it, that they were the pine plantations, and then there were other areas that weren't as densely populated from a tree point of view.

20 Q. So the fire would not have needed to spot more than 10 kilometres to set fire to the pine forests in the ACT at that stage?

A. No.

25 **SHORT ADJOURNMENT** [ 2.48pm ]

**RESUMED** [ 3.05pm ]

MS CRONAN: Q. Could I take you again to that  
30 paragraph in the planning meeting minutes. Peter Lucas-Smith apparently at that meeting "requested a map detailing potential spot distances today for all fires". Are you aware whether or not he obtained that map after the meeting?

35 A. I am not aware, I am sorry, no.

Q. Were you at any stage given access to a map outlining potential spotting distance for fires that day?

40 A. No.

Q. I think after you attended that planning meeting, if we go back to your statement at paragraph 37, it says at 0084:

45

"On Friday 17 January I had no involvement with the fires until attending the planning

5 meeting that morning. I heard at  
the briefing about the increase in  
the adverse weather conditions. Subsequent  
to the meeting I spoke with the brigade's  
operations officer, Peter Newham, and other  
senior officers and asked them to check that  
the brigade's operational capacity was being  
escalated in terms of all appliances being  
available and developing a recall roster in  
10 the event that additional firefighters  
officers were required at short notice, in  
addition to the further 16 officers that had  
been on duty since 9 January 2003 during  
the Bushfire Service stand-up period."

15 You don't mention in your statement attending a  
meeting of the Fire Brigade Incident Management  
Team that morning. Do you recall attending that  
meeting?

20 A. No, I don't.

Q. If I could take you then to the fire brigade  
report, which is [AFB.AFP.0001.0001] at 0004. You  
will see at the bottom of the page there it says:

25 "The second planning meeting was convened at  
10am on Friday, 17 January 2003 in the fire  
safety section meeting room to consolidate  
and coordinate planning activities to date."

30 Over the page:

35 "The rural fires were still largely  
uncontained and remained in the national  
parks. Resulting from the planning meeting,  
further planning issues were discussed and  
resourced as follows."

40 Nester and Prichard were tasked apparently to  
do incident action plans for the IMT. Do you  
recall that meeting now?

A. I don't believe I was at that particular  
meeting. It was a meeting of the planning cell.

45 Q. If I could take you, incidentally then, to  
[ESB.AFP.0024.0293], at 0296. This is a statement  
of station officer Ken Nester, who was assigned

the previous day on the 16th to do a risk assessment with Mr Prichard. In his statement, he says about halfway down the page:

5           "At about 1010, I attended a meeting of the ACT Fire Brigade planning team, which was addressed by Fire Commissioner Bennett. At about 1030 I addressed the planning team and advised of the following risks. Interfaces  
10           in the following suburbs/areas."

There is a list of suburbs named, including Weston Creek and Chapman. Do you agree?

A. Yes, I agree.

15           Q. Do you recall addressing the planning meeting that morning?  
A. Not specifically, other than if I stuck my head in the room and briefly caught up with them.  
20           I certainly don't recall presiding over a meeting or being in any attendance for any period of time at that meeting.

Q. Did you consult with your planning team about  
25           their activities, of the previous afternoon, specifically their risk assessment?

A. No, not that stage, I don't believe so at that time.

30           Q. When did you talk to Mr Nester and Mr Prichard about the risk assessments that they had conducted?

A. I don't recall speaking to Mr Nester and Mr Prichard about risk assessments.

35           Q. You never spoke to them about the assessments that they did --  
A. At this time?

40           Q. At any time.

A. No, I believe the conversation I had with either Mr Nester or Mr Prichard was some time later in the day when I was shown a draft incident action plan as I was on my way to another meeting.

45           Q. In the hallway?  
A. Basically, yes. As I said, we were

experiencing some physical restraints based on the occupancy of the building at that point in time.

5 Q. Did any of your planning team tell you on 17 January that they had assessed Weston Creek as being at risk?

A. Not specifically, that I can recall.

10 Q. When you say "not specifically", what do you recall them saying to you about whether or not Weston Creek was at risk?

A. Well, I don't recall any specific conversation of any individual. There were numerous 15 conversations occurring all during the day. I was interested at that point of time in just keeping abreast that that planning was proceeding. But I recall no specific reference by any individual officer to any specific risk assessment, other 20 than the issues that we spoke about before, which was in relation to water supplies in and around the urban interface.

Q. So are you saying to the coroner that your 25 planning team did a risk assessment identifying several suburbs, including Weston Creek, as being at risk and they didn't tell you?

A. I guess I am. Not directly that I don't recall being told specifically, particularly at a 30 10 o'clock meeting, that --

Q. Did they tell you at all on the Friday that Weston Creek was at risk?

A. I think - no, not that Weston Creek was at 35 risk. Certainly that Weston Creek was one of the areas that we were looking at. We were looking at all the western side of the ACT in my opinion.

40 Q. So you don't recall attending that meeting or you definitely didn't attend that meeting?

A. I recall sticking my head in and out of numerous meetings. Sometimes it was to convey any, you know, information that we may have come 45 across; other times it was really just putting in an appearance to the teams that were working.

Q. Did you attend the afternoon meeting of the planning cell?

A. Yes.

5 Q. What do you recall being told at that meeting?

A. Again, it was really just a summary of what had been occurring. Aside from the weather, I have no specific recollections of any key points in that particular meeting.

10

Q. You don't recall whether or not Mr Nester and Mr Prichard gave you their assessment that several suburbs on the western interface were at risk from those bushfires?

15

A. I don't believe Mr Nester or Mr Prichard attended - are we referring to the SMT planning meeting of the afternoon?

20

Q. No. If you look at page 5 of the fire brigade incident management team planning session report, which is [AFB.AFP.0001.0001] at 0005, you will see there is a note there of a planning meeting of the fire brigade incident management team at 3.30pm on Friday 17 January.

25

The meeting was to further consolidate and coordinate planning activities to date and was convened to ensure that, from a fire brigade planning point of view based on information supplied to it, all foreseeable planning issues had been addressed and all practicable and justifiable planning activities had been undertaken. It notes that the rural fires were still largely uncontained and remained in the national park. Do you recall attending that --

30

A. No, I don't recall. I don't believe I did attend a planning meeting. I was not part of the planning cell of the fire brigade. I sat above these cells and essentially spoke to the head of that planning cell from time to time, which was Mr Collins. These people who were attached to the planning cell were largely working under the directions of Mr Collins.

40

Q. Did you have any meetings of your whole incident management team, not just the planning

cell, at all on Friday 17 January?

A. No, I don't believe we did.

Q. Did you speak to your incident management team  
5 members at all?

A. Yes, I did.

Q. Specifically, did you speak to your planning officer, Mr Collins, on the 17th?

10 A. I am sure I did. I don't recall any specific times, but it was - Friday was a continuum of ensuring that various arrangements had been put in place.

15 Q. What did Mr Collins tell you about his planning cells' activities on 17 January?

A. I can't be specific, but generally when I spoke to Mr Collins it would be a summary of the activities that had been carried out; whether 20 or not we had progressed the issue of water supplies; or a report, as a unit, as to the broad activities that they were undertaking at this time.

25 Q. Did he talk to you about any planning that was being done to respond to the possibility that the fires would impact on the urban interface?

A. I don't - no, not specifically. I recall --

30 Q. Did you ask him?

A. No, I am not sure why I would.

Q. You knew that that was a possibility as at the SMT meeting on the morning of the 17th?

35 A. Yes.

Q. And your planning cell was planning, amongst other things, to respond to that possibility; is that correct?

40 A. I think we are just getting a bit caught up in - perhaps I am not understanding you correctly. At this stage we had no responses. We were not responding. The focus was on ensuring that we had the capability to respond if called. There were 45 no fires within our jurisdiction nor within close proximity to our jurisdiction. So, in a sense, it was more contingency planning than the planning

cell was undertaking. That was ensuring we had access to up-to-date information in relation to maps of Canberra's nature park. It was not sitting there plotting an operations strategy for 5 the ACT Fire Brigade at that point in time.

Q. As of Friday, 17 January, if the fires were to come into Canberra, what was your plan?

A. We would respond the appropriate stations.

10

Q. What was your plan? What was the plan? You spoke to your planning officer?

A. Yes.

15

Q. From your discussions with him, were you aware what the plan was going to be if the fires came into Canberra?

20

A. At this point in time we had not deviated from standard operating procedures and, dependent on the nature of the call that was received through our communications centre, the standard response would be activated, unless it was a request outside standard operating procedures as to what actually did occur at 4.30 on that particular 25 afternoon.

Q. So your standard operating response is, what, two pumbers per house?

30

A. If it is a house fire, yes. But, depending on the nature of the call that we receive, we have a response matrix that generates the first response. We had not deviated from those standing operating procedures at that point in time.

35

Q. Could you explain to Her Worship what the response matrix was?

40

A. Essentially, your Worship, it is a series of responses that are generated, either as an initial response or an additional response, based on the nature of the call that our communications centre would take. Ms Cronan has given an example. For a house fire, a structure fire, our standard response is two urban pumbers, the two nearest urban pumbers to respond.

45

Similarly, if it was a call to a grass fire inside the built-up area, it would be - off the top of my

head - I believe one urban pumper and two water tankers responding again from the nearest available stations. It also articulates not for every specific response that we are likely to get, 5 but certainly the majority. Hospitals and institutions, for example, has a heightened first response based on the risk. Responses to diplomatic missions and embassies, because of the sensitivities associated with it, has in 10 itself its own response requirements. As of the 17th our crews were being responded in accordance with our response matrix that underpin our standard operating procedures.

15 Q. I think that was encapsulated in an incident action plan that was developed that day?

A. Yes.

Q. Perhaps if we could go to the current document 20 at page 0034. That document is entitled "Incident action plan for the ACT Fire Brigade. January 2003 bushfires, McIntyre's Hut, Bendora Dam, Stockyard, Mt Morgan, urban and rural/urban interface, 17 January at 4.30". I think that 25 document was given to you just around 5 o'clock that afternoon; is that correct?

A. I am not sure if I saw it before or after it was in its final stages. But I was certainly given that document by, I believe, Mr Nester to 30 read.

Q. You were with Acting Superintendent Prince at the time?

A. I may well have been.

35

Q. Do you have an actual recollection?

A. No. I recall being outside, I believe, Mr Castle's office when Mr Nester excused himself and said, "Can you have a quick look at this?" 40 Who I was with I do not recall, no.

Q. It describes the situation:

45 "Due to prevailing and forecast weather conditions fires in the Brindabella Mountains and Namadgi National Park are approaching Canberra, from approximately 20 kilometres to

the west, with spotting near Tidbinbilla and Corin Dam."

Was that the situation as you understood it?

5 A. I understand that I would assume that this information was gleaned from the SMT planning cell near enough to that time.

Q. It goes on to say:

10 "Control lines have been established in order to contain the fires to the mountains. At present all bushfire resources are committed to firefighting operations in the mountains,  
15 however if spotting occurs in front of the fire or breaches of the fire lines that bring the fire close to Canberra, the ACT Fire Brigade is the primary response agency for the Canberra urban area and some  
20 properties east of the mountains close to Canberra."

That was the situation as you understood it on Friday afternoon?

25 A. Yes, I see the situation report as essentially being a combination of information that was provided to us by Mr Lucas-Smith on the Thursday with I would imagine an update from possibly our liaison person we had by that stage working in  
30 with the Bushfire Service planning section.

Q. But that was your understanding at that stage as well, that you would be the primary response agency; is that correct?

35 A. Yes, I think that is just stating what our - basically what our legislative responsibilities are.

Q. When it says "primary response agency", were  
40 there secondary response agencies?

A. Depending on the situation, we may call for assistance outside of this particular campaign. We may call for assistance, for example, from the Bushfire Service in support of us, as we do to  
45 those when they are - I guess to use that terminology - the primary response agency or the lead agency.

Q. As happened in the 2001 fires?  
A. Yes.

5 Q. But at that stage, apart from having  
the Bushfire Service to call upon, you had not  
identified any other secondary response agencies?  
A. No.

10 Q. Then it goes on to say:

"Spot fires may occur to up 10-15 kilometres  
in front of the fires. Predominant NW winds  
are likely to initially cause grass fires  
within 5 kilometres of Canberra's western  
15 boundary, and later to structures and  
bushland areas within the Canberra urban  
area."

20 Is that your understanding of the situation at  
that point in time?

A. Well, I think that is my understanding of  
the potential, yes.

25 Q. You were the incident controller of this  
incident action plan; is that not right?

A. Yes.

Q. You would have had to, I presume, approve of  
this incident action plan?

30 A. We did not at that stage have, I guess,  
the formalities in place. I mean the term is used  
"incident action plan". It was more, I guess, an  
information or a situation report on the potential  
for an incident to occur for the ACT Fire Brigade.

35 Q. You agree that it goes on - I am skipping  
ahead here - to deal with strategies, courses open  
and response, not just situation report?

A. Yes.

40 Q. Are you saying you didn't have to approve this  
incident action plan?

45 A. Well, again, it is no deviation away, as  
I understand it - if I could see it because I have  
not seen this document since probably that  
corridor conversation until it was raised here.  
But my brief reading of it was that it does not

deviate from what our standard operating procedures are for those particular fires.

Q. Yes. Sorry, I have your copy.

5 A. You may have given it to me. I am sorry.

Q. No, I will hand it back to you. I think it is the last attachment.

A. Yes. That is just confirming what are 10 standard operating procedures at that point in time for --

Q. But it was handed to you by station officer Ken Nester as the incident action plan to deal 15 with the situation that you were involved with on 17 January; is that correct?

A. Yes.

Q. I assume you read it when it was given to you?

20 A. I did. Yes.

Q. You didn't ask for anything in it to be altered?

A. No. That was basically how we were still 25 situated at that point in time. I think I asked that it be provided to the operations area of the fire brigade as I was not sure whether or not they had participated in the development of this document.

30

Q. It goes on to say:

"There are a number of isolated structures 35 that included Mt Stromlo water treatment works and the observatory, the Tharwa village ..."

Sorry, if we go back to the previous paragraph:

40 "Spot fires may occur up to 10-15 kilometres. Predominantly NW winds are likely to initially cause grass fires within 5 kilometres of Canberra's western boundary, and later to structures and bushland areas 45 within the Canberra urban area."

This situation report does not make any mention of

pine forests; do you agree with that?

A. Yes, I do.

Q. Do you know why it doesn't include any  
5 reference to the pine forests?

A. No, I don't.

Q. It goes on to say:

10 "Numerous farms and properties are situated  
between the eastern side of the mountains and  
Canberra and to the south. The brigade has  
all urban pumbers manned, with 3 heavy  
tankers crewed. There are 3 urban pumbers  
15 available if required."

Would you agree that that was an accurate  
assessment of the situation that you saw that you  
faced on the afternoon of 17 January?

20 A. Yes, I think particularly the reference to the  
"three urban pumbers available" would be a  
reference to those spare vehicles that we spoke  
about earlier. So, in essence, I think what this  
document was saying was that at 1630 hours on  
25 17 January we had available 12 urban pumps and  
three heavy tankers.

Q. The strategy then was to protect life,  
property and the environment within ACT boundaries  
30 and to assist the Rural Fire Service in protecting  
life, property and the environment outside the ACT  
boundaries. The courses open to the brigade was:

35 "Incident operations officer may redeploy  
resources from the main fire fronts in  
response to changing conditions, or as  
additional resources become available."

When they refer to the "incident operations  
40 officer", that was yourself at that point in time?  
A. I am sorry?

Q. There is a reference there to the incident  
operations officer?

45 A. Yes, I take that to be a reference to  
the operations --

Q. Not the incident controller?  
A. No.

5 Q. Then the response is your standard response of  
two pumpers per house?  
A. Yes.

10 Q. Later on that evening, about 6 o'clock, there  
was a meeting of the SMT of the Bushfire Service;  
is that correct?  
A. Yes.

15 Q. Was this incident action plan discussed with  
any members of the SMT that afternoon?  
A. No, it was not.

Q. Do you know why it wasn't?  
A. I am not sure that they - I guess the SMT just  
needed to know that the ACT Fire Brigade would be  
20 available to respond if required.

Q. But this document makes you the primary  
response agency for fires coming into the urban  
area, doesn't it?  
25 A. Yes.

Q. You were relying on the Bushfire Service to be  
a secondary response agency, if needed?  
A. I am not sure I follow you. When I was  
30 speaking about that, I was speaking more in  
general terms. Certainly what is articulated in  
here, my understanding is it is just reinforcing  
what our legislative responsibilities are as  
the ACT Fire Brigade under the ACT Fire Brigade  
35 Act. I see no deviation away from what is  
day-to-day core business in this particular  
document.

Q. Would you agree that the conditions as of  
40 17 January were not normal fire conditions for  
the ACT?  
A. Outside the urban area, I agree entirely, yes.

45 Q. You didn't accept as at that point in time  
that they may be unusual fire conditions inside  
the urban area?

A. I am sorry, I don't really understand

the question.

Q. Well, the document says on its first page:

5 "Predominant north-west winds are likely to initially cause grass fires within 5km of Canberra's western boundary, and later to structures and bushland areas within the Canberra urban area."

10

It says it is likely to happen.

15

A. Yes. I don't want to mislead you at all. The fact that there may be spotting occurring within five kilometres of the western boundary does not automatically generate a response of the ACT Fire Brigade. That is outside our jurisdiction. The response to one of those incidents outside the built-up area would be dependent on whether or not, for example, 20 the Bushfire Service was able to respond or was in attendance and called for assistance, or whether or not the spotting resulted in a fire to a structure or a building outside the built-up area.

25

Q. So in effect there was a great need at this stage for interaction between the Bushfire Service and the Fire Brigade to work out who was responsible for what areas around the urban edge, wouldn't you say?

30

A. I think that, to a large extent, that had been established back on 9 January, where we undertook to, in addition to performing our legislative requirements, provide that additional capability for the Bushfire Service. To this point in time 35 that arrangement had stayed in place. As I think I have mentioned, until around about the time that the date is stamped on this particular document, the ACT Fire Brigade had not responded any resources to be operationally involved in these 40 fires.

45

Q. So the fire brigade had absolutely no experience of dealing with these fires up until the 17th; is that what are you saying? That is the situation, is it?

A. We had no operational involvement with those fires aside from our response, which I guess was a

by-product, to the helicopter downed on 13 January.

5 Q. So therefore wouldn't it be important for you to discuss the adequacy of this incident action plan with the senior members of the Bushfire Service who did have experience of dealing with these fires?

10 A. At this stage we, as I think I have tried to portray, were still working to our standard operating procedures; and that is dependent on the nature of the call we would give that particular response. From a Bushfire Service to ACT Fire Brigade service, I think I had given 15 Mr Lucas-Smith assurances at any times that we were maintaining that enhanced capability and that the response would be governed by the nature of the call. I did not deem it necessary to discuss with Mr Lucas-Smith, nor for that matter with any 20 specific member of his service management team, what our response arrangements specifically were other than the fact that we were in a position to respond.

25 Q. You were now taking on the role of the primary response agency if the fires came into the urban environment?

A. We have had that role for many, many years. There is no change.

30 Q. You were involved, I take it, in fighting the fires in Canberra on Christmas Eve 2001?

A. I was - yes, I was in attendance of those particular fires, yes.

35 Q. Would you agree with me when I say that the combined resources of the Bushfire Service and the Fire Brigade were almost overwhelmed that night to try and keep the fires away from 40 structures?

A. I think it severely tested the resources, yes, I would agree with you.

45 Q. The combined resources. Not just the Fire Brigade resources but the combined resources?

A. Yes, I would agree with you.

Q. Were you expecting a similar kind of fire incident to occur if the fire came to the urban edge to that that occurred on Christmas Eve 2001?  
A. Yes.

5

Q. So if you were expecting a similar kind of incident, did you have any realistic expectation that your fire brigade resources would be able to deal with the situation if it arose?

10 A. I did not see at that point in time, I guess nor any point in time that, if there was a fire impacting close to the interface area, it would be exclusively the ACT Fire Brigade in combating that particular fire. I am sure that by calling for  
15 assistance from Mr Lucas-Smith or for that matter from the New South Wales Rural Fire Service, again it would have been a collective effort, and there were considerably more vehicles and resources within the proximity to the ACT than there was  
20 during the January fires of 2001 - or the Christmas fires of 2001.

Q. So when you had this incident action plan on the afternoon of the 17th, whilst you were  
25 described as the primary response agency, did you have it in your mind that if the fires came to the urban edge there would be a combined response from your brigade --

30 A. Depending on the severity or the situation that it dictated. If it was a spot fire that entered in a grassland area that our standard response of pump and two tankers could respond to, we would not be calling for additional assistance, certainly at this point in time on this Friday.

35

Q. But if it was a fire such as you had in the Stromlo Forest on Christmas Eve 2001, you would have expected assistance from the Bushfire Service?

40 A. There would have been a - yes, most certainly.

Q. That would have been beyond the capabilities of your resources?

A. The capabilities of either service, and a fire  
45 in a forest would be the responsibility of the fire service, and the ACT Fire Brigade would offer resources to be used in conjunction with

the Bushfire Service.

Q. But you cannot fight a fire in the forest, can you; you just have to deal with trying to stop it coming out?

A. That is certainly my understanding, and from many talks with Mr Lucas-Smith you certainly do not do it with people on the ground; that is correct.

10

Q. Given that was your understanding as of the afternoon of 17 January, why did you not discuss, firstly, your incident action plan with Mr Lucas-Smith or Mr McRae or Mr Graham?

15

A. I didn't see the need to. I had given Mr Lucas-Smith on many occasions the indication that our resources were at a certain level of readiness. The levels of response, the types of response that we would actually generate, as I said, would be dependent on the call. I think Mr Lucas-Smith has a right to know - or an expectation at least - that if the ACT Fire Brigade is responded to an incident they would use their resources appropriately and, as I say, at this stage we were using our standard operating procedures as a guideline.

20

30

Q. So you were doing the best you could to make sure your brigade was as fire ready as they could be?

A. Indeed that was my primary focus at that time, along with all the other officers associated with these tasks.

35

Q. Are you aware - you might not be - if anything was done, and if so what, to get the information from the planning cell or your IMT and your nine stations?

40

A. No, I was not aware at the time. I am aware now that we experienced a number of difficulties in clearly articulating situations on and around 17 and 18 January. It is something that I understand the ACT Fire Brigade, in conjunction with the Emergency Services Bureau, has been working to overcome.

Q. So some stations were not even aware at

lunchtime on the 18th that there was anything unusual occurring; isn't that the case?

A. I believe all stations would have been aware that something was occurring. Some stations

5 I believe were probably not aware of the current situation in relation to what had occurred with those particular fires, I guess, in the lead-up to that.

10 Q. If we could go to page 12 of the fire brigade report, you see there that Mr Prichard has reported his activities between 10am and 3.30pm on the 17th. He continued on risk assessment tasks, continual liaison with the brigade operations officer on strategies for firefighting on the urban/rural interface. He also made contact with Ms Kate Keane from the ESB emergency management in relation to evacuation strategies for nursing homes and the like and understood that

15 20 Ms Keane promulgated an e-mail to the ACT Community Recovery Subcommittee advising them to be prepared for possible evacuation arrangements that may be necessary. Were you aware that Mr Prichard on that day was involved with meetings 25 regarding preparing for evacuations in the event of a fire entering Canberra?

A. I am not sure it was as formal as that. My understanding was that one of the tasks that Mr Prichard had been allocated with was looking at 30 what level of preparedness existed and, as Ms Keane is the emergency management support officer, he used her as his first point of reference. He was actually seeking to establish what the current situation was in relation to, as 35 I understand it, whether or not evacuation centres had been identified as being - whether or not specific areas had been identified as potential evacuation centres.

40 Q. You went to the planning meeting that afternoon at 6 o'clock instead of 4 o'clock, in the normal time?

A. Yes.

45 Q. Do you recall Mr McRae talking in relation to the planning of his SMT? If you can go to I think [AFB.AFP.0001.0001] at 0023. Do you recall being

told by Mr McRae that they needed to assess  
the risks of the new situation given the weather  
and fire behaviour conditions, and do you recall  
him providing an overview of unattended fire  
5 behaviour for various periods until the following  
afternoon? Do you recall that?

A. Yes, I do.

Q. Do you recall him telling you "there's  
10 potential for fire to reach Uriarra by midday  
tomorrow, the Cotter Pub and Reserve at 1600, Mt  
Stromlo and potentially Narrabundah Hill" by  
8 o'clock on the Saturday night?

A. Yes, my understanding was that it was in  
15 reference - they were predictions based on an  
unattended fire, or a fire without intervention.  
But, yes, I am aware of that.

Q. He also said there was a significant threat to  
20 the pine plantations in the ACT as a result of  
the McIntyre's fire?

A. Yes.

Q. You are familiar with the suburb of Duffy; are  
25 you?

A. Yes, I am.

Q. You know that it is located directly next to a  
pine plantation?

30 A. Yes, I actually lived in Duffy for 30 years.  
I am well aware.

Q. When you say that was his prediction for an  
unattended fire, what do you mean by "unattended"?

35 A. My understanding of that type of calculation  
used by the Bushfire Service was that this would  
be a possible run of the fire if there were no  
interventions in its path, whether they be by  
crews and resources involved in some sort of  
40 active or direct or indirect attack without  
the assistance of, for example, aerial  
suppression.

Q. So you were aware that the fire at that stage  
45 was on the ACT border?

A. Yes, I believe so. In a particular area, yes.

Q. You were aware of its spotting potential at that stage?

A. I was certainly aware of what has been said, yes.

5

Q. You were aware of the weather conditions that were forecast?

A. I certainly was.

10 Q. With these strong, gusting, hot north-westerly winds expected?

A. Yes.

15 Q. You also heard Mr Lucas-Smith say at paragraph 3 of that planning meeting that ACT resources would not be deployed to fight the fire once it was in the pine plantation. Did you hear him say that at the meeting?

20 A. I am not sure if I heard Mr McRae or Mr Lucas-Smith actually say that, because I do recall Mr Lucas-Smith making a similar statement to that, if not that statement.

25 Q. You recall Mr Lucas-Smith making that statement?

A. Yes.

30 Q. You also recall somebody making the statement that crews would not be placed near the fire line the following day. If I could take you to the second paragraph on the screen. It starts:

35 "Peter Lucas-Smith outlined the objectives for this evening and tomorrow. These include monitoring the fire growth and obtaining situation reports from the field."

The last sentence:

40 "Crews will not be placed near the fire line tomorrow."

A. Yes.

45 Q. So it was the situation, wasn't it, that if the McIntyre's Hut fire spotted into the ACT pine forests, there were not going to be any resources

from the Bushfire Service to fight those fires in the pine forests?

A. Yes, not in the pine forest.

5 Q. Or on any fire line the next day?

A. In relation to the McIntyre's fire we are talking about here, are we?

10 Q. If the McIntyre's fire came into the ACT, isn't it the case that there were going to be no Bushfire Service resources on that fire line to combat its progress into the ACT?

15 A. It could be interpreted that way. My interpretation was certainly that for safety reasons no crews would be obviously involved in a direct attack once it reached the pine plantation, and that I guess it goes on - I mean, it stands to reason that crews won't be in its direct path. As I understand it, the procedure, as I understood 20 it, would be that they would fall back to the next containment line.

Q. What was the containment line in the ACT?

25 A. I am not familiar enough to be able to give you an accurate answer. Again, these were the tactics and strategies being employed by the Bushfire Service.

30 Q. Well, you at that meeting, I suggest to you, knew that your brigade was going to be the primary response agency that came into the ACT, you knew that there was a prediction that the unattended fire growth would bring it to Narrabundah Hill by 8 o'clock the next day. Did you have some sort of 35 expectation at and following that meeting that it would be stopped before it got to the urban edge, assuming it had spotted into the ACT?

A. That is a difficult question to answer. I had no expectation that what had been shown at that 40 meeting as the unattended fire spread would in fact eventuate at that time.

45 Q. But you had just been told that it was a possibility by an experienced fire planning officer, hadn't you?

A. Yes, Mr McRae had actually given a potential scenario of an unattended fire. I mean, my

understanding at that point in time was that there was New South Wales Rural Fire Service and ACT Bushfire Service crews involved in that activity, supported by, my understanding was, some 20 aircraft. I saw that as being levels of intervention that potentially could have an impact or make a difference to those - the predictions that Mr McRae had provided.

Q. Are you telling Her Worship that, despite everything that had been said to you or said to the planning meetings on the 16th and 17th January, you did not expect any fires to reach the urban interface of Canberra?

A. No, I am not saying that at all. What I am saying is that I saw those maps of unattended fires to be a worst case scenario, and I think both fire services were certainly planning for the possibility that those fires could reach the urban edge. What I was saying before was that I did not take Mr McRae's predictions which were based on an unattended fire to be necessarily an accurate indication to me at that time that this is where these fires would be.

Q. Why not?

A. Because they were unattended fires. That was planned on an unattended fire.

Q. If the fires spotted into the ACT they would be unattended; wouldn't they?

A. No, I don't believe so. If they were in the pine forest, that particular part would be unattended; but if they spotted into any other area, responses would be generated.

Q. Didn't Mr Peter Lucas-Smith say crews would not be placed in the fire line tomorrow?

A. Yes, he did. But he is not saying they are all going to pack up and go home. There were fallback positions, staging areas. I mean, the resources were there to deal with the incident. It was a matter of - I take that reference that Mr Lucas-Smith has made to be an operational strategy, not a complete withdrawal.

MS CRONAN: Is that a convenient time,

your Worship?

THE CORONER: Yes. We will adjourn until tomorrow morning at 10 o'clock.

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**HEARING ADJOURNED AT 4.00PM UNTIL THURSDAY,  
4 MARCH 2004 AT 10.00AM.**

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TRANSCRIPT OF PROCEEDINGS

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

35

DAY 21

40

Thursday, 4 March 2004

45

[10.05am]

<IAN MOUNTFORD BENNETT, RESWORN

5 <EXAMINATION-IN-CHIEF BY MS CRONAN

MS CRONAN: Q. I would just like to clarify something from where we left off yesterday afternoon, Mr Bennett. I asked you:

10

"Q. Didn't Mr Peter Lucas-Smith say crews would not be placed in the fire line tomorrow?

15

"A. Yes, he did, but he is not saying they are all going to pack up and go home. There were fallback positions, staging areas. I mean, the resources were there to deal with the incident. It was a matter of - I take it that reference that Mr Lucas-Smith has made to an operational strategy, not a complete withdrawal."

20

Just to clarify, did you after leaving the planning meeting on 17 January understand that if the fires crossed the ACT border into the pine plantations there would be Bushfire Service crews actually fighting the spread of that fire?

A. Within the pine plantation, ma'am?

30

Q. Yes.

A. No, that's not what I understood it to be.

Q. Or at any stage during its progress from the border to the urban edge?

35

A. My understanding of those particular circumstances would be that the crews would actually fall back within the safety areas, and the assumption I had was that would be between the interface area and the forest environment.

40

Q. But they would not be conducting any form of direct attack to slow the rate of speed of the fire?

A. No, ma'am.

45

Q. Following the planning meeting on 17 January, at paragraph 39 of your statement you say you

spoke with Mr Lucas-Smith and Mr Castle about whether the brigade should contact the New South Wales fire brigade to ascertain their capacity to provide pumpers if requested over the following  
5 days. Do you remember the details of the conversation you had with those two men after the planning meeting?

A. Broadly I do, ma'am, yes. It was essentially to let Mr Lucas-Smith, as the SMT incident  
10 controller, know that I had formed the opinion that the ability for the ACT Fire Brigade to escalate much further had almost occurred and that the next form of escalation in my opinion was to potentially call on additional urban resources  
15 from the New South Wales fire brigade.

Q. So what did you actually say to him about that?

A. I said basically that I would - I had been thinking about this particular issue later in the afternoon prior to the planning meeting. But I said that I would be placing a call through basically to allow the New South Wales fire brigade to put our requests on the radar, so to speak.  
25

Q. What did he or Mr Castle say to you in response?

A. Predominantly the discussion was with Mr Lucas-Smith. He agreed with me that that would be a good contingency. Essentially the discussions with Mr Castle centred around the potential financial implications of requesting an interstate resource. So it was more of I guess a courtesy to Mr Castle.  
35

Q. Were you clear in your mind during that conversation what threat it is that you believed you were resourcing at that stage?

A. What I was - yes, ma'am. What I was looking for was an additional urban capability should there be a need over the next couple of days for a greater escalation than the capacity that the ACT Fire Brigade stand-alone would have.  
40

Q. Prior to this conversation had you or any fire brigade officer under your direction conducted an

analysis of the potential threats?

A. I'm not clear about the level of analysis. Certainly, as we discussed yesterday, part of that planning cell was looking at along the interface areas on the western side potentially - where potential areas may be. Essentially at that point in time my understanding was that really we were looking at the - I guess our contingency planning centred around all the western side of the ACT.

10 At that point in time I don't believe that there had been specific discussions in relation to any single area that posed significant concern.

Q. At that stage you were gearing up to respond to any of the suburbs listed --

A. Yes, ma'am. I probably didn't make it clear yesterday. We had obviously one eye on the fires to the west. Obviously our other eye was also on maintaining our standard response protocols to the routine domestic calls that the urban fire service attends on a daily basis. It was - I guess with that in mind, the issue of having access to additional urban vehicles certainly was raised.

25 Q. Did you have a clear idea in your mind during that conversation what level of resources you would need in order to cover the contingencies?

A. No, certainly not. The intention at that point in time was to see whether or not the New South Wales fire brigade had any capacity at all to provide assistance. On that particular night I had no real sense of urgency. It was something that I believed we would deal with over the next day or so.

35 Q. Is it the case then that you yourself had no real clear idea of what level of resources would be required if the fire impacted on the urban interface but you were doing your best to scale up?

A. Yes. It was contingency planning knowing that, if needs be, we had an additional capability that would be somewhere between six and 10 hours away, if necessary. But at that point in time the intention of the two calls that I made that evening were an early - I guess an early warning or a heads-up.

Q. Did you ask Mr Lucas-Smith what amount of his resources would be available to assist you if the fire impacted on the urban edge of Canberra?

A. Not at that point in time I didn't, ma'am, no.

5

Q. Did he raise anything about that with you?

A. No. I had a fairly clear understanding that the majority - not all of Mr Lucas-Smith's Bushfire Service resources were in some way, shape or form engaged in various activities to the west.

10 Q. Your understanding was they were all engaged and not be able to assist you in the near future?

A. Yes, essentially. There may well have been, and I am not sure of the timing - there may well have been one or two of his vehicles still located closer to the urban area, but I'm unsure.

15 Q. Did he mention to you at this point Commissioner Koperberg's open-ended offer of assistance?

A. No. Not on that Friday evening, ma'am, no.

Q. Were you aware of it at that stage?

25 A. I had been aware from Mr Lucas-Smith. He had raised it several days before that, that an arrangement had been made with the New South Wales fire brigade for additional resources to I guess work collectively on the bushfires.

30

Q. Did you consider at that stage whether or not you should contact Commissioner Koperberg as well as the New South Wales fire brigade to ask for additional assistance?

35 A. No. I didn't consider nor did I attempt to contact Mr Koperberg. My reasons for that was that predominantly Mr Lucas-Smith was the ACT liaison person with Mr Koperberg, or with the New South Wales Rural Fire Service.

40

Q. But you could have, through Mr Lucas-Smith, made a request to the New South Wales --

A. I assume so, ma'am. I did not consider seeking additional resources from the New South Wales Rural Fire Service.

45 Q. At paragraph 40 you say:

"The brigade did not conduct any operational activities related to the bushfires until approximately 1630."

5 A request was made of you for appliances at that stage?

A. Yes, ma'am.

Q. Who made that request?

10 A. I would believe that the request would have come through the operations area of the Bushfire Service service maintenance team. It was a request to us to provide I guess what could be termed a strike team to assist with property protection in the Tidbinbilla area.

Q. Is that one of the areas that you are actually responsible for?

A. Yes, ma'am.

20 Q. Was any reason given to you why your resources were being requested in the rural areas at that point?

25 A. My understanding was specifically the capability that our urban pumbers have, predominantly designed for dealing with structure fires. Our role there was to be a structural protection strike team.

30 Q. Were the Bushfire Service's resources being stretched at that point in time?

A. I understand the Bushfire Service did have resources in that particular sector. But predominantly my understanding is that those vehicles are more by way of bushfire firefighting vehicles. The capability that the urban pumper was offering and the expertise that is contained within those vehicles would be an asset in structural protection.

40 Q. So you agreed to the request?

A. Certainly did, ma'am.

Q. What did you send?

45 A. I sent one urban pump, one heavy tank, one light tanker as I understand it. I also dispatched a district officer from headquarters to

take command of that strike team and to establish liaison with the Bushfire Service incident commander on the scene.

5 Q. Then about 11 o'clock that night you had another request for further resources from the fire brigade?

A. I was advised initially I believe through district officer Cartwright, who was the  
10 night-shift district officer, that a request had been made for urban resources to respond to the Tharwa area - essentially again in the same capacity as the team at Tidbinbilla, as a structural protection unit.

15

Q. What resources did you respond?

A. I believe they were similar resources responded: one pump, one heavy and one light tanker.

20

Q. What resources did that leave you in the urban environment in Canberra?

A. At that point in time I would not - that would vary depending on what activity levels were  
25 occurring within our area. Essentially at that point in time we would have had seven pumps still available in the ACT and several water tankers as well as our specialist vehicles.

30 Q. And three reserves?

A. Yes, and the reserve vehicles.

Q. 10 pumbers?

A. Yes, ma'am. I'm unsure if on Friday evening  
35 those spare pumbers were actually crewed. I believe they were there as the additional contingency.

Q. So you had seven pumbers crewed, and how many  
40 tankers did you have?

A. Eight tankers, four heavy, four light, to the best of my recollection. Two were involved at Tidbinbilla. Another two then subsequently went to Tharwa, leaving additional water tankers. I'm  
45 also at this point in time uncertain as to whether or not those other water tankers were crewed that particular night, because the arrangement had been

since the 9th that we were crewing those water tankers during stand-up hours essentially being from 0900 to 1900 hours. It was either the Friday night or the Saturday when we went to full

5 crewing, 24 hours.

Q. On the Friday night how many of those tankers were crewed in the urban environment?

A. Well, certainly the four tankers that had been  
10 responded to Tidbinbilla. I'm not certain just at this point in time whether or not the other two heavies and two lights were being fully crewed that night or whether or not we had reverted back in the after-hours to our cross-crewing  
15 arrangement.

Q. Did you have any crew tankers that weren't at Tidbinbilla or at Tharwa?

A. We would have had vehicles, ma'am, yes;  
20 certainly vehicles. I'm unsure at that point in time whether or not we were fully crewing those water tankers 24/7 or whether or not we had maintained what had been the case to that date, whether they were crewed from 0900 to 1900.

25 Q. How many tankers did you have in Canberra that weren't at Tidbinbilla or Tharwa?

A. I believe two heavy tankers and two light tankers.

30 Q. You have seven pumpers, two heavy and two light tankers?

A. Yes, ma'am.

35 Q. You go on to say at paragraph 42:

"Later that evening from approximately midnight, crews and appliances were steadily redeployed from Tidbinbilla Valley to the  
40 Tharwa township."

And all the resources you sent stayed at Tharwa overnight; is that right?

A. Yes, it is, ma'am.

45 Q. During the evening you stayed at ESB to keep abreast of the activities of those resources; is

that right?

A. Yes, it is.

Q. Do you recall Superintendent Prince being  
5 present at the ESB headquarters during that  
evening?

A. Yes, I do.

Q. Do you recall him showing you a map that had  
10 been prepared by Mr Gellie?

A. Not specifically. He may well have. I don't  
recall seeing a particular map that evening, no.

Q. You don't recall him showing you a map with  
15 the predicted rate of spread of the fire done by  
Mr Gellie?

A. No, ma'am. I was aware of those rates of  
spread from the briefing that evening. He may  
well have. I certainly don't specifically recall  
20 that.

Q. Do you know what his duties were throughout  
the evening of 17 January?

A. Essentially Mr Prince was - I guess he was  
25 performing a similar role to me at that point in  
time, performing some liaison with the bushfire  
operations team but also keeping abreast of what  
our activity levels were.

Q. He had also, were you aware, been tasked to  
assist Marika Harvey ringing the rural SES to warn  
them about the oncoming bushfire?

A. I understand he undertook that activity, yes,  
ma'am.

Q. Was that one of his duties he was performing  
35 as a member of the fire brigade?

A. I think it was a joint effort. Mr Prince was  
one of these superintendents I referred to very  
40 early on in my statement who was essentially from  
a day-to-day point of view outposted to the  
Emergency Services Bureau in the capacity of being  
the manager of the communications centre. As we  
escalated and due to the focus being on the fires,  
45 it allowed Mr Prince to a large extent to have  
somewhat of a floating role where he could provide  
and utilise his expertise in areas deemed

appropriate at the time.

Q. Were you aware that at 8.30 that evening a meeting was convened between Acting Superintendent Prince, station officer Hannon and the ACT government welfare personnel in relation to the evacuation procedure?

A. Yes, ma'am, I was.

10 Q. Do you know what the purpose of that meeting was?

A. My understanding was that it was to establish what, if any, or what the arrangements were in relation to identifying potential locations or 15 specific locations to establish evacuation centres, should the need arise.

Q. The fire brigade report also indicates that one of the issues discussed at that meeting was 20 evacuation warnings to residents in the Naas and Smith Roads of the national park in the south of the ACT; were you aware of that?

A. Not specifically, ma'am, the details of the meeting. I was aware the meeting was going on and 25 the primary purpose of that meeting, but not specifically about some of the detail that was actually transpiring.

Q. I will need to ask Mr Prince about that?

30 A. Yes, ma'am.

Q. What role did you play as Fire Commissioner in relation to evacuations, if required?

A. I had no active role in relation to 35 evacuations personally.

Q. Perhaps if you could have a look at [ESB.AFP.0110.0882]. You will see this is an email that Mr Prichard sent out on your behalf to 40 I presume all members of the Emergency Management Committee; is that correct?

A. Yes, ma'am, that looks like the emergency management composition.

45 Q. It follows an earlier email. You initially had Kate Keane send out this email to say the ACT Fire Brigade would be forming an evacuation

contingency working group as a preparedness measure only. You were seeking agency representatives. So there was no immediate requirement to evacuate areas, and the following 5 committee members would likely be contacted by the fire brigade some time that day. This was sent at seven minutes past one on Friday 17 January. You requested certain people to be members or representatives of that working group. Do you 10 recall this email?

A. I do, ma'am.

Q. What was the purpose of that particular email?

A. As I understand it, essentially this email was 15 generated by discussions that senior firefighter Prichard had had with Ms Keane in how - if I can go back a step. I understand one of the tasks that senior firefighter Prichard was given by the planning cell was to be aware of what the 20 evacuation arrangements would be more for our knowledge should the need arise.

I understand senior firefighter Prichard contacted Ms Keane and a discussion occurred. Essentially 25 this email was the result of that particular discussion.

Q. Senior firefighter officer Prichard is not a member of the Emergency Management Committee, is 30 he?

A. No, he is not, ma'am.

Q. So he was carrying out those activities on your behalf?

A. Yes, essentially on behalf of - this 35 discussion was generated by a role he was taking within the planning area, and he sought basically of his own initiative to speak with the emergency management support officer, which would have been 40 the appropriate task or the appropriate role to take.

Q. Do you know what the proposed purpose of this evacuation contingency working group was?

A. It would have been in order to get key 45 stakeholders together so that if the need arose to have some type of systematic evacuation, whether

it be of specific facilities or institutions or designated areas either in the rural or the urban environment, that the plan associated would be easily enabled to allow effective --

5

Q. A plan to safely evacuate people?

A. My understanding at the time was essentially the evacuation plan itself. That involved bringing in people that are responsible under the emergency plan for those particular activities.

10 Q. Did you have an evacuation plan in existence?

A. The ACT Fire Brigade, ma'am?

15 Q. Yes.

A. No, we did not.

Q. Did the emergency management committee have one?

20 A. Yes, it is part of the recovery plan.

Q. I am not familiar with that at this point. Did that require the convening of this contingency working group?

25 A. No, I understand essentially the activation of that plan is largely contingent on the people responsible for the overall carriage of the recovery plan being appropriately notified, and then those individual systems are put in place and 30 essentially from an emergency service point of view effective liaison is the critical point.

Q. If we can go back to the top of that email. At 20 to 7 that evening a message was sent out on 35 your behalf saying that you passed on your thanks for the prompt responses you had received. You would notify people on Monday when the work party would be convened, most likely Tuesday or Wednesday, dependent on operational priorities. 40 Do you recall asking for that communication to be sent out?

A. Not specifically, ma'am. I may have had a conversation with Mr Prichard to ensure that he kept people in the loop. The days outlined I 45 don't recall having any reference to at the time, no.

Q. You would agree with me, sir, given all the information that you had over the previous nine days, particularly 16 and 17 January, that if the fires weren't going to hit Canberra on the 5 Saturday we were going to have a bad fire day again on Monday; is that correct?

A. That was my understanding at the time.

Q. Maybe some respite on the Sunday, but Monday 10 was going to be off the scale?

A. Yes, ma'am, potentially.

Q. There probably wouldn't have been much purpose then in having this evacuation contingency working 15 group convened on the Tuesday or Wednesday, would there?

A. No, I would agree with that, ma'am. Yes.

Q. If that kind of working group was needed, it 20 was needed on the Friday?

A. Yes, ma'am. As I understand, while I guess a number of those people weren't present, this email was probably overtaken by meetings that occurred, as I understand, that evening between Mr Prince 25 and somebody from the - responsible for the ACT recovery side of things.

Q. Well, what work was done in relation to 30 warnings and evacuations by Mr Prince that evening, to your knowledge?

A. I don't know, I'm sorry.

Q. Can I just take you aside to the Australasian Fire Authorities Council guidelines in relation to 35 evacuation. It is [DPP.DPP.0003.0186] at 192. Can I just ask you: you are familiar, I would imagine, with the Australasian Fire Authorities Council position paper on community safety and evacuation during bushfires?

40 A. Yes, I am.

Q. You were familiar with that guideline prior to January 2003?

A. Yes, ma'am.

45 Q. I won't take you to all the parts. You were aware that the general counsel is that, if people

are well prepared and willing to stay with their house, that is probably the most desirable position?

5 A. Yes, ma'am, that is the overarching philosophy that has been adopted by AFAC.

Q. But that's only the position that is desirable if people are well prepared and willing and physically able to stay with their homes?

10 A. Yes, ma'am.

Q. They say of course there is a need for adequate warning time where the young and the old and the infirmed can be removed from a dangerous 15 situation?

A. Yes, ma'am.

Q. Any decision to stay or go has to be made well in advance of the fire front coming?

20 A. Yes, ma'am.

Q. And has to be made on an informed basis about what the risks are that they are facing?

A. Yes, ma'am.

25

Q. At page 7 of those guidelines, if we could scroll down to "Authority to evacuate", it says:

30 "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 people should be made by 35 the lead fire combat authority."

Sir, on the evening of the 17th and on the day of 18 January who was that authority in relation to the suburb of, for example, Duffy?

40 A. It's I guess - I will try and make it a simple answer. It is quite complex. The lead combat service on the 18th was the ACT Bushfire Service. At that point of time there was no fire incident within the jurisdiction of the ACT Fire Brigade. 45 If we move forward then, essentially once a state of emergency was declared I guess it elevated that level up and the ACT Fire Brigade under the

emergency plan becomes a functional unit or a functional component of the territory controller. So essentially --

5 Q. I accept when a state of emergency was declared the ACT Fire Brigade was a functional component at his disposal. But, before that state of emergency is declared, if fire came into the urban environment who would be the lead fire  
10 combat authority?

A. It would be the ACT Fire Brigade. There would be a transition across from the ACT Bushfire Service.

15 Q. Did that make you, to your understanding, responsible for ensuring that these guidelines were followed?

A. Would it have made me responsible? Yes, ma'am.

20 Q. Did you consider on the evening of the 17th that that was your responsibility? I know the fires hadn't hit Canberra then.

25 A. Yes, ma'am. It was not in the forefront of my mind. Essentially the incident that was being dealt with was being dealt with by the service management team of the Bushfire Service. At that point in time our particular role was a support agency to the ACT Bushfire Service.

30 Q. On the evening of the 17th did you consider that it was the Bushfire Service's responsibility to ensure that these guidelines were implemented?

A. Yes, ma'am, I did; if they needed to be implemented.

Q. So you went home at about 1 o'clock in the morning on 18 January?

A. Yes, ma'am.

40 Q. You returned to ESB at approximately 8 o'clock on the 18th?

A. That's correct.

45 Q. You got a phone call from the New South Wales fire brigade and they told you that they were heavily committed and would factor your request

into their planning processes. You were content with that response?

A. At that point in time I was, yes.

5 Q. Do you recall any of that conversation; any of the details of that conversation?

A. Yes, I do. I know the officer that actually returned my call personally. He advised me that the New South Wales fire brigade were deploying  
10 resources to a number of areas throughout the state of New South Wales, that there was very soon to be a meeting of their major incident control centre in Sydney and that he would take forward my request to that meeting so that it could be  
15 considered in the totality of the New South Wales fire brigade situation.

Q. At this stage you still only had, what, seven pumpers and two tankers?

20 A. I understand that, if not at this time, close to that time my recollection is that by this stage our resources had returned from Tharwa, so we were back essentially to a full complement.

25 Q. Seven tankers and --

A. Eight tankers, nine pumps with - at that point on Friday I don't believe that the three spare pumps had been crewed.

30 Q. But you had daytime crews for all of your other resources?

A. Yes, ma'am.

Q. I take it your state of knowledge or  
35 understanding of the resources required to combat the threat to Canberra that day was the same as it was the previous day?

A. It was, yes, ma'am.

40 Q. You went to the 9.30 planning meeting. If I could just take you to that, which is [AFB.AFP.0001.0030]. Sorry, it is [ESB.AFP.0010.0266]. Did you have any discussions with Mr Lucas-Smith prior to the 9.30 planning meeting?

A. Yes, I did, ma'am.

Q. Do you know approximately what time you spoke to him?

A. Certainly somewhere around 9 o'clock, as an estimate.

5

Q. What conversation did you have with him?

A. To a large extent it was in relation to the allocation of resources for that particular day. Mr Lucas-Smith and I agreed that the ACT

10 resources - the ACT Fire Brigade resources, as it stood at that particular time, would revert back to the role they had been playing from the 9th, which was to stay basically within the interface area as opposed to the evening before, where we  
15 had ventured into the rural area in property protection mode.

Q. How was that decision reached?

20 A. It was just a mutual decision based on a brief discussion centring around ensuring that the resources were being effectively utilised to meet both services' needs at the time.

Q. Did you have any other discussion with him  
25 about resources?

A. I don't specifically recall. I would assume that I would have said that I had been in contact with the New South Wales fire brigade.

30 Q. Did you ask him if he could spare any of his resources to assist your response that day?

A. No, I didn't.

Q. Did he offer?

35 A. No, ma'am.

Q. Did you have any discussions with him about the risk to the urban interface that day?

A. Not prior to the meeting, no.

40

Q. So when you went into the meeting you had no further knowledge than you had when you left the previous evening in relation to the threat?

45 A. In relation to the broad context of the fires, no. I was obviously aware of what had occurred in relation to the ACT Fire Brigade resources, that they had been effective in working with the

Bushfire Service in the Tharwa area to complete a successful back-burn around the Tharwa village and that our resources had been freed up from Tidbinbilla around midnight. So in my mind that 5 situation had somewhat eased.

Q. You had all your resources?

A. Yes, ma'am.

10 Q. Before you went to the planning meeting did you consider you were sufficiently resourced to meet the potential threat that was out there in the bush?

15 A. I was resigned to the fact that certainly for the foreseeable future that these were the resources I had available to me from an ACT Fire Brigade point of view. Obviously, as we had continued to do during this campaign, we were always looking at the capacity or the ability to 20 be able to increase our capacity or escalate. That was essentially referenced back to the New South Wales fire brigade.

25 Q. If you go to the minutes under "NSW Fires", do you recall being told:

30 "There are reports of this fire" - that is the McIntyre's fire - "spreading into the north of the ACT. There is also a report that the north-west corner of the fire has crossed the Goodradigbee River into the pines."

Do you recall being told that?

35 A. I broadly recall that obviously being mentioned at that particular meeting. It wasn't telling me specifically; it was obviously a report from someone present at the meeting.

40 Q. Somebody also said:

"There is concern that the south of the Broken Cart Tumut fire is heading towards the ACT."

45 Do you recall any discussion about being concerned about the Broken Cart Fire heading towards

Canberra?

A. I don't specifically, ma'am, no.

Q. You would have paid particular attention to  
5 the Bureau of Meteorology report that day?

A. Yes.

Q. You would have been aware that the temperature  
was going to be potentially 40 degrees and wind  
10 gusting up to 60 kilometres on the ridges?

A. Of that afternoon, yes.

Q. You knew that?

A. I listened to the report provided by the  
15 Bureau of Meteorology liaison officer.

Q. If we could go over to the next page to the  
planning considerations. Was Mr McRae speaking  
during this portion of the meeting?

20 A. I believe so. There were a number of - this  
would be one of the meetings that I believe  
Mr Lucas-Smith referred to where there were  
potentially between 30 and 40 people at that  
meeting. There were a number of people from the  
25 Bushfire Service planning team present at that  
meeting, and I believe it may have involved  
several people, although there were people talking  
at that meeting whose names I was not familiar  
with at that point in time.

30

Q. But you recall being told about the  
significant potential for long-distance spotting?  
A. Yes, ma'am.

35 Q. That of course was no different than the  
predictions the previous day?

A. Yes, ma'am.

Q. The current areas of concern that morning was  
40 a potential run from McIntyre's impacting on  
Weston Creek to Greenway and potentially west and  
south of south Belconnen resulting from a more  
westerly wind. Did the breadth of the potential  
impact concern you at that stage?

45 A. It certainly elevated my thinking during that  
meeting. I recall thinking that straight after it  
I would be back in touch with the New South Wales

fire brigade to confirm - to see what they could offer. I was aware that this would be a day of high fire danger.

5 Q. They were also concerned of runs on southern parts of Tuggeranong, which was your responsibility as well; is that correct?  
A. Tuggeranong?

10 Q. Yes.

A. Yes, the Tuggeranong urban area is my responsibility, yes.

15 Q. Williamsdale, was that your area of responsibility as well?

A. No, I don't believe it is. But if resources had been requested it would have been something --

20 Q. Where they said "current areas of concern", I assume they were talking about concerns for that day?

A. Yes, I would take that to be that they were areas that the planning section were focusing on as part of their planning process.

25

Q. For that day?

A. Well, yes. At that time for that event, yes.

30 Q. If we could just leave that document for a minute and go to the handwritten notes of that meeting at [ESB.AFP.0010.0278] at 280. I notice there are no times predicted in the typed planning minutes. But in the notes that were taken during that meeting there were actually - if we can start 35 at the second paragraph - "High levels of exposure". Do you recall a discussion about high levels of exposure, potential run from McIntyre's south-east, Weston Creek to Greenway, more west, west Belconnen, south Belconnen, William Hovell 40 Drive, west from Tidbinbilla, southern parts of Tuggeranong? Further down it says:

45 "OPS and planning link paramount. Under threat 1200; cotter, 1500; west side of Mt Stromlo, 1800."

Do you recall those times being actually mentioned

at the meeting? These are the same times that were predicted the previous night.

A. I don't specifically, but obviously they were.

5 Q. You can't recall hearing that?

A. No. No. It is not that I don't recall those times being mentioned; I'd heard them a number of times during the last 24 hours.

10 Q. So was it your understanding during and after that meeting that these runs were going to happen that afternoon, if they were going to happen?  
A. It was still my understanding that these were based on unattended fire spreads as a worst-case  
15 scenario or I guess as the - yes, worst-case scenario, that the potential existed.

Q. I think we have covered the fact that nobody was going to attend those fires if they ran?

20 A. Yes, ma'am.

Q. That's correct?

A. (Witness nods).

25 Q. If we could go to page 282, at the top. There is a notation that is puzzling: "FB" - fire brigade - "protection. Reluctant to release into field." Do you recall anybody asking you to release any of your resources into the field at  
30 that meeting?

A. No.

Q. Do you know what that notation refers to?

A. I think - I can only assume. I don't know  
35 perhaps what was above that. I would assume that that is a reference to the discussion I had with Mr Lucas-Smith prior to that meeting where we had arranged that the urban capability would be best suited in the urban environment and that  
40 responding urban appliances outside the urban environment as a watching brief essentially would not be of the priority that it was the day before.

Q. You were going to stay in Canberra and look  
45 after the urban environment?

A. Both as a result of those fires and other incidents that may occur during that day.

Q. Do you recall Mr Hilton Taylor being at that meeting?

A. Yes, I believe I do, ma'am.

5 Q. Do you recall him saying anything of significance about timing of the impact of the fire?

A. I believe that Mr Taylor would have assisted Mr McRae to talk to the maps that were displayed  
10 at that particular meeting.

Q. I would like to show you [ESB.AFP.0110.0693]. See in the second paragraph there it says - well, the first paragraph refers to active fire in the  
15 Uriarra Two Sticks area:

"This fire under the influence of westerly/north-westerly fire weather has the potential to impact on rural lessees, the  
20 Canberra rural/urban interface from Hawker to Weston Creek from around 1500 this afternoon."

It appears from my understanding at least to be  
25 signed by the initials of Mr Hilton Taylor. Did anybody, Mr Taylor or anybody from the SMT planning cell, advise you of this prediction at the planning meeting?

A. No, I don't believe they did, ma'am.

30

Q. Were you ever that day advised of that prediction?

A. No.

35 Q. Did you have any discussions with Mr Lucas-Smith on the morning of 18 January about how your IMT was to interact with his SMT?

A. No, I don't believe we did specifically.

40 Q. How did it interact during the morning?

A. Essentially through liaison, although as the day transpired, obviously as things escalated, it was more difficult for all concerned to maintain a constant liaison based on the activity levels of  
45 the various people involved.

Q. So essentially your IMT was doing its own

thing and the Bushfire Service SMT was conducting its own operations and you were keeping each other abreast of things?

5 A. That was the plan, ma'am, yes. Essentially we at this point in time still did not have an incident, so our primary focus from the headquarters environment was still on contingency planning and preparedness.

10 Q. Correct me if I am wrong, my understanding at this point is that your incident management team was to manage fire when it came into the urban or past the urban interface or at the urban interface?

15 A. Yes, ma'am.

Q. You understood Mr Lucas-Smith's SMT to be managing that fire prior to its impact on the urban interface?

20 A. Mr Lucas-Smith or his team at that point in time was managing the event in its totality.

25 Q. What role did you anticipate the SMT would have if the fire impacted on the urban interface and entered the urban environment?

A. There would need to be closer links. I hadn't really - I think in my mind, even if there had been impact into the urban area through spotting or whatever else, essentially the bushfires themselves, the events themselves, would still be occurring and that there would need to be, you know, some type of duality of roles, I guess you could say, where the operations people from the fire brigade would have to work quite closely with 35 the operations people from the Bushfire Service.

40 Q. Putting aside any questions of ultimate controllers, did you assume if the fire impacted on the urban interface that it would be the responsibility of your IMT but the Bushfire Service SMT would continue to have responsibility for it?

A. I would - we would have responsibility - certainly the fire brigade would have 45 responsibility for dealing with the incidents within the built-up area. But the event itself at that point in time would still - my view was,

would still be managed by the SMT.

Q. Right. They would still have control, they would still have responsibility for the fire

5 overall and you would have a subset of responsibility for the fire in the urban environment; is that what you are explaining?

A. Yes. I may not have done that correctly, but I think that's the point I am trying to make, yes.

10

Q. You liaised with Mr Lucas-Smith so that you could keep abreast of what he was doing in relation to the main event; is that what you were --

15

A. When Mr Lucas-Smith was available we would speak. Essentially the liaison, as I understand it, was occurring between officers attached to the fire brigade headquarters and relevant members of the service management team cells.

20

Q. Did you have any awareness of where his resources were deployed throughout the morning of the 18th?

25 A. I was aware that they were predominantly in the southern region.

Q. Could you be more specific?

A. No, sorry.

30

Q. Was that in the urban or rural --

A. Sorry, certainly within the rural environment. I was not aware of any of Mr Lucas-Smith's resources being inside the urban area at that point of time.

35

Q. What about all the New South Wales Rural Fire Service resources? Were you aware of where they were being deployed that morning?

A. Not specifically; only that they were working 40 with the ACT Bushfire Service.

Q. In the southern rural areas?

A. And whatever they were doing at McIntyre's.

No, I was not specifically aware of the exact 45 locations or the allocation of resources for the Rural Fire Service.

Q. Go back to the planning minutes of the morning of the 18th, which is [ESB.AFP.0010.0266] at 268. Does that top paragraph encapsulate the resourcing situation as you have just described it?

5 A. Yes, it does.

Q. So the ACT Fire Brigade was maintaining resources primarily in the ACT? In fact all of your resources were going to be in the ACT  
10 available for interventions and structural protection with potential for New South Wales fire brigade assistance?

A. Yes, ma'am.

15 Q. After the planning meeting you made a further phone call to the New South Wales fire brigade. You spoke to Superintendent Denny. What conversations did you have with the New South Wales fire brigade?

20 A. To the best of my recollection, Mr Denny advised me that the issue of a request for assistance had been raised and he advised me that Chief Superintendent Dewsnap, that's my recollection of who it was, was the senior officer 25 in charge of the major incident control centre in New South Wales and that I should speak to him about the details.

Q. You spoke to him as well?

30 A. Yes, ma'am.

Q. What conversation occurred then?

A. It was in relation to confirming that what had been an informal request was now basically a  
35 formal request. I was advised by Mr Dewsnap that their resources were quite stretched, however they could make available to me a task force of five urban pumbers crewed predominantly by recruit firefighters, but being supplemented by an  
40 experienced officer and an experienced senior firefighter on each of those crews.

Q. What does a task force contain?

A. That particular task force, what they could offer at that point in time was five urban  
45 pumbers.

Q. Did you tell him about the predicted timing of the potential runs or potential impact?

A. I don't think in specific terms. I said that the outlook was continuing to look bad and that I 5 would appreciate any assistance that could be offered.

Q. So you didn't tell him that they were predicted to "impact at 8 o'clock tonight"?

10 A. No, I don't believe I used any particular times because I don't think I still had it clear in my mind of any accurate time for any impact.

Q. You didn't have any clear time in your mind?

15 A. No.

Q. Do you recall being told the predicted time of impact at the morning meeting and the previous afternoon's meeting?

20 A. Yes.

Q. Did you have any reason to disbelieve those predictions?

A. As the worst-case scenario, I had no reason to 25 believe those.

Q. Your last statement was, "As the worst-case scenario, I had no reason to believe those." Did you mean to say that?

30 A. Just then?

Q. Did you believe those --

A. I believed them as a worst-case scenario, certainly. I beg your pardon if I made that 35 unclear.

THE CORONER: So you had no reason to disbelieve those rather than to believe?

A. Yes, your Worship; that's what I had intended 40 to say.

MS CRONAN: Q. Did you consider contacting any other agencies to ask for extra resources apart from the contact you made that morning with the 45 New South Wales fire brigade?

A. Not directly at that point in time, no.

Q. So you made a number of deployments that morning. You deployed district officer Phil Canham to Mt Stromlo to assess the vulnerability of chlorine cylinders?

5 A. Yes, ma'am. That issue was discussed at the planning meeting that morning and I had a quick conversation with the ACTEW representative at that particular meeting who was seeking advice from us in relation to the safety of those particular  
10 cylinders. Straight after the meeting I organised for Mr Canham to speak with I believe it was Mr John Demke, and then they subsequently arranged to travel out to the site.

15 Q. What did you do about arranging the re-calling of additional firefighting crews?

A. It was some time after that particular meeting that I believe we made a decision to crew - fully crew those additional three pumpers.

20 Q. What time was that decision made?  
A. I couldn't recall an accurate time, ma'am. I think some time between 11 and 12.

25 Q. It also says in your statement that you spent some time liaising with Peter Lucas-Smith about the fire development. Can you recall now with any more specificity than in paragraph 47 what exactly did you do on Saturday morning?

30 A. I apologise for the vagueness. I made many phone calls in relation to a range of things. Actually trying to reconstruct my minute-by-minute work routine at the point of time I compiled the statement was particularly difficult. Essentially  
35 it was just a continuum of telephone calls and speaking to various people, answering questions that may have been asked or, if the needs be, me asking what the current status was in relation to re-calls. A range of issues, but I cannot elaborate --

Q. Can you say what kind of people you spoke to and what kind of issues you discussed?

45 A. Not with any degree of accuracy, ma'am. There was - the congestion at headquarters at that point in time was quite extraordinary. It was - I would have difficulty - I have difficulty in actually

providing an accurate blow-by-blow description of what I was doing.

5 Q. Can you think of or show her Worship the results of any activities that you carried out that morning?

A. I don't understand the question, ma'am, I'm sorry.

10 Q. What did you produce, if anything?

A. The New South Wales fire brigade task force arrived later that day.

15 Q. You spent some time with the logistics of that?

A. Yes, ma'am. Liaising with the logistics cell of the IMT in order to arrange appropriate lodgings, a vast array of activities.

20 Q. In the next paragraph you say:

"Although the increased fire danger was recognised, there was no specific indication that the fires would impact on the suburbs of Canberra that day."

That surely wasn't your state of understanding on the morning of 18 January 2003, was it?

30 A. That was - I guess that was the state of my understanding when I compiled this statement. I would concede that I would probably reword it somewhat, if given the opportunity now.

Q. How would you --

35 A. Well, I mean, again, and I think what is articulated in that particular paragraph is that I had no degree of certainty that --

40 Q. But there were many specific indicators, weren't there, to your knowledge that the fires would impact on the suburbs of Canberra that day?

A. Could impact, yes, ma'am.

45 Q. Were likely to impact; would you agree with that?

A. I would now.

Q. At mid morning you went to your parents' home at Warragamba Avenue?

A. Yes, ma'am.

5 Q. You checked on their welfare?

A. Yes, ma'am.

Q. And assisted them with their preparation?

A. Very briefly.

10

Q. Did you notice from general observations around Duffy - what time did you go to your parents', firstly?

A. Probably some time after a quarter after 10.

15

There was some - the discussions that I had with Mr Canham, Mr Demke, a couple of phone calls I made. I believe I made phone calls on the way out. So it was I guess within 30 minutes of the morning planning meeting concluding. So some time 20 after 10 o'clock.

Q. Did you notice whether or not people generally round the suburb of Duffy were making preparations for the potential impact of the fire?

25

A. I noticed only I guess within the vicinity of my parents' place that a lot of people were outside. Some were removing vegetation. People obviously at that point in time were regularly looking at the smoke on the horizon and there 30 appeared to me to be varying levels of preparedness being undertaken by the people within the vicinity of my parents' place, yes, ma'am.

35

Q. You were concerned that your parents, who are in their 70s, had nobody to assist them with those tasks?

A. Yes, ma'am.

40

Q. So you helped them with their debris and filled their gutters with water?

A. I filled the gutters. They have a two-storey house. So I got up and filled the gutters for them, yes, ma'am.

45

Q. You returned at about quarter to 11 and spoke with Mr Lucas-Smith. What time did that conversation take place, approximately?

A. I'm unsure of the time, ma'am. Some time around lunchtime. It was essentially - as I recall, I had a discussion with a senior New South Wales Rural Fire Service officer.

5

Q. Was he in the same discussion with you and Mr Lucas-Smith or was it a separate one?

A. In fact I believe Mr Lucas-Smith may have come in during that - we were discussing - not met this 10 gentleman before.

Q. Do you recall his name?

A. I recall what I believe it to be, a Mr Crosweller.

15

Q. And where did you have that discussion?

A. In my office.

Q. Did he come to your office for a specific 20 purpose or did you call him in?

A. Yes, to introduce himself and to discuss a range of issues - the combined capability.

Q. What specifically did you discuss with 25 Mr Crosweller?

A. I advised him of what the current status was in relation to our resources.

Q. Did he respond to you?

A. It was - I think he indicated that they had resources - more resources on their way. There was a brief part of the conversation where I had advised him that I had requested additional resources from the New South Wales fire brigade, 35 and I think we sought clarity because at one stage he was indicating that they may have been doing that and just needed to confirm that we were talking about the same task force coming down from the New South Wales fire brigade.

40

Q. But he was a Rural Fire Service senior officer?

A. He was one of Mr Koperberg's senior officers.

45 Q. I think you said he said, "We have more resources on the way"?

A. Yes, we discussed resources. That was the

thing.

Q. What did you discuss about resources? What did he tell you?

5 A. I can't recall exactly what he told me other than there was a significant presence of New South Wales Rural Fire Service within our region. I told him that this is the capability that the ACT Fire Brigade had at this point in time.

10

Q. How did he respond to you when you told him that?

A. I got the impression that this particular officer had only recently arrived in the ACT and 15 he was familiarising himself with some key personnel and the area, and the conversation essentially did not last too long.

20 Q. You did not ask him if he had any more resources that could come to Canberra that afternoon?

A. Not for me, no, ma'am. At that point in time, still at that point in time, I saw it that the liaison with the New South Wales Rural Fire 25 Service was being coordinated through the ACT Bushfire Service.

Q. You say Mr Lucas-Smith came into that meeting you had with Mr Crosweller. Can you recall what, 30 if anything, he said during that meeting?

A. No, I can't. I don't believe --

Q. It says in your statement, sir, that you discussed your collective capability to combat the 35 fires in the event that they should make a run towards the suburbs. What was your collective capability at that point in time?

A. These were the discussions on the resources available that I have alluded to.

40

Q. Did you have any discussions with Mr Lucas-Smith about your collective capability to combat the fires other than what you have already told us?

45 A. No, there was no further information to provide to Mr Lucas-Smith at that point of time. He was aware of the status of the ACT resources.

He would also have been aware, I guess, of what the current status was with the New South Wales Rural Fire Service resources also.

5 Q. At the end of the discussion at paragraph 49 your collective capability was still nine pumbers and eight tankers; is that correct?

A. That was my fire services contribution to the collective capability.

10

Q. That was your collective capability. Was there any other capability at that point in time?

A. For the ACT Fire Brigade or for the ACT?

15

Q. To combat the fires in the event that they should make a run towards the suburbs?

20

A. No. My component, the ACT Fire Brigade's part of that collective capability, was by this stage probably 12 pumps or at least getting towards 12 pumps based on re-call arrangements plus our water tankers, but it was discussed in the totality of Mr Lucas-Smith's resources and the resources that the New South Wales Rural Fire Service had within the region of the ACT.

25

Q. What other resources did anybody say in that meeting would be available to combat the fires at the urban interface? What was the collective capability to do that on Saturday afternoon?

30

A. A combination of resources from those three services.

Q. Did they tell you what they had and where they had it?

35

A. No, ma'am. We didn't get into specific locations of individual either strike teams or pumbers.

40

Q. They just said there are resources around about?

A. Essentially.

45

Q. You say that throughout the day the number of people in ESB increased rapidly and was heavily congested. Can I just ask you again how the Bushfire Service SMT and fire brigade IMT interacted as the number of people increased

rapidly and I assume the situation became more serious throughout the day?

A. Yes.

5 Q. How did you interact?

A. Again it was basically by fire brigade officers speaking with various representatives of the SMT as required. At that point in time I think we had one of our officers attached to the 10 SMT planning cell. Our logistics person at that point in time would have been referencing or trying to locate the appropriate person within the Bushfire Service logistics team.

15 From a fire brigade point of view, it became particularly difficult to centralise because at that point in time there was not much free area within the confines of the building itself. An area that we had used the previous day to conduct 20 planning had been basically shared with now people from the recovery centre that were working on the potential evacuation strategies. There were constraints and difficulties in overall 25 coordination based on the physical layout of the actual building itself and its capacity to meet the surge of people that continued to arrive.

MS CRONAN: Is that a convenient time, your Worship?

30 THE CORONER: Yes. We will take the morning adjournment.

**SHORT ADJOURNMENT**

[11.20am]

35

**RESUMED**

[11.40am]

40 MS CRONAN: Q. At approximately quarter to 2, you called into Mr Castle's office to participate in the discussion concerning the question of whether a state of emergency ought to be declared. Can you tell us now who was at that meeting?

A. Not everybody, ma'am. When I arrived the 45 meeting was in progress. There were a number of people. The meeting actually occurred in Mr Castle's office. There were a number of people there to the point where I actually stood at the

rear of the room. Essentially a group of people were sitting around Mr Castle's meeting table. The Chief Minister was in attendance, certainly. Mr Castle; I believe Mr Keady; Mr Tonkin and CPO Murray. I stood next to Mr Lucas-Smith and I can't specifically recall many of the other people. There were a large number of people in one office.

10 Q. What was discussed whilst you were present?  
A. At or about the time I arrived, it was really to the point where the responsible people were getting ready to sign the relevant documentation that in effect would declare the state of  
15 emergency.

Q. Can you recall anything that was actually said whilst you were present?  
A. There was discussion in relation to the  
20 formalities associated with signing the relevant instruments and there was also discussion on the appointment of an alternate controller as this was a fire event. I certainly recall reference being made to Mr Lucas-Smith.  
25

Q. What was the discussion about appointing an alternate controller?  
A. My recollection is that it was deemed important to have continuity in the management of  
30 this particular event and that Mr Lucas-Smith would be the appropriate person to undertake roles associated with the alternate controller.

Q. Did you hear why people at the meeting wanted a state of emergency declared and an alternate controller appointed?  
A. No, ma'am. As I said, I arrived when the meeting was in progress. Essentially - my assumption is that those discussions had already  
40 taken place.

Q. But you were aware at this point surely, sir, that the fires were undoubtedly heading towards Canberra and would impact upon the urban interface  
45 that afternoon?

A. Yes, could impact. But no real sense of the degree of impact. There was obviously that

spotting potential. My thought process at that particular time was that we needed to be prepared to deal with any subsequent outbreak of fire predominantly as a result of spotting. I in no 5 way foresaw the extent of what actually occurred later that day.

Q. I think earlier in your evidence, it may have been yesterday, you said that you were expecting 10 perhaps something coming out of the pine forests in the way it did in the fires on Christmas Eve 2001. Is that sort of what you were expecting?

A. Yes, ma'am, to a large extent my thought processes were essentially governed by the 15 characteristics of the fires of 2001 where essentially we were dealing with isolated grass fires and defending property directly as a result of that particular situation.

20 Q. Did you at any stage, say prior to 2 o'clock on that day, ask Peter Lucas-Smith or any of his planning cell what you could expect to come out of the pine forests at the urban interface?

A. Not as directly as that. I was expecting 25 obviously the spotting potential. I in no way envisaged a fire front.

Q. When you say a spotting potential, if the fire spotted into the Stromlo pine forest you wouldn't 30 have a spot fire, would you; you would have a pine forest fire?

A. Yes, ma'am.

Q. You were aware that that potential existed? 35 A. Yes, I was.

Q. Did you ask anybody what was likely to come out of the Stromlo pine forest if it was ablaze at the urban interface?

40 A. No, not specifically. I was aware that embers would come from those pine forests, that they could travel some distance and that we would deal with any potential outbreaks of fire may occur as a result of those particular embers.

45 Q. Why didn't you ask somebody what was going to come out?

A. At that point of time I believed I knew what was coming out and I was focusing on the potential for embers to enter the urban area.

5 Q. But you are aware that Superintendent Prince told Steve Kirby and Mandy Newton and I think the Chief Police Officer at a meeting earlier that morning that the flame height would be double the fuel it was consuming. So if you had 30-foot  
10 pines you would have 60-foot flames?

MR JOHNSON: Does that mean does he know it now or did he know it then? The question needs some clarification.

15 MS CRONAN: Q. You are aware now that information was imparted?

A. I am aware now, yes.

20 Q. Did you obtain that kind of information yourself prior to 2 o'clock?

A. No, ma'am, I didn't.

Q. And nobody told you?

25 A. No. Nobody told me what - I mean I am aware that fires in pine plantations are quite dynamic.

Q. Quite fierce?

30 A. The intensity can be quite fierce, yes, ma'am. I didn't need to be told that.

Q. You were familiar with the publication "Will you survive" that was put out?

A. Yes.

35 Q. You have read the section there - there is no need to bring it up - "what will happen"; have you read that section?

A. Recently?

40 Q. Prior to January 2003.  
A. Yes, ma'am.

Q. It says "there will be a shower of sparks and embers before the main fire front approaches". You were aware that would happen?  
45 A. Yes, sir.

Q. And that "the shower of embers would continue for several hours after the fire had passed"?

A. Can continue, yes, ma'am.

5 Q. It goes on:

10 "You should also expect strong winds and heavy smoke which will make it dark and visibility will be reduced. That the fire would generate a very loud noise which would be traumatic. And the dozens of homes would be under attack by the oncoming fire at the same time".

15 You were aware that is the general warning that was out.

A. That is a potential scenario, yes, ma'am.

20 Q. Essentially on a large scale that is what happened in a suburb - I will use Duffy as an example - in the suburb of Duffy on the afternoon of 18 January?

25 A. I am aware of that now, ma'am, yes. That's not what I anticipated. I don't think that is what anybody anticipated.

30 Q. Just so we are very clear, can you describe to her Worship what you anticipated the fire would look like say at the point in time when you sent District Officer Thornthwaite up to Eucumbene Drive?

35 A. Yes, ma'am. I anticipated that once or if fires got in the pine plantations, there would be fierce burning within the constricts of that particular area, that embers would be released from that particular fire and that these embers can travel for some distances. The potential for the Fire Brigade was to deal with any resultant fires that may occur from that shower of embers.

40 I would not have put Mr Thornthwaite, I don't believe - I hope I don't have to make this decision again - if I had known the extent of those particular fires, I would have thought long and hard about placing firefighters in between what eventually arrived in those particular areas.

THE CORONER: Q. What did you expect to happen to the fire though once it came out of the forest? It is not just the embers that are coming out of the forest. The fire is burning in the pines.

5 A. Yes, ma'am.

Q. What did you see?

A. How did I foresee it?

10 Q. As a possible consequence of the fire.

A. One of the concerns was the effects more so not from a direct flame contact but from radiant heat, particularly in the Duffy area. Your Worship, I was aware that those forests were quite some distance, certainly from certain areas of 15 Duffy. For example, from Warragamba Avenue there was a significant clearing between the Stromlo forests and Warragamba Avenue. And similarly on Narrabundah Hill, I was also aware there had been fuel reduction on the west of Narrabundah Hill 20 prior to that and was led to believe that the pine trees that remained within the close proximity to Eucumbene Drive was referred to as a crown free fire zone. So again I did not anticipate in any 25 way, shape or form the scale or the intensity that the fires or the impact that those fires would have on the residential areas, particularly in the Weston Creek area.

30 MS CRONAN: Q. Could I show you, sir, a document [ESB.AFP.0004.0093]. I am showing you an AIIMS message form timed at quarter to 2 on 18 January from the SMT OPS to planning section. Have you ever seen that document before?

35 A. No, ma'am, I have not.

Q. Firstly it says:

"Watch out."

40

And predicts:

45 "Possibility of super heat flue running up western side of Mt Stromlo i.e. fire storm in mature pines."

Did anybody from the planning section communicate

that possibility to you at any time before  
3 o'clock on the Saturday the 18th?

A. No, ma'am.

5 Q. You deployed, or somebody deployed on your behalf, but you were informed that crews from Charnwood and Ainslie had been responding to grass fire spotting near the lower Molonglo Sewerage Treatment works and that Acting District Officer  
10 John O'Connor had been responded to take over all command of that response". Were you aware at that stage what resources had been deployed to the lower Molonglo sewerage treatment works?

A. I was aware that the appropriate response had  
15 been made. I believe it was the nearest available pump and two water tankers.

Q. And at 2 o'clock you made a decision to deploy District Officer Thornthwaite to Eucumbene Drive  
20 essentially; is that correct?

A. Yes, ma'am.

Q. What information had you been given prior to making that decision that you factored into your  
25 placement of your resources?

A. I had a discussion with Mr Lucas-Smith, just prior to meeting with Mr Thornthwaite and I believe Mr Newell, where we were starting to actually narrow down the potential path of the - certainly the embers and the direction of the fire  
30 was going.

Q. What did Mr Lucas-Smith tell you?

A. I consulted with Mr Lucas-Smith about where  
35 along the western front --

Q. What did he tell you? What was his words to you?

A. I was basically generating most of that  
40 discussion and was just seeking his expert opinion as to whether or not this would be, from a strategic point of view, the most appropriate place to concentrate resources in anticipation of any resultant fire activity.

45 Q. Were you aware during that discussion that the fire had spotted across the Murrumbidgee into the

Stromlo pines?

A. Yes, I believe I was at that time.

Q. So did that conversation take place after the  
5 state of emergency meeting?

A. I think probably almost directly after that  
meeting, yes, ma'am.

Q. Spotted over about 2 o'clock. You were told  
10 immediately it spotted over, were you?

A. Yes, I believe so.

Q. Can you recall who told you it had spotted?

A. No, I can't.

15

Q. Did you say to Mr Lucas-Smith, "I have a  
limited number of resources available to protect  
the urban interface. I want you to give me some  
resources to assist" at that point in time?

20

A. No, I believe Mr Lucas-Smith may well have  
indicated at that time that some of his resources  
were heading back towards the urban edge. So I  
think I might have told Mr Lucas-Smith that I had  
already deployed the northern stations --

25

Q. Sorry?

30

A. I may have told Mr Lucas-Smith or I believe I  
told Mr Lucas-Smith at that point in time that  
that we had deployed some northern stations to the  
spot fires at lower Molonglo and that we were  
essentially pre-positioning a number of units  
along that Eucumbene Drive down to the Cotter Road  
in anticipation and as a level of preparedness.

35

Q. When you were told that it had spotted into  
the Stromlo pine forest, were you also told how  
long it would take to spread to the urban  
interface?

A. No, ma'am, I was not.

40

Q. Did you have any idea about --

A. I had no clear idea in accurate timing, no.

Q. Did you ask anyone?

45

A. No, ma'am, there were many other things that I  
was doing at the time.

Q. Did Mr Lucas-Smith tell you what resources he had heading back to Canberra, where they were and what their ETA was?

5 A. No, not as specific as that - just that his resources were moving towards the interface.

Q. So on the basis of that discussion, what resources did you deploy to Duffy?

10 A. I understand it to be at least - a pumper crew and several tanker crews at that point in time. And then based on information that was received, additional resources were responded.

15 Q. Okay. So prior to the impact at approximately - after 3 o'clock, what resources did you deploy to Duffy?

20 A. If I can just refer to my statement now, if you don't mind. Essentially - I am not sure on the specific combination - we had resources from three of the southern fire stations deployed to that particular area. So it would have been a combination of our southside water tankers and pumpers.

25 Q. Did you discuss with District Officer Thorntwaite where he was to strategically place his resources?

30 A. No, in a broad sense that is a decision Mr Thorntwaite would make, the ultimate decision he would make on arrival. As a guide, we discussed the area of Eucumbene Drive down to Stromlo Road with potentially establishing a forward command post somewhere around the intersection of Hindmarsh Drive and Eucumbene Drive.

Q. What was the reasoning behind that deployment? What did you expect those resources to be able to achieve at that specific location?

40 A. To carry out any type of preparatory work to minimise any impact as a result of either ember attack of the houses that directly faced the direction of the fire.

45 Q. By that do you mean they were going to spray the trees and houses in the fire front with water?

A. Yes, ma'am. They were also, as I understand

it, shipping stand pipes or connecting up to the fire hydrant systems in the road so that, in the event there was any outbreak of fire, a number of pre-suppression activities had already occurred.

5

Q. Sorry, I don't understand.

A. Essentially a part of their preparedness was to gain access to street mains, installing what is called a stand pipe, which is our means of drawing 10 that water from a hydrant main, laying out hose lines so that if a fire was to outbreak our set-up time would be drastically reduced by the amount of preparation.

15 Q. Did they do that throughout the suburb or just at the --

A. No, on the interface, ma'am.

Q. I think we have seen District Officer 20 Thorntwaite on television - I don't know if you have seen it - but he is interviewed on camera whilst he is waiting for the fire to come across. He says, "Our objective is to stop it here." Was that your understanding of his objective, to stop 25 the fire at that particular road?

A. If at all possible, that was certainly our objective was to stop --

30 THE CORONER: Q. That is on the corner of Eucumbene Drive and Warragamba Avenue?

A. Yes, your Worship. Yes, if at all possible we were going to prevent that fire from having an impact on the suburban area, particularly in that area.

35

MS CRONAN: Q. If I could take you to paragraph 53 of your statement, which is on page 008. You have said there in the third bottom line that:

40

"We determined that crews from Phillip, Greenway and Kambah stations would be deployed along Eucumbene Drive and Warragamba Avenue to address the possibility of fires 45 reaching the urban edge through the afternoon."

I think you agree with me now that the word "possibility" where it is placed is incorrect and you in fact were aware that the fires were in the Stromlo pines at that point in time?

5 A. Yes, ma'am, I was aware that they were in the pines.

Q. They would, therefore, reach the urban edge at some point that afternoon?

10 A. I was aware that embers would most likely reach the urban edge.

Q. You were aware that those pines were going to burn that afternoon, weren't you?

15 A. Yes, ma'am. At that time I was, yes.

Q. I think you visited Duffy yourself that afternoon at about 3.30?

A. Yes, I did.

20 Q. What did you do whilst you were in the suburb of Duffy?

A. Essentially I had to see for myself the extent of the impact of those particular fires. We had 25 been at that point in time receiving information as to the status of our crews. I was aware that an urban pumper was on fire. I was aware that firefighters' lives were at risk. I was also aware that my father was not accounted for. So I 30 went and saw it for myself.

Q. You spoke to District Officer Thorntithwaite while you were present?

A. Yes, ma'am.

35 Q. You advised him to do what he could but that the firefighters' safety was paramount?

A. Yes, ma'am.

40 Q. Did you have any discussions with him about getting further water or resources to assist him in that effort?

A. I said that we would be providing whatever we could.

45 Q. What did he tell you about the situation when you spoke to him?

A. Essentially the conversation was very brief. It lasted probably less than a minute because of the nature of the activities that were occurring in that particular area. He just told me that he 5 was doing everything he could, and that they would continue to do that for as long as they could.

Q. When you deployed the resources to the interface on Eucumbene Drive, did you consider or 10 discuss with anybody the option of having resources placed back from where the fire front would go?

A. Not at that point in time, no, ma'am. No, I did not.

15

Q. Have you since considered that option?

A. Certainly.

Q. That may have been an advisable option to have 20 followed at that stage so they could go in after the fire front had passed through?

A. Yes, ma'am, I think that would be an acceptable strategy and if we would have had more resources we would have done that at the time.

25

Q. Now, you returned to ESB - can you recall about what time you got back in the afternoon?

A. I was gone for - I actually got caught in traffic coming back. I was gone for probably 40 30 to 45 minutes.

Q. What was occurring at ESB when you returned?

A. The environment was obviously one of high levels of activity. People were doing their best 35 to gain, I guess, a clear picture of the situation. I can't speak for what other people were necessarily doing at that point in time. My primary concern at that point in time again remained firefighter safety. We were trying to 40 establish a mechanism for accounting for all our firefighters through use of radios. And just seeing what else that we had that we could possibly dispatch in those areas.

45 Q. Now, since the appointment of the alternate controller, you were no longer in a position of responsibility for the management of the event; is

that correct?

A. Yes, ma'am. Not overall in charge of the management of that event, that's correct.

5 Q. Did you consider then that your resources were a component of the resources available to the alternate controller from that point?

A. Yes, ma'am. Along with all resources of the territory and those that were also in attendance.

10

Q. Can you recall having any discussions with the alternate controller after your return to ESB that afternoon?

A. Not with any clear recollection.

15

Q. Can you just say to her Worship what you recall doing yourself that afternoon?

A. Essentially, your Worship, for the next couple of hours it was keeping in regular contact with 20 our communications centre as to the status of the fires, the safety of the firefighters, the availability of resources. I believe at some stage I would have checked on the estimated arrival time of the New South Wales Fire Brigade 25 and starting to receive reports about the impact these particular fires were having on our city.

30

Q. Prior to this event you have told us earlier in your evidence that you attended part of an operation related to a wildfire in 1994.

A. Yes, ma'am.

35

Q. But you arrived fairly late in the event and participated essentially in mopping-up activities with your brigade, is that correct?

40

A. We were there on the third day of the fires in Sydney in 1994. The task force of which I was leading did have an operations role and we were involved in firefighting along St Ives Road, I believe it was.

Q. Apart from that activity, what other exposures have you had to fighting wildfires?

45

A. I have had no exposure to anything certainly of that magnitude. During my career as a firefighter, I was involved in several of the larger fires that occurred some time in the '80s

around the Canberra region as an operational firefighter attached to a water tank crew. I guess the significant difference is that predominantly these fires were in grassland areas 5 which produced significantly different challenges and threats.

Q. So is it the case that your only experience with wildfire in pine plantations, particularly 10 would come from Christmas 2001?

A. Yes, ma'am. That would be correct.

Q. In your experience in the Fire Brigade for 15 27 years, have you ever been involved in the management of a major event that has required a significant escalation of resources?

A. An emergency event, yes, ma'am. Involved - I was heavily involved in Thredbo landslide as the task force leader for the ACT that arrived the 20 morning after the landslide and stayed there seven days, I guess. But we were in a similar role, I guess you could say, because we were a support agency to the New South Wales Fire Brigade. At that point in time part of my role there was to 25 attend as a liaison officer at briefing sessions that occurred onsite at Thredbo, and essentially over the 8- or 9-day period I was in attendance for 7 of those days in a task force leader capacity.

30 Q. When you went to Thredbo in that capacity, were they utilising the AIIMS control system to manage that disaster?

A. It was a system that resembled in some shape 35 or form AIIMS. I don't believe specifically it was the AIIMS-ICS system because predominantly that particular event was managed by the New South Wales Police. As we got into the way in which the fire services as a component of that particular 40 event operated, the principles of ICS were adopted.

Q. Had you ever before January 2003 yourself had to manage or control a major complex incident?

45 A. It depends on your definition of "complex", ma'am.

Q. One requiring lots of resources and logistics from different agencies.

A. No, I have not been the incident controller for an incident that has required a multi-jurisdictional response, for example. No.

5 Q. But you understood, did you, as at January 2003 that the incident control system involved an integrated approach to managing a large incident.

10 A. Yes.

Q. You were trained in incident control system?

A. Yes I am.

15 Q. Why, given that knowledge did you form your own IMT?

A. It was in order to prepare contingencies. Essentially, the ICS system can be used in a wide range of activities. It does not necessarily have to be focused on response. It's a span of control arrangement that ensures that the key components of any type of event are managed effectively. It was the most appropriate mechanism for us to use in order to go about with a contingency plan that we believed necessary.

Q. Would you agree with me that it's designed as a multi-agency incident management system where everybody should integrate from different agencies into one management system?

A. That's the philosophy of AIIMS, yes, ma'am.

30 Q. Under that system, if it was being implemented in accordance with its design, is your agency within the SMT?

A. We represented our agency at the SMT briefings. We had a liaison officer attached to the planning cell of the SMT. We did not directly have anybody attached to the operations cell in a permanent capacity.

45 Q. But you could have - if Mr Lucas-Smith was incident controller of the SMT for this fire event, you could have fitted your agency into his SMT and acted effectively as a divisional controller under his command; would you agree?

A. Well, that is in essence what was occurring.

Q. In effect what you did was have, at least for  
5 the morning - so the Friday evening and Saturday  
morning, you had two incident controllers for the  
same event with very --

A. Ma'am, even a functional component of any  
major operation has to have its own plans in place  
10 on how it is going to deal with its particular  
component of the incident. That's in fact what  
the ACT Fire Brigade was doing in preparation.  
The work we were doing was to supplement and  
support Bushfire Service. But it was also there  
to ensure --

15

Q. You didn't even discuss your --

MR JOHNSON: Could he be allowed to finish. There  
have been a number of times when there have been  
20 cutting off. I haven't been objecting. But I  
would ask for the witness to be given a chance to  
finish his answer.

MS CRONAN: Certainly.

25

Q. Would you like to finish your answer?

A. Could you tell me what I just said, please.

THE CORONER: I think you were saying there were a  
30 number of times --

MS CRONAN: Q. You said:

35 "That in fact was what the ACT Fire Brigade  
was doing in preparation. The work we were  
doing was to supplement and support the  
Bushfire Service. But it was also there to  
ensure" --

40 A. That we made the necessary preparations to  
meet our tasks or objectives underneath or in  
support.

45 Q. But if you were there to supplement the  
resources of the SMT, is there some reason why you  
didn't discuss your IAP with the planning cell or  
the incident controller of the SMT?

A. We are referring to the document yesterday?

Q. Yes.

A. Is there a reason why I didn't discuss it?

5

Q. The IAP.

A. I didn't see it necessary at that point in time. I believe, as I think I might have said yesterday, the SMT was aware of the capability of 10 the Fire Brigade. That document was essentially stating the current position re-affirming standard operating procedures. From a strategic level the SMT needed to know that the Fire Brigade was equipped. I didn't take it to the tactical level 15 at the SMT.

Q. In hindsight, do you consider that the flow of information from the Bushfire Service to the Fire Brigade was sufficient or adequate in the days 20 leading up to 18 January?

A. The closer it got to the event, the more difficult it became, I think, for everybody. The information flow could certainly have been better - or could be improved. I believe that 25 they were providing information to the best of their ability. It's something that, with the benefit of hindsight, all agencies I'm sure will be working towards improving.

30 MS CRONAN: Would you excuse me to consult with my colleague?

THE CORONER: Yes.

35 MS CRONAN: Q. Sir, looking back with hindsight on how the fire event was handled by the Bushfire Service and the ACT Fire Brigade, do you consider that there is any benefit that could have been gained if the two fire services had been 40 integrated? I know I have phrased that very badly.

A. If I could just clarify: do you mean integrated in relation to dealing with that particular event or --

45

Q. Integrated generally.

THE CORONER: One service.

MS CRONAN: Q. Essentially one service.

A. Essentially I believe the philosophy to a  
5 large extent behind the establishment of the  
Emergency Services Bureau was to bring each of the  
response agencies closer together collocated at a  
headquarters environment certainly in an  
overarching administrative environment, with a  
10 shared communications centre and the capacity to  
work closer with the separate services.

I believe over the last 10 years that there had  
been incremental improvements towards meeting that  
15 objective. Certainly given additional resources  
in relation to that particular event, closer  
integration at an incident management team would  
have been, I believe, beneficial to both services.

20 Q. Given the location and the layout of Canberra  
as the bush capital, would you say there would be  
benefits in looking at having the one fire  
service?

A. I believe there is a major argument for  
25 continuing to explore that scenario as a way to  
take us forward within the ACT. With it brings  
its own challenges, but we are there to serve the  
community.

30 MS CRONAN: Thank you, sir. I have nothing  
further.

THE CORONER: Q. Mr Bennett, I will ask you this  
question you don't have to answer if you don't  
35 wish to. Were your parents injured?

A. No, ma'am. My father was located in an  
evacuation centre some time that night. Their  
house received superficial damage. No physical  
injuries.

40 THE CORONER: Yes, Mr Archer.

**<CROSS-EXAMINATION BY MR ARCHER**

45 MR ARCHER: Q. Mr Bennett, I think you have been  
sitting in court every day that Mr Castle and  
Mr Lucas-Smith gave their evidence?

A. With the exception of a couple of hours here and there, sir, yes.

Q. Were you present when I examined them?

5 A. Yes, I believe I was, sir.

Q. So you would recall those general questions I asked them in relation to the police's role in emergencies such as this?

10 A. Yes, sir.

Q. Do you agree that that is generally the case, the police play a facilitative role in emergencies such as this at your direction?

15 A. Yes, I do, sir.

Q. So that might be as simple as at your direction - and I'm saying generically - the Bushfire Service or the ACT Fire Brigade directing road closures, they would do that on your behalf to facilitate control of people's movements to an affected area?

A. That's correct, sir.

25 Q. If the circumstances demanded evacuations, if directed by the Bushfire Service or the Fire Brigade they would assist in the process of evacuation?

A. Yes, sir.

30

Q. But the call in relation to evacuation was belonging to you as head of the Fire Brigade or to Mr Lucas-Smith as the head of the Bushfire Service?

35 A. Yes, sir.

Q. In relation to your understanding of the threat that presented itself as of the evening of the 17th, would you agree that although there were references made during the planning meeting of that afternoon that projected an unattended rate of fire spread, your assumption was that the next day was going to be focused on a rural setting so far as the Fire Brigade was concerned?

45 A. Yes, sir.

Q. Was that the impression that was left by that

planning meeting that evening - the main effort for the following day was going to a rural fire effort?

A. Yes, sir.

5

Q. Did you have direct access to the planning team at ESB, to Mr McRae?

A. I would have, sir. I could have walked into the planning cell and spoken, if it was necessary.

10

Q. From time to time did you do that?

A. I did, sir.

Q. Did you do that on Saturday morning?

15 A. No. I don't believe I did.

Q. Do you recall at any time that morning - if I could take the period before 12 noon - discussing with Mr McRae or Mr Gellie or other people from 20 that team, soliciting from them their view about fire spread that morning?

A. Not me personally, I didn't, sir.

Q. You say "not me personally", did you receive 25 indirectly then some information from that planning cell?

A. No, but evidence I have seen here would indicate that other officers within the Fire Brigade may well have done that.

30

Q. So, for example, Mr Prince may have done that?

A. Yes, sir.

Q. Do you accept from the evidence you have heard 35 that the impression he gained from the planning cell seemed to be different from the assumptions you were operating upon that morning?

A. Based on what I have seen here, yes. He was - yes.

40

Q. Do you recall being at ESB at about quarter to 1 that afternoon and having a conversation involving Sergeant Steve Kirby?

45 A. I spoke to Sergeant Kirby on and off several times during that day, sir.

Q. I am interested in a particular conversation.

Again, you would have heard evidence of it in the last three weeks or so. That conversation involved you, Mr Keady, Mr Lucas-Smith where Sergeant Kirby raised the question of evacuations.

5 A. I did hear that, sir. I don't believe I was present at that particular meeting.

Q. Are you sure about that?

A. I'm not 100 per cent sure. But my 10 recollection of the discussions in relation to evacuations occurred with Mr Murray and Mr Lucas-Smith on or about the time that the state of emergency was declared.

15 Q. Let's stick with that issue: did you make any contributions to that discussion at all?

A. No. I was - essentially the dialogue was between Mr Murray and Mr Lucas-Smith.

20 Q. Although there is some grey area, the responsibility for ordering evacuations once a bushfire moves into the urban area is or was yours, wasn't it?

A. Yes, sir.

25 Q. You made no contribution to that discussion about evacuation?

A. Not at that time, sir. I believe the state of emergency had been declared.

30 Q. So far as the discussions surrounding or leading up to that declaration of state of emergency you made no contribution to that discussion?

35 A. I don't believe I was involved in any conversations in relation to evacuations leading up to the meeting for the state of emergency.

40 Q. So far as that issue was concerned, did you actually turn your mind to it on that Saturday morning; that is, the issue of evacuations?

A. At what time do we mean, sir?

Q. Any time that morning?

45 A. Certainly at around the time that a state of emergency was declared.

Q. That was the first time you had turned your mind to that?

A. To evacuations in the urban area?

5 Q. Yes.

A. Yes, sir, with a realistic look at it, yes, sir.

10 Q. You qualified it with "realistic look", what do you mean?

A. I was aware that the evacuation centres had been established. I had not been involved in any discussions that were looking at initiating any type of evacuation leading up to that point in  
15 time.

Q. Wasn't that a logical consequence or something implicit in the setting up of evacuation centres that people would be evacuated from somewhere to  
20 fill them or to go there?

A. I believe that had already been occurring by people who had been evacuated from the rural areas.

25 Q. So far as those in urban areas were concerned, isn't that something that is implicit in that as well that those at the interface where the fire might come might move to those evacuation areas as well?

30 A. If an evacuation was deemed appropriate, yes, sir.

Q. You were going to do the deeming. Did you turn your mind to it?

35 A. I did not formulate any plans to introduce an evacuation, no, sir.

Q. So, therefore, we can assume as a necessary corollary that did you not direct any outside  
40 agencies to undertake that evacuation process on behalf of the Fire Brigade?

A. No, sir.

45 Q. Ms Cronan has taken you at length to what in your mind's eye that fire was going to look like when it came out of the pine forest. You now obviously have the benefit of seeing what it did

look like. With the benefit of hindsight, what resources were needed to deal effectively with that fire as it came out of the forest at Duffy?

A. What fire resources, sir?

5

Q. What Fire Brigade resources were needed?

A. It's very difficult to quantify. Certainly I believe more than anything that was going to be available within the time frames and the movement  
10 of that fire.

Q. Assuming - let's take hindsight to its fullest extension. You knew what it was going to look like. If you had time to plan and get resources  
15 there and you had unlimited resources available to you, what would you have stationed up there?

A. It's a difficult question to answer, sir. Perhaps if I can indicate our standard operating procedures certainly for the ACT Fire Brigade and  
20 I believe most urban fire services is that we respond two urban pumper as to one house fire. That's obviously in routine situations. But, for example, if you were to use that as a fire ground calculation there wouldn't be I believe enough  
25 urban pumbers in Australia to deal with it under the circumstances that eventuated on the afternoon of the 18th.

Q. So it was a huge fire that blew across into  
30 Duffy, wasn't it?

A. It was, sir.

Q. It wasn't a place for fire officers to be, standing in front of that?

35 A. It was a particularly dangerous environment for fire officers, sir.

Q. You would not at all criticise the decisions that were made on the ground to retreat in the  
40 face of that fire?

A. Not at all, sir.

Q. Decisions were made by some of your officers in the field to evacuate people that may have been  
45 in the path of that fire, did you criticise decisions made by your officers in that regard?

A. I make no criticisms of that, sir.

Q. In fact, do you positively support the decisions that were made?

A. Again with the benefit of hindsight, the fact that nobody was significantly injured or certainly 5 killed during those evacuations, so I have - in fact in my own personal circumstances, my father was evacuated by firefighters from the Bushfire Service. I have no criticisms at all.

10 Q. Going to your trip out to Duffy that morning, I think you went there some time after 10?

A. Yes, sir.

15 Q. You say your parents were not preparing their house at that stage.

A. No. My parents between them did not have the capability of filling their gutters. Essentially that was a role that I undertook on their behalf. They were watering down their front yard similar 20 to what a lot of people were doing.

Q. The AFAC document that Ms Cronan took you to states as a general proposition that a house is the best place for people to be when the fire front moves over?

A. Yes, sir.

Q. But it is heavily qualified isn't it?

A. Yes, it is.

30

Q. If I could summarise it, as Ms Cronan did, if people are able and prepared then it is generally advisable to stay with the house; is that what you understand to be the effect --

35 A. Essentially that's the thrust of the guidelines, yes, sir.

Q. If they are not, then it becomes much more problematic to remain with their house, doesn't 40 it?

A. It does.

45 Q. At the time that you went out to your parents' house that morning - I just concentrate on that suburb because you had a perhaps unique opportunity to see what was going on out there - what was your state of mind in relation to how

prepared the people of Duffy actually were?

A. Based on what my thoughts at the time particularly in relation to Warragamba Avenue and I think I did qualify I really only observed as I was driving up Warragamba Avenue, and the location of Warragamba Avenue from Stromlo pine forests in the experience that I had had was - I felt to be a safe distance. That people were doing the appropriate thing, of those that I saw.

10

Q. Do you know why at that time they were doing it?

A. No, sir, not specifically.

15

Q. Were you actually playing a role in monitoring the media output from ESB --

A. Not directly, sir.

Q. Indirectly?

20

A. Not even indirectly, sir. I don't believe I saw any media releases other than snippets that I caught while travelling in the vehicle.

25

Q. So at that time was it your understanding that the people in Duffy had, so far as what was about to happen that afternoon or soon thereafter, not been told specifically to start preparing their houses?

30

A. I'm unsure. I can speak only - the only people I conversed with there were my parents. They were aware of the fires. They were taking what they saw as precautionary methods. They certainly, as did I, did not envisage what was about to occur.

35

MR ARCHER: Thank you, your Worship.

THE CORONER: Yes, Mr Johnson.

40

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

45

MR JOHNSON: Q. You have been asked quite a number of questions involving taking you through a large number of documents which are now in the evidence before this inquest in relation to the possible threat of fires to the urban edge. I just want to ask you, for the purpose of the

questions I am going to ask you, to as best as you can put the hindsight aside, as everyone must in this inquest, and focus upon your thought processes as they were on the morning of the 18th.

5

With that in mind I would just like you to go to paragraph 48 of your statement. There are a couple of sentences there that counsel assisting did not ask you any questions about, and I just 10 want to ask you myself. The document being [ESB.AFP.0110.0693]. You mention in paragraph 48 that it was about mid-morning when you travelled to your parents' home and you indicated it was about 10.15 or thereabouts. You say:

15

20 "I was concerned there was nobody to do this for my parents - that is filling gutters with water and clearing away general debris - so I did this task while at Duffy. However, I had no real sense that the fires were to hit Canberra later that day. I certainly would not have left my parents there had I realised this. In fact, I assured them that the fires were still some distance away and that I saw 25 no real immediate risk to them."

Does that accurately record both what your thoughts were at that time and what you said to your parents?

30

A. Yes, it does. Certainly if I had envisaged in any way the extent of the impact or even the extent of the embers, my parents do not qualify for someone that should stay and defend their property.

35

Q. You were asked some questions yesterday and today about the concept of unattended fire. I think today at page 1986 Ms Cronan said to you:

40

"Q. I think we've covered the fact that nobody was going to cover those fires if they ran?

"A. Yes, ma'am."

45

I want to take you back to page 1961 of the transcript yesterday, if it is possible for that page to be brought up. It is on the big screen.

A. I can see it here.

Q. At line 33 you were asked:

5 "Q. When you say that was his prediction for an unattended fire, what do you mean by 'unattended'?"

10 "A. My understanding of that type of calculation used by the Bushfire Service was that this would be a possible run of the fire if there were no interventions in its path, whether they be by crews and resources involved in some sort of active or direct or indirect attack without the assistance of, 15 for example, aerial suppression."

Now, I just wanted to ask you this: as at the evening of the 17th and the morning of the 18th, did you have any belief that if the fire crossed 20 into the pine plantations in the ACT that there would be any type of intervention whatsoever by land or by aerial suppression or by anything else?

A. No, sir. I was aware by this stage there was a considerable amount of aerial capability in and 25 around the region of the ACT and that, while obviously direct attack by firefighters on the ground could not occur through safety reasons, an intervention such as aerial attack and the capacity to undertake those activities would be 30 available.

MR JOHNSON: Thank you, your Worship. Thank you Mr Bennett.

35 THE CORONER: Any re-examination?

**<RE-EXAMINATION BY MS CRONAN**

MS CRONAN: Q. Did anybody tell you that there 40 would be any aerial attack on the fire that had spotted into the pines?

A. No, at the briefing I think there was usually a status report given of what aircraft were available.

45

MS CRONAN: No further questions.

THE CORONER: Q. How did you know, Mr Bennett, about the aerial capability that you said was around the ACT? Did you get that information from your attendance at --

5 A. Essentially from planning meetings. Regular reports on the movements of the defence aircraft that had been deployed to the ACT. Obviously a knowledge that the territory SouthCare unit was being used. The arrival of the Ericsson skycrane  
10 into the area and from conversations that were not necessarily within that formal environment with Mr Lucas-Smith about what additional aerial capability we were getting later on in the week.

15 Q. Did you get an impression that this aerial capability was having a success in suppressing the fires or containing them?

A. Not specifically. I mean, there were times during those planning meetings where it was  
20 reported that aerial suppression or aerial - the aerial firefighting that was being done was having an impact on those fires and that they would have been, certainly in my view, they would have been the primary source of intervention available to  
25 the region once the fires got into an environment where direct fire attack by ground crews was not possible.

30 THE CORONER: Are there any questions arising from those questions that I had asked Mr Bennett?

MR JOHNSON: No, thank you.

35 THE CORONER: Could Mr Bennett be excused at this stage?

MS CRONAN: For the moment.

40 THE CORONER: Thank you Mr Bennett. You are free to leave. I won't excuse you officially from this inquiry but you are certainly free to leave for the time being.

THE WITNESS: Thank you, your Worship.

45

**<THE WITNESS WITHDREW**

THE CORONER: I note the time, Mr, Lasry. Do you wish to start?

5 MR LASRY: I might as well start and get the formalities out of the way. I call Mr Keady, please.

<TIMOTHY BERNARD KEADY, SWORN

10 <EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Keady, your full name is Timothy Bernard Keady?

A. It is.

15 Q. You are the Chief Executive Officer for the Department of Justice and Community Safety - at least you were. Are you still in that position?  
A. I am not. I am currently the chief executive officer of the Department of Education Youth and Family Services.

20 Q. But certainly as at January last year, you were in that position of Chief Executive Officer for the Department of Justice and Community Safety?

A. Yes.

30 Q. You have made a statement dated 10 October of 2003 which is [ESB.AFP.0111.0303]. I take it you have had a look at that statement before giving your evidence?

A. Not today. Yes, I have seen it recently.

35 Q. In the days leading up to your evidence?

A. Yes.

Q. Are you satisfied that the contents of that statement are true and correct?

40 A. Yes.

Q. What broadly were the processes by which that statement came to be made; were you asked by someone to make it?

45 A. Yes.

Q. Who asked you?

A. I was advised by, I think, Mr Bayliss of the Government Solicitors' office. He had told me a statement had been requested of me and I prepared a statement.

5

Q. Were you given some idea as to the sorts of things you should include in your statement?

A. Very little idea. Essentially I just included those things which I thought might be of interest  
10 in relation to my role.

Q. Your statement refers to some extent - at least from paragraph 6 onwards - perhaps if we go to paragraph 6 on page 0304. That seems to be the  
15 commencement of a description by you about your involvement in the state of emergency on 18 January.

A. Yes.

20 Q. In the paragraphs prior to that, broadly speaking paragraphs 1, 2 and 3 relate to general matters of what the ESB is and how the services work according to certain operational protocols. It seems to me, at least, that the period between  
25 the eighth and 18th of January is dealt with in paragraphs 4 and 5 of the statement. Does that appear to be correct, to your recollection?

A. Yes. It is not displayed here. I can't see the paragraph numbers. Yes, I am sure that is  
30 correct.

Q. Paragraph 4 says, for example:

35 "During the January bushfires I spent significant periods of time from 16 to 26 January at ESB headquarters at Curtin. My purpose in being there was to support the operational decision-makers at ESB during a particularly difficult and challenging time."

40

Paragraph 5 says:

45 "During this period, I attended a number of briefings, both formal and informal each day. I had many discussions with the executive director of ESB, Mike Castle, Chief Fire Control Officer Peter Lucas-Smith, and other

personnel."

I will summarise for the purpose of this question.  
You go on to make the point that you didn't have  
5 firefighting credentials; you didn't attempt to  
override operational decisions; you offered  
support and encouragement; and you made some rough  
notes which you now can't find; and your  
recollection of particular conversations is not  
10 strong?

A. That's correct.

Q. Is that the best you could do for that period?  
A. Yes.

15 Q. The two paragraphs?  
A. Yes.

Q. It is. You really tried to cast your mind  
20 back and look at any documents that might assist  
your memory in order to provide her Worship with a  
statement which would provide as much information  
as possible, did you, in those two paragraphs?  
A. I don't know which documents you might be  
25 referring to. I don't have a collection of  
documents that will assist me.

Q. You knew there were documents. Surely you  
knew there were minutes of planning meetings and  
30 documents like that which recorded meetings at  
which you were present; didn't you?  
A. Undoubtedly.

Q. Did you not look at those for the purpose of  
35 making your statement?

A. No. As far as I was aware, the documents had  
been produced to the AFP. I don't know who else  
may have had copies of them. They weren't  
conveniently available to me. And I didn't go  
40 through and attempt in some chronological sense to  
describe the activities that I might have been  
involved in. I was there in a sense in a support  
role, not as a primary decision-maker. It wasn't  
a matter of trying to avoid describing my role. I  
45 simply concentrated on those things which I  
thought might be of primary interest.

Q. You don't refer, for example, in your statement to the briefing of cabinet on 16 January?

A. No, I don't.

5

Q. Is there some reason for that?

A. I suppose I just didn't consider it or recall it at the time. I mean I'd guess I'd have to say at this point I was being pressed for a statement.

10 I was busy. I didn't have the time to go through it in detail. So I recorded those things which immediately came to mind. The cabinet briefing wasn't any kind of deliberate omission. It was just an activity that I was involved in briefly.

15

Q. I am not suggesting it was. I am trying to understand how it is that the period is dealt with in such a short time in your statement. I suggest to you that you were aware at the time you made 20 your statement that this was obviously an important request, you were aware of that?

A. Indeed.

25 Q. I take it you acknowledge it was incumbent on witnesses to provide as much information as they could even if they were under pressure of work, as you no doubt were?

A. Yes. I was also aware that others were providing very detailed statements and they had 30 access to a range of documentation that I didn't. And I guess I didn't have it in mind that anything that I might omit would leave this inquest without that information at all.

35 Q. Were you conscious of the fact that it may be important to know what level of knowledge there was in the government - and when I say "in the government", in not only the Chief Minister and other ministers but in people like yourself at 40 various stages in the process?

A. Well, that's become a little bit more evident more recently in October. At that time it didn't seem to me to be particularly --

45 Q. It wasn't apparent to you at the time?

A. No.

Q. You are a lawyer I think by profession, Mr Keady, am I correct about that?

A. Correct.

5 Q. Just in the short time left before lunch, can you give us a brief overview of your career once having graduated?

A. Well, I worked from when I actually left school - I am trying to recollect the time - until  
10 the late '80s in the New South Wales Attorney-General's department and then occupied a period, for a short period the position of Justice Co-ordinator in what was then New South Wales Justice Ministry or justice portfolio. I then  
15 went on to become the Director-General of the New South Wales Ministry for Police and Emergency Services for a period of three years, up until 1996 when I came to Canberra and took over what was then the ACT Attorney-General's Department.

20

Q. In 1996?

A. That was in 1996.

Q. Yes?

25 A. And that department it remained essentially the same although it was reconfigured somewhat and became the Department of Justice and Community Safety, which it still is.

30 Q. I think in that year it may have been under your supervision, might it, that the Emergency Services Bureau was transferred into what is now the Department of Justice and Community Safety. I think that occurred in or about July of 1996.

35 Were you here when that happened?

A. Yes. When I first came here the bureau was not part of the Department. And there were administrative re-arrangements made in '96 as a consequence of which what was then part of my  
40 department, which was the Planning and Land Agency, moved to Department of Urban Services and ESB moved from Urban Services to my department.

45 MR LASRY: Q. I am about to launch into the events themselves, so perhaps that is a convenient time.

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

LUNCHEON ADJOURNMENT

[1.00pm]

5

RESUMED

[2.45pm]

THE CORONER: I apologise for keeping you waiting, Mr Keady.

10

THE WITNESS: That is fine.

MR LASRY: Q. Mr Keady, in your statement to which I have already referred, I will just mention 15 the number again, [ESB.AFP.0111.0303]. If you have a copy, I have no problem with you having a hard copy in front of you.

A. I don't have it with me.

20 Q. You might need to look at it on the screen.

I ask you to go to paragraph 4, please.

Paragraph 4 says, Mr Keady:

25 "During the January bushfires I spent significant periods of time from 16 to 26 January at ESB headquarters at Curtin. My purpose in being there was to support the operational decision-makers at ESB during a particularly difficult and challenging time."

30

What do the words "significant periods of time" mean? Perhaps treat all of that is an introduction, if you wouldn't mind. Can I ask you to perhaps describe between the 8th and the 18th 35 the duration and frequency of your presence at ESB?

A. Yes, well of course the fires commenced on the 8th. My recollection is that I was on Christmas leave for that week. I think I was in 40 Canberra or came back to Canberra towards the end of that week. I probably dropped in at ESB off leave towards the end of that week to find out what was going on.

45 I returned to work on Monday the 13th, I believe. I had my normal duties to pick up. At that time of year, it was traditionally a slower period

within government because so many people were on leave. Given the developing fire situation, I started to take a deeper interest in what was occurring at Curtin at the ESB headquarters. And 5 as the week wore on, I spent certainly intermittently in the beginning but, as the week wore on, more time at Curtin for the purpose that is mentioned in my statement.

10 Q. Of supporting operational decision - sorry, supporting operational decision makers?

A. Yes. The circumstances where that - well, firstly, ESB was not a large organisation. The bushfire cell I think normally comprises at 15 that time about four permanent staff. By the time I returned from leave on Monday the 13th, they had been highly active over an extended period of time. The burden of all of that fell substantially on the shoulders of Peter 20 Lucas-Smith and the staff working under him. I was aware of the wear and tear on them because there was not a large executive staff to spread these responsibilities over. He had as Chief Fire Control Officer responsibility and working through 25 the volunteer structure for managing the event.

Mike Castle, the Executive Director of ESB, was responsible for the general supporting operations for this. I was conscious as well of the stresses 30 and strains on him. He had no deputy. My concern initially was, first of all, to become aware of what was occurring and what may occur, if there was anything I could do to assist them, and frankly for their ability to carry on over what 35 was already turning out to be probably - certainly the lengthiest operation that ESB had engaged in in my time there.

Q. What particular skill or aspect of your 40 professional abilities did you bring to ESB by being there? I am just trying to get an understanding as to what you are actually doing there. I understand the points you have been making, but were you there, for example, for whole 45 days at a time?

A. Probably on the Friday the 17th and Saturday the 18th, yes.

Q. What about prior to that?

A. No, not whole days.

Q. But hours at a time?

5 A. Yes.

Q. And insofar as it is possible at this stage to generalise, how would you be spending that time? Perhaps we will leave the 17th and 18th to one  
10 side for a moment, because I understand the way in which the crisis escalated in those days. But, in the earlier part of the week, how would you be spending your time when you were there for some hours at a time?

15 A. I think I got briefed on where things were up to. I attended a number of the planning meetings. They were scheduled twice daily. I attempted to get to them. I didn't get to all of them - certainly earlier in the week. I did I think  
20 later in the week.

But my purpose was first of all to keep up to date. ESB was very much in operational mode, but it was an agency of my department and I think  
25 I felt that I had to be there to demonstrate, as much as anything else, my concern for the operation, my concern for the people and to do whatever I could to assist.

30 This is not that dissimilar in a sense to the experience I had in New South Wales in 1994 when they had a major bushfire crisis. At that stage I was Director-General for the Minister for Police and Emergency Services. I had no  
35 operational responsibility, but I spent time at the bushfire headquarters at Rosehill to do whatever I could to assist. I took staff out there to fill in gaps at a time when they were under stress, and I guess that was the kind of  
40 role I envisaged myself playing here.

Q. We will come to the detail subsequently, but of course you did attend planning meetings and you were being presumably regularly informed,  
45 I suspect - am I right - by primarily Mr Castle and Mr Lucas-Smith about where the situation was up to?

A. Yes, they would be the primary sources, yes.

Q. Part of your responsibility, I presume, as  
the head of your department was to in turn convey  
5 information you were accumulating to  
the government and particularly to the relevant  
minister?

A. I think most of my contact at the time would  
have been with other senior officials. My  
10 practice with operational matters from ESB was not  
to act as intermediary between, say, a minister or  
a minister's staff and particularly Mike Castle.  
He would keep me informed. I would not  
necessarily take on responsibility of passing that  
15 on, mainly because of the difficulty acting as  
intermediary of answering questions or filling out  
the gaps for a minister. It was better for that  
kind of information to be conveyed directly rather  
than through me as an intermediary. But I would  
20 have spoken to ministers from time to time  
nevertheless.

Q. While you were there and in the week leading  
to the 18th, I take it you were there because you  
25 were conscious that this was a developing incident  
which was going to be an incident of some  
significance?

A. Well, it already was and it looked like being  
of quite considerable duration. I might add that  
30 the general context was not just what was  
occurring in the ACT. Those fires that commenced  
on the 8th - or the lightning strikes that  
commenced the fires of concern to us on the 8th  
had caused significant fires in New South Wales  
35 elsewhere and there was a general situation of  
concern.

Q. Were you conscious of the fact that, at some  
point when the incident was over, there would need  
40 to be some level of accountability as to the way  
in which the incident was conducted by ESB and by  
those people connected with it?

A. Yes, I was. In fact I was very aware that  
there would be at least a coronial inquest because  
45 there had been deaths as well as the magnitude of  
the fires.

Q. Even before that time, that is in the week leading to the 18th, were you aware that the coroner, for example, has a jurisdiction to inquire into fire, even where no-one is killed?

5 A. Yes.

Q. So, even in the week leading up to the 18th, are you saying that you were conscious of the fact that there would be probably inquiries into  
10 the way in which the incident was being managed?

A. I don't know that I was particularly mindful of that prior to the 18th. I mean, had someone asked me, I probably would have said yes. But at that stage we were talking about a fire which was  
15 primarily in bushland. I am aware that the practice here and in New South Wales, which I am familiar with, might or might not see a significant inquiry into a fire that primarily burned through bushland. At that stage we had not  
20 had any significant structures affected.

Q. You say in your statement that you made rough notes at meetings and other activity which are now unavailable. Were you making those notes because  
25 you realised that it was going to be necessary for you, apart from what anyone else was doing, to keep some kind of contemporary record of what was happening?

A. No, I didn't conceive at that time that --  
30

Q. They were purely for your personal reference?  
A. Yes, I didn't keep these notes in the form of a diary.

35 Q. I realise that. Your statement says you made rough notes of meetings and other activity.

A. Well, I will try to be as precise as I can. I had a black, plastic folder and inside that folder I had an A4 notepad. I had that folder for  
40 years, and it was something I was accustomed to carrying around with me and I would use it to write notes at meetings and things of that kind. Over that period I had used it to record phone numbers for people I might need to call back. I  
45 kept some notes of some of the meetings I went to. For example, some of the planning meetings I went to, I kept some notes of what was said there. But

they were not kept in a consistent chronological diary or as a diary of my events and contacts.

Q. At any event, those notes are now unavailable;  
5 is that right?

A. Unless there be any misunderstanding, can I just explain what I think occurred?

Q. Is what is in your statement correct?

10 A. Indeed it is.

Q. Let me read to you what you said in paragraph 5 on page 2:

15 "At times, I made rough notes of meetings and other activity but they are now unavailable. They were left on a table at ESB which I used (along with others) from time to time as a work space but disappeared on either 24 or  
20 25 January. It is probable they were taken accidentally by another officer or mistakenly disposed of as rubbish. My recollection of particular conversations et cetera over that period is not strong."

25 A. The table I am speaking of - there was a table in Mike Castle's office. Space was at a premium in the headquarters. There was nowhere for people to work from consistently. Along with others,  
30 I worked from there from time to time and there was an accumulation of papers in that table. When I went to retrieve this, when I thought of it at about that time, my folder had gone.

35 Q. At the beginning of the summer of 2002/2003 were you, as at that stage the head of the Department of Justice and Community Safety, aware of issues which were generally being raised about the prospective fire season?

40 A. Yes.

Q. You were aware, I take it, that all sorts of predictions were being made about the weather, the nature of the season and also the quantity of fuel that was available to be burned if a fire started?

A. Well, I think it was a severe drought and

there was concern for a severe fire season, that is true.

5 Q. Did you have a role in understanding what was being done and what had been done, if anything, to ameliorate the problem insofar as that was possible? In other words, did you understand what measures had been taken during the previous 12 months to deal with things like fuel management or

10 fuel reduction and those kinds of things?

A. I don't know that I can say that I had a detailed knowledge, but I was aware that, through the activities of officers from ESB and the Bushfire Fuel Management Committee and  
15 elsewhere, there was a commitment to reduce fuels, but at a time when it was difficult through the lead-up to the summer in doing so because of the severity of the conditions.

20 Q. Yes. But you are aware of the fires in 2001?

A. Yes.

Q. And you are aware, I take it - we will perhaps come to this a little bit later - that in November 25 of 2002, I think it was, the Legislative Assembly formulated a resolution - in fact on 13 November 2002; are you aware of that resolution?

A. You have to remind me of it.

30

Q. It is [ESB.AFP.0110.0834]. The document that you have on the screen in front of you refers to the resolution in a fax to the policy adviser to the Minister for Police and Emergency Services?

35 A. Yes.

Q. Can you read the document on your screen? It refers to the fires in 2001/2002, which you can see. The paragraphs in particular that I am 40 interested in are 4 and 5, in which the assembly's resolution notes:

45

" ... 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."

I don't think we need to worry too much about the fire safety education program at this stage. Are you familiar with the circumstances in which the Legislative Assembly produced that resolution?

5 Does it mean anything to you?

A. Not at this distance, no.

Q. I am instructed - although whether the evidence turns out to demonstrate this or not; 10 and a couple of witnesses, I think Mr Lucas-Smith or Mr Castle, might have referred in their evidence to the fact that the resolution might have been the product of - it might have been put by the opposition in the Legislative Assembly. 15 I think there will be some future evidence that suggests that the opposition had a briefing in relation to the preparedness for the 2002/2003 season. That does not jog your memory at all, that information?

20 A. No.

Q. Did your department have briefings over the latter part of the winter or the spring of 25 2002 in order to understand the preparedness of ESB for the sort of fire season that the Legislative Assembly there are referring to?

A. Do you mean did ESB brief other parts of my department?

30 Q. No, whoever the appropriate person was, Mr Keady, if it was appropriate to brief you or your minister. All I am asking generally is: were there briefings in the second half of 2002 which enabled the government to understand the level of 35 preparedness and also to some extent, without a fire actually taking place, the level of risk?

A. I don't recall any particular briefing. It is a normal seasonal activity that ESB undertakes to prepare a publicity campaign before the advent of 40 summer and the beginning of what is known as the fire season. I believe that occurred in the usual way, and there would have been accompanying that, I assume, submissions from ESB to the minister outlining arrangements in place 45 and those arrangement activities that were being undertaken.

Q. There should be a document that does that?

A. I am just assuming there probably would have been. I do not recall one particularly, but normally there would be something like that generated, yes.

5 Q. Would it be usual, for example, for someone in Mr Lucas-Smith's position to either offer or be asked to provide a briefing to the Minister for Police and Emergency Services in order for the minister to understand what the level of preparedness for the season was? Would that be something that would usually happen in your experience?

10 A. Well, it might. I wouldn't assume it was automatic. It might depend on the degree of knowledge that the minister had about those things in a general sense. Ministers particularly in the ACT move fairly widely, and knowledge about 15 these kinds of matters would not come just from the departmental officials.

Q. Let me be a bit more specific.

20 Mr Lucas-Smith, by way of his statement, has given evidence that by Christmas 2002 the various indexes, and I will not trouble you with the detail of the indexes, were painting a picture of the forest and grassland in the ACT as being in what he described as a volatile state. Were you 25 aware by the end of 2002 that that was his view?

A. I think I would have been, and I think it was a universally shared concern. When I say "universally", I mean on the whole of the east coast of Australia.

30 Q. When you say you would have been, does that mean you can remember being informed that that was his opinion?

A. Not specifically, but I am sure I would have 40 been at some point.

Q. If the Chief Fire Control Officer was telling you as the head of the department or at least conveying to you in some way or another 45 the information that in his opinion the forest and grassland was in a volatile state, it obviously begged the immediate question, "How do we respond

in the event of a substantial fire? What is our level of preparedness?" Presumably you would be interested in that?

A. Yes.

5

Q. Did you pose questions of that kind to anybody?

A. I can't recall particularly, but I mean I would have had a general understanding of what 10 ESB's response to a fire season was. I have no doubt that I had discussions about that and I would have been informed of the status of their resources and those kinds of things. But, beyond that, the responsibility for undertaking those 15 preparations rested with those who were employed to do that.

Q. I understand that.

A. But if you are asking me was I aware that 20 the season was extremely risky, that there was a long-term drought that exacerbated the dangers, yes, I was.

Q. And, putting aside the fires of January 2003, 25 the fires that occurred in December of 2001 had been the most serious fires that had occurred here for some years; hadn't they?

A. Yes, that is right.

30 Q. It seems that the Legislative Assembly at least was aware that the 2002/2003 season was going to produce conditions which would eclipse those of the previous year. I am trying to get a sense from you as to whether or not the alarm that 35 was being sounded by people like Mr Lucas-Smith about the condition of the forest and the grassland was an alarm which was producing in the government a desire to know how a big fire would be coped with if in fact it occurred?

40 A. Well, I don't think the focus was on a big fire. I think the focus would have been on what preparations were we making in the event there was a fire, and bearing in mind that the kind of fire that we saw in 2001 was arson generated.

45

Q. Yes, I follow that.

A. A major concern at the time was

the possibility that arson would again cause fires and potentially in the urban parks and those sorts of areas.

5 Q. Who would we ask in order to understand what specific briefings were given to government in those months leading up to the start of the 2002/2003 fire season?

10 A. If they were written, they would be recorded in the department's document tracking system.

Q. If they were verbal?

A. I guess it would be a matter for the memories of those who may have been involved.

15 Q. If a minister was being briefed on the overall circumstances, is that likely to be Mr Wood as the relevant minister? Is it likely he was briefed on these issues?

20 A. Yes, there was a ministerial change about then. I think either Mr Wood or - probably Mr Wood, yes. It is quite possible that any briefing he had would not necessarily involve me, for example, which is why I wouldn't necessarily remember it. It is conceivable he might have gone to ESB or they could have gone to him directly. I would not have had to be a participant.

30 Q. I am not suggesting you needed to be necessarily; I am just trying to understand how we would find out what the government was told before the season got under way and before the fires actually commenced.

35 A. I cannot recall specifically. All I can say generally is that there was a general awareness that the fire season that was approaching was a very serious one.

40 Q. I am sorry, Mr Keady, I think you said during the week of 8 January you were, as it were, back at work on a part-time basis more or less because it was Christmas and you were --

45 A. Yes, it was a busman's holiday, I guess. If I recall, I was technically on leave, but I think I spent or came into ESB on occasion just to drop in.

Q. Just identify for us, if you could, please, when it was that you first became aware of the fires. You were aware of them late on 8 January when they started, the day they started?

5 A. I don't know if it was on the 8th or the day following, because I think the lightning strikes if I recall were on the evening of the 8th.

Q. The afternoon of the 8th.

10 A. Yes. So I am not sure I would have been aware necessarily straightaway.

Q. Mr Castle, as I understand his evidence, in particular at page 1349, seemed to be suggesting 15 that he spoke to you on the 8th. I think his words were that he probably spoke to you on 8 January. Do you have any recollection of that?

A. No, but if that is his recollection --

20 Q. You would accept that?

A. I would accept that, yes. I mean, the practice that I had was that if something of significance occurred more often than not Mike Castle or someone would give me a call and let me 25 know that an incident had occurred.

Q. All right. I want to show you some documents as we go. If I could go to [ESB.DPP.0001.0071]. Just so I understand your level of preparedness, 30 Mr Keady, for the purpose of giving evidence have you spent some time reviewing some of the documents which have been produced in these hearings over the last two or three weeks?

A. No. Could I just explain: approximately a 35 month ago I took over a new department. I took it over in somewhat unusual conditions and I have got what might be said another kind of crisis there in the child protection area. So the amount of time I have had to go through documents and prepare 40 myself in the way that one would normally expect has been extremely limited.

Q. Yes, all right. The document I am showing you is probably in those circumstances not one that 45 you have seen before. It is an e-mail message from Mr Castle to Mr Murray, the chief police officer, at about 10 to 1 on the afternoon of

9 January. In the document Mr Castle is providing to Mr Murray information about the fires. In particular, I will read the second last paragraph for the purpose of asking you questions:

5

"Our other major concern was the large series of fires north-west of the ACT in an area known as McIntyre's. This is also New South Wales national parks and they are attempting to muster resources for it but will need our assistance. This is 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 were most noticeable to ACT residents yesterday afternoon due to smoke covering into Belconnen. With the wind change to the south it has pushed the smoke away from the ACT urban area so not as many calls."

My question simply is: do you recall the information that was being provided to 25 Mr Murray about the potential major threat to ACT Pines and ultimately property if the winds turn back to the north north-west being also provided to you some time on 9 January?

A. I am not sure on 9 January, but around about 30 then I think I would have been aware that a fire in that area had potential, depending on a range of things, to be a concern to the ACT and to have the potential to come into the ACT.

35 Q. But you don't have a specific recollection of that?

A. I don't think I have seen that document before.

40 Q. I am not suggesting you have seen the document before. I am simply seeking to establish whether you were provided with the same information that Mr Murray was being provided with.

A. Well, I can't say with that degree of 45 specificity, I am sorry. I would have been aware, certainly if Mike Castle can recollect telling me that (a) the fires occurred. There were I think

four separate fires on our borders, he would have told me that, one of which was McIntyre's. At that stage it would have been quite small. But its location would have been such as to create a 5 concern on the part of the ACT as to its potential.

Q. In particular, do you recall that he raised with you a major threat to the ACT pines and 10 ultimately property? Do you remember that being raised with you on or about 9 January?

A. No, but any threat to the ACT in that area would be to the pines, I think. Indeed, I think and I would have been told, I assume, at the time 15 that ACT firefighting resources were provided to New South Wales to assist with McIntyre's Hut and that would have reflected, I suppose, the concern about its potential.

20 Q. As a matter of course, was it the role of Mr Castle to keep you informed day by day, perhaps even hour by hour when the circumstances were appropriate, of developments in the matters that ESB were attending to?

25 A. That was the practice we had. He would keep me informed. Hour by hour I think is overstating it. But if significant things happened that he felt I needed to be aware of, he would tell me, yes.

30 Q. Did the information usually stop with you or, if the information was regarded by you as significant, did you usually then pass that on to someone else within the government?

35 A. More often than not, as I said before, if it was an operational report I would arrange or ask, if it had not already occurred, and often I would be told second, if it was necessary, for the report to be made direct. That was an 40 arrangement I had with a number of the senior officers because of the difficulty that sometimes occurs if I am acting as a mediator with information and where I do not have all the facts to answer questions that might arise. I was not 45 someone who insisted that the gate be kept by me when it came to informing ministers or their staff.

Q. I think on 13 January, which was the following Monday - and it seems to be implanted in everyone's memory because it was the day of the helicopter crash as well - before all that 5 happened there was some level of meeting, wasn't there, at ESB with the Chief Minister; do you recall that?

A. Not particularly, no. But I am aware that a meeting occurred and I gather I was at it. But 10 I don't recall what was discussed particularly.

Q. You gather you were at it. You can't remember it?

A. No.

15 Q. Was the purpose of the meeting a briefing for the Chief Minister?

A. I imagine it would be. Look, I have it in mind that the Chief Minister had been on leave.

20 Q. Yes. It was his first day back.

A. Yes, and that probably would have been a meeting to bring him up to date. I think it was about that time that there was considerable 25 concern for segments of the water catchment up on the hills - and there will be others who can explain the technical details - because a particular bog which was essential for the purification of water up there was at an historically dry condition and it was either under threat at that time or may even have been burnt 30 out, and that was I think something that sticks in my mind as a concern.

35 Q. Mr Castle in evidence at page transcript page 1441 was asked a number of questions about this briefing. I am sure it is clear to you, Mr Keady, but part of the purpose of asking these questions is so that the coroner can understand 40 what level of knowledge the government had about the situation as it was developing. You understand the significance of that in this inquest?

A. Yes.

45 Q. And that is why the questions are being asked. Mr Castle said, paraphrasing, that he thought

the briefing started at 10.30 or 11.30, and he was referred to his statement in paragraph 85 which said:

5            "The usual 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  
10          Alan Thompson, senior executives from the ACT Public Service."

First of all, do you agree that it was somewhere around 10.30 or 11.30 in the morning?

15          A. I am happy to adopt that. I haven't --

Q. Do you agree that the people present that Mr Castle identified were present?

A. Yes, I don't think that will be a problem.

20          Mr Thompson was the head of the Department of Urban Services, Mr Tonkin the head of the chief minister's department. If there was to be a sort of a status report for the chief minister I think it would make sense that they be in attendance.

25          Q. He was asked then whether he had any notes of briefing. He said he didn't think that he did. He was asked by Mr Woodward:

30          "Who asked for the briefing?

"A. It may have come from ministerial level. It may have come from Tim Keady. I don't recall."

35          Did it come from you?

A. I don't recall. It may well have.

Q. You don't recall either?

A. No.

40          Q. Mr Woodward then asked:

"Q. It didn't come from you or Mr Lucas-Smith suggesting that that occurred?

45          "A. No, not that I can recall."

So he can't remember who arranged it and I gather

you can't either. At an incident like that, is it normal for someone to keep some record of what is discussed?

A. No.

5

Q. It is not?

A. No. I attend numerous meetings with ministers. I think it might depend on ministerial practice, but this was not a meeting with a minister in his or her office with a particular agenda item to be resolved with the likelihood of a particular decision to be acted on afterwards. It was more the nature of a general briefing. I am not particularly surprised there was not a note kept.

Q. This is a briefing before two ministers, the Chief Minister and the Minister for Police and Emergency Services.

20 A. Well, that to me --

Q. That does not make any difference?

A. It would not have been an unusual circumstance for me.

25

Q. So unless Mr Stanhope or Mr Wood has a memory of the circumstances or Mr Tonkin or Mr Thompson, you can't help us with who requested it and I gather you were going to say when I asked you that you can't recall what was said.

A. Correct.

Q. Does that mean you can't recall anything of what was said?

35 A. Yes.

Q. Nothing at all?

A. Nothing at all.

40 Q. You are in the same boat as Mr Castle, just no memory whatsoever?

A. Can I just make the point here --

Q. No, answer the question first.

45 A. I was going to attempt to answer the question.

Q. Let me put to you the question that he was

asked - I withdraw all that and let me ask you some more questions based on what he said and then we will come to the point. He says he can't recall how long the briefing took and then he was  
5 asked by Mr Woodward this question:

"Q. I want to ask you to do the best you can, Mr Castle. I appreciate it was a while ago. Tell her Worship what was said during the  
10 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 of what people were asking and what responses they  
15 were getting?"

His answer:

"Honestly your Worship it does not - this  
20 particular briefing does not stick in my mind at all. I don't have any notes of it. I don't recall the specifics of it. I don't even know whether I was there for the totality of it to be quite honest."

25 Can you improve on that?  
A. No, I can't. Could I just go on to say what I was going to say before?

30 Q. Yes.

A. These events, your Worship, or this particular briefing is over a year ago. My life is full of meetings and briefings. At the time this occurred it was well before Saturday the 18th and  
35 therefore, the event that now gives all of these things significance had not occurred. The fact that a briefing had been arranged for ministers who I was accustomed to meeting fairly regularly was not in my life something that particularly  
40 stuck in my. Memory and I am afraid it has not.

Q. It was not assisted by the fact that a few hours later there was an incident with a helicopter which caused you to recall the day or  
45 remember the day? That has not made any difference to your memory?

A. Perhaps not surprisingly the fact

the helicopter crashed is a little bit more prominent in my memory --

Q. Yes, I thought it might assist your memory  
5 with the day generally, but it appears not?

A. No, I am afraid not.

Q. Mr Castle has described to us making requests for Commonwealth assistance over the period, and  
10 he has been taken to a number of the documents themselves where that request was put into a written form. As I recall his evidence, and I do not purport to quote it because I recall the effect of it, the usual procedure or a  
15 procedure that was followed from time to time was that he would make verbal contact and then follow up with a written document. Did you participate in those requests?

A. I didn't participate in them. I was aware and  
20 he would - Mr Castle would have --

Q. Let me define "participate". Did he consult with you or inform you that he was making those requests and in particular informing you as to  
25 the basis on which the request was being made when it was made?

A. Yes, he did.

Q. The first one I want to ask you about is on  
30 Monday, 13 January at 5 to 11 in the morning.  
[ESB.AFP.0007.0025]. I know you are only seeing it on the screen, Mr Keady, but looking at the document does the form of it look in some ways familiar to you?

35 A. I don't know that I ever saw the official request.

Q. Okay. This particular request, as I say, is for helicopters in fact with aerial water bombing  
40 and fire reconnaissance capacity. That is referred to on page 2. But what I am interested to do is ask you about what is set out in the sections of the document dealing with the "situation" and also later on with "own  
45 resources". You see there under "situation" in part that description says, referring to the fires:

5           "Containment of the fires has 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."

Is that information that is likely to have been with you on 13 January?

A. Yes.

10           Q. Further down the page, describing the resources of the ACT which were engaged - I will not read all of that - it is describing, as you can see, that there are 250 personnel?

15           A. Yes.

20           Q. Over a 24-hour period attending the fires, and referring to the fact that the resources are being increasingly deployed to attack McIntyre's fire just to the north-west of the ACT. The document says:

25            "This fire is very large and with a wind change and no containment poses a substantial threat to the ACT. NSW are not able to provide further assistance due to the large fires located further to the south-west and west of the ACT."

30           I take it that is information that you would be likely to have been given?

A. Yes.

35           Q. Mr Castle from time to time was, as it were, the face and the voice of ESB. He took a part in radio interviews, television interviews and also his name was used in media releases. You are aware of that?

A. That was his usual role, yes.

40           Q. Since you have referred to his usual role, as you sit there now, are you able to define for us your understanding of what Mr Castle's role was at ESB? What was his job, as you understood it?

45           A. Well, there is a job description.

Q. Yes.

A. Which I guess would put it in the usual public service language. But I am just --

5 Q. Your understanding of what his role was will do.

A. Okay. The Emergency Services Bureau is probably unique in Australia. It brings under one umbrella a number of emergency service organisations, which in other places are separate 10 and freestanding autonomous structures. His role was basically to integrate the activities of the ACT's emergency services. I can repeat the various constituent elements if you wish me to, but I assume that is in evidence here already.

15

Q. Yes.

A. And to, I guess, get that degree of integration, and administrative co-ordination that the model that ESB represented set out to achieve.

20

Q. There is an element of bureaucratic mumbo jumbo in that, with respect, Mr Keady.

A. If you wish me to address a particular aspect of it, I am happy to.

25

Q. I am trying to get from you an impression of, if you like --

A. He was administratively responsible for all 30 the activities of the constituent services under the ESB umbrella. In that sense he was responsible to me. Those services like the Fire Brigade, the Bushfire Service, the Ambulance Service particularly and the Emergency Service operationally had their own structures, their own 35 protocols and were responsible to the various service heads for the operational activities that they undertook.

40 Q. On a day-to-day basis in the week commencing 8 January and as at 13 January, on a day-to-day basis what did you observe or understand that he was doing each day? What sorts of things was Mr Castle engaged in?

A. Well, I think essentially supporting 45 the firefighting effort that Peter Lucas-Smith was managing.

Q. But in a practical sense and in using descriptions of activities, what did that actually mean? It is all very well to say he was supporting the operational firefighter, but what was he physically doing, practically doing day in and day out?

5 A. There could have been accommodation issues. There could have been personnel issues.

10 Q. Anything administrative, is that what you meant?

A. Yes. And anything that he could do to assist them. That would mean talking to people and acting as "grease on the wheels" to put it

15 colloquially.

Q. To come back to the question I asked you, it included media interviews for the purposes of stating ESB's position?

20 A. Yes, and in all the time I was associated with ESB, Mike Castle tended to do most of the media on behalf of the organisation.

25 Q. Did you consult with him in relation to the way he should conduct media interviews?

A. Not normally. He was in a custom role for him and he was very practised at it - more so than me, I might add.

30 Q. Was it the case that, for example, during this period when he was being requested to be interviewed on the radio or television, particularly if it was a live interview, that he would first consult you as to whether he should take a particular stance or express a particular attitude or conduct the interview in any particular way?

40 A. Not normally. Mike Castle, putting aside these events, was quite often interviewed on radio or television. He might tell me he was doing an interview and what it was about. But I would not normally approve and he would not seek my approval for the content. I didn't ever see the need and he was practised and knew what he was about.

45

Q. Did he discuss with you, for example, on the 13th or around that time at the start of that

week leading to the 18th, in any way at all, not the detailed content of what he would say in answer to questions from an interviewer, but the general thrust of what he would say? Did you give him advice, direction or discuss with him the way he should deal with any particular issue anticipated to be raised?

A. Well, I can't recall ever giving him advice or direction. It is conceivable he discussed something he intended saying because that would have grown out of the general fire situation. But I don't recall sitting down and agreeing with him that "this is the line you are to take; this is how you are to say it," for example, if that is 15 what you are really asking.

Q. Yes, I am asking if that ever happened, whether at any stage it was made clear to him in direct terms or perhaps in less direct terms that 20 he was to take a particular attitude or to emphasise a particular thing. For example, to where possible put as positive a spin on what he was saying as he could - anything?

A. Not from me, no.

25 Q. Did that ever happen, as far as you were aware, at your instigation?  
A. No.

30 Q. Do you know whether it ever happened at anyone else's instigation?  
A. No.

Q. As far as you were concerned, Mr Castle was 35 free to say - to call it as he saw it, if you like, to describe the situation as he understood it?

A. Yes, which is what he normally did as part of his role there.

40 Q. In an interview on 13 January at about 5 to 12, lunchtime, the transcript of which is at [DPP.DPP.0004.0003]. I won't take you through the whole document - I don't know whether you 45 recall whether you heard this interview or were aware of it either before it happened or when it happened? Do you have any recollection?

A. No, and to be frank I would not normally listen to radio interviews, particularly in the course of the day if I was working.

5 Q. On page 2 of that document near the bottom the interviewer asks Mr Castle the question, and I know it is difficult to take this out of context, so tell me if you feel disadvantaged by that happening, but the question is:

10

15

"If that wind - and they are referring I think to a prevailing north-westerly wind - does swing around to the north-west, could it come as far as Canberra? That is, could it the fire come as far as Canberra? Could it threaten Canberra?"

Mr Castle says:

20

25

30

"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 particularly large from down in the urban area, but they could present quite a significant impact, but there's a long way between where they currently are and the urban edge."

35

40

Do you remember at around that time having any discussion with Mr Castle about concerns that the public were worried or interested in the issue as to whether or not the fires might actually affect the Canberra suburbs? Was that a matter of discussion in that week on the Monday of the 13th? A. Not that I can recall, no. I mean I am sure we talked about the fire situation. But in terms of his media line, I don't recall any conversation about that.

45

Q. And in particular how any question concerning a possible effect of the fires on the suburbs might be dealt with in the media? Was there any discussion between you and he about that issue?

A. No, and I must say at that time that would have been a possibility that seemed pretty remote.

Q. Remote?

5 A. Yes.

Q. When was the first time that you considered seriously - I won't ask you about your heart of hearts - that there was a realistic risk that  
10 the suburbs would be damaged by this fire? When did you first think that was actually going to happen?

A. Saturday the 18th.

15 Q. What time?

A. I would be hard pressed to put a time to it to be frank, but the morning or late morning, perhaps, when it became clear that there was fire - well, I suppose it was not clear to me that  
20 it was going to enter into the urban area of Canberra until quite late in the piece on Saturday. Because whilst the potential existed, the expectation that I had was that any wildfire entering or impacting on the urban edge would  
25 occur later, and the progress of the fires on Saturday far outstripped my expectation of the rate of spread.

30 Q. Yes. Well, look, I don't think there is any issue, Mr Keady, that what happened on Saturday at about 3 or 4 o'clock in the afternoon outstripped everybody's expectations. I want to put the question to you again because I am not sure that you have dealt with the issue that I raised.  
35 The question I asked you was:

"When you considered seriously that there was a realistic risk that the suburbs would be damaged by this fire, when did you first think" --

I did go on to say "when did you first think that was actually going to happen?"

45 Let me withdraw the second part of that and simply ask you: when did you realise there was a realistic risk that the suburbs would be damaged

by these fires? Never mind the specifics; never mind the magnitude; never mind the when and where; when did you first think it was a realistic risk?

A. Probably Saturday the 18th.

5

Q. Saturday?

A. Yes, because of the reports or the escape of fire into the urban areas of the ACT late on Friday, and I think that indicated very vividly the kind of potential we were facing.

10

Q. Does that mean that prior to Saturday you did not think there was any risk that was realistic that these fires affecting the Canberra suburbs?

15

A. No, that is not what I said. I think I was aware there was a risk quite early on.

Q. How early?

20

A. Well, when I say risk, I will be a bit more precise. The fire at McIntyre's Hut, for example, was a concern because it had the potential to burn into the ACT.

Q. That is right.

25

A. If you extrapolate it from that into a worst case scenario, then you would end up with the possibility of a fire burning up to the edge of Canberra. So that was a risk.

30

Q. Yes.

A.

The likelihood was another matter, and I was confident - not confident I suppose, but I was certainly influenced by the general assessments around me that the likelihood of the fire burning into the ACT at that time - up to Saturday morning when it was clear that it was going to occur - was not remote but was not going to occur then, it may occur later, if it was going to occur at all.

40

Q. How much later?

A. Well, the planning initially posited a very bad fire day for Monday.

Q. For Monday, yes.

45

A. And I suppose my focus was pretty much on that. Weather forecasts changed. Then on the Friday evening, or Friday the breakouts

occurred, and of course that occurred mainly from I think the Bendora complex of fires. McIntyre's Hut was still certainly within its containment lines; so it was an ominous presence but still 5 being managed and apparently contained by the New South Wales Rural Fire Service.

So my concentration and I suppose my focus was on what was occurring at that time in the ACT. When 10 McIntyre's Hut started to run on Saturday morning, even from my relative lay position, I could see there was a new situation developing. But I did not expect the speed of events to occur in the way that they did.

15

Q. Was there a point reached during the week commencing 13 January where you felt that the risk had reached a level where at least the people more likely to be affected if the risk became a reality 20 were entitled to be informed that the risk was a realistic risk?

A. Not in the lead-up to that week, I didn't.

Q. No --

25 A. Are you talking retrospectively?

Q. I am talking about the week commencing Monday 13 January. I am asking you whether there was a point in that week where you formed a view from 30 the information that was available to you, which was significantly more than was available to the people of the suburbs, that the people of the suburbs were now entitled to be given the information you had because the risk was at a 35 level where they were entitled to be informed of it?

A. I didn't have that - I didn't have that opinion, no.

40 Q. You never formed that opinion?

A. No.

Q. Until Saturday the 18th?

A. Yes.

45

Q. Was it, as far as you were aware, a subject of discussion within - I was going to say government

circles - but within your colleagues, your senior colleagues within the ACT Public Service or amongst the relevant ministers, the Chief Minister, the Minister for Police and Emergency Services, as to whether the situation had reached a point where the community was entitled to be informed that they were actually realistically at risk? Was there any sort of discussion about that that you took part in during that week?

5 10 A. Not that I can recall.

Q. Were you asked by ministers - the Chief Minister or your minister - for a view as to whether or not the public should be given information?

15 A. No, and I think if the minister was seeking that kind of advice, he would not necessarily seek it from me.

20 Q. He might not, that is true. But he would probably seek it from Mr Castle, Mr Lucas-Smith?

A. Someone who is qualified to offer the advice, I suppose.

25 Q. But probably in circumstances where you were present and took part in the conversation. That would be more likely than not?

A. Well, it was quite likely - not necessarily the case. Ministers, particularly given 30 the circumstances at Curtin in those latter days, there was an enormous number of people swirling around, including ministers from time to time, and I was not in their company all the time. They spoke directly to a lot of people. And I think 35 they visited the fire fronts some of the time and may have had conversations there. I would not have been aware of that either.

I might add that the information flow at this 40 stage was not particularly consistent or accurate, and it seemed to take time to get an appreciation of where the fires were from time to time and what they were doing.

45 Q. I suppose I can be clear by going back and looking at the transcript, but just so that I have it clear in my mind, your position was you never

reached a point prior to 18 January where you felt the risk was realistic enough to the occupants of the suburbs of Canberra such that they should be given information about that risk?

5 A. Well, I was being guided by the general assessment of those around me --

Q. I understand that, Mr Keady.

A. And I didn't have an independent opinion that  
10 I was prepared to assert over and above that --

Q. I am not suggesting you are a fire behaviour expert, but you are the head of the department and you are in a position to receive a great deal of  
15 information.

A. Well, can I add the information that I had was no better or greater than that which was generally known amongst a lot of people at Curtin at the time.

20 Q. That may be. But I am simply making sure I understand your state of mind, and your state of mind was that until the 18th you never formed a view that there was a risk of a realistic enough level to require public warnings of an effect on the Canberra suburbs; am I right about that?

A. Yes, and if I can relate a personal anecdote. My house was at Curtin. I had not taken the sort of precautions that one prudently takes apparently in these circumstances. And I actually spent some time on Saturday afternoon to return to my home to block gutters and do those kinds of things because I was quite near bushland and was at risk. And I had not thought it necessarily personally up to 35 that time to have done that.

Q. Mr Keady, you attended a number of planning meetings, I think, during the week commencing 13 January?

40 A. Yes.

Q. I think the first day - you will know this - on which minutes were kept at planning meetings was Tuesday, 14 January. Have you seen 45 those documents before giving your evidence?

A. No. No, I am sure I have not. I am sorry, I should say that I have been sitting in the court

and I have seen these things displayed from time to time here.

Q. But you have not studied the documents or  
5 anything like that?

A. No.

Q. Before we finish, I might deal with the meeting of the afternoon of 14 January,  
10 the minutes for which are [ESB.AFP.0110.0775]. We will need some handwritten notes, but we will deal with the typed minutes first. If you could go to page 0776 first of all. As a matter of procedure, before I ask you about the document itself,  
15 Mr Keady, were you as a matter of course provided with a copy of these minutes after the meeting?

A. No, I don't think we were. I mean, the meetings as I recall didn't start as a formal meeting might with an adoption of the minutes and so forth. I don't think that occurred and I do 20 not recall seeing the minutes.

Q. But a record was kept. I am simply asking you, seeing you were there, whether you were  
25 provided with a copy; you don't think you were.

A. No, and it is conceivable that someone did give me a copy, but I don't have a recollection of it and it does not occupy a significant part of my mind.

30

Q. A common occurrence of these meetings was the profession of information by Mr McRae, who was the planning officer?

A. Yes.

35

Q. You know Mr McRae?

A. Yes, I do.

Q. This particular meeting at 4 o'clock on  
40 the afternoon of the 14th under "weather", the document records:

"The inversion level today made fire behaviour hard to predict. 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."

5

In accordance with the usual practice in this court, I ask you whether you can recall that being said and whether you registered that information while you were at the meeting; is it something  
10 that stays in your mind?

A. No, it does not.

Q. One thing that I am sure will have stayed in your mind at least to some extent is over on  
15 page 0778 under "media". The minutes record the following:

"Peter Lucas-Smith stated that Phil Cheney (fire behaviour expert) has conducted an  
20 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 the westerly wind direction would make operations difficult, we are currently implementing measures to control this possibility."  
25

30

Do you recall that discussion?

A. Not particularly, no. I might add that it seems to have me suggesting an operational response, which I don't think is very likely.  
35 I think it is more likely that I queried what would have been or what was the response to the suggestion that there is a problem emerging, and the notetakers possibly documented it in the way that may not have been accurate. But  
40 I don't have a recollection of it, I am sorry.

Q. There is a handwritten note of that as well which I will take you to. It is [ESB.AFP.0110.0048] at page 0058. I am not sure  
45 that we know yet whose handwriting this is, but it is clearly a note taken at the time of the meeting as it was occurring. Under "media", you can see

it says:

5            "WIN. Phil Cheney, fire expert, interview told any strong winds from west into Canberra city. Media attention on this aspect. Marika fielding questions."

Pausing there, that is a reference to Marika Harvey?

10      A. I imagine.

Q. And she was involved as a media liaison person with ESB?

A. Well, not normally --

15      Q. No, I understand that, but during this period she was?

A. Yes.

20      Q. It goes on:

25            "Not forecasting westerly winds. MC" - which is probably Mike Castle - if fires not contained what winds will bring fires into city."

Then underneath that:

30            "ESB to be reasonable advice re threat."

Then "MC" again "which are more threatening winds" and underneath that "Tim K", which is presumably yourself:

35            "... could make things dif. Putting in place measures to control."

40           So it does appear that the notetaker has recorded you as in effect providing a response to what was expected to be said by Mr Cheney on WIN Television. Do you accept that you made that response in the way that it is recorded?

45      A. Well, since I have no memory of it, I can't say no. I think what is more likely to have occurred is that the discussion seems to have been around an opinion that seemed to be different from that which prevailed around that table. My normal

response would have been to query that and say, "Well, what is the story? What is the situation?" Rather than provide the answer, which I would not have been qualified or competent to do, I am 5 assuming I am summarising or articulating what appeared to be the view. But, as I said, I am hard pressed to provide you with an accurate account because I can't recall it.

10 Q. The minute as it is recorded has all the hallmarks of a discussion about what it was expected Mr Cheney would say could be countered in the media, doesn't it?

A. Well --

15

Q. As you read it, that is what it looks like?

A. Yeah. The alternate view is perhaps that there was one view around the table about what wind directions or fire outcomes might be.

20 Another view was being proffered. What is our position?

Q. Did you know who Phil Cheney was? Had you heard of him as at 14 January of last year?

25 A. Yes, I have heard of him. I must say I probably would have regarded him as a fire researcher. I was not aware perhaps as much as I am now about his eminence in the field, but yes.

30 Q. We are now playing - I was going to say we are now playing a game, Mr Keady. But what we are now doing is, I am asking you questions, you are saying you have no memory of this and so inevitably we are going to get involved in some 35 reconstruction based on "would have" rather than any distinct recollection; am I right about that?

A. I think we will have to.

40 Q. We don't have to because it is not necessarily productive. Can I be clear about this: You accept, do you, that the discussion may have occurred as it is recorded either in the typed or handwritten minute, and for yourself you cannot recall whether that was an accurate record of what 45 was said or not?

A. No, I just note that the note itself is very much in shorthand. I have no idea of how

comprehensive it is or set out to be. I have no recollection of it particularly. It does not stick out in my mind.

5 Q. Do you have any recollection, any particularly?

A. No.

Q. None at all?

10 A. No, none at all.

Q. You obviously accept that, in the ordinary course, it would not be appropriate for you as a non-operational person to be offering the kind of commentary which appears to be recorded here?

15 A. Well, if I was at a planning meeting, it would have been essentially as an observer.

Q. Yes.

20 A. If an issue arose that appeared to establish a difference of opinion, I think I would have asked a question.

Q. Yes, well, that is not what is recorded. What 25 is recorded is you offering a response, isn't it?

A. That is what it appears to say, yes.

Q. And in fact if that is what you did, that would not be consistent with your normal role of 30 this meeting?

A. No.

Q. Before I finish, Mr Keady, there are two sets 35 of notes which may assist your memory; they may not. The second set of notes is [ESB.AFP.0110.0033] at page 0038. Our understanding, Mr Keady, is that one set of notes is made by Kate Keane and the other set by Jillian Ferry, but we are not sure which is which --  
40 A. I don't recognise the handwriting in either case.

Q. Do you recognise the other handwriting?

A. No.

45 Q. If you go down to "media" on that page, can you see that on the screen in front of you? It

says:

5 "Media Win TV. Phil Cheney, fire behaviour expert, CSIRO (considered expert in Australia). Any strong gusts from west bring fire into city. Bureau of Meteorology, west wind into city. Upset not forecasting west winds."

10 Underneath that "MC", presumably from Mike Castle:

"If fire not contained, what wind changes risk the urban city."

15 Then underneath that:

"ESB source of reasonable advice of threat to public. Acknowledge west winds will make harder things in place."

20 There is not in that set of notes an attribution to you that is recorded there. But does that assist your memory of the conversation, particularly the part that says "upset not 25 forecasting west winds"? Does that mean anything to you?

A. Quite frankly I just find it confusing. It does not, I am sorry, no.

30 Q. A reasonable interpretation of this note, the other note and the minute as it has been produced is that in the way the matter is being discussed there is some gulf forming between Mr Cheney on the one hand and ESB on the other, 35 and that what is being discussed is a need to counter Mr Cheney's prediction?

A. Well, that --

Q. That is the interpretation that is open on 40 the document, isn't it?

A. Okay. Another interpretation may be that, if he had a particular view about what was going to occur, was that view shared around the table; and, if not, why not?

45 Q. And that is not what is recorded, if that was discussed?

A. Yes, that is true. On the other hand,  
the second note does not seem to have recorded me  
determining the issue either, as I think  
the suggestion was arising when we saw the first  
5 note.

Q. Do you see where it says:

10 "ESB source of reasonable advice of threat to  
public."

A. Sorry, could you just point that out?

15 Q. Yes. Do you see where the heading "Media" is:

"ESB source of reasonable advice of threat to  
public."

A. I see that, yes.

20 Q. Highlighted in yellow?  
A. Yes.

Q. Do you recall that in that meeting there was a  
25 discussion, the effect of which was to say, "If  
anyone is going to advise the public of a threat  
from these fires, it is going to be ESB not people  
like Mr Cheney"?

A. No, I don't remember that at all, no.  
30 The notion that the ESB would have the obligation  
to advise the public of threats is quite  
appropriate and consistent with its role. But  
I don't know what that comment relates to, no.

35 MR LASRY: Your Worship, is that a convenient  
time?

THE CORONER: Yes. We will adjourn. I will just  
say that there are some circumstances that have  
40 come to light which necessitate that this inquiry  
be adjourned for a couple of extra days. So we  
will not resume until Wednesday, 10 March at  
10 o'clock. So is that a convenient time for you  
to return, Mr Keady, 10 o'clock on Wednesday?

45 THE WITNESS: Yes.

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 22

Wednesday, 10 March 2004

[10.12 am]

THE CORONER: Mr Walker, I believe you have an application.

5

MR WALKER: Your Worship, I do - in fact two applications. The first is for you to grant leave under section 42 of the Coroners Act for me to appear on behalf of Mr Peter Lucas-Smith.

10

THE CORONER: Yes.

15

MR WALKER: The second, depending upon the way your Worship decides that application, is that the proceedings adjourn until next Tuesday so that I might have some time to get across at least a portion of the material that has been produced to the inquest and take some more detailed instructions from Mr Lucas-Smith. I could go into more detail if your Worship wanted me to, but you are doubtless better versed about these things at this point in time than I am.

25

THE CORONER: I don't know that it is necessary for you to go into any more detail. I will see whether or not Mr Lasry wants to be heard. Do you wish to comment on the application from Mr Walker?

30

MR LASRY: Only to consent insofar as our view is relevant to Mr Walker's application for leave to appear. I may say we are pleased to see him. As far as the adjournment until next Tuesday is concerned, I think I indicated to Mr Walker when I spoke to him that we would not object to that. 35 We understand the reason for that. We don't have anything further to say about that either.

40

THE CORONER: Thank you. It is totally appropriate that you make the application. I will grant you leave, Mr Walker, to appear to represent Mr Peter Lucas-Smith and to cross-examine witnesses. But that leave is limited to issues that do or can be seen to relate to Mr Lucas-Smith's interests and not to cross-examine witnesses at large on other issues, and those interests where a possible source of adverse finding, comments or recommendation may be

made.

MR WALKER: I understand those limitations,  
your Worship.

5

THE CORONER: I will also grant you an adjournment. There is a considerable amount of material, as you have probably discovered already. I understand assistance will be provided to you  
10 from I am sure Mr Johnson and his team and certainly from Mr Lasry and his team.

MR WALKER: Yes. I should also mention,  
15 your Worship, Mr Whybrow is intending to make a similar application in relation to Mr Mike Castle, and in fact has authorised me to make that application on his behalf if your Worship were disposed to deal with it in the manner whereby I make it on his behalf. Mr Whybrow would have  
20 been here today. However, he had an interstate criminal trial in which he has simply been caught overnight in the cross-examination of somebody. He hopes to be finished with that earlier this morning. He will, if necessary, make  
25 the application on Tuesday and of course he also needs the time.

THE CORONER: I will ask him to make that application formally to me on Tuesday. But you  
30 can indicate to him that I certainly will grant him leave to appear and to represent Mr Castle when he makes that application.

MR WALKER: Thank you, your Worship.

35

THE CORONER: It is appropriate that we adjourn until Tuesday. Thank you, Mr Walker. Mr Lasry, what is the plan for Tuesday? Mr Keady is still being examined.

40

MR LASRY: Mr Keady is part heard, your Worship, yes. But as I understand it, Mr Koperberg, the commissioner for New South Wales, is intending to be here on Tuesday by arrangement with us and  
45 I think there are pressures of time so far as he is concerned. So we would envisage interposing Mr Koperberg, who I presume will be here with

counsel, completing his evidence, and then resuming Mr Keady later on Tuesday and then going back to the previous order, which involved witnesses such as Ms Harvey, Ms Larkins - I am 5 doing this from memory - Kate Keane and one or two others. I can give the details of those to you.

THE CORONER: Yes, I think Ms Lowe, Ms Keane; yes, all right.

10 MR LASRY: There has been some movement, another rearrangement, your Worship, related to the Chief Minister, who in the ordinary course of events would have been giving evidence yesterday but, in 15 view of these developments and his commitments, I think it has been necessary to postpone his evidence into April. We have in effect consented to that because he has parliamentary and apparently travel commitments as well. So there 20 has been some adjustment to the order. Save for those things, we will try to follow the same procedure that we had already announced.

25 THE CORONER: Thank you. While we are all here, I might make an announcement in relation to the Easter period in case people wish to make some plans. What I propose to do in the next few weeks in relation to Easter is sit from Monday 5 April until Wednesday 7 April, I think Good Friday being 30 on 9 April. So I will sit from 5 to 7 April and then we will resume again, subject to comment or if counsel is available on these dates, on Wednesday 14 April but sit that week on the Wednesday, Thursday and Friday, 14, 15 and 35 16 April, those three days.

Does anybody wish to make any comment? No comment on that? Monday of course is a public holiday. That is why we will resume on Tuesday. Any other 40 matters anybody wishes to raise? So we will adjourn until Tuesday the 16th at 10 o'clock.

**HEARING ADJOURNED AT 10.20 AM UNTIL TUESDAY,  
16 MARCH 2004 AT 10.00 AM.**

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 23

Tuesday, 16 March 2004

[10.05am]

THE CORONER: Yes, Mr Lasry.

5 MR LASRY: Your Worship, we will start with  
Mr Koperberg.

THE CORONER: Yes. I just see Mr Whybrow rise to  
his feet.

10 MR WHYBROW: Your Worship, I understand last week  
Mr Walker noted that I would be making an  
application today to appear on behalf of Mr Mike  
Castle, the Executive Director of the Emergency  
15 Services Bureau, and I seek your Worship's leave  
to appear in the inquest to the extent it is  
necessary to protect his interests.

THE CORONER: Yes. Mr Walker did mention that  
20 last week and leave is granted to you, Mr Whybrow,  
to appear to represent Mr Castle, but that leave  
is limited to issues which relate to Mr Castle's  
interests and issues which could be identified as  
a possible source of an adverse finding,  
25 criticism, recommendation. But leave is granted  
to you to appear.

MR BRET WALKER: May it please your Worship;  
another Mr Walker. May I seek leave to appear  
30 with Mr Erskine for Commissioner Koperberg.

THE CORONER: Yes, that leave is granted.

MR LASRY: Could we have Mr Koperberg, please.  
35

THE CORONER: Call Mr Koperberg.

**<MR PHILIP CHRISTIAN KOPERBERG, SWORN**

40 **<EXAMINATION-IN-CHIEF BY MR LASRY**

MR LASRY: Q. Mr Koperberg, your full name is  
Philip Christian Koperberg; is that correct?  
A. It is.

45 Q. What is your professional address?  
A. New South Wales Rural Fire Service, Rosehill,

New South Wales.

Q. Is the correct description of your position  
the Commissioner of the New South Wales Rural Fire  
5 Service?

A. Yes, it is.

Q. Mr Koperberg, you have made a statement for  
the purpose of this inquest, which I don't think  
10 is dated but I think it was made some time before  
14 January of this year; is that correct? Do you  
know when you made that statement?

A. I am not exactly sure of the date I signed  
this statement.

15

Q. This year?

A. It was this year.

Q. Some time in the early part of January this  
20 year? I am asking you that because I know when it  
has been entered on to the database and that was  
on 14 January. So I presume that happened not  
long after we received it?

A. I expect that to be the case, yes.

25

Q. You have signed it and I take it for  
the purposes of the inquest, the statement is true  
and correct, is it?

A. That's correct.

30

Q. And there is nothing you want to alter or  
change?

A. No, there is nothing.

35 Q. Mr Koperberg, just to go back a little to get  
a brief overview of your experience, if you like:  
as I understand it, you first became involved in  
firefighting some time in 1967, am I right about  
that?

40 A. In September of 1967, yes.

Q. That was with a bushfire brigade at North  
Springwood?

A. That's correct.

45

Q. And summarising you went on to be deputy  
captain and then captain of that brigade; is that

right?

A. That's correct.

Q. So obviously that was an operational role,  
5 both as a firefighter and later as a deputy captain and captain?

A. Yes, indeed.

Q. And then in 1970, three years after that, you  
10 became the fire control officer for the Blue Mountains?

A. That's correct.

Q. Similarly an operational role?

15 A. Very much so.

Q. In 1972 you were elected the inaugural chair of the Fire Control Officers Association, which you held I think until 1982; am I right so far?

20 A. That's correct.

Q. This is coming from the New South Wales Rural Fire Service website, so I hope it is correct?

A. Scary, isn't it.

25

Q. And then in 1982 you took up the position of emergency services policy analyst for the then Minister for Police and Emergency Services?

A. That's correct.

30

Q. And then in 1985, as I follow it, you took up the position that really led to the position that you now occupy, in that year you became the executive officer of the bushfires branch of the office of the Minister for Police and Emergency Services, and that position in effect led you to becoming the New South Wales Rural Fire Services Commissioner?

A. That is also correct.

40

Q. So your experience is both as an operational firefighter and as a leader of operational firefighters as well as, in a sense, an emergency service administrator commander?

45 A. It could be said.

Q. Is that right?

A. It could be said.

Q. At present you chair the Rural Fire Service Advisory Council, the Bushfire Coordinating 5 Committee and the State Rescue Board?

A. That is also correct.

Q. And you are a member of the State Emergency Management Committee and also a member of 10 the Australasian Fire Authorities Council, which we have heard some reference to in this inquest?

A. That is also true.

Q. Have I left anything out that is important?

15 A. Nothing that is important.

Q. If we can go then to the early part of 2003, in your statement you refer to the fact that I think on the 8 January you note in paragraph 1 20 that the Rural Fire Service Operations Centre recorded something of the order of 72 fires ignited by a storm that afternoon or on that day, and obviously those fires were spread across a fairly significant area?

25 A. Predominantly throughout the Snowy Mountains Ranges from the Victorian border, and indeed south of the New South Wales/Victorian border, all the way to the north through to the Brindabella and surrounding areas, that is correct.

30 Q. In the lead-up to the 2002/2003 fire season, as a matter of course had the New South Wales Rural Fire Service been monitoring for its own purposes weather conditions, fuel loads in 35 particular areas and things of that type; in other words in the off season, is it part of the role of the Rural Fire Service to keep an eye on what is happening and make predictions about the severity of the forthcoming season?

40 A. To a degree. It is not physically possible, of course, to monitor fuel right throughout the state of New South Wales. But weather trends are certainly things which are kept a close eye on, particularly as one draws closer to 45 the traditional bushfire season; in other words, the spring and summer and early autumn. Our concern was exacerbated by the fact of course that

we were in the midst of one of the severest droughts in the century and fires had already been burning in the northern part of the state for some months, commencing on the Queensland/New South Wales border around Tenterfield and Glen Innes with a number of fires. That did not augur well for the forthcoming season.

Q. You have probably answered the next question.  
10 In a sense you were conscious of the drought and of the operational consequence of the El Nino phenomenon which apparently had been operating over the previous year. Were you aware of that at least in broad terms?

15 A. Yes, indeed.

Q. I appreciate that the organisation that you lead is a large organisation and you lead a large organisation in a large state, compared with the ACT. But on 8 January when you became aware that fires had started in the Brindabella Ranges and also in the ACT, did you have any particular concerns at that early stage about the possible consequences of those fires? Was it a matter of 25 particular concern to you?

A. The magnitude of the fires was not immediately apparent, nor their strategic importance in terms of location. We had had many, many dozens of fires in the preceding months. The fires which 30 were ignited by lightning storms on 8 January were certainly of concern, and that led of course to section 44 of the act being invoked within some 24 hours of those fires having been detected. That in itself is a measure of the seriousness with 35 which we treated the potential of those fires.

Q. Just dealing with that, because we have heard a lot about it and I want to be clear that we understand it: the section 44 to which you refer 40 is section 44 of the Rural Fires Act?

A. Rural Fires Act 1997, yes.

Q. Section 44 itself places particular responsibility on you as commissioner; is that 45 correct?

A. Yes, to either personally or through other people take charge of firefighting in certain

circumstances.

Q. In particular in section 44.1 you are required to take charge of bushfire fighting operations and bushfire prevention measures and to take such measures as you consider necessary to control or suppress any bushfire in any part of the state if in your opinion, and I am paraphrasing the act:

5 (a) the fire has assumed or is likely to assume such proportions as to be incapable of control or suppression by the firefighting authority or authorities in the local area; (b) the prevailing conditions are conducive to the outbreak of bushfire likely to lead to a fire of such proportion; (c) if a fire is not being effectively controlled or suppressed by the firefighting authority; or (d) the fire is burning in a place which is not the responsibility of any firefighting authority. They are

10 the circumstances in which you are required to become involved, and then those functions and other functions under that part of the act may then be delegated by you to an appropriate person.

15 Is that a fair summary of the effect of section

20 44?

A. That is a fair summary, yes.

Q. In this particular case, your delegation was to Superintendent Bruce Arthur which as I think you point out was at about 1 o'clock on Thursday, 30 9 January?

A. That's correct. It is important to note that that recommendation is one which flows from a bushfire management committee, which is a locally based group of organisations and people with an interest in fire management. These are not unilaterally taken decisions.

Q. So does that effectively mean that what 40 happens is a decision is made to in effect request a delegation from you?

A. That's correct.

Q. And is that what happened on this occasion? 45 A. That is correct.

Q. In this inquest so far we have heard evidence

about what occurred on the 8th and in particular, among other things, the way in which the fires both in New South Wales in the Brindabella Ranges and the Namadgi National Park in the ACT were 5 responded to, and no doubt we will hear some more evidence about that in time. But I take it that at a more detailed operational level from the time the fires began on afternoon of the 8th until your delegation came into effect on the 9th, you were 10 not intimately involved with the operational detail of the response to the Brindabella fires; am I right about that?

A. Indeed not. Yes, you are right. Indeed I was not so involved because until such time as 15 section 44 of the act is invoked the responsibility for fighting fires on various land tenders is that of the organisation responsible for the management of that land.

20 Q. Does the effect of the section 44 delegation - in this case to Mr Arthur - mean that from that point onwards he assumes all your functions and responsibilities in relation to that particular fire, which is part of as I understand it 25 the declaration, which means in effect that you do not - in other words, does that effectively end your involvement or your potential involvement in the operational detail of a particular fire?

A. I guess in the strictest sense it does not. 30 It is true, however, that upon a person being appointed pursuant to the provisions of section 44 they certainly assume all of my functions in terms of command and control. Where there are multiple fires or multiple declarations, as indeed was very 35 much the case in January of 2003, I retained responsibility for coordinating and the making available of resources. And I obviously maintained an ongoing interest in the strategies being developed by the various appointees to deal 40 with particular fires.

Q. You would be aware that, in relation to 45 the McIntyre's Hut fire, the strategy developed to respond to that fire was in effect developed at a meeting on the night of 8 January, and I think was maintained effectively throughout the rest of the firefighting effort; do you agree with that?

A. I am aware of that, yes.

Q. The development of that strategy, I take it, and I understand from your statement that you are  
5 of the view, as you have expressed in paragraph 16 of your statement, that the containment strategy for the McIntyre's Hut fire worked, the fire was kept within containment lines until late on Friday the 17th when weather conditions began to severely  
10 worsen. So I understand that you at least appear to support the strategy that was adopted and I take it you do?

A. Yes, indeed I do. It is important also to clarify the issue of containment.

15 Q. I don't want to cut you off, but can I come back to that. At the moment I am asking whether or not it is a strategy that you are prepared to support but not one that you were intimately involved in the development of. Am I correct about that?

A. That's correct.

Q. I will come back to the issue of containment.  
25 It may not be possible, given the breadth of activity, but did you keep during January 2003 any kind of log or note or diary of things that you were involved in or events or discussions or briefings or other activities you were involved in in relation to all of the fires you had a personal connection with? Is it something you do?

A. As a matter of course I don't. There are of course computer based diary entries, but they relate more to appointments and other arrangements  
35 than incidental occurrences during the course of any day.

Q. Are you aware of the fact that, in relation to the McIntyre's Hut fire over the days, perhaps  
40 particularly 9 and 10 January, there was some debate about the speed with which the back-burning, which was part of the tactics adopted, was being conducted?

A. I am aware of some concern, as I am of  
45 the fact that the operation was frustrated by slow progress in the construction of trails, particularly along the unmade portions of

powerline easements and so forth.

Q. There seemed to be an issue developing, which has not yet been the subject of much evidence, as 5 between the ACT and New South Wales as to whether or not it was correct that no back-burning should commence in that area until the entire perimeter control line had been completed. Do you recall that as being one of the issues that you were 10 aware was being discussed in those early days?

A. In as much as I heard mention of it, yes, but not beyond that.

Q. There were some complaints being made in 15 particular from Mr Tony Bartlett who at the time, and I think still currently is, the director of ACT Forests. He described in his statement getting into a debate about the implementation about control strategy, and describes in his 20 statement - I will paraphrase what he says for the purpose of the question. The statement, your Worship, is [ESB.AFP.0001.1140]. He says in the course of describing at one meeting in paragraph 49:

25

"A strong view (which I disagreed with) was being expressed that no back-burning should commence until the whole perimeter control line was completed."

30

And as I follow it the strong view was being expressed by people such as Mr Arthur and others from the New South Wales service. He then says that, with the debate continuing about that issue 35 on 10 January, Mr Arthur was called out of the room and returned to advise that he had a discussion with you and that additional resources had been allocated to the McIntyre's Hut fire for the next day, which would be 11 January, and that 40 would include a sky crane, medium helicopters as well as additional firefighters. Then he observed from that point on the meeting progressed in a more positive manner. Do you recall that exchange with Mr Arthur on 10 January?

45 A. Not that specific exchange. There were several conversations that took place on succeeding days - days succeeding 8 January. They

related to general progress that was being achieved and certainly requests for support, but it is important to understand that not all requests for additional resources necessarily go 5 to the commissioner. There is a well-defined process for acquiring these through the relevant officers and the state operations centre.

Q. As far as this particular incident is 10 concerned, whilst you don't have a specific recall of discussing it with Mr Arthur, you accept that that conversation may well have occurred?

A. I accept that it may well have occurred.

Q. Perhaps we will hear from Mr Arthur as well. 15 Mr Koperberg, you should be aware no doubt we have already heard some evidence from Mr Lucas-Smith - and indeed when I say "some", that probably understates it; he was in the witness box for a long time. Before I ask you this specific question, in the lead-up to January 2003 did 20 the New South Wales Rural Fire Service and the ACT Emergency Services Bureau have a relationship of reasonably frequent contact with each other on bushfire issues?

A. The frequency depended very much on the frequency of the incidents, of course. But the normal cross-border arrangements which prevail across other borders also prevail with the ACT and 30 New South Wales; and that is that it was common practice for liaison to take place and for resources from each of the jurisdictions to work together to assist each other either side of the border. That is common practice.

Q. Do you agree with this, that there is perhaps 35 a logistical or practical difference between, for example, the kind of operational relationship that New South Wales might have - and I am talking about bushfires - with Victoria on the one hand than it would be the ACT on the other. I put that proposition to you, because although the ACT is for all intents and purposes a separate state it is really a small area in New South Wales. Does 40 that make a difference to the way New South Wales views its liaison with the ACT?

A. In as much as the ACT border is entirely

within the state of New South Wales,  
the likelihood of a higher frequency of incidents  
is certainly there. As a consequence, the liaison  
would probably be of a more frequent order than  
5 would be the case with Victoria or Queensland or  
South Australia.

Q. Mr Lucas-Smith in his evidence and in his  
statement says at paragraph 62, and it related to  
10 the sending of additional resources from either  
Victoria or New South Wales; he said he tasked his  
logistics officer to make contact with various  
people in those states and was told the resources  
were already in use, and then quoting his  
15 statement he says:

"As a result I decided to seek aerial support  
from New South Wales Rural Fire Service. At  
about 1330 on Sunday 12 January I made a  
20 telephone call to Phil Koperberg,  
Commissioner New South Wales Rural Fire  
Services at Rosehill to seek additional  
resources from him, but I could not get  
through as he was not available. I rang  
25 Rosehill again and spoke to Alan Brinkworth,  
the New South Wales Rural Fire Service duty  
officer for the day, asking what was  
the current status of his aerial resources  
and whether we could access their resources  
30 force water bombing the remote parts of  
the Bendora fire. However, Alan Brinkworth  
was unable to provide any aerial resources at  
that time and advised he would get Marian  
Carmichael, the New South Wales Rural Fire  
35 Service air operations 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."

40 Do you know anything about that request and  
the consequent arrangements that Marian Carmichael  
would be in contact with Mr Lucas-Smith?  
A. No, I don't.

45 Q. Is that the first time you have heard that  
attempt to make contact with you?

A. Yes, it is.

Q. Is there a procedure by which someone in Mr Lucas-Smith's position, as he perceived it at 5 1.30 on 12 January, which was a Sunday as he pointed out in his evidence, can get in touch with you or someone on your behalf to make the kind of request that he was wanting to make. How should he have done that if he didn't follow the correct 10 procedure in this case?

A. I am not suggesting the correct procedure was not observed. There is in fact no formal procedure for this. It is only post 15 the January 2003 event that a formal memorandum of understanding has been established between the ACT and New South Wales which does in fact provide for such procedures to be formalised. As is the case with other states and territories, when a jurisdiction is in need of resources from another 20 state then the arrangements are in fact quite informal and depend on contact with either the agency head or a representative of the organisation.

25 In any event, such requests are invariably channelled in the New South Wales case through the state operations centre and are then dealt with at normally assistant commissioner level. I am certainly advised in a peripheral sense of a 30 request. Where the request is not extraordinary then an assistant commissioner or someone of that rank will approve the request and make the necessary arrangements if the resources are available. If the request is extraordinary, then 35 it is certainly brought to my attention.

Q. The request that Mr Lucas-Smith describes here would not be an extraordinary request, would it?

A. That depends on the extent of commitment of 40 our aerial resources. If, for argument's sake, the majority or all of our aircraft were deployed in one form or another and a decision had to be made to compromise one operation or another to release those resources, then it would be 45 extraordinary.

Q. Does the decision to enter into a memorandum

of understanding after these fires reflect an acknowledgment that the liaison between the ACT and New South Wales in the case of these fires was less than satisfactory?

5 A. No, it does not, because the memorandum of understanding goes well beyond operational matters such as firefighting. It involves a whole range of issues, not the least being community education programs and so forth and so on.

10

Q. But this outcome is unsatisfactory, isn't it, Mr Lucas-Smith making the request that he made? As he describes it, it was an inquiry as to the status of New South Wales aerial resources, 15 and whether there were resources available that could be used here. To make that inquiry and to not get a response in a fairly timely manner is unsatisfactory, isn't it?

A. Of course it would be if that is the case, 20 then that is unsatisfactory. Having said that of course, being aware of this for the first time, there has not been the opportunity to have that investigated.

25 Q. I understand that. Perhaps I should ask you whether for the purpose of giving evidence - and you should take it that if the answer is yes it is not something I criticise - have you read any of the material including the statements, for example, of Mr Lucas-Smith or the evidence that was given either by him or Mr Castle or Mr Bennett?

A. I have read some but I have not read all of it in its entirety.

35

Q. Can I come to 15 January, which is the day that you went to Queanbeyan initially. You refer to this visit in paragraph 5 of your statement saying:

40

"On Wednesday 15 January at approximately 11.30 hours I attended a briefing at the Rural Fire Service headquarters and Fire Control Centre in Queanbeyan which was 45 the nominated EOC ..."

What does that stand for?

A. Emergency operations centre.

Q. I should have got that:

5 "... for fires burning in the Brindabella Ranges area of New South Wales."

You go on to describe that you were accompanied by Mr Gilligan and Mr Fitzsimmons. I take it that  
10 you were there to be briefed on the Brindabella fires, primarily I assume the McIntyre's Hut fire and probably the Broken Cart fire as well; is that the reason you went there?

A. More specifically to be briefed on fires  
15 burning within the Yarrowlumla Shire, fires burning in New South Wales. The journey also involved going further south to Jindabyne as I subsequently had to be briefed on fires in the Kosciuszko region.

20 Q. Between 8 January and 15 January, had you had any conversation at all with Mr Lucas-Smith or anyone at a senior level at Emergency Services Bureau in the ACT?

25 A. Not that I can specifically recall.

Q. Were you planning to visit the ACT ESB on the 15th?

30 A. No, I had not. I was made aware during the course of my visit to Queanbeyan that Mr Lucas-Smith had then --

Q. We will come to that. I am interested to know though, bearing in mind the circumstances in  
35 Canberra - being as it obviously is the major metropolitan area in the vicinity of the fires - why a visit to the ACT ESB would not be on your list of things to do while you are in this area?

A. Because I was dealing with my responsibilities  
40 within my jurisdiction, that was New South Wales. The journey had been planned to include going to Cooma and then to Jindabyne. It was a full day's itinerary. At that particular stage I had not planned to visit the ESB.

45 Q. I understand you had not. But this was --  
A. There was no particular reason for me to do

so.

Q. Well, I want to ask you about that. You knew obviously that there were fires burning in the ACT  
5 and that they were fires of some consequence.  
That is true; isn't it?

A. Yes.

Q. You knew that the Bendora fire was burning,  
10 that the Stockyard Gingera fires were burning, and  
that obviously the ACT were responding and also  
were involved at least to some extent in  
the back-burning operation concerning McIntyre's  
Hut. You knew all those things?

15 A. Yes.

Q. And the fires by then had been burning for a  
week?

A. Yes.

20 Q. Did you not see that it would be appropriate  
for you as a matter of either liaison, courtesy or  
perhaps to better understand what might be  
involved in the New South Wales/ACT relationship  
25 that a visit to ESB would be appropriate, given  
you were in Queanbeyan?

A. Given the fact that an ACT officer had been  
attached to the Queanbeyan control centre since  
almost the outset of the fires to ensure there was  
30 effective liaison between the ACT authorities and  
the New South Wales authorities, I was reasonably  
satisfied that no additional measures were  
required. Had there been some specific problem,  
had there been some specific conflict and had a  
35 need been identified for me to visit the ESB or to  
meet with Peter Lucas-Smith, then I would have  
done so. But no such identification was made.  
Hence I recognised no such need at that point.

40 Q. We will come back to the detail of this, but  
you recall being interviewed by the media on that  
date, 15 January, no doubt, and the extract from  
what you said to the media on 15 January, which  
has already been referred to in evidence, is you  
45 saying:

"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 forest on the border of Canberra and indeed the ACT itself".

That is not the entirety of your answer. That is the opening part of your answer to the first question. You go on to describe fires in Tumut and the Snowy Mountains. Was that a state of mind that you came to Queanbeyan with on the morning of the 15th? In other words, when you were going to Queanbeyan to be briefed in relation to the New South Wales fires, did you then hold the view that the threat was the worst threat in that part of the state in many, many decades and that there were threats to assets in Canberra and the ACT?

A. I was far better equipped to draw that conclusion after the briefing by Superintendent Bruce Arthur and his staff, because the extent of progress was able to be described to me in far more detail than would have otherwise been the case.

Q. It becomes a hypothetical question, of course, because contact was made with you by Mr Lucas-Smith, who sought to come and talk to you. But as the seriousness of the situation was being portrayed to you in the briefing, did it then become apparent that you and Mr Lucas-Smith needed to have some discussions with each other?

A. Indeed, and by that time I had been made aware that Mr Lucas-Smith was on his way, which negated any need for me to go to Canberra.

Q. Yes, clearly events over took the issue. I want to first of all take you to what Mr Lucas-Smith says happened at that meeting, because it may be of some consequence. I am sorry, your Worship, I have left my copy of Mr Lucas-Smith's statement in the office. I have Mr Woodward's and it does not have the identifying number for the document on it. It probably would be appropriate to have it displayed. It is [ESB.AFP.0110.0551] and if we could go to paragraph 82. The relevant part will come up on

the screen, Mr Koperberg, and I will also read it as it is coming:

5           "At about 11.30 hours that morning, Tony Corrigan telephoned me to advise that Phil Koperberg and Brian Gilligan were at Yarrowlumla in effect. While I had not been informed of this visit or that they might not 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 him at Queanbeyan as there were some strategic issues that

10           I wanted to discuss."

15

Just pausing there, I assume you agree with that? Do you remember that phone call?

A. Not specifically, but that does not suggest it

20           didn't take place.

Q. It continues:

25           "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 they had the fire contained

30           and that it was not going to be an issue for the ACT."

Do you agree that that message was conveyed either by you, Mr Gilligan or Mr Arthur to

35           Mr Lucas-Smith?

A. In the first part I agree. There is no doubt that confidence was expressed about the fact that the fire was contained because it was contained, meaning simply that it was within containment lines but not by any means suppressed or for that matter controlled. In regard to the second part, I don't accept that in as much as we did express concern for Canberra. That was evidenced by my more public statement shortly thereafter, and our offer of resources to the ACT was predicated upon our concern not so much for the fires as they then were but rather based on the concerns being

expressed by the Bureau of Meteorology for the coming days.

5 Q. Are we here discussing your assessment based on the briefing you had been given of the McIntyre's Hut fire or were you also briefed insofar as New South Wales had any knowledge of it of the state of the ACT fires?

A. Both.

10

Q. Both. So before you met Mr Lucas-Smith, you had been briefed on New South Wales's understanding of progress with the Bendora and Stockyard fires?

15 A. In as much as where the fires were, what work had been done and what work was being proposed, yes.

20 Q. Perhaps I will read the rest of it and then ask you about that:

25 "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 fire not being an issue."

30 Do you accept that the words "McIntyre's Hut fire not being an issue" was the kind of language that was used in this discussion?

35 A. No, I don't, in as much as we consistently stated that, whilst the McIntyre's Hut fire was contained, we also harboured the view that it would only remain contained if the forecast conditions did not prevail. Somewhere I am on the record as saying that if the bureau or were the bureau to have been correct in its assessment of the forthcoming weather, it was unlikely that any of the fires in New South Wales would remain contained.

40 Q. In the case of the McIntyre's Hut fire, of course containment, as you have just been saying, means that the fire was burning within the containment lines, and that is all it means?

A. That is all it means.

Q. And in this case the containment lines covered an area of something like 90 square kilometres?

A. That is so.

5 Q. I will come to your account of this meeting in a moment, but I just want to also refer briefly to the evidence that Mr Lucas-Smith gave and hopefully I will not do him an injustice by summarising it. In his evidence initially at  
10 page 998 he describes attending the meeting - I am sorry, perhaps I should actually refer to the transcript.

15 You always think of the job you should have done before 10 o'clock. At page 998 Mr Lucas-Smith was being asked questions about his own state of mind, and in the course of an answer said:

20 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 of Queanbeyan and we talked about those fires - I am sure you are going to talk about that meeting - and they 25 extended to me confidence that that fire was going to remain contained."

Then 1031 was simply his statement. At 1032  
30 Mr Lucas-Smith says in answer to a question in relation to the McIntyre's Hut fire and this discussion:

35 "I knew it was not contained totally. It was contained on the eastern and southern boundaries. They were the areas of concern to me.

40 "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?

45 "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."

My impression of that evidence, Mr Koperberg, is

that the impression that Mr Lucas-Smith was describing he was given was that the fire was contained and he was being told with significant confidence that it would remain so, and that for all intents and purposes he could concentrate on what was happening in the ACT. I am sorry to have jumped around in order to formulate that question that way, but do you agree that that was the theme he was being presented with?

A. Given the fact that a number of hypotheses were discussed, not the least of being a range of worst case scenarios, given the fact that I am characteristically pessimistic when it comes to matters of this nature, I have some difficulty in understanding why Mr Lucas-Smith would ascribe to us a higher level of confidence about the McIntyre's Hut fire in a worst case scenario than we had, because most of our considerations were predicated not on the present, that is Wednesday the 15th, but rather on the forecast of the Bureau of Meteorology for Saturday the 18th. We during the course of that meeting discussed a number of potential scenarios, amongst them a worst case scenario for Canberra.

Q. I want to come to that. You say in your statement that you expressed concern about the potentially serious implications for the western suburbs of Canberra. I would like to know as accurately as you can portray it how those concerns were expressed. What did you actually say?

A. We talked in broad terms about the likelihood of the fires, particularly the McIntyre's Hut fire, remaining contained. As I said, we painted a number of scenarios, one of them being the eventuality of the forecast for Saturday the 18th, which included very high temperatures, very strong winds and very low humidities, and the probability of the McIntyre's Hut fire particularly breaching its containment lines.

It was conceded that not only was that possible but it was more than likely. In fact, as far back as Sunday the 12th or thereabouts in a brief discussion with Superintendent Bruce Arthur, I raised the prospect of what might occur were

the weather in a week's time to so materialise and the fires not be suppressed. It was generally conceded that the fire would reach the suburbs of Canberra.

5

The forecast at that stage was a week in advance, and many things change in a week, particularly weather forecasts. So at that point, in the absence of confirmation about the weather, 10 there was no reason to suppose that any particular fears were going to be realised. However, Wednesday the 15th, the bureau began to become more confident of its forecast, and as a direct consequence of that we became more concerned. So 15 during the course of that meeting certainly a number of scenarios were canvassed, and it was the canvassing of those scenarios that led me to make an open-ended offer for resources, which I would not have done were I to have considered 20 that there was not a potential threat.

Q. Who was formulating the practical possibility of the impact on Canberra? Was it you, was it Mr Gilligan, was it Mr Fitzsimmons, was it 25 Mr Arthur? Who was actually formulating for the benefit of Mr Lucas-Smith, who is listening to this, how it was going to happen, when it might happen - things of that kind - or did it not descend to that level of detail?

30 A. No, it did not.

Q. So was it simply a discussion about a possible impact on the suburbs?

A. Well, on Canberra, not any particular side of 35 it. The fact remained that there were a number of fires lying to the west and to the north-west of Canberra city. It is obvious that if there were to be strong prevailing winds from the north-west, high temperatures and low humidities, those fires 40 would move in a south-easterly direction and, as a consequence, would have the potential to impact upon Canberra.

45 Q. But does that mean that what was being discussed in those scenarios as you described them is a fire that would do damage to suburbs as opposed to the rural parts adjacent to

the suburbs?

A. The suburbs were not specifically mentioned. Canberra was mentioned in the generic sense, and it did not descend, as you said, to the level of detail which embraced nominating time, geography, or date.

Q. But suburbs do appear in your statement, you see. In paragraph 9 you say:

10 "I expressed concern during this briefing about the potentially serious implications for the western suburbs of Canberra were the fires not to be contained before  
15 the onset of the predicted weather."

So it appears from that paragraph that you are the one talking - and you are not simply talking about the western region of the ACT, you are  
20 actually thinking about suburbs on the western part of the Canberra city. Is that an accurate description of what you said?

A. Yes, it is, in as much as understanding the physics of fire and their potential under a range of circumstances to spot, for argument's sake, many, many kilometres, to travel vast distances in relatively short time, that possibility ought not to have been precluded.

30 Q. How did Mr Lucas-Smith react to the sentiment that was expressed, for example, by you in accordance with paragraph 9? What did he say?

A. I can't recall exactly what he said, suffice it to say that he too shared some concern and that  
35 is evidenced by the fact that he accepted additional resources which were offered with the intention of providing additional protection for Canberra.

40 Q. Mr Koperberg, can I see if I can crystallise this a little bit because, as you would be aware from reading any of this material, this is one of the important issues in this inquest, and Her Worship's inquiry is the point at which a realistic prospect of any of the fires, whether  
45 McIntyre's, Bendora or the others doing damage to the Canberra suburbs was first apparent. I want

to be clear: was it your view on 15 January as expressed in this meeting that there was a realistic chance that these fires would do damage to the western suburbs of Canberra? Was that

5 the view you held on Wednesday the 15th?

A. I formed an opinion that if the forecast weather conditions were to materialise then the fires, not any specific fires, would have the potential for moving in such a way and over  
10 such a distance as to constitute a threat to the suburbs of Canberra. But that was an opinion, and an opinion may not necessarily be shared by other quarters.

15 Q. But you obviously felt it was important that your view be expressed, and you are not simply a passer-by; as you have described you are an experienced operational fireman and the most senior rural fire person in New South Wales. You  
20 were obviously anxious to express your opinion because you were concerned; is that correct?

A. It was my opinion that were the conditions to prevail there would be that threat and, as a consequence, I wanted to ensure as far as possible  
25 that the area was effectively resourced. Hence, my offer of resources.

Q. Yes. We will come to that in a little while. What I want to know is whether or not when you  
30 expressed that opinion, subject to the usual contingencies in the absence of a downpour of rain, for example, but subject to the weather becoming as bad as it was expected to become, did you get a response from Mr Lucas-Smith. Did he  
35 say to you, "Look, I don't agree. I am confident it will never get to that change. We can control these fires even if the weather turns bad. I am not worried about the western suburbs of  
40 Canberra"? Did he say anything along those sorts of lines to give you the impression that he had a differing view from you?

A. I gleaned by his response and not by any specific words he may have said that the sense of pessimism, if that is the word, harboured by me  
45 was not shared by him. At no stage did he reject the contention outright, but nor did he necessarily accept it as a distinct possibility.

Q. I take it from what you have been saying that you did see it as a distinct possibility; that was the view you held?

A. I tend to approach as a matter of course these things bearing in mind a worst case scenario rather than a best case scenario. Because of that particular approach and the continual concern being expressed by the Bureau of Meteorology - a concern we did not take lightly - the possibility of a catastrophic event should not be precluded from our thinking.

Q. That is an appropriate approach to take, isn't it, in an emergency management or emergency response? It is appropriate - you were asked about this in the course of an interview. It is appropriate to plan as much as you can for the worst case scenario?

A. I am required to do that and that is what the New South Wales community expects of me, as does the government.

Q. In order to refresh your memory and ask you some questions about them, I want to play to you two interviews that you gave, one is shorter than the other.

MR LASRY: The first one, your Worship, is the interview that Mr Koperberg gave on 15 January of which until recently we only had a very brief extract. We now have I think the complete tape and also the transcript, which has been prepared by the ACT Government solicitor's office. So either now or later, I will tender that as an exhibit and I would like to play it.

THE CORONER: Do you intend to play the transcript?

MR LASRY: Yes. And following that, I will also play the interview with Mr Koperberg on the ABC program 'Stateline', which was some months later on 16 May. If I could start with 15 January.

[Interview with P. Koperberg of 15/01/2003 played]

MR LASRY: Your Worship, I will tender that video

tape and the transcript, if it has been distributed.

5 THE CORONER: So that video tape of the ABC interview with Mr Koperberg of 15 January 2003 and the transcript of that interview will become exhibit 0031.

10 **EXHIBIT #31 - VIDEOTAPE AND TRANSCRIPT OF  
INTERVIEW WITH P. KOPERBERG DATED 15/01/2003  
ADMITTED WITHOUT OBJECTION**

15 MR LASRY: Q. Mr Koperberg, what I am not at all clear on is how long after the meeting with Mr Lucas-Smith that interview took place. Are you able to help us with that? It was some time after the discussion.

A. Yes, it was. It would not have been more than 45 minutes at the most, I expect. But I can't give you more detail - give it to you in any more detail than that.

25 Q. Mr Lucas-Smith has given evidence in relation to the interview that you have just seen, commencing at page 1037 of his evidence. It is near the bottom at line 36 in the following terms:

30 "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 - that is you - said that night on television?

35 "A. No.

"Q. When did you first realise what he had told the media?

40 "A. I think some media people came to me with concern about what he had said.

"Q. That day?

"A. It could very well have been.

"Q. On the Wednesday afternoon?

45 "A. Yes, Wednesday evening or something - could have been. I don't know that for sure.

5 "Q. But your recollection is that it is possible that someone from the media rang you and said, "This is what --

"A. No, someone in my own media team had said this is what Mr Koperberg had said.

10 "Q. Were you being asked for a response to what he had said?

"A. No, I was not.

15 "Q. Did you then ring Mr Koperberg and say, "What is all this?"

"A. No, I did not.

20 "Q. Why not?

"A. Because others had agreed to do that.

"Q. And who was that?

25 "A. I understand Mr Keady intended to talk to Mr Koperberg."

Then we identified who Mr Keady was:

30 "Q. Do you know whether he did spoke to Mr Koperberg?

"A. I believe he did.

"Q. Do you know the outcome of the discussion?

35 "A. No, I don't."

That piece of evidence, Mr Koperberg, was being given in the context of Mr Lucas-Smith being surprised at what you said in that interview and that an arrangement was made as he understood it that Mr Keady - who was at the time the head of the Department of Justice and Community Safety, and is a person I know that you know - would ring you and discuss what appeared to be in effect a communication breakdown or a misunderstanding about what the true situation was. Was there in fact a phone call to you from Mr Keady?

40 A. I don't believe that phone call took place.

45 Q. You have thought about this obviously and you are aware that Mr Lucas-Smith gave that evidence?

A. Yes, I am and I have thought about it, and to

the extent that I have discussed the possibility of it having occurred indeed with Mr Keady, and neither of us have a recollection of that call having been placed.

5

Q. So your memory is at the moment that you don't recall anyone ringing to in effect say to you that what you said in that interview was inconsistent with what you said with Mr Lucas-Smith on the same 10 day?

A. No.

Q. Has anyone put that to you since?

A. No.

15

Q. We might then go to the 'Stateline' interview, which I think is on the system, your Worship, although I can't at the moment identify the exhibit number.

20

MR LASRY: Your Worship, as we go through this, I would like to stop the tape from time to time and ask questions rather than leave them to the end.

25

Q. Before it starts, Mr Koperberg, you will recall - I think the way it worked was this: there was an ABC 'Stateline' program in the earlier part of 2003 following the fires. That program discussed the fires and discussed the issues of responsibility and so on, and I think in passing referred to the fact that approaches had been made to various people, including yourself, to take part. At that stage I think they had received a number of responses which were to decline to take part; and then a second program was aired in which you had agreed to be interviewed. Is that as you recall the way this interview came about?

A. The interview came about as a result of a request whilst I happened to have been in Canberra and I agreed to do it. At that stage when I agreed to do it, I had not yet been informed that others had declined to do it. But I was certainly so informed during the course of it, perhaps even immediately prior.

MR LASRY: Your Worship, I should say this

interview actually occurs on 16 May of 2003.  
I will remain standing because I want to ask  
questions as we go.

5 ['Stateline' interview with P. Koperberg on  
16/05/2003 played]

MR LASRY: Just pause there for a moment.

10 Q. In the conversation on 15 January were  
the words "open-ended offer" actually used? In  
other words, did someone say - you or anyone else  
say to Mr Lucas-Smith, "You can have whatever you  
want."

15 A. The words "open-ended" were not used;  
the words "whatever you want" were probably not  
used either. The words more likely to have been  
used were "what resources do you require of us".

20 Q. Let me just go back. So it was not  
the position that Mr Lucas-Smith was told, "You  
nominate what you need, and we will provide it."  
It is a case, is it, of him being asked to tell  
you what he thought he needed; is that right? He  
25 is being asked to nominate what resources he would  
need from New South Wales?

A. Yes.

30 Q. Was it made clear to him in the course of that  
discussion that in making that nomination there  
was, for practical purposes, no real limit -  
subject of course to other commitments that you  
had elsewhere in New South Wales - but within  
reason, that you would comply with any reasonable  
35 request that he made?

A. It was explicit if not implicit.

40 Q. I am trying to understand whether it really  
was an open-ended offer or whether it was an offer  
which really depended on Mr Lucas-Smith making  
some value judgment about what it was that he  
thought he should ask you for?

45 A. There was nothing said, in my view, that would  
have led Mr Lucas-Smith to assume that the offer  
had limits.

Q. It must have had some limits because you had

other commitments all over New South Wales. He did not have the entire resources of the Rural Fire Service at his disposal?

A. No.

5

Q. But presumably he was aware of that as well?

A. If he asked for 500 tankers, we would have had to decline.

10 Q. I want to ask you whether in fact he there and then nominated what he wanted?

A. Not specifically. That request was confirmed later in the evening. But we did talk in round figures of task forces, numbering some four, and 15 each task comprising five firefighting units and associated personnel. That was agreed to instantaneously and subject to confirmation.

Q. But he had to make the request in a bit more 20 detail later. He had to go through the kind of protocol that you were referring to earlier; didn't he?

A. Yes.

25 Q. And in fact what he sought was four CAT1 task forces?

A. Not a CAT1 task force, four task forces.

Q. With 24-hour operation capability?

30 A. That's correct.

Q. Their own command structure, and I think you said since that means 20 tankers with five crews per tankers; is that what four task forces amount 35 to?

A. In essence, yes. There are ancillary and support personnel and, depending on the rotational arrangements during the course of the 24-hour day, of course additional crews need to be provided as 40 well.

Q. He also asked you later, if not on the 15th, for incident management team support for a 24-hour operation?

45 A. Yes, that is my understanding.

Q. Which includes planning operations and

logistics. What sort of personnel numbers does that involve?

5 A. No specific. It could be a planner or a logistics person or a number of planners and a number of logistics people.

Q. He also asked for access to the aerial firefighting resources that were being used on the McIntyre's fire?

10 A. I am not aware of that.

Q. You are not aware?

A. No - but that does not suggest that he did not ask for them; it suggests I am not aware of him 15 asking for them.

Q. I understand. At the end of the meeting on 15 January, did you have a reasonably clear picture of what it was he was asking for - four task forces?

20 A. We talked in round terms. And it was my understanding that during the course of the evening of the 15th he would confirm his request through the state operations centre, and 25 that in fact occurred. The aforementioned Mr Brinkworth took that call and began to make the necessary arrangements.

30 Q. Did you think that that was not enough based on your perception of the threat that Mr Lucas-Smith's organisation had to meet?

A. I thought the request was light, if one was contemplating a worst case scenario. But as 35 I have already suggested, my views on the worst case scenario might not have been the views held by Mr Lucas-Smith, and I respected that throughout the course of those discussions. There was nothing to suggest at that time that my opinion was going to necessarily prevail.

40

Q. Did you say to him, "Look, Peter, if things develop as badly as they might this won't be enough?"

A. No, the only thing I said to him was, "Is that 45 all you want?"

Q. And he presumably said yes?

A. I presume so.

Q. But you didn't say to him, "If things go bad, as I think they could, what you have asked for 5 won't be enough for the threat you have to meet"? That was not actually stated to him in those kinds of terms?

A. Not that I can recall. As I said, we did discuss, as will emerge later in the interview, a 10 range of worst case scenarios.

Q. Why not tell him? Why not convey your opinion? You have conveyed your opinion about the worst case scenario as you have described it. 15 Why not tell him that, in your view, if the worst case scenario develops what he has asked for will be insufficient?

A. I may well have asked him; I may well have asked him - I am not suggesting I did - was that enough in his opinion. One has to bear in mind that I was not aware of the extent of resource that he had access to. I was not aware, for argument's sake, whether there were similar discussions taking place with Victoria or whether 25 there were Victorian assets already in place or en route.

We tried to ensure as far as possible that the views of other jurisdictions are respected. 30 It does not follow that a differing opinion will necessarily lead to a challenge of such a view.

Q. I was not suggesting a challenge, Mr Koperberg. I understand that for 35 jurisdictional reasons you are not in a position to challenge Mr Lucas-Smith's judgment. I am simply seeking to understand why you didn't think it was appropriate to offer him your obviously expert opinion at the time that he settled on 40 the volume of resources that he did - and he could accept it or reject it but at least he would know what you thought.

A. I guess in a roundabout way there was reference made to the potential severity. But, 45 nevertheless, there was an attempt made to be discrete in conveying that information. One does not intend to offend the head of another

jurisdiction by suggesting that their views are inappropriate or that their opinions don't match the views of others.

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

THE CORONER: We will take the morning adjournment.

10

**SHORT ADJOURNMENT**

[11.25am]

**RESUMED**

[11.50am]

15 MR LASRY: Q. Mr Koperberg, I know there is a matter you want to go back to in relation to 12 January. I will go to that in a moment. Just before I do I want to finalise one other issue. At page 2093 of the real-time transcript I was 20 asking you questions about your opinion as you held it on 15 January, and in an answer to a question which finished with the words "was that the view you held on 15 January", you said:

25 "I formed the opinion that if the forecast weather conditions were to materialise then the fires, not any specific fires, would have the potential for moving in such a way and over such a distance as to constitute a threat to the suburbs of Canberra. That was 30 an opinion and an opinion may not necessarily have been shared by other quarters."

That was earlier this morning, you describing your 35 opinion. My question simply is: is that an opinion that you expressed in those terms at the 15 January meeting to Mr Lucas-Smith?

A. In as much as did I suggest that if the weather were to eventuate there would be a 40 real threat to Canberra, yes.

Q. Yes. So we can take it that you said to Mr Lucas-Smith then:

45 "If the weather forecast - if the weather conditions materialise, then the fires, and you are not being specific about any fire,

have the potential to move in such a way and over such a distance as to constitute a threat to the suburbs of Canberra."

5 That was the effect of what you told him?

A. Not in those words. Did I use words such as "if the weather materialises is Canberra in trouble", yes.

10 Q. I don't want to derail the evidence by a long discussion of what words were used, but it is an important issue. You have given evidence about your opinion. I would ask you to think back to the 15th and, as best you can, formulate what you 15 said to Mr Lucas-Smith about the threat to Canberra as close as you can in the words you actually used?

A. There were present at that meeting a number of people, all of whom expressed various views on 20 various issues. I was not the only person at that meeting proffering a view. Assistant Commissioner Shane Fitzsimmons, Brian Gilligan, Peter Lucas-Smith, Bruce Arthur were just some that I recall being at the meeting. We discussed 25 the fires in general terms. We expressed grave concern about the Bureau of Meteorology's predictions for three days hence.

We talked in very general terms about if that 30 weather were to eventuate, given the fact that suppression of the fires would not under any circumstance have taken place by then, containment may well have been completed but not suppression. Given the fuels, given the pine forests, given a 35 whole range of circumstances there was a real possibility that those fires, having broken their containment lines, which we considered inevitable and said so, would make a major run into Canberra. That was the type of language which was being 40 used.

Q. You have described throughout that that was being said as you said by "we", and you have put the qualification that you were not the only one offering opinions and I understand that. But I am 45 anxious to establish if I can whether or not the opinion you personally held, as you expressed

it earlier this morning, was one that you as opposed to anyone else expressed during the course of that meeting.

5 A. Yes, I expressed my concern about the very real threat that these fires could impact upon Canberra, and it was that concern which led me to make the offer of resources. Were I not so concerned, I would not have made that offer.

10 Q. Of course that threat in part came from the McIntyre's Hut fire, didn't it?

A. Yes.

15 Q. As you have said, it was contained but it certainly was not controlled or suppressed. Indeed, given the broad area of the containment lines if the weather turned in the way that the bureau of expecting that it might, then suppression of McIntyre's Hut fire was out of 20 the question; it was simply not going to be able to be achieved.

A. The suppression of McIntyre's Hut fire would not have been achieved even under the prevailing weather conditions. It would have taken many days 25 before that fire could have been declared out.

Q. Just in relation to that for a moment, in your briefing that you received from the incident controller and others in relation to 30 the McIntyre's Hut fire, were you briefed on whether or not there were any fallback or alternative strategies open for the McIntyre's Hut fire, given it was a large area which had to be burnt out and that time was limited?

35 A. The containment lines being constructed were sufficiently conservative in terms of their distance from the actual fire to allow a good deal of work being done in the intervening places. In other words, when Superintendent Arthur developed 40 his plan in conjunction with his management team, they did in fact take a conservative approach, recognising the potential for the fire to travel, to spot and what have you. They fell back a long distance, and that has both advantages and 45 disadvantages. The advantage is that you have time to get your back-burn in. The disadvantage is that there is a possibility of spotting during

aggressive fire behaviour.

Q. And so from 15 January onwards, if not a bit earlier, the disadvantages of that tactic were becoming apparent; weren't they?

A. Well, given the fact that the winds were predominantly from the east, there was a lesser threat of eastward spotting and a greater threat of westward spotting. But by Friday afternoon of course the winds began to tend north-westerly. That increased the potential. It is a fact that it is those winds which caused the fire to spot on Friday evening.

Q. And it was your concern about those weather conditions that led you to the opinion that you expressed on the Wednesday?

A. Yes.

Q. What I understand you want to go back to is the questions I asked you earlier this morning about the request on 12 January. Is there something you wanted to add to the evidence you gave about that?

A. Yes, I do. I said in evidence that I had no knowledge of this, and I said that if in fact we did not respond to a request for aerial support on the 12th that that was a matter of concern. During the adjournment I have made some inquiries and I have been advised by the chief superintendent in charge of aviation, Marian Carmichael, that she made several attempts to return the call placed by Mr Peter Lucas-Smith both on his mobile and through his office to no avail. She then claims that the circumstances in which she was involved were of such magnitude right throughout New South Wales that she did not pursue the matter beyond that, but made a number of attempts to return the call.

Q. No doubt we will need to ask her about that as well. Thank you about that. Can we go back to the interview on 16 May, starting at the top of page 2.

['Stateline' interview with P. Koperberg of 16/05/2003 played]

Q. With respect, I think the question you were asked in that section of the interview, which was:

5 "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?"

10 I think in the end you didn't actually answer the question. You responded by saying that four task forces was not an inconsiderable amount of resources. But what is the answer to the question? Did you actually push the ACT to take more resources than four task forces?

15 A. No, I did not. My response was: "Is that all you require?"

Q. You then go on to describe the meeting and in particular you refer to, as you call it, 20 the colourful language that was being used during the course of the meeting. I gather from the way you are answering these questions that it was not language that you were using but it was being used in the presence of everyone who was there. Were 25 there people at that meeting who were stating in clear and colourful terms, to use your words, that Canberra was at substantial risk from these fires?

A. One has to take it in the context of the vernacular being used. As I said to you 30 earlier, there was during the course of the meeting a lot of discussion about worst case scenarios, hypotheticals - what ifs, in other words. I certainly did pose the question: what if the fires are not suppressed? What if 35 the forecast weather materialises? What will happen then? Someone in that room said, "Canberra is going to get hammered".

Q. Do you know who said that?

40 A. No, I don't.

Q. Were there other utterances of that nature said during that meeting?

A. Not that I can specifically recall.

45 I described the language in the interview as being emotive.

Q. Colourful.

A. Colourful.

Q. I am sorry, you did say --

5 A. I said emotive.

Q. And you said also "on the part of several people". I am trying to understand who the emotive or colourful speakers were and in 10 essence what were they saying?

A. I was painting a worst case scenario and I was deliberately doing that to tease all out the possibilities. The response, the generic response, to my painting a worst case scenario 15 was, in the use of that sort of vernacular, "Canberra is going to get hammered". "We are going to be in deep excreta," I think may have been used.

20 Q. Probably "deep shit" was what was used.

A. I was trying to be polite.

Q. We are in a courtroom, Mr Koperberg; we are used to that sort of talk. But those sorts of 25 things were being said?

A. Yes, they were.

Q. And Mr Lucas-Smith was responding to this in some way?

30 A. I gleaned Mr Lucas-Smith's response to be a little offended by the fact that his New South Wales counterparts were painting such a picture, and it was not our intention to so offend him. We were not there to tell him how to do his job. He 35 was in possession of facts relating to his jurisdiction, his fires and his resources. I formed the opinion, and that is all it was, that Peter did not share our belief or my belief, if you like, about the potential seriousness. He had 40 every right to do that, or not to do that as the case may be.

MR LASRY: We will go on with the interview.

45 ['Stateline' interview with P. Koperberg on  
16/05/2003 played]

Q. Pausing it there, Mr Koperberg, because  
the discussion is then about the 18 January, which  
I want to come to in a moment. One of the matters  
that you say was raised with Mr Lucas-Smith is  
5 referred to in paragraph 11 of your statement. In  
that paragraph you say:

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."

15 Can you tell us how that topic arose and what it  
was that was said to Mr Lucas-Smith to bring about  
that response from him?

A. Well, that was in the context of this general  
discussion about worst case scenarios, and a  
response to what if. And Mr Lucas-Smith  
acknowledged, if my memory serves me, that if  
20 there were to be a large scale impact on  
the western peripheries of Canberra then there  
would be insufficient resources to deal with it,  
which again was one of the factors which led to  
our offer of support to augment those resources.

25 Q. Are you clear that that particular exchange  
was said, that he specifically said, "The ACT's  
resources would be insufficient in the event of a  
fire impacting upon Canberra and its suburbs"?

30 A. Clear in as much as my assistant commissioner  
Shane Fitzsimmons recalls an attempt to actually  
calculate the number of appliances that might be  
required on any given interface and the conclusion  
being reached that, if you have X number of  
35 firefighting resources per X number of households,  
then there clearly were not enough.

Q. In his evidence at page 1039 of the transcript  
I read to him that paragraph of your statement,  
40 and then at the end of quoting it said:

"Did you say that to him?  
A. I don't recall saying that. I said that  
our resources were certainly insufficient to  
45 even contain the fires we currently had, let  
alone if the fires escaped."

There may not be much difference between his account of what he said and what you have said in your statement. I take it you agree with that?

A. If there is an acknowledgment that resources  
5 are insufficient to suppress the fire, then it follows that there certainly would be insufficient resources to deal with it when it impacted, because by then the fire would be a lot larger and the threat or the assets at risk would be far more  
10 considerable.

Q. When the meeting finished was there any arrangement between the two of you to liaise again over the next few days, bearing in mind  
15 the expected severity of the weather conditions and the development of the fire problem?

A. In general terms, yes, but only to the extent that "we'll be in touch". It was that sort of phraseology. And Peter Lucas-Smith confirmed  
20 that he would confirm his request for resources later that day, which he did.

Q. On the morning of the 18th, on the Saturday, you dispatched Mr Crosweller to Canberra without  
25 consultation with ACT ESB; is that right?

A. That's correct.

Q. In your statement at paragraph 17 you say you did that with a view to him assessing  
30 the immediate threat to Canberra and the need for additional resources. What was it at or around 9.30 on the Saturday morning that led you to take what I think you described in the interview - and we will come to it in a moment - as "unusual action" or "certainly uninvited action". Why did  
35 you do that?

A. Because by that time the Bureau of Meteorology were able to confirm that the weather which they had been talking about for some days was going to materialise and, if anything, it was going to be marginally worse than they had originally anticipated. Indications in Sydney certainly led me to believe that the weather was going to rapidly deteriorate and, having been consistent in my views that were this to occur the fires would not remain contained, then the threat that I speculated upon was going to materialise. We

had many other fires burning within our own jurisdiction. Concern was being expressed from Kosciuszko and further afield. There were some 14 declared fire emergencies in New South Wales on 5 that day.

Nevertheless, one of my principal concerns was Canberra. And, as a consequence of that, I arranged for Mark Crossweller, Assistant 10 Commissioner Crossweller, to move immediately to Canberra and establish contact with the ESB.

Q. Had you tried to ring Mr Lucas-Smith?  
A. No, I was otherwise engaged on a multitude of 15 issues.

Q. As at the morning of the 18th, had you spoken to him at all since the meeting on the 15th?  
A. Not that I can specifically recall. I would 20 be surprised if there had not been some communication between us between the 15th and the 18th, but that does not mean that it definitely did. However, the fact that I assigned this task to one of my most senior staff rather 25 than someone who might have acted as liaison was indicative of my concern. I needed that liaison to be established.

Q. He of course then had to leave from Sydney and 30 get to Canberra, which I think he did at about 20 past 1 in the afternoon. The likelihood, was it not, was that if New South Wales were going to be providing resources to protect Canberra, they were going to be needed during the course of that day; 35 they were going to be needed urgently? Had any arrangements been commenced to start sending troops, as it were, to Canberra prior to Mr Crossweller getting to Canberra himself?

A. We were attempting to resource a number of 40 areas, and we were also attempting to anticipate requests for additional resources. It was clear - it was patently obvious to us that, with the advent of the deteriorating weather, much of southern New South Wales - fires within New South 45 Wales and elsewhere - would behave erratically and would constitute a major threat to assets. We were already dealing with additional requests from

the Kosciuszko region. The very real threat of property loss within the Yarrowlumla Shire itself, particularly to the south of Queanbeyan, Michelago and other places, was obvious to Superintendent 5 Arthur. We were beginning to look at what reserves we had available to deploy not only to those areas but indeed Canberra.

So ahead of dispatching Assistant Commissioner 10 Crosweller, we were already contemplating where we might get additional resources from and were beginning to alert district managers to the possibility of requests for additional resources.

15 Q. Was the request which followed Mr Crosweller's arrival to Canberra - as I understand it, he arrived and then basically rang back to your office and said, "Send everything you can and 20 I will sort it out with the ACT later," was that the first substantial step towards sending resources to protect Canberra?

A. The first substantial but not the first step. During the course of the morning I had already 25 directed that resources begin to assemble in places like Campbelltown and elsewhere in anticipation but I need to point out that we had had no request.

30 Q. No, I understand that. I am coming to that. That was the next question I was going to ask you about. There had been no request from the ACT at all on the morning of Saturday the 18th?

A. No.

35 Q. Or the afternoon of Friday the 17th?  
A. Not beyond that which was requested on the evening of the 15th, and subsequently provided during the course of Thursday the 16th and Friday 40 the 17th.

Q. All right.

MR LASRY: On that topic we might go back to 45 the interview.

['Stateline' interview with P. Koperberg on  
16/05/2003 played]

Q. Mr Koperberg, can we take it from your answers  
5 there that it was not until 9.30 on Saturday  
the 18th that you realised that substantial New  
South Wales reinforcements were going to be  
necessary in Canberra; in other words, does  
the dispatch by you of Mr Crosweller to Canberra  
10 at about that time represent the point at which  
you realised that the situation was extremely  
serious?

A. I would not have dispatched Assistant  
Commissioner Crosweller had I not formed the view  
15 that the fears which I had harboured for some days  
prior were not going to materialise.

Q. But I am just trying to establish: was it  
shortly before you did that that you formed that  
20 view that those fears were going to materialise?

A. As soon as the Bureau of Meteorology, in fact  
if my memory serves me correctly we had a duty  
forecaster in our control centre seconded from  
the Bureau of Meteorology, and a number of  
25 telephone conversations took place between  
Assistant Commissioner Shane Fitzsimmons, who was  
then in charge of operations, and I about  
the deteriorating situation and we had obviously  
concern for all of the fires in New South Wales.  
30 As I said, there were 14 fire emergencies declared  
at that stage, but we had overriding concern for  
what might occur as a consequence of the fires to  
the west of Canberra making what we call a major  
run. A major run was inevitable under those  
35 conditions.

Conversely, had the forecast not materialised then  
it would for all intents and purposes have been  
business as usual.

40 Q. In answer to the question from the interviewer  
which we have just heard in which she poses a  
question to you based on the fact that it was  
1 o'clock in the afternoon when Mr Crosweller  
45 rings you and then asks about your reaction to  
the --

A. He did not ring me personally, incidentally.

Q. Well, rings back --  
A. Shane Fitzsimmons.

Q. You say in response to that:

5

"Our regret was that we hadn't been able to deploy resources earlier. When you consider that by 1300 hours we had to start - we had some resources on standby. We had some 10 degree of anticipation that a further request might come."

If you formed the view at 9 o'clock in the morning or at some time even before that based on 15 the information that you received about the weather, was it not possible to make a direct communication to ACT ESB by telephone or however rather than wait for Mr Crosweller to get to Canberra and to then phone back the request?

20 A. It would have been possible, but --

Q. Why didn't you do that?

A. Because that is not normally the way things are done. If New South Wales has an emerging 25 problem, then New South Wales will contact an interstate agency and ask them to anticipate a request for assistance. That is how these things are done. The providing state then makes the appropriate arrangements. I anticipated a 30 request; I did not get a request; I can't unilaterally start sending groups of tankers into another state.

Q. No, I appreciate that. That was not 35 the question I was asking you. The question I was asking you was, as I follow the sequence of events, a relatively unconventional step you took was to dispatch Mr Crosweller to Canberra. You have said in the answer to the interviewer it is 40 not convention to do that uninvited, and you did that because of your particular concern for the risk to Canberra. But then the next step, which was the deployment of resources, really had to wait upon Mr Crosweller - he had to get here 45 and then react. I wonder why, given the view you held, which was that there was an extreme threat now to Canberra, you would not be on the telephone

to Mr Lucas-Smith saying, "Look, we are ready to send whatever you need. This is going to be a shocking day. Let's get it organised."

5 A. That had already been established and that was established as far back as Wednesday the 15th that any request from Canberra would be met.

Q. But the situation had changed quite dramatically from Wednesday?

10 A. Only in terms of the predictions had materialised.

Q. And can I add to the question, Mr Koperberg, that the atmosphere on Wednesday was that you and 15 your New South Wales colleagues were expressing concern about a possible worst case scenario, which to your perception Mr Lucas-Smith didn't seem to necessarily agree with. Now the worst case scenario that you had discussed on 20 the Wednesday was a reality by Saturday morning. Wasn't the urgent thing to do to, as quickly as possible, mobilise such resources as you could to Canberra on Saturday morning?

A. As I suggested to you earlier, we had already 25 began, in anticipation of either a request during the course of the morning or as a consequence of the arrival of Assistant Commissioner Crosweller, to assemble some resources, and we began - see, our responsibility was not only for - well, our 30 responsibility was not for Canberra; our responsibility was for the community of New South Wales. We began staging resources in a number of areas recognising that the fires in the south of New South Wales would inevitably breach their 35 containment lines and vast amounts of property would come under threat, not the least being Khancoban, Thredbo, a number of the other alpine communities, Yarrowlumla shire, perhaps even in a worst case scenario the areas between Cooma and 40 Jindabyne and so forth and so on. So without detracting from the seriousness of the potential in Canberra, from our jurisdictional viewpoint it was peripheral.

45 Nevertheless, we had an expectation that a request would be forthcoming. To accommodate an effective level of liaison at the highest possible level,

I dispatched a very senior officer to Canberra.

Q. Can I ask you to assume just for the purpose of this question that the legal arrangements were 5 different and, albeit that Canberra as the capital of the country is in this area, this was simply a district rather than a territory or a state and under the responsibility of the New South Wales Rural Fire Service at the time these fires hit, so 10 there was no jurisdictional issue. In those circumstances, what difference would that have made to the way in which these resources were sent on the Saturday morning?

A. Well, an enormous difference in as much as 15 based on - and not with the benefit of hindsight, but based on the modus operandi employed in New South Wales when vast interfaces come under threat, then a lot of fire engines, if I could use that description, and other resources would have 20 been placed at the interface and extensive engagement would have taken place with the community and all those sorts of things. But we cannot do that; we cannot unilaterally do that.

25 Q. So is it fair to say that in these particular circumstances, one of the things that got in the way of a more efficient or more effective response to these fires was the border between New South Wales and the ACT?

30 A. You could say that about Ash Wednesday 1983 in Adelaide - South Australia and Victoria. The fact remains that there are boundaries, there are jurisdictions and there are constitutional and other inhibitants to this sort of thing happening.

35 Q. But we are interested in Canberra in 2003. Does it turn out, looking back at it, that the border was an inhibitor to effective firefighting?

40 A. No, it was not an inhibitor to effective firefighting; it was an inhibitor to New South Wales sending a lot of resources into Canberra.

45 Q. Which were really not otherwise available to Canberra. If they did not come from New South Wales - possibly Victoria, but more likely New South Wales - they were not going to come from

anywhere else, were they, in time?

A. No. We didn't, incidentally, have limitless resources either.

5 Q. I understand that. I have been at pains to make it clear to you that my questions take into account the fact that you had a lot of other responsibilities. I appreciate this was not the only fire you were dealing with. Would you  
10 have expected or would it have been appropriate or would it have been within the protocol, for example, for someone in the position of Mr Arthur to have made a request early on Saturday morning for assistance to protect Canberra from these  
15 fires?

A. Not necessarily. Mr Arthur was facing the very real prospect of extensive threat to parts of Yarrowlumla Shire and was focused principally on resourcing that. Indeed, when we  
20 began to remove some resources from his jurisdiction to move into Canberra, he quite properly registered his displeasure. And we continued because we recognised that the threat to Canberra would emerge sooner than would the threat to Yarrowlumla emerge. So we had a bit of time to play with, if that is the word, if that is  
25 the phrase.

Q. So is that the reason why in the end it was  
30 effectively left to Mr Crosweller to come to Canberra, make an assessment and then confirm back to your office the need for extra resources? Is that why it was his responsibility as it turned out?

35 A. Yes. It was not Superintendent Arthur's responsibility to focus on more than the incident to which he had been appointed.

MR LASRY: Can we play that next part of  
40 the interview.

[ 'Stateline' interview with P. Koperberg on  
16/05/2003 played]

45 Q. What did you mean by that last answer, Mr Koperberg? Was Canberra defensible to a degree?

A. It is a sort of strange question, of course, "was Canberra defensible". Whatever we do as a matter of course in New South Wales is as a result of an evolution of procedures and practices, 5 invariably as a result of having suffered a major catastrophe, such as 1994, with the loss of many, many houses and 2001/2002, with the loss of some 204 structures and life, and procedures evolve, and lessons are learnt and remedial actions are 10 taken. It is unrealistic for anyone to suppose that the ACT authorities should have automatically assumed all of the procedures and methodologies that someone else uses because this was a first-time event and therefore they did not have 15 the advantage of previous experience.

So when I answered that question it was in the context of someone employing hindsight and saying, "Well, if we knew then what we know now, 20 we would have done X." But it does not follow that, not having had to deal with a similar experience in the past, things which evolve as a result of experiencing similar circumstances automatically are employed.

25 Q. Knowing what you know about this particular week, if we can start from Monday, 13 January and go before it, if you wish, but taking that Monday as a point: on the knowledge that is available to you, at what point during that week were the Canberra community entitled to be informed that there was a realistic risk that the suburbs would be damaged by these fires or some combination of them?

35 A. Predicated on the New South Wales experience?

Q. If you like. If you like, abolish the border for the sake of the answer to the question. At 40 what point during that week, if you had the responsibility, would you be informing Canberra suburban residents that they risked an effect from these fires?

A. It would have been a two-phase approach. By Thursday evening or Friday morning there would 45 have been a general advising of the potential; and by Friday evening the second phase would have commenced and that would have continued through to

lunchtime on Saturday the 18th, which would have been far more intensive in as much as there would have been staff of agencies visiting streets, brigades would have been assisting in preparing 5 households which were particularly vulnerable, decisions would have been taken on whether or not to evacuate the most vulnerable, the aged, the young, the infirmed.

10 Written material would have been distributed warning of the potential consequences of the next - of the weather over the next 24 hours. An asset threat analysis would have been undertaken and those areas considered to be most 15 at risk resourced to try and minimise that risk. So chronologically about 36 hours would have seen the introduction of a two-phase program.

Q. As a matter of the use of the media, were 20 the public entitled to know or would the public have been entitled to know by the end of Wednesday the 15th, assuming you were the relevant person for this purpose, that your opinion was that failing a dramatic change in the weather there was 25 even by then a realistic risk that the suburbs would be affected by the fires?

A. Not depending upon a dramatic change of the weather, but rather the materialisation of the forecast. The weather during that week would 30 not in itself have produced the fire activity which subsequently emerged on Saturday the 18th. It was the deterioration of the weather which led to that occurring.

35 Q. I accept that. I asked the question badly. The question is: assuming the deterioration which was then being predicted, was it appropriate by the end of Wednesday to be informing the public through radio, television and other means that 40 the risk of impact on the suburbs was now a realistic risk?

A. The Bureau of Meteorology normally work in four-day increments in terms of identifying areas which may suffer very high to extreme fire danger 45 indices. So on Wednesday the bureau would have produced their prognosis of four hatched maps, which would have shown that Thursday, Friday and

Saturday would have seen extreme fire danger across this part of New South Wales. It was with that information that the Canberra community might have been informed of a severely deteriorating 5 situation were the forecast conditions to materialise.

Q. And they would be entitled to --  
A. We would qualify it by saying that.

10 Q. But severely deteriorating conditions means a risk of damage to their property?  
A. Yes.

15 Q. If I can ask you about one other matter: Mr Castle gave evidence a week or two ago and had made a statement in some detail which in part referred to a press conference held at noon on Friday 17 January. And the particular paragraph, 20 which is paragraph 107, relating to that press conference says this:

"About noon on 17 January we held a media conference as usual. During that media 25 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 ACT fires coming, and threatening the suburbs under a north-westerly winds. The agreement and 30 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 35 the New South Wales media staff. Phil Koperberg had a media person sent to the ACT I think on Thursday 16 January."

40 Do you agree with that? Was there a protocol and agreement in force as at 17 January under which ACT ESB would not talk about New South Wales fires and would only talk about the ACT fires?

A. It is an oversimplification. General 45 convention has it that New South Wales does not talk about fires in Adelaide or Melbourne or Brisbane, and they don't talk about fires bearing down on Sydney. However, it is not at all

uncommon for us to talk about a fire crossing  
the Queensland border and threatening properties  
in Glen Innes or Tenterfield or any of those  
places. So it is only a reflection of a general  
5 standard. That does not preclude anyone saying,  
"The fires burning immediately to the west of our  
border are likely to impact upon the ACT". There  
is no deal that we don't generically talk about  
fires which are going to impact upon our  
10 jurisdictions.

Q. If the view on, say, Friday the 17th was that  
there was a significant risk that the McIntyre's  
15 Hut fire then burning in New South Wales, because  
it had not crossed the border, represented a  
genuine threat to Canberra; is there any  
impediment to ACT ESB saying so?

A. No, there is not. The convention applies to  
the more detailed operations. For instance, what  
20 is being done about the Bendora fires - how many  
appliances and how people? It is not to the New  
South Wales to impart that information; it is for  
the ACT. Conversely, on the McIntyre's Hut fire,  
how far the containment line had been constructed,  
25 how many appliances, how many personnel was a  
matter for New South Wales to comment on, not for  
the ACT.

MR LASRY: Yes, thank you, your Worship. I have  
30 no further questions.

THE CORONER: Yes, Mr Johnson.

**<CROSS-EXAMINATION BY MR JOHNSON**

35 MR JOHNSON: Q. In the course of the operation of  
the Rural Fire Service situation reports are used  
as a matter of course?

A. That's correct.

40 Q. Did you come to learn that written situation  
reports were prepared for the McIntyre's Hut fire  
by the persons at Queanbeyan?

A. I expect that was the case.

45 Q. Is it the practice that those situation  
reports - take, for example, the McIntyre's Hut

fire over a number of days - are numbered situation report 1, 2, 3, 4, et cetera?

A. That is certainly the required procedure, yes.

5 Q. As you understood the procedure as at January 2003, did those situation reports contain a threat analysis?

A. It is not mandatory they do. They may well have done in this case. I am not personally aware 10 of the detail contained within those situation reports.

MR JOHNSON: Might a document bearing bar code number [NRF.AFP.0001.0120] be brought up, please.

15 THE WITNESS: I am not intimately familiar with that document.

MR JOHNSON: Q. Fortunately there is a screen 20 here, Mr Koperberg. Could you just have a look at that. That is a situation report for the McIntyre's Hut fire at 1100 hours on 15 January. Have you seen that document before?

A. No. I would have had no reason to see that 25 document.

Q. When you attended at Queanbeyan on 15 January, was that after 11 o'clock in the morning that you arrived?

30 A. I think my statement indicates my arrival at Queanbeyan at about 11.30 on Wednesday the 15th.

Q. On the basis that this document was prepared 35 at 1100 hours on that day, as it asserts, does that assist your recollection as to whether you saw this before you talked to persons at Queanbeyan?

A. I don't recall seeing this document. I would not have relied on this document for a briefing 40 that was given to me verbally by Superintendent Arthur, as I said earlier.

Q. But this is a document, as you understand it, prepared by a situations officer and a planning 45 officer within the Rural Fire Service and, as you would understand it, prepared in the ordinary course for Mr Arthur. That is what you would

expect to happen, isn't it?

A. Could you repeat the last part of your question?

5 Q. Yes. This is a document which you would understand is prepared for Mr Arthur, isn't it, as the incident controller?

A. Well, ostensibly by Mr Arthur as the incident controller.

10

Q. His name appears in the top right-hand corner as the incident controller, although the persons who prepared and approved it are identified down the bottom as Ms Sullivan, a situations officer, 15 and Mr Good, a planning officer. Can you see those names down the bottom?

A. Yes, I can.

Q. So there would have been a system in place, as 20 you understood it, whereby those persons prepared such a document and provided it to Mr Arthur?

A. Yes.

Q. And it essentially was to inform him of 25 the position as it stood at that time?

A. Not so much to inform him of the position but rather to inform the state operations centre. The document is prepared on Superintendent Arthur's behalf. He would be aware not of 30 the intricate detail but of the general situation depicted by that situation report. It was his report to the state operations centre prepared by - for him on his behalf by his staff.

35 Q. So in the ordinary course, this would have gone forward to the state operations centre at Rosehill as being the report on the McIntyre's Hut fire as at 11 o'clock on 15 January?

A. That would be the normal course.

40

Q. In the middle of the page there is a section headed "Threat analysis" and it seems to be in two parts: The first part is current threat; the second part is potential threat. If I could just take you firstly to the current threat:

"Fire no threat to life and appropriate at

present time while in containment lines.  
Fire still poses a threat to the ACT if  
escaped from the current containment lines."

5 Under the heading "Potential threat":

"Major pine plantations in the ACT and to the  
ACT water catchments. Private property in  
the north and east and pine plantations to  
10 the south and state forest to the west."

Was it your understanding that under the heading  
"potential threat", that was the potential that  
may occur if the fires broke its containment  
15 lines?

A. It would be the case, but that would also  
require some weather conducive to causing fire to  
behave in such a manner as to threaten those  
assets.

20 Q. Insofar as these situation reports are  
prepared, are they intended to be good for a  
certain period only or is the potential threat  
described essentially an open-ended one, as you  
25 understand it?

A. No, the first part, as you have pointed out,  
of the threat analysis is good only until the next  
situation report is prepared. The potential  
threat has a longer life, possibly 24 hours or so.  
30 But, having said that, it depends very much on  
the view taken by the incident controller as to  
whether he or she is depicting the potential  
threat to emerge in the immediate future or  
the medium future or the long-term future. We  
35 would, as a matter of course, question that. If,  
for argument's sake, potential threat was  
extensive property at risk, we would say, "When,  
where, why and how."

40 Q. Having regard to your understanding of  
the situation, would you have expected the threat  
analysis part of situation reports with respect to  
the McIntyre's Hut fire to refer at some time to  
the threat to the Canberra urban edge at a time on  
45 or after 15 January?

A. Given the fact that progress on  
the containment lines were satisfactory on

Wednesday the 18th, and given the fact that the Bureau of Meteorology is at best conservative in terms of issuing those sorts of warnings and had not firmed up on its dire predictions for

5 Saturday the 18th, there would be no specific reason for this situation report to project into Saturday the 18th and contain a larger threat to the suburbs of Canberra specifically.

10 Q. What about the situation reports issued on the Friday, 17 January; would you have expected those reports to be referring to the potential threat to its Canberra urban edge?

A. Given the fact that those situation reports 15 are prepared by the incident controller or issued by the incident controller over the areas for which he or she has jurisdiction, one would not automatically assume that it would contain a threat analysis for an area outside his or her jurisdiction. It may or it may not.

20 Nevertheless, Superintendent Arthur was aware - as were most - of the potential and he was able to convey that to me, and I reacted in a manner considered appropriate by me.

25 Q. Insofar as you just mentioned a short time ago that the threat analysis may not refer to the threat to another jurisdiction, if I could just invite you to look again at situation report 30 15 on the screen in front of you, which in fact identifies a potential threat certainly to major pine plantations in the ACT. There are references to the ACT in that, aren't there?

A. Yes, there are.

35 Q. As you understood it the McIntyre's Hut fire was relatively close to the ACT border?

A. Yes.

40 Q. And it was only on the morning of the 18 January that it crossed into the ACT; that was your understanding, wasn't it?

A. It was.

45 Q. Could I just take you to situation report 18, which is [NRF.AFP.0001.0155]. What is about to come up I hope, Mr Koperberg, is situation report

number 18 issued at 11am on 17 January 2003 for the McIntyre's Hut fire. Do you see that?

A. Yes, I do.

5 Q. Can you see that insofar as it refers to threat analysis, under both current and potential it seems to be using exactly the same words as appeared in situation report 15 issued at 11am on 15 January?

10 A. An optimistic situation report.

Q. This was apparently the report issued and sent to Rosehill as being effectively the official situation report from Queanbeyan, isn't that so?

15 A. That's correct.

Q. And, as you would understand it, issued with the imprimatur of Mr Bruce Arthur?

A. That is how I would understand it.

20 Q. Could I take you then to situation report 19, which is at [NRF.AFP.0001.0159]. You see situation report number 19 was issued at 4pm on 17 January. Does the threat analysis again appear 25 to be using the same words as appeared in the threat analysis of 15 January, both current and potential?

A. Yes, and one I think is entitled to draw a conclusion that if those pine forests referred to 30 in "potential threat" were to be the subject of fire incursion, then the areas further afield would also be potentially at risk.

Q. That involves reading something more into 35 the words that are there though, isn't that so?

A. Yes, it does. But fire practitioners are in fact supposed to do that. They are supposed to draw conclusions, make assumptions and form opinions. It is an inexact science.

40 Q. Could I then take you just before the lunch adjournment to sitrep 20, [NRF.AFP.0001.0171]. You see this is sitrep 20 issued at 11am on 18 January, and it has under "threat analysis":

45 "Current threat: There is an immediate threat to private property and major pine

5                   plantations in ACT and to the ACT water catchments. Specifically in Uriarra pine plantations in the ACT and a small commercial pine plantation in New South Wales in the area of Two Sticks Road."

Then it says:

10                  "Potential threat: Rural holdings in the ACT between pine plantations and Canberra urban areas."

15                  It would seem that this is the first time that Canberra urban areas had been referred to in the situation reports issued with respect to the McIntyre's Hut fire. Would you agree that this one seems to be describing not the current threat but the potential threat as relating to rural holdings in the ACT between the pine  
20                  plantations and the Canberra urban areas. That is what the potential threat is said to be?

A.                 That is what it says.

Q.                 It is not saying the potential threat is to the Canberra urban area itself, is it?

A.                 No, it is not.

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

30                  THE CORONER: Yes. We will take the luncheon adjournment.

**LUNCHEON ADJOURNMENT**

[1.02pm]

35                  **RESUMED**

[2.05pm]

40                  THE CORONER: Mr Johnson, just before you start, it has come to my attention that there are some persons - and I suspect that they are media persons - in court 9 who were recording parts of the proceedings, this morning's proceeding. I want to say to those persons that there is a prohibition on recording court proceedings and, if  
45                  those persons have done so, then there is a prohibition and they are not entitled to play any of the proceedings they have recorded. The only

recording of court proceeding is the official recording. So I make that announcement particularly to those persons in court 9 who I believe are making those recordings. Mr  
5 Koperberg, you are still on the oath that you took this morning.

THE WITNESS: Yes, ma'am.

10 MR LASRY: Your Worship, just before Mr Johnson resumes, we have slightly revised the witness list, mainly due to a commitment that Mr Keady has. It seems reasonably clear that if Mr Keady were to get back into the witness box this  
15 afternoon it would not be for very long, and he has a commitment which he must meet tomorrow morning which involves interstate travel. So I have taken the liberty of telling him to go as he requires and that we will bring him back after  
20 he has had his trip. That does mean though that, in the event that Mr Koperberg's evidence finishes before 4 o'clock, we will not have another witness we can call.

25 THE CORONER: That is fine. Thank you for that information.

MR JOHNSON: Q. As at 15 January, when Mr Peter Lucas-Smith came and saw you at Queanbeyan, there  
30 were a number of fires burning either on the New South Wales side of the border or the ACT side of the border or indeed some of them straddling the border. Is that the situation as you understood it at that time?

35 A. That is the case, and indeed some fires east of the border were crossing the border into New South Wales and, of course, as history ultimately reveals the McIntyre's Hut crossed from the west to the east into the ACT.

40 Q. As of the 15th, the McIntyre's Hut fire was solely contained within New South Wales?

A. And that was the case until the evening of the 17th.

45 Q. I think you agreed with me before lunch it was the morning of the 18th that it crossed

the border?

A. That is my understanding, yes.

Q. So --

5 A. Can I clarify that by saying that we have been able to confirm that the fire breached containment lines on the evening of the 17th. On Saturday morning the 18th, it was very difficult to locate precisely where the fire was due to smoke  
10 inundation. Aerial surveillance was difficult, if not impossible. So there was no clear indication how far the fire had penetrated into the ACT at that time.

15 Q. The containment line as at the evening of 17 January was some distance into New South Wales from the ACT border, wasn't it; that is, the containment line before it was broken?

A. That is correct.

20 Q. Are you able to say what distance that containment line was, as you understand it, from the ACT border before it was penetrated?

A. I don't know exactly. I have heard distances quoted of in the order of 15 or so kilometres but I cannot attest to that.

30 Q. I think I have taken you away from some questions I was asking. If we can come back to that. On the early afternoon of the 15th, you have the McIntyre's Hut fire which at that stage is within New South Wales, not in the ACT; is that so?

A. That is so.

35 Q. Then there is a series of fires, the Bendorra fire Stockyard Spur fire and the Gingera fire which were affecting both the ACT and New South Wales; is that so?

40 A. That is so.

Q. And then there was the Broken Cart fire. Was that in New South Wales at that time?

A. I don't know.

45 Q. All right. When Mr Lucas-Smith came to see you on the afternoon of the 15th, the actual

firefighting that was going on in the ACT involved, as you understood it, Bendora, Stockyard and Gingera fires; is that the way you understood it?

5 A. That is the way I understood it.

Q. When the New South Wales resources to the ACT, do you know what use was made of them?

A. Could we clarify the fact that there were two 10 phases of resource supplied to the ACT in as much as New South Wales brigades were already assisting the ACT in a variety of functions with the fires burning east of the border, so to speak.

15 The resources which were requested at approximately 2100 hours on Wednesday the 15th were specifically offered to be deployed in the event of an impact on Canberra. That was my intention. How they were ultimately deployed is 20 not clear to me, except to say they were used in various rural parts of the ACT - when I say that, I mean away from the urban area - in a variety of tasks.

25 Q. Did you understand that at least some of those resources were deployed to the Stockyard Spur fire?

A. I was not aware of that level of detail.

30 Q. I am just wanting to explore with you, Mr Koperberg, your thought processes. These were New South Wales resources which were being provided to the ACT; is that so?

A. That is so.

35 Q. You would have had a close interest in how they were to be used, wouldn't you?

A. Not to any detail. Again, it is convention - and sound convention in my view - that resources 40 are supplied without too much qualification in terms of the way in which they are to be used, provided that the generic standards on matters of safety and welfare are applied. It is not for a supplying jurisdiction to dictate to the receiving jurisdiction where and how those resources should 45 be used. That is a matter for judgment on the part of the receiving jurisdiction.

Q. Wasn't it your understanding at the end of the meeting on 15 January with Mr Lucas-Smith that he wanted resources to deal with current fires burning in the ACT?

5 A. My offer was made as a consequence of the opinion formed that Saturday the 18th would provide a challenge to the firefighting operation not capable of being met by ACT resources, and the resources I offered were offered on  
10 the premise of augmenting those resources in the event of a major impact on Canberra per se.

Q. Well, were the resources that were deployed specifically selected with that task in mind,  
15 namely the task that you believed was relevant; namely, a form of protection of Canberra?

A. They weren't specifically selected for that purpose. The composition of the resources was fairly generic in as much as they had the capacity  
20 to both provide a bushfire suppression role and a property protection role. In other words, they would have been equally suited on the streets of Duffy as they would on a fire trail at Uriarra.

25 Q. Had any steps been taken to increase the level of resources that New South Wales was to devote to the McIntyre's Hut fire on and in the days following 15 January?

A. Given that the strategy for dealing with the McIntyre's Hut fire was one of containment rather than direct attack, the amount of resource that could be applied to it was limited in as much as the task comprised construction of containment line, which would normally constitute a track or a  
35 clearing from which back-burning could be done and then, upon completion of the task, to actually back-burn from the trails into the main fire. So there is a limit to how much resource you can use for that particular task.

40 Q. As at the evening of the 17th, as you understood it, the containment lines were about 15 kilometres from the border of the ACT; that was your understanding at least?

45 A. My estimate of 15 kilometres, as I said earlier, was based on some figures I had heard mentioned. It may have been 25; it may have been

more.

Q. Had any steps been taken to use New South Wales resources to bolster the level of protection between those containment lines and the ACT border on and the days following 15 January?

A. If weather conditions were severe enough to cause a breach of the containment line, then it would have been dangerous in some circumstances to 10 deploy firefighters in the intervening space, so to speak. In other words, if the fire behaviour was such as to cause the containment lines to be breached by other than routine spotting, then to place firefighters without any protection in terms 15 of containment lines or effective egress or whatever would have been to compromise their safety.

Q. So does that mean that there was no deployment 20 of New South Wales resources in that buffer between the containment lines and the border for the reasons you have just indicated?

A. No, I am not saying there wasn't. What I am saying is that under normal circumstances one 25 would be hesitant about large-scale deployment of resources in that manner, and whether there were resources so deployed or not is a matter of detail with which I am not familiar.

30 Q. That would be a matter to take up with Mr Arthur?

A. It would indeed.

Q. I just wanted to take you to a document which 35 you provided to Mr McLeod for the purpose of his inquiry.

MR JOHNSON: It has a bar code but I suspect it is not on the courtbook. But I do have a copy and 40 copies for those at the bar table. If I can hand up one to your Worship and one to Mr Koperberg.

THE CORONER: Thank you.

45 MR JOHNSON: We could actually try and see if there is this bar code on the system - I suppose one can only try. It is [MLI.DPP.0005.0187]. No

luck.

Q. I ask you to look at the paper then, Mr Koperberg, and not the screen. Do you 5 recognise this is a letter dated 8 July 2003 which you sent to Mr McLeod for the purpose of his inquiry being conducted in the ACT?

A. I recall that Mr McLeod specifically asked for information regarding the resource deployment and 10 the manner in which it was staged. This is our response to that request.

Q. As you understand it, was this document, being a graph that is attached to the letter, a summary 15 of no doubt many documents and materials which indicated what the level of resources were devoted to the McIntyre's Hut fire over a number of days?

A. It is an expression of those, yes.

20 Q. It starts off with a white column which is the day shift and then the black column is the night shift. That is the structure of the document, I think?

A. It would appear that way, yes.

25 Q. From 14 to 16 January there is a drop in the daytime resources, certainly as between the 14th and the 16th, would you agree - and the 17th for that matter?

30 A. If compared to, say, the 11th, yes. On the 12th, there appear to be a greater number of resources; on the 13th, there appear to be about 25 less personnel, just interpreting the graph - not a major change; on the 14th, there is again an increase commensurate almost with the resources of the 11th; and on the 15th, there is a decrease back to a level similar to that which occurred on the 13th, that is a difference of about 25 personnel; a slight increase again on the 16th; 40 and a similar number on the 17th.

Q. So was it the case that certainly as between the 14th and 17th, allowing for the relatively small variations as between the 15th and the 17th, 45 there was a reduction from the 14th to the 17th in the daytime firefighting?

A. It is important not to interpret a reduction

of resource as anything other than a very fluid circumstance. There may not have been enough tasking or one task may have been completed which was more resource rich than the subsequent task.

5 If we were talking of numbers in the hundreds, then yes that would certainly signal some shift in strategy, for argument's sake. But the numbers we are talking about as depicted by these graphs are very small and are probably the result of a  
10 continuing variety of tasking and nature of tasks.

Q. On the daytime of the 18th, there is a significant increase from what seems to be about 120 to 180 or 190 persons; does that appear to be  
15 the change from the 17th to 18th, at least the daytime?

A. Yes, and you will recall my saying that we understand the fire breached its containment lines on the night of the 17th, and therefore you would  
20 expect to see a concerted effort of some description occurring on the morning of the 18th.

Q. Well, as you understand it was there any contingency planning by the New South Wales Rural  
25 Fire Service in the event that the weather predictions were as the bureau suggested for the weekend and the wind changed; was there a contingency plan by the New South Wales Rural Fire Service to intervene in some way itself to seek to  
30 deal with the McIntyre's Hut fire in those circumstances?

A. That certainly would have been on the minds of the incident controller and his staff. The capacity to do that, to intervene once  
35 the fire has breached its containment lines, very much depends upon the prevailing weather conditions having forever regard to the welfare of firefighters. It is more often the case than not that, where a fire breaches a containment line, it  
40 has managed to jump over a distance into unburnt fuel. And for it to do so it is not unreasonable to presume that, unless there is some effective means of protection, firefighters might be endangered in engaging in direct attack. So it is  
45 more often the case that a secondary strategy of containment lines would be considered.

Q. Were there any contingency plans on the part of the New South Wales Rural Fire Service involving a possible use of aerial resources to deal with the McIntyre's Hut fire in the event 5 that the wind change occurred and it moved into the ACT?

A. I am not aware of that. What I am aware of was that we had over 100 aircraft already deployed in a variety of scenarios, and access to suitable 10 aircraft was almost exhausted. Certainly during the course of Saturday, 18 January, I directed that aircraft deployed in Kosciuszko be redirected to Canberra. I am not sure as to precisely what time I did that, but it was during the mid to late 15 afternoon. I know that to be the case because I had already arrived in Canberra when I made that phone call to SouthCare operations, and I arrived at about 3.30.

20 Q. You have given evidence about the meeting that took place with Mr Lucas-Smith on the 15th January. Could you just indicate to the court your best recollection as to how long you were with Mr Lucas-Smith that day?

25 A. I think my total time in Queanbeyan was in the order of two hours - a little less; a little more - because, as I said, I then went on to Cooma and ultimately Jindabyne. The first half of my time in Queanbeyan was engaged in getting 30 briefings from Superintendent Bruce Arthur. I don't know exactly what time Peter Lucas-Smith arrived but at a guess perhaps 45 minutes, somewhere in that order.

35 Q. You have indicated what was said, by either your best recollection or direct speech or by summary or impressions; would it be fair to say from what you have said that, in some respects you, were not speaking yourself in direct and 40 blunt terms to Mr Lucas-Smith on these issues; would that be a fair statement?

A. The nature of the conversation varied. As I said earlier, I tend in all cases to be pessimistic where fire potential is concerned and 45 thus always prepare for a worst case scenario. I am sure I imparted that more than adequately to those at the meeting. It is my modus operandi

that I would rather be criticised for having too much resource than not enough, and that approach manifests itself quite clearly in the way I deal with matters.

5

Q. During this meeting I think you have indicated there were various thoughts being thrown around. You had worst case scenario. Were there other scenarios of a less than worst case being put on 10 the table as possibilities too?

A. We discussed the possibility of rain as negligible. So there were only two scenarios. One was that the bureau had got it wrong, in which 15 case efforts to suppress the fires on both sides of the border would have continued and would have ultimately succeeded. The other possibility was that the bureau was right and the fires we had no doubt would breach the containment lines and, once breached, there would be negligible chance of 20 halting their forward spread.

Q. Did you at that time yourself have any actual knowledge of the extent of the experience of Mr Lucas-Smith in dealing with campaign fires? 25 A. No, I have known Mr Lucas-Smith for many, many years, formerly as an officer of the New South Wales National Parks and Wildlife Service, if memory serves me correctly, and our dealings with him have been regular, if not frequent, in a 30 number of fora, not the least being the Australasian Fire Authorities Council of which we are both members. As New South Wales had hitherto never had to deal with a fire event of the magnitude of 1994, for argument's sake, my 35 understanding is that Peter Lucas-Smith had never had to deal with a fire event of the magnitude of January 2003.

Q. Do you know whether anyone from New South 40 Wales took any notes or minutes during this meeting?

A. I know that they probably didn't.

Q. Do you allow for the possibility that there 45 may have been some confusion between those who were present as to some of the topics being discussed. May I illustrate it this way: that

Mr Lucas-Smith may have considered the resources he was wanting were for the purposes of dealing with current fires in the ACT?

5 A. Absolutely, as I do concede that there may have been confusion about what constituted containment.

Q. I think you have mentioned Assistant Commissioner Crosweller was dispatched by you in  
10 the morning of the 18th. Did you understand he was travelling by road to Canberra?

A. That is correct.

Q. From your statement in paragraph 17 you  
15 mentioned he was to assess the immediate threat to Canberra and the need for additional resources. That was the purpose?

A. In general terms. But of equal significance is the fact that, such was our concern, the need  
20 to establish liaison at a very high level was paramount to anything that might flow as the day progressed.

Q. So, would it be fair to say that you had it in  
25 your mind that around 9 o'clock on 18 January Mr Crosweller would be able to get to Canberra by road and have some time to assess the immediate threat to Canberra and the need for additional resources?

30 A. That was very marginal, and to suggest that there would have been ample time to make any additional preparations would be unrealistic, given the fact that, in a best case scenario, two and a half hours would have elapsed. He arrived  
35 I believe at 1330 hours, maybe a bit earlier. Impact was about three hours later. But it was the only - it was not, remember, until Saturday morning that we had a good indication that the weather, as forecast, was going to eventuate.  
40 So as soon as we knew that, we took action - or a form of action.

Q. Action of the type that you have explained to  
45 Mr Lasry involving the despatching of Mr Crosweller rather than the immediate contact with someone in the ESB at that time?

A. I have to reiterate that on that morning I was

totally engaged in dealing with areas under my jurisdiction. To have even sacrificed, if that is the word, a senior officer thus depleting my resources considerably was what I considered to be  
5 an appropriate measure.

Q. Did you ask Mr Crosweller to contact the ESB, Mr Lucas-Smith or someone else, just to indicate he was coming and why?

10 A. No. I reasoned that, at that particular level of seniority, Mr Crosweller would make a judgment as to whether or not he should ring on the way down or whatever the case may be. I also considered that Peter and his staff were probably  
15 totally occupied by a set of unfolding circumstances, and it is my experience that under those circumstances it is very difficult to get hold of people and what have you. I figured some direct action was necessary to have somebody on  
20 the ground to speak face to face with the ESB personnel.

Q. You understand now that the fire reached Duffy at about 3 o'clock, just to give you an  
25 approximate time?

A. That is my understanding, yes.

Q. But at the time you asked Mr Crosweller to come to Canberra, your expectation, would it not, would have been that any fire would have arrived later than that? To come that early would be surprising; do you agree?

A. No, I didn't draw any conclusions as to what time the fire might hit Canberra. I was not  
35 aware, for example, as to when the conditions beginning to prevail much further north in Sydney might emerge further south in Canberra. Nor did I have any intelligence to suggest what time the weather would reach its climax, so to speak,  
40 and cause fire to behave at its worst. That might have happened during the morning; it may have happened. I didn't send Mark Crosweller there specifically with a view of getting there before anything happened. I just believed it was  
45 appropriate that we have senior representation to accommodate any additional request for assistance from the ACT - before and during the event.

Q. Bearing in mind that you indicated in your evidence today that on 15 January you considered it was inevitable that the containment lines would be broken, what steps were taken by the New South Wales Rural Fire Service in an attempt to combat that inevitability?

A. No, I didn't submit that. I submitted that it was inevitable that the containment lines would be broken if the forecast weather conditions prevailed. You don't know that until they do.

Q. Do you mean that there is nothing you can do until you see whether the weather changes; or do you arrange for some contingency in the event that it does occur?

A. I thought I suggested that we had. We began - once - look, it is a reality that weather forecasting is an inexact science and there have been many, many occasions when the Bureau of Meteorology have suggested a worst case scenario which did not eventuate. We have to consider the welfare of large number of people that we move around at will, and in our case they are all volunteer firefighters. When one does move them around at will around the state, you have to have some regard or rather you have to have some solid basis on which to make those decisions.

The weather - when I began suggesting that resources assemble in various locations and sent Assistant Commissioner Crosweller - had not yet eventuated. The Bureau of Meteorology were certain that it would, and indeed within an hour or so they did.

35 MR JOHNSON: Can I just have one moment, please, your Worship?

THE CORONER: Yes.

40 MR JOHNSON: Thank you, Mr Koperberg.

THE CORONER: Thank you, Mr Johnson. Mr Archer, I might ask you whether you have any questions?

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

MR ARCHER: Q. Mr Koperberg, I represent

the Australian Federal Police and the questions I have for you are more limited. In respect of New South Wales experience and practice, a response to a rural fire would involve an agency or more agencies than just the New South Wales Rural Fire Service. The police, for example, in New South Wales may become involved in an overall response to a fire?

A. To provide an ancillary role, depending upon  
10 (a) the size of the fire and its potential to cause damage.

Q. What might that ancillary role involve?

A. Well, again it depends, but it might include  
15 such things as evacuation support, traffic or road control and after the event fire investigation role. The police in New South Wales do not have a coordinating role in terms of bushfires but they do support the firefighting agencies in peripheral activities.

Q. So far as those peripheral activities are concerned, is that subject to a formal agreement between your service and the New South Wales  
25 Police Service?

A. It is more related to identified jurisdictional functions as defined by relevant acts. There is in the state of New South Wales a state disaster plan which identifies the agencies  
30 with a combat role responsibility, and it identifies the supporting agencies and exactly what their roles will be. In the case to which you refer, the police role is clearly identified as providing support in the areas that I have  
35 mentioned.

Q. Is the operations act plan dependent on the declaration of our equivalent of a state of emergency or can it operate as an independent  
40 operation?

A. No, it is not dependent on any formal declaration. The state disaster plan and its subsets, whether it be a flood plan or a storm plan or a bushfire plan, effectively constitute  
45 the modus operandi which will be adopted in the event of an incident, whether it be large or small.

Q. Would the detail of the response be determined to a significant extent by the operational requirements at a more local level?

5 A. Yes, it would, and indeed the requirements of the state disaster plan and its subsets are also reflected in the case of bushfires in district bushfire management committee operational plans.

10 Q. So far as the exchange of information is concerned, is there a formalisation of that information exchange or is it again dependent as to arrangements that are in place at a local level?

15 A. It depends more on the nature of the incident in terms of its gravity. Provision exists for the establishment of liaison. In other words, if the situation calls - if it is a multi-agency support for argument's sake or if there is an immediate or potential threat to life and 20 property, then it is a requirement that police liaison be attached to the EOC. And that is the case at all levels; that is the case at local level or district level, and state operational level. That provides a mechanism for the exchange 25 of information as it becomes available.

Q. So far as Mr Arthur in Yarrowlumla Shire was concerned, you would have imagined that during that period of firefighting he would have been liaising with a senior officer of a local command to keep him or her apprised of what was happening on the fire front?

30 A. I expect that would have happened as a matter of routine.

35 Q. Does Cooma fall within the Yarrowlumla Shire or another?

A. The mayor of Cooma might have differing ideas on that, but no - the former mayor of Cooma.

40 Q. In the context of some questions being asked of you by counsel assisting of some calculations that were being done by Mr Fitzsimmons during the meeting of the 15th where assuming the worst 45 case scenario what sort of resources might be needed to deal with a fire if it impacted upon the western fringe of Canberra; do you remember

those questions and your response?

A. Yes, I do. But I think I intimated that the calculations were in fact being proffered by Peter Lucas-Smith in discussion with Fitzsimmons, 5 rather than by Fitzsimmons in discussion with Mr Lucas-Smith.

Q. What level of resources do you recall now were being estimated as being necessary to deal with 10 that contingency?

A. I don't think there was a finite number arrived at. Certainly Mr Crosweller will testify at some other time that, upon his arrival, he inquired about the length of interface to be 15 protected and the number of appliances available then to protect it, and coming to the conclusion that it was inadequate. The numbers I am not acquainted with.

20 Q. You also refer to - and it was put to you as a hypothetical situation, assuming today's knowledge and the lack of a border - what you might have done from the 15th in relation to informing the public about the risks presented by the fires.

25 A. Yes.

Q. You talk about agencies visiting households. What agencies would they be?

A. Well, in the New South Wales case we would use 30 non-firefighting agencies in the majority of cases or firefighting personnel where they could be spared. But principally organisations such as the State Emergency Service, the SES, or the police or supporting personnel to the fire 35 services. The information to be imparted to the community is invariably prepared at the operational centre level and then distributed by the personnel I have just mentioned.

40 The advice to householders is invariably given by firefighters. So we would use brigades to virtually conduct a door knock - for the want of a better word - offer assistance in the preparation of dwellings, depending on how many there were, 45 and generally assist the householders in making decisions as to whether to stay or go. This methodology is a result of a number of

experiences, many experiences, and a product of previous events.

Q. It is important that information that is  
5 relayed in that context is accurate?  
A. Well, as accurate as possible. As I said, it  
is an inexact science, and fire will behave in  
ways contrary to that which is predicted more  
often than not. So as accurate as you can make  
10 the information, you impart.

Q. So it would be formed by the knowledge that  
the New South Wales Rural Fire Service has at a  
particular time?  
15 A. Yes. It is based on the capacity to form  
opinions as to what the circumstance might be 24,  
36 hours hence.

Q. But the earlier that is done the better, so  
20 far as safety issues are concerned?  
A. Yes, although the time frame for that is  
somewhat limited in as much as 48 hours or more  
you are invariably not in possession of enough  
25 intelligence about meteorology to come to an  
informed conclusion and therefore to conduct that  
sort of activity. It would be a major  
inconvenience to the communities affected, not to  
mention a costly one. So, as I explained earlier,  
the two-phase program normally takes place within  
30 some 36 hours between realisation and potential  
impact.

MR ARCHER: Thank you.

35 THE CORONER: I see Mr Lowe in the background. Do  
you wish to ask any questions, Mr Lowe?

MR LOWE: No, your Worship.

40 THE CORONER: Thank you. Mr Whybrow?

MR WHYBROW: I understand Mr Walker is going to go  
first.

45 <CROSS-EXAMINATION BY MR P. WALKER

MR PHILIP WALKER: Q. Mr Koperberg, you have

mentioned some cooperation between the ACT and New South Wales. I take it that has gone on for as long as there have been rural fire services in both jurisdictions?

5 A. Yes.

Q. Each aids each other as the occasion demands?

A. Yes.

10 Q. It is just as likely to find ACT firefighters in New South Wales as New South Wales firefighters in the ACT?

A. Yes. But can I qualify that by saying that that level of cooperation, or cross-border  
15 operations as we refer to them, is normally confined to the local levels in as much as it is restricted by what one district has to offer another one. If, for argument's sake, a greater number of districts become involved or  
20 the incident is of great significance and has the potential for impact further afield, then the whole issue of interstate cooperation is escalated to higher levels. But in order not to restrict the free flow of resources between  
25 jurisdictions, people at the most local level have the authority to enter into such arrangements.

Q. Part of what your answer just entailed is that you cannot give what you don't have, is that  
30 correct, you may have another need?

A. Yes, and one has to make a judgment about priorities as well.

Q. All right. When there are competing demands,  
35 does that judgment about competing priorities reach levels as high as your own?

A. Yes.

Q. I take it you have never known a circumstance  
40 where the ACT has refused the assistance of the New South Wales Rural Fire Service and said, "Go away, we don't want you. This is our fire"?

A. No.

45 Q. And doubtless vice versa?

A. I would hope that to be the case, or hope that not to be the case.

Q. You have mentioned that you have known Mr Lucas-Smith for quite a number of years. How many do you think that might be?

A. 15.

5

Q. Perhaps even 20?

A. Perhaps.

Q. Do you regard him as proficient?

10 A. In what way?

Q. In terms of his discharge as an officer of a rural firefighting?

15 A. I think Mr Lucas-Smith has a proven record in the ACT over many years of dealing with circumstances which are normal in the ACT. I have already submitted that this event was extraordinary.

20 Q. I understand. Of the fires which were burning in that 10 days prior to 18 January, you are aware of their names - I am sure you have heard them a thousand times - McIntyre's Hut, Bendora, Stockyard fire and Gingera, and there are some 25 other fires as well. But of the fires I have just named, was it your view say on 15 January that the most serious fire was McIntyre's Hut?

A. It would have depended entirely upon the weather conditions on Saturday the 18th, because if for argument's sake there had been a few degrees more of west in the prevailing winds or a few more degrees of south-west, then it would have been the Bendora fire which would have impacted upon Duffy and Chapman and the McIntyre's 35 Hut fire would have been further to the north. But as it turned out, there was more north in the wind than there was west, and it stood to reason then that the fire with the greatest exposure was going to be the one impacting upon 40 the interface, which in this case was, it appears, McIntyre's Hut.

Q. All right. I can understand that, depending upon the vagaries of the weather, one fire may unexpectedly turn out to be more serious than the other but one can't bank on those things. So I ask you in the most general of terms: on 45

15 January, which fire of the ones I nominated did you regard as the most dangerous, if you like, fire?

A. It was my belief - well beyond 18 January or 5 15 January - that given the latitude of all of the fires you have mentioned, they had the potential for joining up; and whether one section of one fire impacted first on a particular area was largely academic. Subsequent analysis 10 would indicate that the fires other than the McIntyre's Hut fire you have mentioned, which lay further to the south and south-west, had the lesser of the impacts. That is an area that could have easily been totally different. So 15 I did not regard the McIntyre's Hut fire as having any more or less potential than the others because I was not able to predict with any accuracy, nor did I have any advice as to precisely what quarter the wind would be from.

20 Q. McIntyre's Hut was the fire most approximate to a pine forest, was it not?

A. I would have to assume that to be correct. I don't know.

25 Q. Coming to the events of 15 January, you have said that it was not your intention of coming to the ACT, that you were going to go to Queanbeyan and that you were going to go further on south to 30 Jindabyne; is that right?

A. That is what I submitted, yes.

Q. After you went to Jindabyne, it was your intention to go somewhere else?

35 A. Back to Bankstown aerodrome.

Q. No intention of coming to the ACT at all?

A. No. I thought I made that clear.

40 Q. Prior to Mr Lucas-Smith's arrival on 15 January at Queanbeyan, you mentioned that there was a briefing session. Who was present at that briefing session?

A. On the 15th?

45

Q. On the 15th.

A. Well, there were many people present because

the EOC, the emergency operations centre, which also constitutes the normal day-to-day fire control centre for our district staff, was fully staffed and had been for some number of days. So

5 there may have been 20 or 30 people. However, the briefing comprised a walk around the operations room looking at maps and having different people give me information on their specific role. So Bruce Arthur, as the overall

10 incident controller, was able to show me a depiction of a variety of fires; whereas Mr Lomas, the deputy, may well have given me information on progress in regard to the construction of a particular length of containment trail; and

15 somebody else was able to give me advice on how many units were deployed and how they were deployed; and somebody else may have talked about other logistics and so forth.

20 We then adjourned into the office of Superintendent Bruce Arthur and during discussions in that office we had - we were accompanied by Brian Gilligan, the former director of the New South Wales National Parks and Wildlife Service;

25 Peter Lucas-Smith; Assistant Commissioner Shane Fitzsimmons; Superintendent Bruce Arthur himself; possibly Mr Lomas, although I can't recall; the National Parks and Wildlife Service officer; and the deputy incident controller, Ms Julie Crawford.

Q. Was Mr Lucas-Smith present at any time when you were conducting the walk around?

A. I don't believe him to have arrived whilst

35 that was taking place.

Q. We will come back to when he arrived. Just in the course of your walk around, did you make inquiries about the state of the ACT fires at

40 Bendora, Stockyard Spur and so forth?

A. Not specifically. There was general concern for the generic nature of the circumstances which were - which prevailed to the west of Canberra. We had no more concern about one fire than we did

45 about the other.

Q. McIntyre's Hut, was it the largest fire at

that time?

A. I think it may have been, but I would need to refresh my memory by looking at some maps.

5 Q. All right. Picking up when Mr Lucas-Smith arrived, did he arrive at the time you walked into this office for the briefing with Mr Arthur, Mr Fitzsimmons and so forth, or did he arrive partway through?

10 A. You are taxing my memory, but I have a vague recollection of him arriving shortly after the walk around or briefing had concluded. But I am subject to correction in that.

15 Q. You suggest before the briefing occurred in the office?

A. No, no. The office event was not so much a briefing as a meeting. I had already received, as I said, a briefing from Superintendent Bruce 20 Arthur and his staff and that comprised walking around the operations room. We then adjourned, if my memory serves me correctly, to the superintendent's office, and it was at that time that I think Peter Lucas-Smith joined us. It 25 would have been within a matter of minutes following that adjourning into the office that he joined us. That is my recollection. He may have been there before; he may not have been.

30 Q. Firstly, you have mentioned some conversations in the presence of Mr Lucas-Smith about fires possibly having an impact on the western suburbs of Canberra. You doubtless recall that evidence?

A. Yes.

35 Q. Are you aware that Mr Lucas-Smith says he has no recollection of anything of that nature being said in his presence?

A. I have read accounts of that.

40 Q. Is it possible that this discussion took place before Mr Lucas-Smith arrived?

A. No, because it was that discussion, as I said earlier, which led to my offering resources to 45 deal with what I believed to be a serious situation occurring on possibly Saturday the 18th.

Q. Are you able to tell us exactly what you said to Mr Lucas-Smith was the risk which Canberra faced on 18 January?

A. No, I have already suggested, with respect, 5 that I could not and I have suggested that the conversation was in conversational style with a number of opinions being proffered and the vernacular being engaged. Suffice it to say that we focused on portraying a worst case 10 scenario and suggesting that, if that unfolded, there would be serious problems for Canberra.

Q. You mentioned "serious problems for Canberra". Do you think there might have been the possibility 15 that you spoke of Canberra and the ACT but not the western suburbs of Canberra?

A. Well, given that the fires lay to the west of Canberra and the forecast was for west-north-westerly winds, then it was the western 20 suburbs of Canberra which lay exposed. And one has to assume that that could be taken as read.

Q. Yes. And doubtless if one projects the fire going on for an unlimited amount of time, that may 25 be what happens. But I suggest to you it is another thing to say that the western suburbs would be hit by the fire on Saturday the 18th January, is it not, as opposed to the fire crossing the border?

A. No.

Q. There is a fair distance between them, isn't there?

A. Indeed. There is a vast distance between 35 them. However, the nature of the fuel and the forecast conditions and the intervening terrain could reasonably conclude one to assume that, in a worst case scenario, the fires would travel from their point of origin into the western 40 suburbs of Canberra, and they did.

Q. You may say "and they did", Mr Koperberg. I am suggesting to you that you may simply have used terms like "Canberra" and "the ACT" and not 45 the "western suburbs of Canberra"?

A. Well that may well have been the case. However, I go back to the conversation I imparted

to this court earlier this morning between  
5 Superintendent Bruce Arthur and I as far back as  
on or about Sunday, 12 January where, even then,  
we speculated about a worst case scenario and  
the words "in the suburbs of Canberra" were used.

Q. You do perhaps fall into the habit from time  
to time, do you not, of using words like "ACT" and  
"Canberra" almost synonymously?

10 A. I can differentiate between the ACT and  
Canberra.

Q. Doubtless you can but you do from time to time  
use them synonymously; do you not?

15 A. No. No, not intentionally.

Q. Do you recall that part of the interview that  
we saw where you said some words to the effect of  
"Canberra may be affected. The fire may even come  
20 into the ACT"? I suggest you do from time to time  
just use them quite interchangeably.

A. I did not actually say that. What I said was  
that the fire had the potential of impacting on  
significant resources, not the least being mature  
25 pine forests on the ACT border and the ACT itself.

Q. I think your words were that:

30 "The Brindabella complex of fires are  
certainly potential threats and ... with  
valuable assets, not the least being some  
mature pine forests on the border of Canberra  
and indeed the ACT itself."

35 Just dealing with those words for the moment, I  
suggest that you are really using the two quite  
interchangeably.

A. Perhaps.

40 Q. And that in fact you may have done so on  
the day, on 15 January, when you were talking to  
Mr Lucas-Smith?

A. I suspect not.

45 Q. On the question of resources, are you able to  
tell us exactly the terms of the offer which you  
made to Mr Lucas-Smith?

A. I didn't make a specific offer other than to offer him resources, the extent of which was a matter for him to determine.

5 Q. I think you have already said there was no discussion about the composition of the resources that were to be offered, apart from that it was to be four task forces of category 1 units; is that right?

10 A. A task force in our terminology normally refers to five category 1 tankers - a category 1 tanker being a heavy forest fighting unit but also having other capabilities.

15 Q. Was that the discussion which took place about the composition of the resources?

A. I am not quite sure what you mean.

20 Q. Well, did you say anything else about what would be sent?

25 A. We responded to a request, which was a consequence of an offer. And as I have already submitted, the request was for four task forces, which generically means X number of personnel and X number of tankers. And the request was also for some support in ICS, Incident Control System, personnel, incident management team personnel.

30 Q. I gather there was no discussion between the two of you about the use to which these resources would be put?

35 A. No, none specifically. We predicated our offer on our concerns for Canberra in the event of the weather conditions - the forecast coming to fruition.

40 Q. You gave some evidence about the resources that you sent or intended to send were of a kind which could be used both in the bush and in the suburbs; do you recall that?

A. Yes.

Q. That was not the subject of conversation between you and Mr Lucas-Smith?

45 A. I don't recall that specifically being the subject of - a category 1 tanker carries 3,500 litres of water, is equipped with a high capacity

high volume pump and can be equally used to protect a dwelling as it can to suppress a bushfire.

5 Q. So basically water is water and these resources might be used anywhere, as might any tanker be used for bushfire fighting purposes?  
A. To varying degrees of effectiveness, yes.

10 Q. I don't quite understand why you didn't appear to follow up this question with Mr Lucas-Smith.  
I think you said, "Is that all you want"; is that right?  
A. Words to that effect, yes.

15 Q. And you left it at that? You didn't say anything further - "What about using them here or what about using them there?"  
A. No, I would not presume to tell Mr Lucas-Smith  
20 how to deploy his resources.

Q. Can you tell us what caused you to - to use your words - glean from your conversation that Mr Lucas-Smith was not as pessimistic as you were?  
25 A. Yes, I can with some reluctance. However, since you draw me to this matter, I was told that Peter Lucas-Smith didn't need me to come from Sydney to tell him what the threat to Canberra was.

30 Q. Who said that?  
A. Peter Lucas-Smith.

35 Q. It is not something that you have put in any statement?  
A. No, why should I? I am not here to be critical of my colleague.

Q. Did you attempt to tell him how to do his job?  
40 A. No, I did not.

Q. Then why would such a statement be made, to your knowledge?  
A. You must ask Peter Lucas-Smith.

45 Q. When you had this meeting in your office in which --

A. It was not in my office; it was the office --

Q. Sorry, in the office in Queanbeyan, after it concluded, did you alert any other New South Wales authority as to a possible requirement for resources in Canberra on Saturday 18 January?

5 A. Did I do so on Wednesday the 15th? No, I did not. On Saturday the 18th, I arranged for the operations centre at Rosehill as a matter of course to contact the New South Wales Fire Brigade and process a request for some resources to be staged at Campbelltown in anticipation of a request from further south. I had no particular predisposition towards the deployment in any 10 particular area. It may have been that Queanbeyan came under threat, or Michelago came under threat, or Thredbo came under threat, or Cooma. The one 15 thing I knew was that, based on the meteorological intelligence available to us, there would be a dire threat to the southern parts of New South 20 Wales.

Q. Therefore do I gather from your answer that the first warning to any other New South Wales 25 government service occurred on Saturday - nothing before?

A. We had already extensively engaged other New South Wales agencies. They were already present in the Snowy, in the Kosciuszko region, at 30 Jindabyne and elsewhere. The service comprising New South Wales National Parks and Wildlife Service, New South Wales Fire Brigade, New South Wales Rural Fire Service and State Forests had been working closely in a variety of operations 35 for some weeks, and liaison had been well and truly established within the operations centre at Rosehill. Information sharing was also well established and, given that it is my task to coordinate New South Wales bushfire fighting, 40 the other agencies had a reasonable expectation that, if resources from their jurisdictions were required, I would call upon them - and I did.

45 Q. I will make my question a little bit more specific. Are we to understand that the first effort that you made to alert other New South Wales government agencies and emergency relief

agencies, I take it, that there might be a need for their services concerning Canberra occurred on Saturday morning?

A. I believe that to be the case. That is not to say that I didn't have discussion with my counterparts. Indeed, as I have already testified, Brian Gilligan, the Director General of National Parks and Wildlife Service and thus the controller of a major New South Wales resource, was present with me at the meeting on the 15th. So he was very much in tune with what the potential was.

Q. He may be in tune, Mr Koperberg, but you didn't, for example, inform the New South Wales Ambulance Service between the 15th and the 18th that there might be a need for a call of their services in Canberra on Saturday?

A. Why would I do that?

Q. I am just merely asking. You did not alert them to the fact that there may be an emergency in Canberra?

A. No. But, with respect, I didn't alert the Sydney Water Catchment Authority either. It is not for me to pre-empt requirements within the ACT or Canberra, and certainly not for me to pre-empt requirements other than firefighting resources.

Q. Did you alert any authorities about a possible increase in the demand for their services on Saturday the 18th elsewhere in New South Wales?

A. Yes, I did as a matter of course. That was within my purview as Commissioner of the New South Wales Rural Fire Service to do.

Q. Could we go to document - just pardon me one moment.

THE CORONER: The code is at the foot of the document.

MR PHILIP WALKER: Thank you.

Q. It is a situation report [NRF.AFP.0001.0241]. I am sorry, I have called for the wrong document.

It is [NRF.AFP.0001.0120]. You might just explain this to me, Mr Koperberg: in the box there labelled "committed resources", the 68 is Rural Fire Service, I take it, and National Parks and

5 Wildlife is the third box over.

A. Yes.

Q. And the 12 shown against personnel under the column "other/hire", anybody from anywhere  
10 potentially, are capable of assisting in the fighting of fire. Are those figures just at the time this situation report is prepared or is that the amount of personnel committed to the fighting of a fire over a 24-hour period?

15 A. The situation report normally reflects what has occurred in the previous 12 hours, so I assume that to be the mean of the resources present during that 12-hour period.

20 Q. So we have about 89 people on McIntyre's Hut on 11 o'clock on the 15th and about 32 tankers?

A. Yes.

Q. The number of resources that Mr Lucas-Smith actually asked you for was 20 tankers and over 200  
25 people?

A. Based on a 24-hour a day commitment, yes.

Q. Plus - are you aware of the number of tankers at the time the ACT Rural Fire Service had?

A. No, I am not.

Q. If I suggested to you it is about 23, would you understand that to be about the correct  
35 figure?

MR BRET WALKER: I don't think he can, with respect.

40 THE WITNESS: I don't know. If you say it is so; I am sure it is so.

MR PHILIP WALKER: Q. If you go to a new document [NRF.AFP.0001.0130], we note that the number of  
45 personnel at the McIntyre's Hut fire was actually now 104 and the number of tankers has dropped to 27. I take it from earlier evidence you find

nothing particularly significant about that reduction in the number of tankers committed to McIntyre's Hut?

A. Not at all. I would ask that it be borne in mind that the strategy adopted for the McIntyre's Hut fire was one of containment and not direct attack, and thus the extent of resource committed to that task will vary significantly depending upon terrain, progress made, completion, unforeseen contingencies and so forth.

Q. Yes, I see. If we go to document [NRF.AFP.0001.0155], 27 tankers on the morning of 17 January and 85 personnel. Again, nothing particularly significant about that?

A. No.

Q. You mentioned the question of fires spotting over containment lines, and I think you said that it can possibly constitute some danger. The 17th was a day that you understood the winds might get up on that day; is that right?

A. I was more concerned about the predictions for Saturday the 18th.

Q. Maybe so, but were you aware that the wind might increase on the 17th?

A. My almost singular focus was on Saturday the 18th, and I don't recall what the forecast for Friday the 17th was. However, I recognise that, during the evening of Friday the 17th, winds did begin to emerge from the north-west and that would have been probably the cause of the fire spotting across the containment lines.

Q. Perhaps if we go to document [NRF.AFP.0001.0159], that is Friday afternoon and apparently no evident change in the resources committed to the McIntyre's Hut fire from that which was recorded at 1100 that morning. Again, nothing significant about that?

A. No, because I need to reiterate that the strategy of containment almost dictated a pre-determined number of resources. So it was not a crisis response; it was a planned response for which resources had been clearly identified. The crisis response was to occur the following day

5 during which, of course, there was a massive increase in resources. But more resources in the execution of this strategy would not have added value to the process.

5

Q. I understand your answer, Mr Koperberg. Perhaps we will just look at two further of these, firstly [NRF.AFP.0001.0171]. There has been an increase there of approximately about 20 people on 10 the morning of 18 January and a change in the number of tankers, which have actually fallen from 27 to 25. Does your answer still hold? There is nothing particularly significant about the level of resourcing?

15 A. You would not expect me to be familiar with the detailed events which took place at that particular time. I have to assume, and I accept, that the incident controller had tasking for that number of resources and deployed them accordingly.

20

Q. There is one aspect about this which is somewhat different and with which you presumably are familiar - it is 18 January and that, according to the weather forecast, is D-day; yet 25 the number of tankers has actually fallen. How do you explain that?

A. Very, very simply. As I said earlier, on the morning of the 18th the fire had already breached the containment lines. Detection of 30 precisely where the fire was was almost impossible due to smoke inundation. It thus follows that the deployment of large numbers of personnel in the area of the breach, not knowing where the fire was and with dire predictions about the weather, 35 would have been foolhardy to say the least; and you would expect a decrease in numbers being directly committed to firefighting.

Q. Just to complete the picture, if we go to 40 [NRF.AFP.0001.0172]. Obviously by 1800 hours on 18/1 the question of resources at McIntyre's Hut becomes no longer a relevant issue because the disaster has struck?

A. It was still relevant inasmuch as the fire had 45 still some potential elsewhere. The forecast for the winds, for argument's sake, was that they originate from the south-west, and perhaps even

the south, and therefore the northern aspects of the McIntyre's Hut fire could still cause problems further to the north.

5 Q. Perhaps there was an error in my question. Given what had occurred throughout 18 January, on that day, how accurate is the categorisation of resources being listed against McIntyre's Hut at 1800 hours on the 18th - sort of McIntyre's Hut is  
10 now part of something much worse?

A. Work did not cease on the McIntyre's Hut fire because it had a longer-term potential. You would not expect me to be intimately familiar with the detail as to precisely what function was being  
15 carried out on perhaps the northern side of the McIntyre's Hut fire.

Q. The other sides of the fire are still listed obviously at McIntyre's Hut; I understand.

20 A. Quite so, and Superintendent Bruce Arthur will be able to provide you with exact detail on that.

Q. All right. Did you know that the containment lines around the eastern side of the Bendora fire  
25 either late on the 15th or early on the 16th - I cannot precisely recall --

A. No, nor can I.

30 Q. Insofar as Mr Lucas-Smith had to contemplate the disposition of resources, as far as Bendora goes he is going to be constrained in the same way you have described as I have taken you through these tables about McIntyre's Hut, is he not, in that there is only a certain number of resources  
35 you can devote to a fire behind containment lines; is that right?

A. If one has chosen containment as a strategy, then the tasking is in fact finite and is staged and evolves; so the answer is yes.

40 Q. So, following the logic that you have used yourself, at least insofar as Bendora being subject to containment - pardon me for one moment - at least insofar as Bendora was subject  
45 to indirect attack, it is perfectly reasonable for Mr Lucas-Smith to approach the question of resources in exactly the same way you have

described McIntyre's Hut; there are only a certain number of useful resources that can be applied to it?

A. In the implementation of that strategy, yes.

5

Q. What might well be thought to be a lay idea - that if you can double the resources on a fire at any time you necessarily perhaps double the capacity of putting it out - that is just not really the case in these circumstances, is it?

10 A. In those circumstances, no, that is not the case.

15 Q. I think you said earlier on you were not quite sure about the disposition of the resources that you provided. Therefore am I correct in saying you are not aware they were sent to the Stockyard fire?

A. No, I was not; nor did I need to know.

20

Q. No, of course. I am not suggesting, sir, that you did. Stockyard was uncontained, so the logical place to devote the resources which were available would be to send them to that area, would it not?

25 A. If that was considered appropriate, yes.

Q. You are not here to criticise the decision of that kind, are you?

30 A. No, I am not.

Q. Are you familiar with the terrain surrounding the Stockyard fire?

A. No, I am not.

35

Q. If I were to describe to you tracks where one vehicle could pass at a time and in some instances tracks were one way and terrain such as that, you might not be specifically responsible but I dare say you have seen that sort of situation yourself?

40 A. Yes, I have.

45 Q. Faced with extremely inhospitable terrain and some limitations in getting resources there, there is, I presume, at some point a natural limitation to the amount of resources that can be sent to a fire of that kind; is that right?

A. Absolutely correct.

Q. You would, I take it, in relation to a fire located where Stockyard was in the ACT defer to 5 the judgment by Mr Lucas-Smith and his officers just as you might one of your own officers in similar circumstances; is that right?

A. Yes, it is.

10 Q. Insofar as resources were committed to actual direct or indirect firefighting, you are not really criticising Mr Lucas-Smith; is that right? A. In relation to the deployment of resources on the 16th and the 17th, no. It was entirely within 15 his purview to deploy resources we had provided as he saw most appropriate.

Q. I am not just talking about his purview; it is his bailiwick, just as it might be yours. It is 20 doubtless his purview. But you are not actually second-guessing what he did in relation to the disposition of those resources during those days?

A. No, I am not. Our position nevertheless, 25 based on our opinion, was that if the Bureau of Meteorology was correct in its predictions then no matter what was done between Wednesday the 15th and Saturday the 18th it was inevitable that containment lines would be breached and that 30 the fires would end up in Canberra - and they did.

Q. If that is the case, if that was the scenario as you understood it, it sounds like there is 35 really nothing that was going to be able to be done to save this sort of eventuality that occurred on 18 January?

A. It may well have eventuated that the bureau was wrong; it may well have eventuated that the bad weather didn't arrive until Monday or 40 Tuesday or Wednesday, and that has happened on many occasions before.

Q. I accept that; a change in the integers might make a difference to the change of the outcome. 45 But if what was predicted and what ultimately eventuated occurred, assuming that the weather expected materialised, then you said you regarded

it as inevitable, containment lines were breached and do I gather the outcome of 18 January was probably something very close to inevitable?

A. No, I can't accept that. I can accept that  
5 the impact on Canberra was inevitable.

The outcome, however, is a different proposition in terms of loss. The outcome would be determined by the extent to which the community was effectively informed, the amount of appliances and  
10 other resources available in and around the point of impact. What was inevitable was probably the destruction of houses right on the interface. What was probably not inevitable was the destruction of houses further afield.

15 Q. I understand. But, from where you sit, you think at least some damage was going to be done to Canberra on that day?

A. Absolutely.

20 Q. You said in your interview you expressed some reservations about the level of resources Mr Lucas-Smith requested. You expressed some reservations about the level of resources  
25 Mr Lucas-Smith asked for. What did you think should have been asked for?

A. You see, the discussions which took place on the morning of - and the afternoon of - the 15th revolved around not the current suppression efforts or not the containment efforts but the likelihood of weather conditions deteriorating to such an extent that the fires would inevitably reach Canberra. That was the focal point of the discussion, and thus my offer of resources has to be looked upon in that context. That is not a criticism of how they may have been deployed in the two days prior to the 18th. But the intention of those resources - the intention of the offer rather of those resources was deployment to be  
35 most effective on the day that fire impacted upon the western perimeters of Canberra.

40 Q. Perhaps though we should come back to the question which I asked: did you have in mind a figure that you thought would be more appropriate on 15 January?

A. Not a specific figure.

Q. Are you able to give us some indication in rough terms? Do you think twice as many should have been asked for or three times as many?

A. I can only do that with the benefit of  
5 hindsight, because at the time I was not au fait with the number of resources to which Peter Lucas-Smith had access. It seemed only to me given our experience - and we had the benefit of experience whereas the ACT authority did not -  
10 that to conduct that sort of operation in the face of such a conflagration would have required a lot of resources.

Q. I dare say you would not wish to have seen a  
15 level of resources requested by Mr Lucas-Smith which might have had your firefighting resources sitting idle in the ACT for any length of time; you had your own fires to fight.

A. Unfortunately there is always - there is a saying within the firefighting fraternity: "Hurry up and wait". We are going to add to our equipment issues next year cricket bats and balls so that the poor old volunteers can entertain themselves after being sent somewhere. As I said to you before, we tend - rightly or wrongly - in New South Wales to assume a worst case scenario. That has consequences, not always desirable. But our experience has shown that that is an appropriate course to take. Thus, had the request for resources been greater in numeric terms than it was, we would have endeavoured not to make judgments on whether they would be useful or otherwise but to supply them.  
30

35 Q. If that is the case, I wonder why it is that you asked your resources to muster around Campbelltown. Why not somewhere closer to both the ACT fires and the fires you were fighting yourself?

A. Because we also had problems emerging in and around Sydney, and I have not got the wisdom or the psychic powers to predict with any accuracy where fire is going to strike next. I needed those resources where they could be accessed  
40 geographically by a number of prevailing circumstances or under a number of prevailing circumstances.  
45

Q. Were there any fires alight around Sydney on, say, the 17th?

A. Yes. On the 17th, none of consequence. There were however ignitions on the 18th and in some 5 cases property damaging fires in the northern suburbs of Sydney.

Q. We have spoken in general terms about resources mustering around Campbelltown. Just 10 remind me - perhaps people who have been here longer than I would know - what level of resources were we talking about.

A. I asked the New South Wales Fire Brigades to attempt to muster a number of strike forces, 15 I think they called them.

Q. You might have to explain that - at least to me, Mr Koperberg.

A. I don't even know myself. It is a unit 20 comparable to something we would call a task force - five units or thereabouts, different type of equipment, more urban pumper reliant on reticulated water, for argument's sake, not the same sort of capacity, however relatively 25 useful where the water supply can be maintained from hydrants and mains and so on and so forth.

I also asked that whatever resource could be spared around the outskirts of greater Sydney be 30 considered for pre-staging at Campbelltown, and I did that because the majority of problems we could anticipate occurring was in the southern part of the state; that is not confined to the Australian Capital Territory, but also a range 35 of fires we had all the way to the Victorian border. So it seemed prudent that, if there was some spare capacity, it be at least moved to a point where it did not have to traverse metropolitan Sydney, for argument's sake. At 40 least it had the capacity to move down the freeway and be there a lot quicker than if we had to bring it from the northern suburbs of Sydney, or the Central Coast or further afield.

45 Q. Just being a little bit more precise, you said "strike forces". Can you give us the rough number of these strike forces?

A. I am not even sure if I am using the correct terminology. Suffice it to say that the New South Wales Fire Brigade, our urban counterparts in New South Wales, also have discrete units that they move around in the order of five appliances.

5 I didn't request a specific number. I asked could resources - could a number of let's call them task forces for the sake of the argument be pre-deployed to Campbelltown, and that had a 10 varying response. As the day emerged, the New South Wales fire brigades had numerous small fires in and around the suburbs, grass fires and so forth in and around the suburbs of Sydney.

15 Q. Just so we understand completely what you are saying, were the resources you asked to be mobilised at Campbelltown exclusively urban firefighting resources?

A. No. I asked that whatever resource could be spared might assemble in and around the general vicinity of Campbelltown with only one aim in mind, and that is to make the journey southward more rapid. Of course ultimately when Assistant Commissioner Crosweller signalled the need for 25 additional resources for Canberra, our response was not confined to units from in and around Sydney, but we drew them from Boorawa, Harden, Young, the South Coast, and in fact we withdrew units from Queanbeyan or from Yarrowlumla shire 30 and ultimately replaced them with units which took longer to get there. So there was a more immediate response.

35 Q. Forgive me for pressing you on this, but you are not able to give us any detail as to the number or composition of that group mustered in Campbelltown?

A. No. I am not even sure that it remained as a cohesive group. It may well have been disparate 40 because circumstances were unfolding so rapidly, with numerous fire scenarios around the state deteriorating very, very rapidly, that the capacity to deal with appliances or resources in distinct cohesive groups may well have been 45 compromised. It was more likely that you would see two units heading off because they came from part A and another three units heading off because

they come from part B, and so forth.

Q. That is in fact something I was going to ask you. The deteriorating weather conditions that  
5 were forecast for the 18th about which you have spoken obviously were not conditions which were exclusively confined to the western edge of the ACT. I take it they extended further south within the state as well?

10 A. Further south?

Q. Of the ACT.

A. Yes, indeed.

15 Q. Accordingly, you were facing a deteriorating situation throughout the southern part of the state?

A. Yes, more so on the ranges than on the coast, and west of the ranges. But certainly as history  
20 shows all of the fires breached their containment lines, and firefighting was frantic everywhere between here and the Victorian border and beyond.

Q. I take it you sent at the very least some  
25 additional bushfire fighting resources to other areas of the state on the 18th from Campbelltown?

A. Not necessarily from - Campbelltown, if anything, was only a staging point. The resources did not emanate from there.

30 Q. Perhaps I will widen the question and say: did you send additional bushfire fighting resources to the southern parts of the state on the 18th?

A. We were continually augmenting our resources  
35 across a wide array of fire scenarios on and beyond the 18th as the local incident controllers were calling for them.

Q. If that is the case and given the prospects  
40 for the 18th, at least insofar as the bushfire fighting resources were concerned why weren't they directed to muster further south such as, say, Queanbeyan or, frankly, even on a sports oval in the ACT if necessary?

45 A. Because there is a lot of bush between Campbelltown and Canberra, a lot of villages, a lot of communities. Any of those could have at

any stage become vulnerable in the event of ignition.

Q. Maybe so, but you did actually have fires  
5 burning both in the west of the ACT and to the south. I gather you did not have fires burning between Campbelltown and Canberra; is that right?

A. None of any significance, but it would be  
10 totally irresponsible of me to denude vulnerable communities of firefighting protection by - well, it would be totally irresponsible of me to do so.

Q. Until you knew that it was a certain thing?

A. Well, even then you have to make judgments about the extent to which you can afford to protect assets and potentially sacrifice other assets.

20 Q. We will come back to that in a moment. If we digress just briefly: is the credo you fight the fire that is alight with everything you have got and worry about the fire that might happen later, or do you in fact devote as much resources  
25 as you can to the fire that is alight and always keep a few reserved to an area so that it is not completely denuded of firefighting resources?

A. Under no circumstances would I denude a vulnerable community of firefighting resources.

30 Q. All right. Accordingly - I am not criticising this - your decision was to hold back your resources until you knew that the problem was in fact manifesting itself so as not to deplete other areas which might be in need of that firefighting assistance; is that fair?

A. To a very large extent. I didn't exactly want it to appear like an invasion either. I am sensitive about those sorts of things.

40 Q. But you agree with the broad thrust of what I put to you; is that right?

A. Yes. And also, as I said earlier, I was not aware of the extent to which the ACT might be  
45 actually seeking resources from elsewhere, and therefore it was in anticipation of either a request or an event or a circumstance which would

lead ultimately to their deployment or commitment.

Q. When a fire brigade or bushfire service requests resources from another jurisdiction,  
5 I take it you would again expect the requesting service to be responsible in the number of resources that they request - and perhaps I should explain what I mean. They don't just simply say, "Give us everything you have got"; they make a  
10 judgment and that it would be wrong just to say, "Give us everything," and deplete resources from another jurisdiction perhaps unnecessarily?  
A. No, you would not expect them to be frivolous in their request - quite so.  
15

Q. That is a right and proper thing for all services to consider when they request the assistance of a neighbouring jurisdiction; is that right?  
20 A. That is so. Conversely, I am guilty of saying to both the Country Fire Authority in Victoria and the Country Fire Service in South Australia, "Please send all the resources you are able to spare."  
25

Q. You said you were very pessimistic and in fact I think you said that, if there were no such things as the borders of the ACT, you might as early as Thursday have sent people out going door to door and providing some warnings. I am just wondering if you could tell us what sort of things you would have had those people say. Pardon me, Mr Koperberg, you mentioned two phases, phase 1 and phase 2; let's take phase 1 first of all.

30 35 A. Phase 1 is more of a generic advising, which would include the calling of press conferences to ensure that the media were adequately equipped to inform the broader community about the nature of the impending threat and to excite the media's interest to ensure that it would continue to provide an appropriate level of coverage to which communities could respond. That is normally something which is done well before the predicted threat being realised. Then phase 2 is a more --  
40

45 Q. Pardon me, Mr Koperberg; just remind me when you said you would have commenced phase 2.

A. Phase 2?

Q. Yes.

5 A. Anywhere between 24 and 12 hours out from the event - or less. It depends on how quickly the fire is moving, how rapidly the threat is progressing, and so forth. But if you have the luxury of saying, "Look, the odds are that in 15 hours this is going to hit," then you use that 10 15 hours to alert the community, to interact with them and to prepare them. There are a number of methodologies designed to maximise the effectiveness of that sort of interaction.

15 Q. In 24 and 12 hours, you said. Can you tell us in that stage with more specificity what you would have people doing? I think you spoke about door knocking and so forth.

20 A. Let's take a case in point: December of 2002, a fire which had been burning for some days, originating in the north-western suburbs of Sydney was moving towards a settlement which was generally located at the top of very precipitous terrain, steep gullies, heavily timbered, dry 25 sclerophyll fuels already stressed by months of drought and a very awkward interface with hundreds of residences.

30 We predicted that, as it was not possible to stop the fire, it would run its course. It would impact on a certain day again based on the meteorological intelligence that we had. So 24 hours beforehand we went into the streets of Berowra and our personnel and personnel from other 35 services knocked on doors, provided advice to householders on how they might secure their properties in terms of removing flammable materials which were lying around; in terms of preparing the most basic of firefighting equipment 40 such as hoses, ladders, rakes, shovels; advising them on how they might dress; advising them what to do when impact was imminent in terms of what they might do to protect the house and its contents; making sure that neighbour was going to 45 look after neighbour, that there was effective communication between neighbours on the day; identifying people who were most at risk,

the elderly, the infirmed, the very young; making sure that people were comfortable with the prospect of withstanding what is an extremely traumatic experience. So it is that sort of 5 interaction that we would use, but our use of that is based on having had to deal with a range of experiences.

MR PHILIP WALKER: Your Worship, I note the time.  
10 I have a little bit further to go and I know Mr Whybrow has not started. I don't know whether you wish to adjourn and come back tomorrow or whether we continue on and try to deal with it. Mr Whybrow tells me he will not finish 15 Mr Koperberg today.

THE CORONER: He will not finish today. Are you able to stay until tomorrow, Mr Koperberg? I don't know what the arrangement was, whether you 20 were to stay one day or --

THE WITNESS: I had planned to be here tomorrow, your Worship.

25 THE CORONER: You are planning to be here tomorrow as well?

THE WITNESS: Yes, your Worship.

30 THE CORONER: Are you happy to continue? How much longer have you got, Mr Walker?

MR PHILIP WALKER: I probably have in the order of 10 to 15 minutes more; so it is perhaps just as 35 convenient, your Worship, to adjourn.

THE CORONER: If we are not going to finish with you today, Mr Koperberg, then we may as well adjourn now.

40 THE WITNESS: Yes, your Worship.

THE CORONER: I think you probably have had enough today. All right, I will adjourn until tomorrow 45 morning. Is there any other matter to raise?

MR LASRY: No, your Worship.

THE CORONER: We will adjourn until 10 o'clock tomorrow morning.

**HEARING ADJOURNED AT 4.02PM UNTIL WEDNESDAY,  
5 17 MARCH 2004 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 DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 24

Wednesday, 17 March 2004

<PHILIP CHRISTIAN KOPERBERG, RE-SWORN

5 <CROSS-EXAMINATION BY MR PHILIP WALKER CONTINUING

MR PHILIP WALKER: Q. Mr Koperberg, yesterday I asked you some questions about what you said would be phase 1 and phase 2 of dealing with  
10 the public. I take it that in the phase 2 you would suggest there was some risk or you would expect the people executing that phase to suggest that there was some risk to citizens' property?  
A. In so much as bringing people's attention to  
15 the potential threat there is no risk. There is always a risk if people elect, for whatever reason, to stay with their properties. As a general rule, fire authorities throughout Australasia do not favour wholesale evacuation for  
20 many, many reasons. But it is not a policy that is without flaw. As history shows, people have perished or have been injured staying with their houses.

25 I am not sure that I have answered your question.

Q. I am not sure that you have but I will put it again in a different way. I take it that it is implicit in what you would expect people to do in phase 2 that they would inform a householder that there would be some risk to their property from  
30 the fire?

A. Oh, absolutely.

35 Q. I will just go back to a couple of things we dealt with yesterday. You said that you thought the resources requested by Mr Lucas-Smith were a little light on. Do you know that Mr Lucas-Smith didn't actually get the resources that he  
40 requested?

A. No, I don't know that. I have been, I presume, reliably informed that during the course of Thursday the 18th and Friday the 19th January, the resources requested were progressively supplied.

Q. I am talking about the resources requested on

the 15th. Do you recall he asked for four task forces of category 1 tankers, which were 20 category 1 tankers and something like 200 personnel plus some incident management personnel.

5 If I suggested to you that amongst what he received were a number of category 7 tankers and he got something in the order of 150 or 160 personnel rather than 200, what would your response to that be?

10 A. My response would be that, in terms of categorising the vehicles, a task force is a task force comprising five vehicles. It is usually five heavy vehicles. However, it is not inconceivable that in the totality of those 15 appliances there are a mixture of vehicles.

Q. Understandably. But let's just get a couple of things down. A category 7 vehicle, as I understand it, is a tanker with something like 20 2,000 litres of water as opposed to a category 1 which is 3,000 litres; is that right?

A. Category 1 is in the order of 3,500, yes, and a category 7 is a much lighter vehicle in every respect.

25 Q. This is not criticising, but insofar as resources were being provided which you said were a little light on, if the ACT got some category 7s rather than category 1s and less than the 200 30 people he had asked, it would seem at least on the 16th that New South Wales was not able to immediately respond with what the ACT requested in any event?

A. Yes, one would have to accept that. Given 35 the fact, however, that the resources requested were offered on the basis of deployment on Saturday the 18th, and not questioning for a moment the ACT's authority to deploy them in whatever fashion considered appropriate in 40 the meantime, it may well have been that it was intended to augment those resources by Saturday, the 18th or late on Friday, the 17th.

Q. It is suggested to me that in fact the ACT 45 never got the full complement of resources that it requested on the 15th. Let me put that again: the ACT did not get the resources which it

requested at any time between the 15th and the 18th January; it got some, but not all. Are you able to indicate whether you say that is correct or not?

5 A. No, I can't because this is the first occasion on which I have heard that asserted and I would be very concerned if that were the case. I am not suggesting it is not; but it is the first time it has been suggested to me.

10

Q. Again, sir, it is not a criticism, we understand you had your own fires. But in terms of it being light on, it would be a fair proposition then, wouldn't it, that if New South Wales was unable to supply the 200 or so personnel and all of the category 1 tankers as requested by Mr Lucas-Smith, it may have had even greater difficulty supplying a large request?

15 A. It would be a reasonable conclusion to draw but, as I said, the information supplied to me suggested that what had been requested had in fact been supplied. This is the first occasion I have heard that that may not have been the case.

25 Could I also point out that the number of personnel assigned is very largely dependent upon the type of appliance. For argument's sake, a category 1 obviously needs more people to operate than a category 7.

30

Q. It is larger, yes. At page 2154 of the transcript, I asked you a question about which there might be some ambiguity. I want to clear it up. I will read it to you. I asked the question:

35

"Did you alert any authorities about a possible increase in the demand for their services on Saturday the 18th elsewhere in New South Wales?"

40

You said:

45 "Yes, I did that as a matter of course. That was within my purview as Commissioner of the New South Wales Rural Fire Service to do."

When did you make that alert to other government authorities in New South Wales? Is it on the Saturday?

5 A. I think I said that I had made contact in this particular case through a third person - namely, the operations centre with the New South Wales Fire Brigade - and that was on the Saturday.

Q. So the contact was made on the Saturday?

10 A. The Saturday.

Q. All right. Thank you. Coming back to the question about alerting people, I think you said that in the transcript that there was a 15 four-day weather forecast, and I will just get it for you - at 2119 and following, you talked about the weather bureau would produce a prognosis of four hatched maps, which would show Thursday, Friday, Saturday and would be extreme fire danger. 20 It was with that information that the Canberra community might have been informed of a severely deteriorating situation were the forecast conditions to materialise. A further question was:

25

"And they would be entitled to--"

It was not completed. You answered:

30 "We would qualify it by saying that."

"Q. But severely deteriorating conditions means a risk of damage to their property?

"A. Yes."

35

Do I gather you are suggesting there should have been risk warnings put out from Wednesday and onwards for property?

A. Can I answer that by saying that we as a 40 matter of course upon receipt of the four-day prognosis generally make it known that the succeeding days are going to be days of very high or above fire danger. The prognosis is not a forecast of course; it is nothing more than a 45 prognosis; but it is that upon which we predicate some planning. So if there are fires burning which under adverse conditions may constitute a

threat to property, then we would use  
the prognosis to say to the community that  
the next two days or three days are likely to see  
weather conducive to severe fire activity and, as  
5 a consequence, they need to take certain  
precautions.

Q. And that involves some suggestion there is a  
risk to property?

10 A. Obviously.

Q. If on midday of 17 January, the Friday, it was  
being suggested that there was no immediate threat  
to property, would that have been an adequate  
15 warning?

A. I guess it depends upon how one interprets  
"immediate". It would be difficult in the light  
of the prognosis to suggest that there was no  
prospect of threat to property given the proximity  
20 of property to fire. "Immediate", however, may  
refer to the next two or three hours, or four  
hours or six hours, and of course it is a matter  
of proximity - if even under the worst conditions  
a fire is six hours away from property, then there  
25 is no immediate threat.

Q. You might say there is no immediate threat,  
but you would have to at least tell the public  
that there was some threat, wouldn't you?

30 A. Given the drought conditions, the fuel  
conditions and the prognosis for fire-related  
weather, it would be reasonable to assume - and  
the proximity of the fire - it would be reasonable  
to assume that such warnings would have been  
35 appropriate.

Q. Because whilst we might in the luxury of this  
courtroom debate the meaning of "immediate",  
presumably when media releases are made one has to  
40 contemplate the whole panoply of the audience,  
ranging from the extremely astute through to  
people who really do need things explained in  
the simplest of terms?

A. It is very true. Of course a situation report  
45 tends to be more pragmatic than speculative and is  
not used as a basis for a broader system of  
warning the community. It is for internal use.

It is not a document that would be used, for argument's sake, to alert a community.

Q. Because the situation report is a document  
5 which is produced for an audience which you can assume, to a large extent, is informed?

A. Yes, it also has a component of retrospectivity about it in as much as it reflects what has happened in the last 12 hours, for  
10 argument's sake.

Q. Have you seen the media releases from the New South Wales fire service over the days preceding the fire on the 18th?

15 A. I have no doubt seen them. I can't accurately recall in detail their content.

Q. Let me provide you with a copy. I have some copies; I am not sure I have copies for everybody.  
20

THE CORONER: They are probably part of the brief, I would suggest, Mr Walker.

MR PHILIP WALKER: Your Worship, I have copies  
25 which do not have numbers on them and I am sorry but I am unable to tell you whether they are in fact at the present time part of the brief. Others have numbers on them, but I simply don't know if they are part of the brief at the moment.  
30 It may be that they are not on.

Mr Erskine advises me some copies have been brought across, but I can identify them for the purposes of the people who may be able to bring them up. They are New South Wales Rural Fire Service media releases: 16 January, there are two of them on that day; and 17 January, where again there are two, one of which is marked 1200 hours.  
40

Q. Mr Koperberg, could you go to the first of those media releases, please, the one dated 16 January 2003. I take you to the fourth paragraph. Firstly, there is certainly no warning about any threat to the Canberra urban area in that paragraph or in that media release, not in terms?

A. I thought with respect that it might be considered implicit, in as much as if I could be permitted to quote from the press release, it says:

5

"The current weather forecast and the fact that vegetation in southern part of New South Wales and the ACT is extremely dry means the potential for fire to impact on 10 increasingly more populated areas is very high."

Q. That is as good as it gets. There is no specific reference to the Canberra urban area?

15 A. But this press release was not designed to cover only the ACT or Canberra.

Q. Of course.

20 A. It does not mention Thredbo or Jindabyne or any number of other places as being under specific threat.

Q. I ask you, Mr Koperberg, assuming this media release was actually printed in terms or reported 25 in terms similar to that in which it is drafted, what do you anticipate people who are not an informed audience as far as bushfires go to make of a statement such as, "The fact that vegetation in the southern part of New South Wales and 30 the ACT is extremely dry means the potential for fire to impact on increasingly more populated areas is very high"? Do they assume that means farms, hobby farms, remote settlements, or the metropolitan area of Canberra?

35 A. I think it would be reasonable to assume that the general community would not interpret that as an imminent threat to the Canberra urban interface.

40 Q. If you go to the next one on 16 January, that document in the third paragraph refers to "properties in the Brindabella Valley are not under direct threat at the moment". That is an area close to the Goodradigbee River; is that 45 correct, the Brindabella Valley?

A. I presume that would be the case.

Q. It continues:

5 "Firefighters are concerned that wind changes predicted Saturday will increase pressure on lines and force fires back towards the ACT."

10 There is nothing in that would cause the population to assume that the ACT was under any particular threat - sorry, I should say the Canberra urban area was under any particular threat; I would suggest?

A. No. There would not have been. I am not altogether sure that it was within our province to issue specific warnings about Canberra.

15 Q. If you read that then with the reference immediately under the heading "Firefighters contain McIntyre's Hut fire, Brindabella National Park", which then is followed by the words 20 "control lines are complete on this fire", the following paragraph commencing with the words, "Containment was achieved with the completion of back-burning and an aggressive mop-up and patrol of these lines today". And then if you go to 25 the bottom of that page it says, "West, north-west winds expected Saturday and Sunday which will pressure lines to the east and south-east and force the fire to the ACT border". I would suggest if that press release was read in its 30 terms it would, if anything, suggest there was not believed to be any threat to the ACT urban area at that point in time?

A. The threat or the suggestion of a threat is not implied in the press release. One has to be 35 very careful about the way in which the term "contained" is used. "Contained" means nothing more than there is some sort of a line around the fire, but the fire is still burning and is capable of breaching those containment lines or 40 spotting across them, depending upon the depth.

Q. Certainly. But it is not uncommon, is it, for members of the public to make the mistake assuming that, when words like "containment was achieved", 45 many members of the public actually assumed that means a little bit more than it means to a firefighter and it means there is some control

over the fire; is that right?

A. In all probability, yes, and indeed when fire agencies proclaim a fire to be contained, they have a reasonable right to be confident about their success.

5 Q. Indeed.

A. But, having said that, we have consistently said that, whilst the fires were contained, if 10 the forecast weather materialised it was unlikely that any fire would remain contained.

Q. Just from the point of view - the existence of containment lines does not mean the fire is under 15 control or suppressed, I think you said as much yesterday?

A. That's correct.

Q. But I suggest to you that if many members of 20 the public actually read that particular reference to the McIntyre's Hut fire, if anything, they may actually be placated as to what the risk was seen to be at that time?

A. That is very true.

25

Q. One other point, I note that at the bottom of that it says:

30 "West, north-west winds expected Saturday and Sunday which will pressure lines to the east and south-east and force the fire to the ACT border."

Yesterday I asked you which of the fires burning 35 to the west you considered to be the most dangerous to Canberra, and you said it really depends upon the way the wind is blowing. Given the expectation put out on the last line of the first page there, west and particularly 40 north-west winds, doesn't that mean under those circumstances McIntyre's Hut was the most dangerous fire to Canberra?

A. The term "west north-west" is very generalised and, as I explained yesterday, the potential for a 45 fire to behave in a geographic fashion in a particular way depends upon the degrees virtually from which area the wind is blowing. So if there

is more west than there is north-west, for argument's sake, then fires lying immediately to the west are more likely to traverse quickly towards the east. If there is more north in the west north winds, then the converse would apply.

5 Q. It would go south-west --

A. It would go in a south-easterly direction. If it was west south-west and, depending on how many degrees of south there are, the fire would move to the north-east and so forth. I would like to add that it was not until well after the fire event that more detailed analysis, principally by the CSIRO, confirmed that the fire which made the biggest impact on the western interface of 10 Canberra was in fact the McIntyre's Hut fire. That certainly was not able to be known before 15 the event.

20 Q. Go to the next press release, if you would, Friday 17 January. In the middle of paragraph 3:

"The current forecast is for wind to shift to the north-west"--

25 Not west north-west - north-west. I ask you again: under that forecast does that make McIntyre's Hut the most dangerous fire for the Canberra urban area?

30 A. Well, of course knowing what we know now, we know that to be the case. Did we know that then? No. I mean, any fire lying in an arc to the west of Canberra constituted - the wind is fickle. Because the forecast says that it is going to be 35 north-west, the local topography will often change that direction. Virtually any fire lying to the west of an asset under the influence of west north-west, west or west south winds will constitute a major threat.

40 Q. You note in the second last paragraph on the first page of that press release that the information being provided is in virtually identical terms on the 17th as that which is being 45 provided on the 16th:

"The current weather forecast and the fact

5           that vegetation in the southern part of New South Wales and the ACT is extremely dry means the potential for fire to impact on increasingly more populated areas is very high."

It does not indicate the sort of imminent, inevitable impact that you described in your evidence yesterday?

10       A.    No, it does not.

Q.   The two are not consistent?

A.   There is a difference between what an agency may consider and what is in fact put in a press release.

20       Q.   If you go to the next one - just one moment, Mr Koperberg. Why is that? If you said yesterday that on 15 January you considered it inevitable that containment lines would be breached and that the fire would make a major run towards Canberra and possibly impacting on the western suburbs, why would there be a difference between that you regarded inevitable in your evidence yesterday and what you put out in a press release to the public?

25       A.   Firstly, what I said yesterday was not that containment breach was inevitable. What I said was if the forecast weather prevailed, breaching the containment lines was inevitable. 24 hours before the event there is nothing to suggest that the weather forecast by the Bureau of Meteorology is in fact going to eventuate. Indeed, it is often the case that total fire bans are imposed predicated upon a forecast of very high to extreme 30 fire danger, and on the morning to which the weather forecast applies we find that 35 the weather simply has not eventuated.

40       Q.   So do I understand your proposition then to be that, though you might think that there was an inevitable containment breach on the Wednesday, your proposition is that you don't actually reveal that to the public until the morning when you are positively 100 per cent sure that the weather 45 which would cause that inevitable breach has eventuated; is that your proposition?

A.   No, I didn't say that. I didn't propose that

at all. In fact, I have already explained that under the New South Wales scheme we have - generally, depending upon the proximity of the fire and depending upon the asset or  
5 the community under threat, we have a two-phase program: One is of a very general nature alerting the potentially affected community of the impending danger; and the second phase is a more intensive phase of interaction with  
10 the community to prepare them for what is a potentially inevitable impact.

The fact remains that one can speculate and guess about a whole range of factors, and it is a very  
15 difficult balance between imparting the nature of one's speculation and thus having an effect on the general populace and taking for granted that there is going to be a breach or there is going to be an impact.  
20

Q. If you can go to the press release of 17 January 2003, Friday, 1200 hours, under the heading "Containment lines" - the document is [NSP.AFP.0047.0409]. I draw your attention first of all to the second paragraph of that press release, which says:

"Containment strategies are progressing according to plans on the fires, which were  
30 caused by lightning strikes on Wednesday 8 January 2003."

Then under the heading "Containment lines on McIntyre's Hut fire will be tested - Brindabella  
35 National Park" it says:

"Containment lines are complete on this fire, however, they will be tested today."

40 Dealing with that line first of all: it is apparent, is it not, that there is real concern that the kind of weather which you said may result in an inevitable breach is now well within at least the contemplation of the New South Wales  
45 Rural Fire Service?

A. Yes, hence, of course, our reference to the pressure that these lines would be put under.

Q. Yes. You then say:

5 "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."

10 That is all that is said under the heading "McIntyre's Hut fire". Again, it is not consistent with warning people in the Canberra urban area that there is any threat to their homes; is it?

15 A. Well, given the fact that we had said in earlier press releases that there was an increasing risk of populated areas being affected, given the proximity of pine forests within the ACT to residential property, rural or otherwise, it could be reasonably drawn from what we said that 20 the risk continued to increase.

25 Q. Mr Koperberg, if you sit down and put all these press releases out along the table and you apply a degree of knowledge about bushfires and you apply a degree of knowledge about the location of various forests and the effect of wind conditions and all the rest of it, you might reach that conclusion. But if you pick up the 12 o'clock news or the 1 o'clock news and this 30 is read to you, I suggest to you that you would not; would you?

A. Yes, you may well not come to that conclusion if one looks at that press release in isolation. Nevertheless, press releases are not documents 35 upon which strategies are predicated. Press releases are a very general terms way of communicating with the broader community and invariably avoid being specific - they can't be specific. The trend of our press releases, nevertheless, suggested an increasing level of 40 exposure without being specific to people's property, not only within the ACT or on its boundaries but elsewhere in southern New South Wales.

45 Q. Were you still at that time being somewhat more conservative because you weren't quite sure

the Bureau of Meteorology's predictions might be correct for Saturday?

A. I don't know that we were being deliberately conservative, but it is a fact - it remains a fact  
5 that weather forecasts are not delivered on oath and they are sometimes wrong. Therefore agencies with the sort of responsibility that fire agencies have to take a reasonably balanced approach to how it deals with the broader community and has to  
10 make some judgment calls.

Q. That includes Mr Lucas-Smith, for example, too; doesn't it?

A. Of course it does. Of course it does.  
15

Q. Yesterday you spoke about how if the weather forecast materialised you thought it was inevitable that containment lines would be breached and the fire would end up in Canberra;  
20 that is what you said. Given that, given the time of this release and given the weather which seems to be within the contemplation of the writer - again, I direct your attention to the sentence immediately under the "McIntyre's  
25 Hut" bold heading - is this press release consistent with working on a worst case scenario?  
A. No, it is not. And I would like to reiterate that press releases are not documents upon which strategies are predicated. I think we  
30 consistently said that, whilst we were obviously optimistic, even confident, about what had been achieved, that weather if it materialised would effectively undo that work. The terminology we use may be very technical, if you like, and  
35 I grant you that it is capable of being interpreted by communities in different ways.

Q. Yes.

A. I mean, after 50 years we still can't teach  
40 the media the difference between back-burning and prescribed burning.

Q. I would say that is right.

A. Exactly right.  
45

Q. Yesterday you were asked a question, I should say, in terms of to make the assumption that

the borders of the ACT didn't exist, what would you do, and you said you would execute a two-phase approach; you would send out general media releases; and you would then between I think you 5 said 12 to 24 hours, but maybe less depending upon the speed of the fire, you would engage in some sort of door knocking arrangement. This morning you agreed with me that implicit in that door knocking arrangement would be an indication that 10 people's property was at risk. That strategy, I suggest, is not consistent with what was in fact being put out in press releases, such as this one dated 17 January at 1200 hours.

A. No, because a press release is, as I said, not 15 a document upon which a strategy is predicated. However, can I say to you that within the same time frame we implemented that policy in the Brindabella Valley upon which fire also impacted, and minimal losses were occasioned. 20 The task forces we sent into the Brindabella Valley in fact visited each of the properties there, helped the property owners as far as possible to prepare them and, when fire occurred, there were minimal losses. That was done some 25 hours before impact.

Q. I don't think, Mr Koperberg, there would be any person in this court who would argue that a 30 press release is not a strategy document, but it is a mechanism whereby you get the word out to the public. That is its essence; isn't it?

A. The broad public.

Q. Yes.

35 A. The broad public. But it is not the only mechanism by which to get the message out to the public likely to be affected by the event.

Q. Of course. Another mechanism of getting 40 the message out to the public was the door knock approach you spoke about yesterday. That is another mechanism of getting the message out; isn't it?

A. Or specific advisings, as indeed occur 45 regularly before or during impact where people are specifically alerted to the danger in the area in which they live, in other words not unlike storm

warnings - "People in the following areas should exercise X, Y, Z".

5 Q. Maybe so. But in that respect the door knock approach and the press release approach have at least this in common: they are albeit different means but, nonetheless, means of getting the message out to the public?

10 A. Yes, one in a broad sense; one in a specific sense.

15 Q. The message, I suggest - referring to that hypothetical that you were asked yesterday - that might have been got out under that technique, as you have again explained this morning, is not on all fours with the message which was being put out by the New South Wales Rural Fire Service in this press release at 1200 hours on 17 January?

20 A. I would ask you to accept that the press release is generic. It is not specifically designed to deal with Canberra or the ACT; it is a generic press release warning generally of areas which are likely to come under the influence of weather, which in turn was going to, if it 25 eventuated, put considerable pressure on the containment strategies and achievements.

30 Q. But you would not leave out of a press release reference to those areas which might suffer the most severe impact; would you?

A. I don't believe the RFS has either the responsibility or the authority to specifically warn Canberra residents of potential impact any more than I would expect the Queensland 35 Fire Service to warn the residents of Tenterfield that a fire crossing the border is about to impact on them. I believe that to be the responsibility of the jurisdiction in whose area the fire is or is likely to burn.

40 Q. Mr Koperberg, that is simply not consistent with what you did in the document. The heading of the document is "Wind shifts pressure containment lines on ACT/NSW border fires", and then you refer 45 to an impact on major pine plantations. It is okay to refer to impacts on pine plantations but not on people?

A. I actually differentiate it, I think. The press release is a very general statement. The secondary approach is a very specific approach. I have the distinct feeling that  
5 putting in print a view that the western suburbs of Canberra were going to be impacted upon on Saturday 18 January by the New South Wales Rural Fire Service would have been totally inappropriate. As I said, that is why we can find  
10 comments in our press releases to the ACT to a very generalised nature.

It is not as if everything is done in isolation. As I have pointed out earlier, the ACT was  
15 represented on the incident management team - or at least the ACT was represented in the emergency operations centre from which the emergency management team worked. So one would have expected there would have been more than a modicum  
20 of collaboration and information sharing upon which people might draw from for their strategies.

Q. You said yesterday on page 2121 of  
the transcript:

25 "That does not preclude anybody from saying the fire is burning immediately to the west side of our border are likely to impact on the ACT."

30 A. Mm-hm.

Q. I take it you still stand by the fact that that is an appropriate thing to say?

A. As I said, it is a very general reference. It  
35 is not a specific reference. As far back as Wednesday the 15th, there was a very general reference made to the potential implications for the ACT and the mature pine forests on its borders, both sides.

40 Q. Do you accept that a document may actually be misleading by omission of a particular fact?

MR BRET WALKER: Your Worship, I object to this point in terms of the topic. Counsel has several times protested to the witness that he does not intend criticism by certain matters, but some of

these questions would appear to raise jurisdictional matters which I may recall are dear to my heart and part of my brief. These questions are being asked on behalf of Mr Lucas-Smith. It  
5 is, with respect, difficult to see how it will assist you in your far-ranging inquiry to adjudicate on some proposition on behalf of Mr Lucas-Smith that Mr Koperberg and his staff have somehow let down the people of ACT by not  
10 doing Mr Lucas-Smith's work, and that is putting it crudely but correctly.

In our submission, that is quite beyond either the sensible scope of the work, large enough as it  
15 is, that you have and in any event crosses the line that I tried to adumbrate on the last occasion when I sought leave to appear.

Obviously enough, this is a topic generally which  
20 can, and no doubt should on behalf of Mr Lucas-Smith, be explored with Mr Koperberg - namely, "what do you think" - so as to draw in, in aid, favourable comparisons with what Mr Lucas-Smith thought. To take a hypothetical  
25 which by now is completely hypothetical for the sake of an argument that if Mr Koperberg had a view both private and public recorded at the time that Canberra had no risk and if that was said to be more optimistic than Mr Lucas-Smith's public  
30 utterances, then no doubt that would be something he might call in aid in answer to criticisms that might be made against him - that is Mr Lucas-Smith. That is why so far I have not objected.  
35

But now we seem to be getting to areas where there are two aspects to my objection: the first is the jurisdictional one in relation of criticism of Mr Koperberg for not discharging some obligation  
40 to the populace of Canberra. With respect, he has dealt with that fine so far and I don't need to elaborate on that. The second is this terrible mixture of hypothetical and actual.

45 For good reason and with great respect in a concise and useful fashion, counsel assisting yesterday introduced the hypothesis of no border

in order to test the matters which were usefully explored yesterday. But now counsel for Mr Lucas-Smith is requiring the witness to return to that hypothetical of no border and then asking 5 questions which are critical of what actually happened.

It need only be observed that, in actuality, there 10 is a border; there are statutory limits; and there are what are called jurisdictional limits. The mixture is not only not useful to you; it is unfair to the witness and is potentially prejudicial to my other client, the state of New 15 South Wales. For those reasons, I would ask that that last question be disallowed and that counsel be kept within a topic which is actually relevant and useful to your inquiry.

THE CORONER: What do you say, Mr Walker? I must 20 admit I am a bit concerned as to where you are going here because, in the last so many questions that you have asked, it seems to me that it has been rather repetitious, the information you are trying to obtain from Mr Koperberg is repetitious, 25 and I am not finding it very helpful because you are virtually criticising him for not putting more detail into the press release. He has already explained to you the purpose of the press release. He has explained that to you on a number of 30 occasions, and you are still pressing him. I don't know that that is very helpful.

MR PHILIP WALKER: Your Worship, I will not press 35 the question I put. I will put something in a different way.

THE CORONER: And I do agree with Mr Walker's objection that it is rather difficult and unfair on Mr Koperberg for you to confuse 40 the hypothetical situation and then put the real case scenario as to what exactly happened and ask him somehow with the benefit of hindsight to comment on what should have and could not have happened if there was no border, because that is 45 unfair to him.

MR PHILIP WALKER: Your Worship, I take the point

and I--

5 THE CORONER: I am also mindful of the fact that yesterday you told me that you would be only 10 more minutes.

MR PHILIP WALKER: I should say, your Worship, that I received some of this material overnight.

10 THE CORONER: I understand that too, and I have been rather patient because I understand you have had some short period of time to become familiar with the brief. It is a rather large brief.

15 MR PHILIP WALKER: Q. Mr Lucas-Smith, it is clear that at 12 o'clock on 17 January, the McIntyre's Hut fire was a New South Wales fire, there is no argument about that; is there?

A. Are you referring to me?

20 Q. I apologise, Mr Koperberg; I do apologise. At 12 o'clock on 17 January, McIntyre's Hut was a New South Wales fire?

A. I believe that to be the case, yes.

25 Q. Let's go back to the facts, that there is a border. What would have been wrong with New South Wales ringing up the ACT and saying, "On our fire, the McIntyre's Hut fire, we have to brief the media and we are concerned that, under prevailing weather conditions and weather conditions forecast for tomorrow, this fire will come into the ACT and could impact upon your urban area, and we do not wish to put out a press release which says something far more limited because if people pick that up they may wrongly assume that the situation is safer than we believe it to be. We are informing you, ACT, as a matter of courtesy, comity, but that is our prognosis.

30 40 We are not going to put out a press release which could be misinterpreted, and that is what we are going to do". What would be wrong with you saying that to the ACT?

A. There would have been absolutely nothing wrong with saying that. Hindsight would dictate that there would have been dozens, if not hundreds, of things that might have been done by many, many

people, but they were not. Based on the information that was available to a whole range of people, I should say that the magnitude of what occurred in the western suburbs of 5 Canberra could not have been foreseen by anybody. The fact that impact was likely or inevitable, I believe, could have been foreseen. The magnitude, the intensity could not have been foreseen by anyone.

10

Hindsight of course would say, "Well, you should have seen foreseen that and you should have done this and you should have done that," but these assertions are invariably made with the benefit of 15 little more than hindsight.

Q. I accept that. The speed of the progress of the fire on the 18th is one of the things which would have been virtually impossible to predict; 20 wouldn't it?

A. As would be the consequence of fire activity beyond the immediate interface. One could not have contemplated, for argument's sake, the strength of wind being capable of removing or 25 tearing off the platelets which constitutes the bark and pinus radiata and hurling thousands of burning bits of timber into the streets behind the interface strip. That could not have been foreseen. The weather forecast was for winds of 30 60 to 80 kilometres per hour. It blew well in excess of that.

Q. When you spoke of a major run being made into Canberra yesterday, I take it that is an 35 expression which is more indicative of distance rather than necessarily the time in which that distance will be covered; is that right?

A. Yes. If fires traverse a certain distance and has the fuels or the spotting potential to 40 traverse that distance, then it will do so for the period that the winds drive it. If, for argument's sake, the wind had blown for three hours - and no more than three hours or two hours or 60 minutes - and then abated, then the outcome 45 would have been totally different. That is why I talk about having to assume worst case scenarios.

Q. Yes. So if it took half a day or three days for the fire to get from the border to the urban edge, you would still describe it as a major run; wouldn't you?

5 A. Three days, you would not. A run over three days is not a major run, unless you are dealing with very, very remote fires.

Q. So there is an element of time in it?

10 A. Assuming, for argument's sake, that the average speed under adverse conditions that a forest fire, principally in dry sclerophyll fuels, eucalyptus fuels, might travel between four and 8 kilometres per hour, that is a fairly 15 fast-moving fire. In this particular case it travelled three or four times that speed, being driven by winds blowing at a velocity far higher than originally forecast, as a result of all sorts of phenomena which occurred, not the least being 20 the collapse of the convection column between the various fires generating tremendous energy release and creating gale force winds.

Q. Again without criticism, it was a fact, was it 25 not, that the New South Wales Rural Fire Service equipment located in the ACT at Mt Stromlo at a base camp there was actually destroyed by the fire as it came through?

A. To our everlasting regret, yes.

30 Q. Yes, of course. That would indicate that New South Wales to some extent like the ACT was simply taken by surprise by what happened on that Saturday?

35 A. As I said, the magnitude and ferocity could not have been foreseen.

Q. You mentioned some time ago when we were 40 discussing these press releases there is a judgment call, is there not, when one has to be somewhat more dramatic about one's media statements than perhaps the statements which were made by the New South Wales Rural Fire Service that I have been taking you to; that is a matter 45 of judgment before you put out something saying "dire consequences for a particular area"?

A. Usually the messages of dire consequences are

11th hour - and I use the term loosely - measures because we have as much an obligation not to create unnecessary panic as we have to ensure an appropriate level of awareness; and it is a balance.

Q. In that respect, again, there was really no argument between you and the New South Wales Rural Fire Service and the ACT fire service that there is some balance before you put out statements which may cause some degree of widespread alarm?

A. Yes.

Q. It is a fact, isn't it, that when you get a fire which seems capable of catching not one but in fact two fire services by surprise because of its speed, you in fact may be caught out and not get out that alarm in the way you would hope to do so if things were different?

A. To an extent, yes, and this is where the whole issue of balance comes in. Our modus operandi, again resulting from many bad events: if for argument's sake there is a fire burning to the west of a village, a settlement or whatever, and it is some kilometres away, we will tell people that there is a fire burning to their west, some kilometres away, that there is the prospect of the fire reaching them and, were it to do so, they should do the following things. When that becomes imminent we go to the second phase, as I said yesterday.

Q. The same degree of measure and balance is involved in decisions such as your own to marshal resources on the Saturday morning as opposed to an earlier time; you just simply do not want to be too pre-emptive about these things. Is that fair?

A. In that context it was jurisdiction, as I said before, that I had in mind. I don't have the authority to just send a fleet of firefighting appliances into another state.

Q. I was not talking solely about the ACT. I think you told us yesterday that part of the reason you marshalled those resources was in fact the fires burning in New South Wales?

A. Part of the reason was. It was also in

anticipation of a potential request for more resources from the ACT.

5 Q. But the point I am putting to you is that, even considering just your own jurisdiction and the fires burning there, you made a judgment call to direct the marshalling of those resources even for your own purposes on the day when you knew that they were going to be required rather than  
10 some days in advance, possibly unnecessarily?

A. You would not marshal them some days in advance for an event which was not obviously going to happen, besides which those resources may well be required somewhere else.

15

Q. Yes.

A. The marshalling of that sort of resource is more a measure - I am sorry, the deployment of that sort of resource is more a measure taken some hours before the event, certainly not days before the event.

25 Q. Pardon me one moment. You said yesterday you were told by Mr Lucas-Smith that he didn't need you to come from Sydney to tell him what the threat to Canberra was. I suggest to you Mr Lucas-Smith didn't actually say such a thing?  
A. You may suggest that to me.

30

Q. You disagree?

A. I do disagree because I remember my response being, "I know you don't need me to come from Sydney to tell you this."

35

Q. There was nothing in what he said that indicated your assistance was not welcome, on your version?

A. I have never suggested that offers of assistance were not welcome. Quite the contrary.  
40 All assistance offered was accepted by Peter Lucas-Smith.

45

Q. I suggest to you that a response like that is at variance at least with that which is contained in paragraphs 10 and 11 in your statement, that it would be at the very least an odd thing - an odd thing - for Mr Lucas-Smith to have travelled on

his own volition from Canberra to Queanbeyan to see you to indicate to you that the ACT's resources would be insufficient in the event fire impacted upon Canberra and its suburbs, only then 5 to turn around and tell you, as you have suggested, that he didn't need you to come down here and tell him about the risks to Canberra? A. You may well interpret his statement as meaning that he was already aware of the potential 10 without my having said so.

MR PHILIP WALKER: May it please the court, those are my questions.

15 THE CORONER: I note the time. We might take the morning adjournment.

**SHORT ADJOURNMENT** [11.15am]

20 **RESUMED** [11.40am]

MR PHILIP WALKER: Your Worship, it occurred to me I forgot to tender the press releases up to 17 January without the reference to 1200 hours 25 because that press release is in your documents. I am not aware that the others are. That is Thursday 16th, the second Thursday 16th and the Friday 17th.

30 THE CORONER: So those two press releases put out by the New South Wales Rural Fire Service dated 16 January and 17 January will become exhibit 0032.

35 **EXHIBIT #32 - THREE PRESS RELEASES OF NSW RURAL FIRE SERVICE, TWO DATED 16/01/2003 AND ONE DATED 17/01/2003 ADMITTED WITHOUT OBJECTION**

MR PHILIP WALKER: Three press releases, 40 your Worship.

THE CORONER: Yes, two for the 16th and one for the 17th.

45 MR PHILIP WALKER: Yes. Thank you.

THE CORONER: Thank you, Mr Walker. Yes,

Mr Whybrow.

**<CROSS-EXAMINATION BY MR WHYBROW**

5 MR WHYBROW: Q. Mr Koperberg, I appear on behalf of Mr Castle, who was the Executive Director of the Emergency Services Bureau at the time.

A. Yes.

10 Q. You said yesterday, if I could just clarify a couple of things, that at the meeting on the 15th, which my client I understand was not at, the meeting you had with Mr Lucas-Smith, you said yesterday at page 2136, line 11:

15 "So there were only two scenarios. One was that the bureau had got it wrong, in which case efforts to suppress the fires on both sides of the border would have continued and would have ultimately succeeded. The other possibility was that the bureau was right and the fires we had no doubt would breach the containment lines and, once breached, there would be negligible chance of halting their forward spread."

20 A. That's correct.

Q. And at 2160 your evidence was, line 24:

30 "Our position nevertheless, based on our opinion, was that if the Bureau of Meteorology was correct in its predictions then no matter what was done between Wednesday the 15th and Saturday the 18th, it was inevitable that containment lines would be breached and that the fires would end up in Canberra, and they did."

35 A. Yes.

40 Q. You first formed that view based on the then weather prognosis at the briefing that you had with your officers on the Wednesday; did you?

A. I suppose that my views were consolidated at that particular point in time, but I have already suggested that I had grave concerns about all of the fires in southern New South Wales.

Q. You have given evidence though specifically, and I appreciate that you would have had great concerns for areas in your own jurisdiction and towns that may be affected in New South Wales, but 5 you have specifically given answers about the impact and the inevitability of impact on Canberra?

A. Yes.

10 Q. And this inquest is looking at what happened in Canberra?

A. Yes.

15 Q. Is it your evidence that, unless the weather changed from what is forecast, it was inevitable that homes would be lost in Canberra?

A. I don't recall having suggested that homes would be lost. I didn't use that phraseology.

20 Q. No, I appreciate that. I am asking you: was that a view you formed yourself on Wednesday?

A. It follows that, if fire impacts in a significant way upon residential properties, there is going to be either damage or loss. I refrained 25 from suggesting that properties would be lost or people would be injured or worse. I confined my comments to the suggestion that if the Bureau of Meteorology's forecast eventuated then the nature of fire, the topography, the fuels, the drought 30 conditions and so forth would dictate the fire lying to the west of the ACT, west of Canberra, would move in an easterly direction generally and thus impact was inevitable.

35 Q. That is a view you formed on Wednesday afternoon - by that stage you formed that view?

A. Continually qualified by the weather issue.

40 Q. I will be taking you through the lead-up of the days, but is it not the case that, with no disrespect to the Bureau of Meteorology, for once the prognosis and the updates between Wednesday and Saturday fairly well came to pass in that on Saturday there were extreme weather conditions, 45 temperatures and north-west strong winds?

A. That is so.

Q. Is it also your understanding that there was no prevarication in terms of a change from that position by the Bureau of Meteorology from Wednesday until Saturday, each of their forward reports was indicating this sort of weather was predicted for Saturday?

A. Yes, the bureau as a matter of course take a conservative approach, and they tend to err on the side of caution invariably. It is that to which we have to react. But during the course of that week, both the four-day prognosis and the verbal advice was that Saturday the 18th was, to quote them, "shaping up to be a bad day".

Q. And with your experience and what you have already said is tending to take the worst case look at things, is it your evidence that whether or not you expressed it to anybody else or not, you formed the view that unless the weather changed it is inevitable that homes in Canberra may be lost?

A. Again, I want to be clear that at no stage - that I can recall at least - I used phraseology such as "homes would be lost".

Q. And I am not suggesting for a moment you did.  
A. What view I may personally have held or in what manner those views may have been expressed are not views that are on the record, so to speak.

Q. Well, you refer to "we thought it inevitable". By "we" do you mean Mr Arthur, who was in effect fighting the fires including the McIntyre's Hut fire?

A. Well, I based my judgment in part on, as I submitted earlier, a conversation that I had on or about 12 January with Superintendent Arthur where again we were speculating and dealing with hypothetical situations. And I posed the question, "What if these fires are not suppressed and the weather does eventuate," and the response I got was one of some dire consequence. That assisted me in forming a range of views which began to consolidate as the week went on, because whilst containment had been achieved within the purview of our parlance, "contained" means that it is behind containment

lines and there is no guarantee that it is not going to go beyond those containment lines, and in all probability given the right meteorological circumstances it would go beyond 5 those containment lines, as each day went by I became more consolidated in my view that there was a sense of inevitability.

Q. Is it fair to say that, in your 37 years 10 experience in firefighting and managing the fight against bushfires in Australia, you had never before formed a view or had it three or four days out that, unless the weather changes, houses in the national capital will be subject to direct 15 fire attack; is it fair that you have never been in that position before?

A. In respect to the ACT?

Q. Yes.

A. Absolutely true.

Q. The science of bush fighting and predicting what bushfires might do in order to deal with them involves, I think as you have already said, a deal 25 of prediction, prognosis and best guesswork based on the vagaries of weather to a large part; is that correct?

A. That's correct.

30 Q. Could I ask that document [DPP.DPP.0003.0078] be brought up at 0082. This is a cabinet briefing on the Thursday that I am bringing up as an example. It is the best one I can find; there are probably others. If you look at the screen there 35 is a map that was part of the cabinet briefing on I think 16 January, and what I suggest to you is that that is not dissimilar to what the situation was on 15 January in terms of the position of the fires in relation to the ACT.

40 A. I don't dispute that.

Q. As of the 15th and again on the 16th, the best guesses for Saturday were hot temperatures and north-west winds?

45 A. And very low humidities, which was a principal component.

Q. Based on the position of those fires, if that came to pass, the fire which is going to I suggest have the probability of having the worst impact for Canberra is the McIntyre's Hut fire; do you 5 agree with that?

A. Depending upon which part of Canberra, yes. The Bendora fire clearly had implications for the more southernmost of the interface.

10 Q. When I say Canberra, I mean the actual urban parts of the Australian Capital Territory?

A. Yes.

15 Q. Canberra, as we all know, extends quite a distance south of its southern most urban areas.

A. Yes.

20 Q. In those circumstances then, would you agree that as of Wednesday and developing through Thursday, the inevitable consequence that you have indicated that, if the weather does not change, houses in Canberra are likely to be subject to direct fire attack is most likely going to come from the McIntyre's Hut fire based on the weather 25 conditions and where the fires are situated?

30 A. Well, not having been overly familiar with the geography of the Canberra interface - for argument's sake, up until the 18th I had never heard of the suburb Duffy, and I don't say that with any disrespect to the people living in Duffy - but not having been intimately familiar with the geography, it seemed reasonable to me to assume that there was a western interface and the winds were north-westerly - or the predictions 35 were for north-westerly winds - which as I said earlier can be affected in terms of degrees by local topography. It does not mean that the wind will be consistently from the north-west quarter. It follows therefore that anything lying to 40 the east of a number of fires is likely to be impacted upon.

45 Q. What I am suggesting is that we now know from Mr Cheney's evidence, and I think you have already referred to it, that what hit Duffy and Chapman on 18 January was the conflagration of a breakout of McIntyre's Hut?

A. That is what we are advised as a result of Mr Cheney's analysis, yes.

Q. What I am suggesting to you is that on 5 Wednesday or Thursday the fire - by looking at those maps, that if you had to put your money on any of them to be the one that would do it is the McIntyre's Hut fire?

A. Save for one factor, and that is that 10 the McIntyre's Hut fire lay behind containment lines which may or may not have held, whereas the other fires were not contained.

Q. Sorry, haven't you said all along that if 15 the weather does not change, it is inevitable that that fire will break its containment lines?

MR BRET WALKER: I think we don't mean if the weather doesn't change; we mean if the weather 20 does change.

MR WHYBROW: Q. If the weather that is forecast to occur eventuates, your evidence has been that it is inevitable that that fire will not remain 25 contained.

A. Certainly, but there are also degrees of severity in the weather. If the forecast is 80 and it blows at 40 kilometres, then 30 the consequence is not nearly as severe. If it blows at twice that velocity, it is twice as severe. What I said was that the McIntyre's Hut fire was for all intents and purposes contained - not suppressed, not safe, not out, not controlled, but contained - whereas some of the other fires 35 had not reached that stage. Therefore, all things being equal, an uncontained fire is more likely to have an undesirable consequence than a contained fire. I have never resiled from the suggestion and do not do so now that if the forecast 40 conditions prevailed, then contained or not the McIntyre's Hut fire would be a major problem.

Q. And the forecast weather was for 45 north-westerly winds, and there may be a fairly broad brush approach in this question but, based on the prognosis as of Wednesday and Thursday on the predicted weather conditions, McIntyre's Hut,

one, will break containment if those predictions come true; and, two, if they are true in terms of strong north-westerlies is most likely to be the fire which will impact on Canberra?

5 A. I have to say to you that at that point in time, not being familiar with the geography of the Canberra interface, I was not able to make a judgment about a specific fire having a greater or lesser impact on that interface.

10

Q. Sorry, I apologise. To some extent, even looking at it now, is that a reasonable proposition to put, that if you were there at the time and running the firefighting operation at 15 Queanbeyan as the on-the-ground coordinator for McIntyre's Hut and saw those weather conditions approaching, you would have had significant concerns that the McIntyre's Hut fire may impact on Canberra?

20 A. That the McIntyre's Hut fire was one of the fires which may impact upon Canberra.

Q. You would not put it as any more likely than any of the others?

25 A. At that point we didn't know that.

Q. What didn't you know?

A. We didn't know a number of things. We didn't know, for argument's sake, the extent to which 30 there would be a breach of the containment lines and in how many places they would be breached. They may have been relatively small breaches. We didn't know whether the Bendora or other fires may be the subject of spotting in a variety of 35 directions. These are unknowns and we cannot with any confidence predict the outcome. What we know now is that the nature of the McIntyre's Hut fire was such that, under the prevailing conditions, it was the fire with the greatest impact.

40

Q. When you talk about an inevitable breakout and an inevitable impact on the urban edge of Canberra, you are not indicating to Her Worship that you or anybody else in New South Wales 45 foresaw the speed or ferocity of that breakout and what occurred on that Saturday afternoon?

A. No, certainly not, and I think I mentioned

before that no-one could have foreseen the effect of both the forecast and the prevailing weather conditions on the behaviour of those fires.

5 Q. When you say it was inevitable that the fire could run to Canberra or would run to Canberra if there was a breakout and the weather came to pass, are you saying in terms of a traditional fire - if there is such a thing - burning at I think you  
10 said eight kilometres an hour --  
A. Between four and eight.

Q. Heading towards the interface?

A. Yes.

15 Q. With firefighters placed between the houses and the approaching fire, trying to hold that back and putting out spot fires on properties?  
A. I need to be cautious there, because it is not  
20 the custom of firefighting agencies to place their firefighters in the direct path of a fire, nor would the community expect us to do that. There are so many variables in this matter that to say that there is a single methodology is simply not  
25 correct. The proposition would be to so locate your firefighting resources as to be able to afford maximum protection to the residences under threat without exposing themselves. In other words, you would not line up a row of firefighting appliances on the western side of Eucumbene Drive Duffy unless you wanted to inflict major  
30 casualties on the firefighters.

35 Q. Can I stop you there for a moment. If what happened could not be predicted, which was an unforeseen tornado firestorm, why would you not, given the particular setbacks that were on that Eucumbene Drive, Warragamba Drive - they were significant setbacks in terms of traditional  
40 bushfire fighting in protecting properties, were they not?

A. Yes, but the ferocity or magnitude of a fire becomes apparent fairly quickly, and certainly in sufficient time to allow you to redeploy resources. So if it became obvious for argument's sake that the intensity of the fire was of such an order as to endanger firefighters' lives or those

5 who were strategically or tactically located say on Eucumbene Drive, then you would move them to a safer location, and that may well be on to the property or - yes, on to the properties themselves rather than form some sort of combat line against the fire.

10 If the ferocity or the fire intensity was not of that magnitude, then given the setbacks there may have been a reasonable chance of having some impact on the fire.

15 Q. That is something that cannot be determined until the fire is virtually on top of you? It is not something you can predict on Wednesday when you make your prediction that it is inevitable it is going to hit Canberra; is that fair?

20 A. No, because so much of this depends on the fuel types, for argument's sake. There is a big difference between the way in which a fire will behave in a pinus radiata forest or a dry sclerophyll forest. There is a big difference in the way the fire will behave depending on the slope, the topography generally, and all these factors have to be taken into account when making a prediction as to how the fire will behave. There is no single pattern of fire behaviour.

30 Q. I understand that you are saying, and I am not disagreeing, that there are a number of factors that need to be taken into account. You have come to Canberra and given evidence to Her Worship though, perhaps I suggest in some simplistic terms in terms of, "On Wednesday I formed a view that it was inevitable that Canberra was going to suffer fire damage if the weather didn't change."

35 A. I didn't use the word "damage"; I talked about the fire impacting upon Canberra if the weather conditions as forecast prevailed.

40

Q. I suggest what you said at page 2161, Mr Koperberg, was:

45 "I can accept that the impact on Canberra was inevitable - going down to line 11 - What was inevitable was probably the destruction of houses right on the interface. What was

probably not inevitable was the destruction of houses further afield."

A. Yes, I thought you were referring to my comments on Wednesday the 15th.

5

Q. Just so there can be no confusion, you are not suggesting that your views formed on Wednesday were that there were inevitably going to be destruction of houses on the interface; is that 10 your evidence?

A. I was not familiar with the nature of the interface. What I am trying to suggest perhaps clumsily is this: that given what we know now about the nature of fire behaviour and did not 15 know then suggests that damage to property on the interface could not have been avoided.

Q. Can I show you a couple of photographs of Warragamba Drive. Did you drive down there at 20 some stage afterwards?

A. On the following day, perhaps the evening of the 18th.

Q. Did you attend there with Mr Crosweller in 25 terms of having a look afterwards?

A. Yes, I remained in Canberra for several days after the 18th and --

Q. Would you have a look at this photograph. 30 I don't understand that it is in the materials. I understand it to be a photograph of looking south along Warragamba Drive from what may well be known as the A-frame house. I understand that the A-frame house is at the top of what can be seen of the road. Mr Koperberg, did you comment to Mr Crosweller that "if we had those setbacks at Engadine we would have thought it was utopia"?

A. They are very good setbacks.

40 Q. The distance between the houses that were damaged at least on the interface and the first real available fuel load is quite significant compared to some of the fires that you have had to fight in your experience, is it not?

45 A. Yes, they are.

Q. When you say they are very good setbacks,

given that there was a real degree of unexpected nature this fire travelled on the day, could people who are planning to fight these fires reasonably, without the benefit of hindsight now  
5 as to what happened, believe that "we had a pretty good setback and we might be able to stop this"?  
A. I have already suggested that the intensity of the fire - I am sorry, the fire behaviour and the intensity of the fire could not have been  
10 foreseen, and under normal circumstances in this particular scenario one could have reasonably expected to be quite useful in terms of firefighting. The nature of the prevailing weather was such as to negate that.

15 Q. Let me ask you this question: you didn't know of Duffy on Wednesday the 15th when you were forming the view that interface on Canberra was inevitable?  
20 A. That's correct.

Q. If you were to know this is the most likely place to hit if the weather comes to pass and these were the setbacks, based on your experience,  
25 would you have had some confidence that given those setbacks "we might be able to hold out any breakouts"?

A. I would certainly have had that confidence.

30 Q. Can I show you another one. Excuse me one second. I understand that the photograph I have just given you is that in effect the photographer from the first photograph has moved to the top of the road and has taken a photograph from that  
35 area; so it is actually from near the A-frame house area.

THE CORONER: Is that on the corner of Eucumbene and Warragamba?

40 MR WHYBROW: Yes. Again, would you agree that, in terms of some of the fires that you have had to deal with over the years, the setback or what is disclosed there would give you some confidence  
45 that if the fire does break out and comes towards this area, you could have some confidence that it could be prevented from getting into the houses

because of the bare earth and the distinct lack of vegetation in some respects.

A. Yes, save of course for the ember attack phenomena, and most of our warnings relate as much 5 to the potential for flame impact, which in this particular circumstance would have appeared unlikely not being able to forecast the nature of fire behaviour ultimately prevailing, as it is about the very real possibility of damage being 10 occasioned by ember attack. History shows that by far the majority of property in Australia during major conflagrations such as this constituted are the consequence of ember attack and not flame contact. So even though flame contact would have 15 been regarded as unlikely in this particular scenario, the very real possibility of severe ember attack could not have been discounted.

Q. No, but you are not going so far as to say, 20 are you, that the degree of the ember attack - I think you referred before morning tea to the bark being ripped off pine trees and flung several streets into suburbs - is not something that you would have predicted as occurring at this 25 stage?

A. No, and probably would not have occurred had the winds been of a lesser velocity than that which actually prevailed, or not to the same extent.

30 Q. Ember attack in any interface with suburbia is always in any bushfire going to be a major concern, is it not?

A. A very major concern.

35 Q. And you would expect that the possibility of ember attack would be something that any competent firefighting organisation would have in mind in protecting properties?

40 A. Which is, of course, one of the reasons why we solicit the aid of the community affected, because they can play a major part in dealing with the consequence of ember attack as opposed to direct flame contact.

45 MR WHYBROW: Your Worship, I tender those two photographs.

THE CORONER: Which two?

MR WHYBROW: The one looking up Warragamba Drive and the one look on the corner of Eucumbene and Warragamba.

THE CORONER: Two photographs of Eucumbene Drive and Warragamba will be exhibit 0033.

10   **EXHIBIT #33 - TWO PHOTOGRAPHS OF EUCUMBENE DRIVE  
AND WARRAGAMBA AVENUE ADMITTED WITHOUT OBJECTION**

15   MR WHYBROW: Q. Mr Koperberg, you said before morning tea in an answer to a question Mr Walker asked that you don't have the authority to send a fleet of New South Wales firefighters into the ACT?

A. Not unilaterally, no.

20   Q. The McIntyre's Hut fire at some stage on the evening of Friday the 17th and into Saturday the 18th broke containment lines and spotted into the ACT. I understand, and somebody will correct me if I am wrong, that New South Wales 25 firefighters quite properly pursued that fire and attempted to conduct firefighting operations within the borders of the ACT?

30   A. And I expect that would have been done with the knowledge of the ACT. Surely it is not going to be suggested that once the fire reaches the border firefighters say, "That is it."

Q. You are not suggesting that; are you?

A. No, I am not. Of course not.

35   Q. Indeed, as I understand it, a number of New South Wales firefighting operations for the fires, both McIntyre's Hut and other fires, were based with base camps in areas within the Australian 40 Capital Territory?

A. Yes.

Q. Helicopter refuelling areas, stand-down positions for volunteers, things of that nature?

45   A. There is of course more than a subtle difference between the manner in which resources are deployed within the ACT and elsewhere, where

both agencies have full knowledge of their presence, and unilaterally sending 50 fire engines into the urban parts of Canberra.

5 Q. I appreciate that. I am talking about practicalities in a firefighting situation, you are not suggesting, are you, that the border has significance to those on the ground who need to follow the course of a fire perhaps on a  
10 minute-to-minute basis?

A. No, indeed the cross-border arrangements, understandings, protocols which have long since been established and that I referred to yesterday would provide for that normal close proximity  
15 operation to go unimpeded.

Q. The McIntyre's Hut fire broke containment, as I said, on Friday not Saturday morning. Given your indications through no doubt some bitter  
20 experience of taking a worst case approach to things, when would you, knowing what your view was on Wednesday, have commenced the phase 2 for the people of Canberra of warning that there is real risk, be prepared, be aware, be afraid even?  
25

MR BRET WALKER: Your Worship, I take it there is unspoken premise there of if he was in charge of.

MR WHYBROW: Q. Absolutely. I am not suggesting you were in charge.  
30

A. You see, as I have tried to explain, I tend to be more pessimistic in these matters than some and tend to predicate decisions on a worst case scenario, and there is ample evidence to support  
35 that.

Q. And you said indeed yesterday that you would rather be criticised for giving and it turning out not to occur than not doing enough and it comes to pass?  
40

A. In the interest of consistency, when similar scenarios have presented themselves in New South Wales we have gone into the community and warned them about the potential for ember attack, for  
45 argument's sake, even though the majority of assets under threat may not have been under threat from direct flame contact for a variety of

reasons.

Q. Sure.

A. We do that, as you have said, from bitter  
5 experience.

Q. When would you have done that in this case?

A. Given the forecast conditions probably during  
the course of Friday and certainly concentrated  
10 resources to a very large degree on the Saturday  
morning, in fact probably from midnight on Friday  
night.

Q. By Friday night, from all intents and  
15 purposes, the weather was going to come to pass,  
I suggest.

A. Yes, and it is true that, to the south of  
Canberra, fires burning within the ACT crossed  
into New South Wales during the course of that  
20 night and posed a threat to places like Michelago  
and Williamsdale. In both these areas,  
the precautions that I have spoken of were being  
implemented.

25 Q. When was that?

A. Friday night - the night of Friday the 17th.

Q. The night of Friday the 17th. Okay. Could  
document [NRF.AFP.0001.0365] be brought up please.  
30 I understand this document to be in effect a  
scribe's records of events at the fire control  
centre in Queanbeyan on 18 January 2003. If we  
could move through to page 0367. At 1007 there is  
a note about Martin Wookey, who I understand was a  
35 police officer in the area of southern New South  
Wales. It reads:

40 "Warning needs to go out to residents. Media  
and drops will be used. Given map with names  
and postal addresses of all residences. Fire  
moving west from Mt Tennant towards the east:  
Williamsdale, Michelago, Royalla, Burra."

Do you see that there?

45 A. Yes, I do.

MR BRET WALKER: Could I just inquire,

your Worship: I don't know whether this has been dealt with by other evidence, but the numerical sequence does not work.

5 THE CORONER: It does not appear to work.

MR BRET WALKER: Can I just flag that: It may need some attention.

10 THE CORONER: What date is this, Mr Whybrow?

MR WHYBROW: This document is 18/01/03.

Q. I don't know, Mr Koperberg. I am asking you if you know, and you may not. If the document is accurate, it would appear that a police officer has contacted fire control centre in Queanbeyan indicating that there should be a warning to residences at 10am on Saturday in those New South Wales areas.

THE CORONER: That is if that chronology of time is accurate.

25 MR WHYBROW: That is if that is correct.

Q. Do you know from your own personal knowledge firstly whether or not what you said I think should occur on the Friday night in Williamsdale and Michelago occurred or do you not know from your own personal knowledge?

A. My understanding is that certain of the measures that I have spoken of were in fact implemented on the evening of Friday the 17th. So 35 I am not aware of this particular scenario.

Q. Just while that document is up, if I could take you back a page to 0366. There is an indication at 11.55 at the bottom of the page:

40 Martin Wookey, NSW police liaison officer: contingency for evacuation. Pre-emptive warning to residences in the Williamsdale area."

45 Is it your understanding that those persons would or should have been warned well before midday on

18 January?

A. I can't possibly say because I was not aware of the prevailing conditions or the relativity of fire to the places mentioned there.

5

Q. If the situation was that on Saturday the 18th the weather has come to pass and the Bendora fire, the Stockyard fires are heading very quickly through the southern areas of the ACT threatening 10 to cross into rural communities in New South Wales, if that is what the situation is, you would, wouldn't you, I suggest on what your evidence has been have expected that the phase 2 of those communities would have occurred on 15 that Friday night?

A. Quite so. As I suggested, my understanding was - not necessarily correctly - that a lot of this work occurred on the evening or the night of Friday the 17th when there wasn't a threat. 20 I think the other thing that has to be borne in mind is that one does not always have the luxury of a 36-hour period for preparation. One might --

Q. I am going to suggest to you that that is 25 exactly what happened in Canberra. There was not the luxury.

A. I have never speculated, your Worship, on the degree of impact or the consequences. I speculated only about inevitable impact. And 30 the degree of impact and its consequences was very much dependent upon the nature of the interface, the fuels, the prevailing weather, the fuels from which ember attack would occur, the spotting distance, the state of the residences - and so it 35 goes on almost endlessly.

Q. So yesterday when you said, just to clarify:

40 "I can accept the impact on Canberra was inevitable. The outcome however is a different proposition in terms of loss. The outcome would be determined by the extent to which the community was effectively informed and the amount of appliances and 45 other resources in and around the point of impact."

That, in fairness to you, is dependent on the actual time that people have to make those warnings?

A. Of course it is. Yes.

5

Q. And is it fair to say then that, in your evidence before Her Worship, you are not saying, "In my opinion they had enough time and at they didn't do enough"? You are not saying that; 10 are you?

A. Am I saying what?

Q. Are you saying to Her Worship, "The ACT authorities had enough time to warn these people and they didn't do it in my opinion"?

A. I think the ACT authorities had every right to make a judgment on the potential impact and the resulting consequences on their communities. I don't think I can make that judgment.

20

Q. You are not saying then, are you, that they didn't do enough?

A. It depends on whether I speak with the benefit of hindsight or --

25

Q. With the benefit of the hindsight obviously --  
A. Obviously no.

30

Q. But if we assume people should only be criticised for things that they should and could have done, without the benefit of hindsight, are you saying that, what could have been foreseen, enough was done by ACT authorities to warn residences?

35

A. One is in danger of making the error of assuming that what we do in New South Wales, which is a direct result of many bitter experiences and losses, automatically translates to the ACT which does not have that experience, and I don't want to do that.

40

Q. Again, in framing this question without indicating that it is a patronising relationship, you and your organisation have vast experience and indeed much bitter experience in fighting devastating bushfires and you were aware that the ACT did not have such experience?

A. Yes.

Q. And in that sense - again, it is not in a pejorative sense, but there is a big brother and  
5 little brother situation in terms of the experience that each organisation may have?

A. I think Peter is older than I am.

Q. I am not suggesting that. I will not take you  
10 back to the map but, again, put yourself in the position of being in the ACT: it is Friday night, that is where the McIntyre's Hut fire is and, boy, this weather looks like it is going to come through and there is going to be a breach of  
15 containments. Depending on where the weather goes, that fire - could it not have impacted at the top of Canberra or the bottom of Canberra?

A. Yes, quite so.

20 Q. Assuming that entire urban edge, it could be 100,000 people potentially at risk?

A. Yes.

Q. How could you possibly manage a phase 2, as  
25 you describe it, in those circumstances, even on Friday night or Saturday morning?

A. Assuming that exposure was going to be simultaneous, it would have been extraordinarily difficult if not impossible to do so, and  
30 the circumstances are different. There is a significant difference in the circumstances between the sorts of communities that are impacted upon in New South Wales which are invariably ridge top, they are clustered as opposed to a  
35 concentrated interface, and the nature of the topography dictates fire behaviour and spread and so forth which does give you an opportunity to do a range of things which may well not have been possible to do in the ACT if impact was  
40 simultaneous along the entire interface. It is for that reason that you make judgments about the likelihood of impact severity and location and so forth.

45 Q. Just while that page is up, you may not be able to assist at all, sir, at 9.40, at the top of the page, there is an indication, on 18 January:

"Phil Hanson: Forget McIntyre. Concentrate on Mt Tennant."

- 5       Are you able to assist as to what that might mean?
- 5       A. Interpreting the comment, it may well have meant that any attempt to now recontain McIntyre's Hut would have been futile, and therefore the focus should be on more pressing priorities.
- 10      Q. Given that the McIntyre's Hut fire was being fought, as I understand it, on that night and into the Saturday morning exclusively by New South Wales firefighters and given that under the then prevailing conditions it was a severe risk to
- 15      the Australian Capital Territory and in particular Canberra, would you agree it was important that there be close liaison between the ACT authorities who were at the end of this fire and the New South Wales people who are fighting this fire and know
- 20      what it is doing?
- 20      A. Yes, I expect it would have been very important and I assume that, given the fact that there was a liaison officer in the Queanbeyan EOC, that necessary liaison would have been accommodated.

- 30      Q. I think in the press release that was brought up on the Friday the 17th, [NSP.AFP.0047.0409], this is a press release you were earlier taken to on Friday 17 January at 12 o'clock. You may even still have it in front of you. Would that press release have been prepared by that liaison officer who was in the area?

35      THE CORONER: The ACT liaison officer you mean?

MR WHYBROW: No, the New South Wales.

40      THE WITNESS: I am not sure of that, but I suspect strongly it would have been prepared within our media unit at Rosehill in Sydney, in some consultation obviously with the local EOC.

45      MR WHYBROW: Q. You are familiar with a gentleman by the name of John Winter?

A. Yes.

Q. He was at the time the director of corporate communications responsible for all media communications from the service during the major incidents?

5 A. Yes, he was.

Q. Are you aware of a gentleman by the name of Cameron Wade?

A. Yes, I am.

10

Q. Were you aware from Mr Winter's statement at paragraph 17:

15

"Based on my concerns for the weather forecast, particularly factoring in the four-day weather forecast from the Bureau of Meteorology, I decided to forward deploy one of my media offices, Cameron Wade, to the Yarrawullumla/Queanbeyan area to generally accompany the RFS Task Force sent to assist the ACT."

Were you aware that Mr Wade was the person sent down?

25

A. I was aware that Mr Winter was contemplating making those arrangements, yes.

Q. Mr Winter at least goes on to say:

30

"Mr Wade has worked closely with me during the 2001/2002 fire season and is my most experienced media officer."

Would you disagree with that?

35

A. I respect Mr Winter's opinion of Mr Cameron's capabilities.

Q. It says at paragraph 18:

40

"Having been working closely with me during the preceding days, Mr Wade was thoroughly conversant with the current fire situation and our expectations for the coming days. Mr Wade arrived in the ACT at 4.30 on January 45 the 16th."

Are you aware whether or not Mr Wade - when it is

indicated was thoroughly conversant with  
the current fire situation and our expectations,  
one of those expectations, was it not, that unless  
the weather changed McIntyre's Hut is not going to  
5 remain contained and could burn into Canberra?

A. That was my view, not necessarily a view  
shared by people like Cameron Wade. I don't know.

Q. You have already indicated that it was not a  
10 view necessarily shared by Peter Lucas-Smith.

I think that is what the effect of your evidence  
has been. Are you indicating that your view was  
not accepted by others within your organisation?

A. No, I don't think I said that. I said that  
15 was my view not necessarily shared. I don't know  
whether it was or not. In any event, it is a view  
formed on my experience and it would be  
unreasonable to assume that Mr Cameron, for  
argument's sake, who is a media officer had  
20 necessarily the experience or capacity to form a  
view as to whether McIntyre's Hut.

Q. I am not suggesting for a moment that he has  
the capacity - I am not suggesting anything; I am  
25 asking you: you have said in your evidence  
previously, "We knew that if the weather didn't  
change". By "we", does that include persons such  
as the media liaison officer sent to the area,  
Mr Cameron Wade?

A. Not necessarily. I have already referred to a  
conversation I had with Bruce Arthur on or about  
12 January at which there was an exchange of  
hypotheticals and views and what have you. So  
the term "we" does not necessarily involve  
35 everyone working for the Rural Fire Service. It  
is a very generic term.

Q. It would probably involve Mr Arthur who was  
aware of your view that, unless the weather didn't  
40 eventuate, Canberra was at real risk?

A. It was partially based on the conversation  
that I had with Mr Arthur on or about 12 January  
that I formed my views in the first instance,  
because I respect his capacity to, you know,  
45 within certain parameters to make these judgments.

Q. Certainly. You would expect also that if he

shared the view that you had as at Wednesday that unless the weather changed it was inevitable that: one, containment at McIntyre's Hut could be breached; and, two, a fire, possibly if not

5 probably McIntyre's Hut, would burn into Canberra - you would expect him to pass those concerns on to the media officer when he arrived?

A. That would be a reasonable proposition, yes.

10 Q. On the press release on the 17th, that is at noon on 17 January, about halfway down, and you have already been taken through and asked questions that it does not in terms forecast - in terms that the inevitability of the fires  
15 breaching McIntyre's Hut if the weather comes up. I think you have already accepted that?

A. Yes.

Q. It does note that:

20 "Close communications between ACT and New South Wales fire authority is occurring through liaison officers and daily joint planning meetings."

25 That is, I suggest, what you would have hoped would have been the case?

A. Yes.

30 Q. And indeed where a significant risk to the territory comes from a fire being fought in New South Wales by New South Wales resources, it would be crucial that there is such a close communication?

35 A. Yes.

Q. And indeed I think you have already said that is one of the reasons Mr Wade - or a media officer who we now know as Mr Wade - was sent down to  
40 the area; is that correct?

A. I don't know that I said that. I certainly referred to that is the very reason we had a liaison officer of the ACT in the Yarrawonga EOC.

45 Q. We get to noon on January 2003. That media release you, I think, have expected would have been released by somebody in Rosehill based on

communications with the on-the-ground officer in Queanbeyan?

A. That would be my expectation.

5 Q. Your expectation would also be that, having arrived, that officer would have been briefed by Mr Arthur as to the grave concerns that you and he held for Canberra if the weather didn't change or if the weather did change?

10 A. I am not quite sure that it would be reasonable to expect Mr Arthur to be as predictive in terms of the potential for Canberra as I had been as early as Wednesday the 17th. I think that would be an unfair expectation of him. He would 15 be required to be a deal more circumspect, I suspect.

Q. Is it fair to say that, having formed the view yourself of inevitable dire consequences of some 20 sort to Canberra unless the Bureau of Meteorology has got it wrong, you maintained a fairly close watch on what the conditions were developing over those next few days?

A. Yes.

25 Q. Come Friday, 24 hours before it really gets bad in Canberra, noon, those predictions have firmed up quite significantly; have they not?

A. They have.

30 Q. You no doubt were, if you were concerned on Wednesday for Canberra, extremely concerned for Canberra on Friday?

A. I was concerned, of course, principally with 35 fires for which I have a responsibility.

Q. Certainly.

40 A. And given the fact that there was, for all intents and purposes, effective liaison between the ACT authorities and the incident controller for fires burning in the Yarrawumla Shire of which McIntyre's Hut was one, I would have expected that there would have been very close collaboration to ensure that whatever resources 45 were available were utilised to maximum effect.

Q. And indeed I suggest, and I will take you to

it in a moment, that that close liaison extended to the point that, at or about midday on January the 17th, a media conference was held at the Emergency Services Bureau in Canberra at which

5 Mr Castle spoke, Mr Lucas-Smith spoke in relation to the ACT fires, and then Mr Cameron Wade spoke in relation to the New South Wales fires covering McIntyre's Hut and those burning up towards Thredbo area; were you aware of that?

10 A. I was aware and I have been shown a tape of a press conference certainly at which Mr Lucas-Smith and Mr Castle spoke. I did not see Mr Wade speak on that same tape. Whether there had been another press conference or not, I am not aware of.

15 Q. I understand for the purposes of the inquest what was produced was a video of the ACT people, but that the audio has been transcribed which then goes on to indicate a number of statements made by  
20 Mr Wade.

A. And I have not heard them.

Q. Okay. Before I come to that, it was put to you yesterday by Mr Lasry in relation to a  
25 protocol - at page 2120 Mr Lasry read to you a paragraph from Mr Castle's statement about:

30 "If anyone wanted detail of the 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."

The question Mr Lasry asked you was:

35 "Do you agree with that? Was there a protocol and agreement in force as at 17 January under which the ACT ESB would not talk about New South Wales fires and would  
40 only talk about the ACT fires?"

Your answer was:

45 "It is an oversimplification. General convention has it that New South Wales does not talk about fires in Adelaide or Melbourne or Brisbane, and they don't talk about fires

bearing down on Sydney. However, it is not at all uncommon for us to talk about a fire crossing the Queensland border and threatening properties in Glen Innes or  
5 Tenterfield or any of those places. So it is only a reflection of a general standard."

You then said:

10 "That does not preclude anyone saying, 'The fires burning immediately to the west of our border are likely to impact on the ACT.'"

Do you recall that answer?

15 A. Yes, I do.

Q. Are you saying that, as far as you were aware, there was no convention whereby you talk about your fires and we will talk about ours?

20 A. Not as specifically as that. You see, we need to differentiate between talking generally about fires and talking about operational details. I think I may have mentioned yesterday that the sort of the operational detail that would be 25 the purview of the appropriate jurisdiction to talk about was the number of appliances, the number of personnel, the methodology of dealing with that fire and so forth and so on. So whilst that convention exists, it relates to 30 talking in detail about what is being done about a particular fire - for no other reason incidentally than the jurisdiction responsible for it is more likely to be equipped to talk in some detail about that fire.

35

Q. Absolutely. In terms of what is happening at McIntyre's Hut, the New South Wales firefighters are fighting it; they are in the best position to let people know how it is going?

40 A. Yes.

Q. In terms of the ACT, ACT firefighters are fighting it; they are in the best position to tell the media how that is going?

45 A. Yes.

Q. If the ACT fire is at some risk of sweeping

across the southern ACT and impacting on New South Wales, you would not have any objection to ACT authorities providing in their media releases warnings to those persons; would you?

5 A. It depends on how specific they were. If those warnings related to very specific areas such as a village or a settlement or whatever, then I would expect that the appropriate jurisdiction would issue those warnings.

10

Q. How could they if they didn't know what was happening with the fire?

A. Well, with respect they should know. If there is effective liaison between --

15

Q. Sorry, I misunderstood --

THE CORONER: Mr Whybrow, I think you should give Mr Koperberg the chance to finish.

20

MR WHYBROW: Q. When you say that jurisdiction --

A. You referred to a fire crossing from the ACT into New South Wales and the ACT authorities giving specific warning to potentially affected populations?

25 Q. Yes.

30

A. I meant in my response to suggest that that is really the responsibility of the New South Wales authority in whose jurisdiction those populations exist, and that that warning or that mechanism for creating an awareness amongst that potentially affected community would be the consequence of effective liaison between the two jurisdictions as to the progress of that fire.

35

Q. That is a prerequisite in order for it to work that way, isn't it? If the ACT fire is getting away and threatening New South Wales, is it your evidence that New South Wales should warn New South Wales people?

A. Yes.

40 Q. Since it is not --

45

A. In a general sense.

Q. In a general sense. That can only be done if

the ACT people tell the New South Wales people, "You have problems, you better warn your residents"?

A. I think I drew an analogy yesterday between fires crossing the border into New South Wales from Queensland where the Queensland authorities say, "Look we have lost this fire, it is going to move into your area." And from that point on, we begin to not only deal with the strategy of containing it or suppressing it but also warning those who need to be warned about some potential impact, and that is a general convention, if you like. It is not a policy enshrined in legislation or standard operating procedure; it is a general understanding.

Q. So is it your evidence that the McIntyre's Hut fire, if and when - not looking with hindsight - it breached containment lines and started to burn towards urban Canberra, notwithstanding it is New South Wales firefighters fighting that fire, it is really only for the ACT to give warning to the Canberra residents?

A. It is a question of degree. I mean, how far has it penetrated into the ACT? How imminent is the threat to ACT assets - I am sorry, to Canberra properties? What is the likelihood of the fire being contained before impact arrives? I think I have suggested that certainly on the morning of the 18th it was difficult, if not impossible, to ascertain the extent to which the fire had crossed because of the smoke inundation making aerial observation difficult, if not impossible. So there was a degree of uncertainty about the extent to which the breach of the containment lines which had been confirmed had penetrated into the ACT.

Q. So would you accept then that early on Saturday morning, New South Wales authorities because of this smoke were not in a really good position to say what the likely impact for Canberra was in the short to medium term?

A. If they did know exactly where the fire was, then, yes, that is so. That follows, doesn't it?

Q. Yes. And it also follows that, in order to warn the residents of Canberra, the New South

Wales authorities would need to advise the ACT authorities as to what the risk of their fire breaking out is for them to do that?

A. Yes, but I mean there is also an instinctive element about this, and it was well established that there were multiple fires burning to the west of Canberra, some within the ACT, some within New South Wales. It had also been reasonably established that the prevailing weather and 10 the forecast weather was enough to give rise to concern. It thus becomes a judgment call on the part of the relevant authority as to the extent it begins to alert its population.

15 Q. Well, when we are talking about the McIntyre's Hut fire, because that is the fire that burns into Duffy and Chapman, at Friday lunchtime that fire is a New South Wales responsibility; correct?  
A. Whilst ever it is New South Wales, it is principally a New South Wales responsibility, yes.

Q. As of Friday lunchtime all weather reports indicate and it would have been your view, would it not, that it is inevitable that it is going to breach those containment lines and head towards 25 Canberra?

A. That was the view that I formed, yes.

30 Q. You were aware of those weather reports on Friday, having followed the course of this concerning fire to Canberra?

A. Yes.

35 Q. There has been talk in this inquest when in a certain person's heart of hearts did they realise this fire was going to hit Canberra. When in your heart of hearts did you realise that there was going to a fire hit Canberra?

A. When did I know it was going to hit?

40

Q. Yes?

A. Hours before it did. When did I speculate it might? At such time as the Bureau of Meteorology confirmed to me on the morning of the 18th that 45 the weather about which they had been speaking for some days would prevail. That is when it became no longer a matter of opinion but also a matter of

fact.

Q. So it really depended on what happened between Friday lunchtime and Saturday morning as to 5 whether what you had always feared is really going to happen?

A. Certainly, but a good deal of success or failure in protecting a community is dependent upon one's capacity to speculate upon best case or 10 worst case scenarios. As I constantly say, it is a matter of judgment. Those who do not come to the same conclusions as someone else are not necessarily, in my view, subject to undue criticism. It is a matter of opinion.

15

Q. Well, today in this inquest, having come in late, from what I have read, those who have made those decisions in the ACT have been subject to great criticism. What I am asking you is: if you 20 were running this show, would you have been warning the residents of Canberra on Friday night that they are likely going to be facing direct and ember attack fires on Saturday?

A. Yes, I would.

25

Q. Would that have been as a result of --

A. If I had the responsibility and authority to do so.

30

Q. Absolutely. That predicated the question. Would that have been because of the firming up of weather reports indeed on Friday?

A. Yes, in part and occasioned or necessitated by the knowledge that we were dealing with a 35 situation difficult to predict the outcome of.

Q. But getting clearer every day?

A. Yes, and one does not know, of course, until the time it occurs that the weather forecast is in 40 fact the weather that is going to prevail. There are very many instances, as I said, where it does not prevail.

Q. If I can take you then to the part of 45 the transcript, which is [DPP.DPP.0003.0476]. As I said, that there was a press conference at which Mr Wade was in attendance on the morning or about

lunchtime on 17 January. Before I bring that up, can I suggest to you what was in place in terms of the media between New South Wales and ACT is set out by Mr Winter, the head of your media 5 organisation, at paragraph 45 of his statement, where he said:

"I reiterated in several conversations with Cameron Wade the need for us to only comment 10 on fires within our jurisdiction. By dint of accessibility and of our capacity to deliver good quality interviews, ACT media were frequently seeking our comment."

15 Would you disagree that, according to Mr Winter's approach, New South Wales would talk about New South Wales fires only?

A. Because it was best equipped to do so.

20 Q. Indeed.

A. Yes.

Q. The document I have just brought up has been produced, as I understand, by the ACT Government 25 as a transcript of what occurred at the interview on the 17th. If I can go to page 0477. In asking you my following questions, sir, I indicate that I am suggesting that Mr Lucas-Smith's comments are predicated on he talking about the ACT fires and 30 then Cameron Wade talking about the New South Wales fires; do you understand that?

A. Yes, I do.

35 Q. In the middle of that page, the paragraph starting most definitely, Mr Lucas-Smith says:

"We have now gone out of the easterly and southeasterly influence that we've seen for the last 7 days in the ACT region. We've 40 moved around into more of the general summer but with a bit more of a vengeance in that the winds now come from the north-west, there blowing at a strength that puts us into an extreme fire danger particularly on a 35, 36 45 degree temperature day."

Do you see that?

A. Yes, I do.

Q. It would appear that at Friday lunchtime  
the conditions had started that you had feared  
5 would occur on Saturday?

A. Yes.

Q. At page 0480 about halfway down:

10 "Media: How far are the fires from Canberra  
and what are the chance it will reach edge?"

15 "Peter Lucas-Smith: Well, the fires are a  
fair way, I have measured in kilometres and  
they are a fair way away from the edge of  
the urban area of the ACT. Under a north  
west wind conditions the chances of meeting  
the urban edge is pretty slim."

20 A. That, your Worship, is an inaccurate  
transcript because I watched the interview less  
than 48 hours ago and what Mr Lucas-Smith said was  
he had not measured it in kilometres.

25 Q. Sorry. Accepting that as being the case,  
the part of the comment that I am most concerned  
with is "under a north-west wind conditions  
the chances of meeting the urban edge is pretty  
slim". If you recall the map I put up earlier and  
30 assuming Mr Lucas-Smith is only talking about  
Bendora and Stockyard, which are the ACT fires at  
that stage and that a north-west wind has started;  
would you not disagree with what he is saying,  
that those fires in effect are heading down below  
35 the urban areas of Canberra?

A. Assuming that Mr Lucas-Smith was speaking only  
about the Stockyard and the Bendora fires, that  
may well be the case.

40 Q. At page 0482:

"Media: How long are the NSW firies here  
for --

45 And there is an answer, and then the media then  
ask:

"So you asked for more personnel for containment and back-burning?

5 Peter Lucas-Smith: we most definitely, we will have to go down that path as I said we have a much wider perimeter."

I take it from the answers that you gave yesterday that you were not aware of an intention from  
10 the ACT for asking more resources on Friday?

A. A request on Friday?

Q. That there was going to be or there was intended to be a request for further resources?

15 A. No. But I think it has to be remembered that a good deal of this can be achieved at the local level without necessarily a wider involvement. In other words, the exchange of resources is, as you would expect it to be, quite commonly handled at  
20 the local level.

Q. If we could go to page 0485. At the bottom of that, you will see that the transcription says:

25 "End of interview, 17 January 2003."

And then proceeds to commence to transcribe Cameron Wade's comments. If we go over to 0486. Mr Koperberg, I understand that Mr Wade's press conference in effect took place immediately following what we have just been going through. Mr Wade says at about noon on Friday:

35 "The McIntyre's Hut fire burning to the direct west of Canberra in NSW, now burnt out some 8,000 hectares is also still burning within containment lines although the containment lines on the south-eastern side are only very small really, their  
40 500 metres or so in depth and we are expecting those to be tested fairly extensively today."

He then says:

45 "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 of the McIntyre's Hut  
fire are working very hard as we speak at  
the moment to try and contain those  
5 containment lines."

Do you see that? Do you accept that that is what  
Mr Wade is saying at noon on Friday, that the wind  
has already picked up at McIntyre's Hut - accept  
10 that for a moment, if you were there you would be  
very concerned for Canberra at that stage; would  
you not?

A. Yes, I would, recognising that different wind  
velocities will occur at different elevations and  
15 what is occurring on the McIntyre's Hut fire need  
not necessarily be occurring elsewhere, and lower  
elevations particularly. But nevertheless that  
occurrence would tend to be consistent with my  
ongoing concern that the fires - not then being  
20 able to judge which fire had potential for both  
the ACT and Canberra.

Q. But absent - whether it is privately to ACT  
officials or directly to the public, it would be  
25 appropriate in your view, would it not, to start  
telling the residents of Canberra, "These fires  
are not going to be contained if these are  
the conditions that continue"?

A. No, I don't believe I have that authority.  
30

Q. No, I didn't ask you that.

A. Well --

THE CORONER: That is really what you are saying,  
35 Mr Whybrow.

MR WHYBROW: No, your Worship, there has been  
criticism of my client in particular of what he  
did and did not do.

40 THE CORONER: What you are now putting to  
Mr Koperberg is maybe he should have done that.

MR WHYBROW: No, not he personally, but in this  
45 position, is this the stage where --

THE CORONER: Where he would have, I beg your

pardon.

MR BRET WALKER: If he had been Mr Castle.

5 THE CORONER: If he had the authority, would he have done it at that stage. Did you understand that?

THE WITNESS: Yes, I do, your Worship.

10 MR WHYBROW: Q. Mr Wade is there briefing the media in the ACT as to the McIntyre's Hut fire, if we accept that this is accurate.  
A. Well, he is advising the media generally. He  
15 is simply doing it from the ACT.

Q. If he had been appraised of Mr Arthur's and your views that had developed from the Wednesday that this - a fire is going to break containment lines and hit Canberra, wouldn't this be the time to say that?  
20

A. If there were no issues of jurisdiction and Cameron Wade was speaking on behalf of a person who had jurisdiction within the ACT, yes. But  
25 that was not the case, so Cameron Wade could not have been expected to make that quantum leap in terms of what he was allowed to say and what he was not allowed or what was proper for him to say and not proper for him to say.  
30

Q. Are you saying that if he had been appraised of these views and had formed the same or had been appraised of these serious concerns, it was not proper for him at this media conference to warn  
35 anybody in Canberra about it?

A. Not specifically. The mixed messages that are likely to arise from that sort of modus operandi are quite horrific to contemplate. We have on one hand in a subsequent interview to the one you  
40 refer to Mr Lucas-Smith saying that there was a slim chance, you would hardly expect the population of Canberra to not be confused were Cameron Wade, an officer from another jurisdiction, saying, "Tomorrow or some time these fires are going to hit Canberra and the people of  
45 Canberra should beware". It could not possibly work like that.

Q. Couldn't possibly work that, with all due respect to Mr Lucas-Smith, he would say, "This is our fire, we are fighting it, we know it is going to get out and it is going to come your way." He shouldn't say that?

A. Well, no, he shouldn't. He can make statements or he should make statements of a very broad nature. We can talk about the prospect of fires crossing borders, but people without the jurisdiction in a particular territory ought not be advising the communities of those territories that they are going to be impacted upon and they should do certain things. That is the responsibility of the jurisdiction within that territory.

Q. So all the responsibility of somebody in Mr Wade's position would be is to privately - and not even confusing the public on it - privately inform those in the ACT what prognosis New South Wales has for their own fire so that they can --

A. It is not so much for Mr Wade to do that, of course, as it is for the operational people to do that.

25

Q. For somebody to --

A. Mr Wade spoke in his press conference of the McIntyre's Hut fire, and he gave the broad community and the general media a situation report, for want of a better word, on what was happening in New South Wales with the McIntyre's Hut fire. The liaison mechanisms established between the ACT and New South Wales principally at the level of the emergency operations centre in Queanbeyan ought to have facilitated sufficient exchange of information to ensure that both parties were equally aware of the potential for a number of fires to do any number of things. And one would expect that a number of scenarios would have been canvassed - best case, worst case, and everything in between - and that in terms of dealing with fires within New South Wales appropriate action would have been taken to try and minimise the possibility of incursion into the ACT; and that a scenario would have also been considered that, if the fire were to encroach not only into the ACT but Canberra itself, what would

we do about it.

Q. Given that in terms of a briefing to the media in this situation, if he had on board your and  
5 Mr Arthur's concerns, whilst constrained by not commenting about the effects in other jurisdictions, you would not expect him to say, "There is no threat to any property in the area"?  
A. I would expect him to say that any more  
10 than I would expect him to say - he has to give information or provide information of a very general nature. And where he deals with specifics, it relates to what is being done about a particular fire and the resource commitment and  
15 so forth and so on.

Q. If you can just look at the screen then - one last question before lunch. Can you explain why Mr Wade did say:

20 "At this stage there is not threat to any property in the area."

A. Because at that stage there probably wasn't.

25 MR WHYBROW: Is that an appropriate time, your Worship?

30 THE CORONER: Yes, we will take the luncheon adjournment.

**LUNCHEON ADJOURNMENT**

[1.03am]

**RESUMED**

[2.05pm]

35 MR WHYBROW: Q. Mr Koperberg, just so I can properly understand the answers that you were giving shortly before lunch, is the effect of your evidence that, if there is a fire in your jurisdiction which may impact on another jurisdiction, the procedures or protocols in place are that it is for the authorities in that other jurisdiction to warn their people of any risk?  
40 A. Where there is a threat to the safety of people and to their assets, yes. Again, if I could be permitted to reinforce the fact that there are two types of advice: one is of a very

generic general nature, for argument's sake, there is a likelihood of this fire moving from New South Wales into the Australian Capital Territory; as distinct from the more specific advice, "The fire to the west of Canberra is going to impact upon the urban interface and constitutes a threat to people and people's assets". Of course press releases do not constitute advice; they constitute information.

10

Q. They could include advice; could they not?

A. In the very specific areas, and that is invariably phase 2 of our modus operandi.

15

Q. But in terms of what happened here on Saturday 18 January, there is a fire being fought called the McIntyre's Hut fire - had been called that for 10 days or so and had been reported in the media as such - being fought by New South Wales firefighters?

20

A. Principally, yes.

Q. And certainly in the latter stages solely by New South Wales firefighters?

25

A. Yes.

Q. That fire at some stage between late Friday and early Saturday breaks containment lines and moves into the ACT?

30

A. Yes.

35

Q. That fire ultimately, not many hours later, travels some number of kilometres that the evidence probably has already disclosed and impacts on Duffy and Chapman that afternoon?

A. Yes.

40

Q. Isn't this protocol that we won't tell them about a risk putting at risk people's lives and properties because there are these extra steps that niceties and protocols demand?

45

MR BRET WALKER: Your Worship, I do object.

Criticism of the New South Wales authorities for observing any such protocol is beyond the capacity of this inquest.

MR WHYBROW: Your Worship, can I just respond to that?

THE CORONER: Yes, Mr Whybrow.

5

MR WHYBROW: If part of what your Worship is inquiring into is the level of warning that residents of the ACT had and to what extent, if any, it may have ameliorated the losses, including 10 the loss of life, then if it turns out that the New South Wales fire broke into the ACT and some protocol required that New South Wales not tell the residents of the ACT that there is a risk, that is something that your Worship may want 15 to make some comment on in future situations, in my opinion, in my submission.

MR BRET WALKER: May I make it clear: I think as 20 your Worship understands from earlier submissions that comment is one thing, criticism is another. It is only the latter that I am objecting to. I am not suggesting for a moment your Worship has in mind criticising New South Wales authorities. 25 It is only counsel's question that did, and in somewhat emotive terms; hence my objection. May I make it crystal clear we have no jurisdictional objection to your Worship making comments about the state and territorial cooperation and the like. It is only the criticism that I rise to 30 object to.

THE CORONER: I understand what you say, Mr Walker, but the question that Mr Whybrow asked, in my view, has already in some form or another 35 been answered by Mr Koperberg.

MR BRET WALKER: Yes, indeed.

THE CORONER: He has answered that, Mr Whybrow. 40 But I will allow you, if you didn't understand the answer, to ask that question, unless Mr Koperberg has any personal objection to repeating the answer. But he has already answered the question.

45

MR BRET WALKER: Quite so, your Worship.

MR WHYBROW: Well, I have not appreciated the answer to the question.

Q. Mr Koperberg, let me put it this way: in a  
5 situation where a fire in New South Wales may cross the territory border and then move very quickly into urban areas, would you not consider the then in place existing protocols that only the ACT people should warn the ACT residents of a  
10 risk presented some possible impediment to the effective communication of risk to residents of the territory?

A. I think it would be inappropriate for the New South Wales authorities to communicate directly  
15 with the population of Canberra about what they perceive to be a risk in specific terms not being aware of what measures the ACT authorities had for dealing with the fire on their interface. In other words, it would be irresponsible for the New  
20 South Wales Rural Fire Service to have made a statement, a public statement, warning the residents on the Canberra interface specifically that they were endangered without understanding what preparations or resources were  
25 available to the ACT authorities to protect those residents.

If the question is predicated on the ACT authorities having no understanding or no advice  
30 that the fire was likely to impact upon Canberra, that would be one thing. But that was not the case because throughout the week, certainly post the morning of Wednesday January 15, we had expressed our views that we held grave concerns  
35 for the ACT and Canberra; thus our concerns predicated on little more than prediction were made aware to the ACT authorities.

Q. Those concerns were based on - from Wednesday,  
40 you have indicated in evidence that you had a conversation with Mr Lucas-Smith and expressed to him two scenarios, one of which involved houses in Canberra burning?

A. A fire in the suburbs of Canberra, yes.

45

Q. You indicated that he didn't seem to share your view?

A. Yes, that was my belief.

Q. You have indicated in other parts of your evidence that you had a lot more experience in dealing with these fires - you as in the New South Wales authorities - than the ACT authorities?

MR BRET WALKER: When he says "these fires", he doesn't mean in the Canberra suburbs, I take it?  
10 What are we talking about?

MR WHYBROW: Sorry, bushfires in general.

Q. You have had more experience in fighting campaign fires of this nature than the ACT authorities had?

A. Because there were less of such fires within the ACT.

20 Q. Absolutely, yes. Can you point to any document anywhere which discloses that anybody in the ACT was specifically put on notice from Wednesday until Saturday morning that, if the weather stays the same, it is inevitable that 25 the fire will reach Canberra?

A. I can point to two instances or two vehicles which contained generic advice to that effect. One is the interview that I gave immediately after the meeting on the afternoon of Wednesday 30 15 January, and the other is in a subsequent press release which talked about the potential for increasing risk to developed areas. Both those scenarios dealt with very general advice.

35 Q. Mr Koperberg, you have just said that it is not for New South Wales to tell ACT about its risks. I am asking you: is there any advice from you or any of your members to those in control of the ACT expressing in terms the views that you and 40 others held from as early as Wednesday, 15 January?

A. Your Worship, with respect, I did not actually say that it was not for New South Wales to not advise the ACT about risk. What I said was it was 45 not for New South Wales to specifically warn the residents about a specific risk. It is certainly our responsibility to communicate to

the ACT authorities our opinion, accepted or otherwise, and the fact that the fire for which we have jurisdiction may well enter areas under their jurisdiction, both of which we did.

5

Q. Okay. Where, can you please, if you are able to, show me a document where in terms you expressed your opinion to the ACT authorities that, if the weather stays the same, suburbs of 10 Canberra are going to be in the path of fire?

A. In my statement provided to the Australian Federal Police.

Q. No, contemporaneous document at or about 15 the time this is all occurring.

A. No, I can't point to such a document.

Q. You have just indicated in your evidence that it is a responsibility of those fighting the fire 20 in their own jurisdiction not to warn the residents of the other jurisdiction but to provide their opinion as to what might happen with that fire to the other jurisdiction's authorities?

A. But I did.

25

Q. That is on Wednesday the 15th; is that what you say?

A. Yes, and I also believe that the whole purpose of having an ACT liaison officer posted to 30 the Yarrawonga EOC was to ensure that during the course of planning meetings which occurred twice daily at which the ACT liaison officer was present there was an effective chain of communication between the two agencies. I have no 35 reason to believe that whatever information we had was not instantaneously available through the liaison officer to the ACT authorities.

Q. So whilst you were not involved at that 40 operational level, you would expect that, at some stage following your conversation on the 15th, information was specifically provided to the ACT liaison officer that if the weather goes as predicted, containments are not going to hold and 45 Canberra is going to suffer fire.

A. On several occasions --

Q. Is that what you would expect that there would be records of?

A. Well, there are records in as much as there are transcripts of things said, interviews given, 5 and they clearly indicate that, as early as January the 15th, I alluded in general terms to the potential for the fires burning to the west of Canberra to put at risk major assets, including pine forests on the border of New South Wales and 10 Canberra, I used incorrectly, and the ACT itself. It was not as if there wasn't an awareness of the prospect of fire moving into Canberra or, for that matter, the McIntyre's Hut fire moving into the Australian Capital Territory.

15

Q. Well, on this day we know that once that fire moved into the territory, it moved with great speed. Are you saying even in those circumstances the appropriate channels are for us to tell ACT 20 and for ACT to warn their residents?

A. Very much so, in as much as the fire traversed lands within the ACT and were able to be sustained by fuels within the ACT to ultimately impact upon the Canberra interface. It would be irresponsible 25 of us to go unilaterally to the community of Duffy or Chapman or elsewhere and say, "You should be doing the following things", when in fact it is entirely within the purview of the authority charged with the responsibility of guarding safely 30 those communities.

Q. What I am suggesting is that in the unusual circumstances of this particular day, what would have been wrong with saying, "Our fire has got out 35 of control. It is coming your way. Take precautions"? What would have been wrong with that in the urgent circumstances of Saturday 18 January?

A. It would be improper for us to assume to 40 advise the residents living within a sovereign state not under our jurisdiction that they should do certain things. If the information about the potential escape of the McIntyre's Hut fire and its subsequent crossing of the New South 45 Wales/ACT border had not in any shape or form or its potential been communicated to the ACT authorities, then that would have been a different

proposition. But the information required to enable the ACT authorities to take certain measures, as indeed were taken elsewhere, was provided.

5

Q. So you are confident that at the end of this inquiry there will be ample evidence that, on the morning of 18 January, members of your brigade gave explicit and timely warnings to those in the ACT so that they could make those warnings?

10 A. Not members of my brigades, your Worship, but at a higher level. I have already testified that on the morning of the 18th it was difficult to detect actually where the fire was. That applied 15 incidentally not only to the McIntyre's Hut fire; it applied universally to a number of fires.

There was certainly I understand a general acceptance of the fact that, on the night of the 17th, the McIntyre's Hut fire was only a short 20 distance from the ACT/New South Wales border.

The prospect of that occurring had been signalled through various mediums for a number of days, and in fact it was acknowledged by the ACT authorities that the potential for the fire reaching Canberra 25 ought not to be discounted and was being taken account of in their planning.

Q. If I was to suggest to you, Mr Koperberg, that the ACT authorities became aware of the McIntyre's 30 Hut fire having reached the ACT through one of the ACT helicopter pilots spotting it rather than through any direct communication from New South Wales, would you be in a position to accept or reject that?

35 A. No, I wouldn't - and in any event the critical issue was that they be made aware, not so much from whom or in what method.

Q. Given that you say in reality the system 40 works, that is predicated on close communication between the jurisdictions; isn't it?

A. Yes, and it surely is reasonable, isn't it, that someone who is flying over the fire has far speedier access to the information as to exactly 45 where it is than someone remote from it.

Therefore, if an ACT helicopter was able far more quickly to determine the exact location of

the fire than someone on the incident management team at Yarrowlumla for argument's sake, then that is fortuitous.

5 Q. Your evidence appears to the effect, I suggest, that "we knew earlier on that a fire - in all probability on the weather forecast McIntyre's Hut fire - would break containment lines and could pose a risk to Canberra." Is that a fair summary?

10 A. This is what I imparted as my opinion as early as Wednesday the 15th.

Q. You have also to some extent indicated that that was an opinion that had been shared with  
15 those around you, members of the brigade?

A. If we could look at this in the context of quite necessary speculation and the canvassing of multiple scenarios, then yes.

20 Q. I would like to take you back, sir, to Mr Winter's statement, who was the director of corporate communications. At paragraph 43, which I suggest is --

25 THE CORONER: Have you got the document number, Mr Whybrow?

MR WHYBROW: Yes. It is [NRF.AFP.0002.0006] at 0023.

30 Q. Someone will stop me if I put this incorrectly, but this part of his statement, which appears to be set out in chronological order, comes after he refers to broadcasts that were made  
35 on Saturday afternoon. It appears to be comments about the general situation. At paragraph 43, you will see he says:

40 "I was aware that the fires to the south of Queanbeyan were running but were not causing substantial threat to a significant number of homes. I was further of the impression that the McIntyre's Hut fire to the north-west of Canberra would run into an equally sparsely populated area."

45 As it turns out, he was gravely mistaken; was he

not?

A. Mr Winter?

Q. Yes?

5 A. Mr Winter is principally a media officer, a communications officer, not a fire expert.

10 Q. In terms of protecting life and property, apart from on-the-ground firefighters, letting the public know through the media officer has to be one of the most important functions of the fire service; does it not?

A. It is certainly one of the vehicles, yes.

15 Q. Do you know where he is getting his information that is the basis of that opinion from?

A. No, I don't.

20 Q. It would appear to be at odds with your opinion as to the risk that this fire posed to Canberra, is it not?

25 A. Yes, it would, and I would also like to think that it can be acknowledged that people in the New South Wales jurisdiction need not necessarily have a full understanding of the Canberra interface geography.

30 Q. No, but when a fire that they are exclusively fighting has the potential to impact on that interface, one would expect them to be cognisant of that fact; would they not?

35 A. Yes, and I believe we were cognisant. That does not necessarily mean that everyone in the organisation was so cognisant.

Q. It would appear that the head of the media was not cognisant of that fact; if that statement is correct?

40 A. Well, he too expressed an opinion.

45 Q. Just on another point - perhaps it is not for you, Mr Koperberg. If I can take you back to just before lunch, we were discussing Mr Wade's comments to the media from Canberra on midday on the 17th. It was document [DPP.DPP.0003.0476] and we had 0486 on the screen. Mr Wade, and again it

may be repeating myself or yourself, was there as part of this liaison between the ACT and the New South Wales authorities for a co-ordinated approach to fighting all the fires; was that

5 the case?

A. I understand it to be, yes.

Q. At 0488, as was no doubt of some grave concern to you, you had other fires to worry about than  
10 the one that concerns this inquest - essentially in the Kosciuszko National Park?

A. Yes.

Q. And Mr Wade, you will see on this page, is  
15 asked:

"Media: What is the state of the fires in the Kosciuszko region?"

20 And his answer at the third line indicates there is not threat to any properties at this stage, and further down in the second last sentence he says:

25 "It will be a number of days before the fire may impact on that area, if it impacts at all on that area. It is certainly something that is in the back of our mind."

Do you see that?

30 A. Yes, I do.

Q. At the bottom of that page he indicates:

35 " ... I must stress that we are not evacuating Thredbo today or tomorrow, probably not even Sunday it could be a little while later yet if the fire even progresses that far."

40 Do you see that?

A. Yes, I do.

Q. In terms of your following the situation, as of Friday lunchtime the threat that McIntyre's Hut posed to Canberra was of much greater concern than a threat other fires posed to villages in the alps?

A. In terms of magnitude, yes. Nevertheless, in the case of the alpine villages, accepting the risk or the potential risk - remote or otherwise - steps were immediately taken to  
5 consult with the community. Community meetings were held, papers were distributed, advice was provided and, as a consequence of this, when fires did impact on several of those alpine villages, losses were able to be kept to a minimum. It may  
10 well be argued had the fires not impacted upon those alpine villages that the exercise was unnecessary and perhaps even alarming. But I can only reiterate that we tend, rightly or wrongly, to assume a worst case scenario attitude.

15 Q. Yes, well, without going through that again, can you indicate anywhere other than on the 15 January where in writing it was provided to the ACT authorities what our worst case scenario was based on what your fire could do, McIntyre's Hut?

A. No, it was not communicated in writing. It would be a precedent to have done so. We rely on effective liaison, communication and an  
25 appreciation by jurisdictions likely to be impacted upon that some action to counter that impact will be necessary.

30 Q. When I was asking you about Thredbo, it was in the terms of that the immediate threat to Thredbo appeared to be less than the immediate threat to Canberra.

A. In chronological terms, yes, and I guess in terms of --

35 Q. As at Friday lunchtime?  
A. As at Friday lunchtime, yes.

Q. One of the things you said was important in  
40 these situations was effective liaison and communication?

A. Yes.

Q. Can you indicate why it was that, at about  
45 7.30pm on January the 17th, you spoke to Mr Wade directly and told him to relocate to Jindabyne?

A. I don't actually recall having spoken to

Mr Wade personally - I don't deny for a moment that I did, incidentally.

Q. Just so you know, that comes from paragraph 29  
5 of Mr Winter's statement.

A. That I spoke directly to --

Q. That you spoke directly to Mr Wade and  
the commissioner decided to relocate Mr Wade to  
10 the Jindabyne area?

A. Mr Wade being a media officer of course, and  
I have no doubt that if Mr Winter said I spoke to  
him, I did. It would have been to augment  
the level of media liaison in the Jindabyne area,  
15 Jindabyne/Thredbo area. Mr Wade was, is, a media  
officer; he is not a firefighting resource.

Q. He is a resource in the sense of being able to  
provide to the public information as to what is  
20 going on and any risks they may have.

MR BRET WALKER: I object. As it happens,  
the witness has dealt with it, but there are  
limits, and in my submission this is clearly going  
25 over the limit. This inquest - I am sorry if this  
is provocative - does not have the power to  
criticise the state of New South Wales by one of  
its senior officers allocating one of its junior  
officers to look after Jindabyne rather than  
30 Canberra. I am sorry if that is brutal, but there  
it is. And the question goes well over that.

THE CORONER: I am not commenting on that,  
Mr Walker. But what you are asking, is it a  
35 criticism, Mr Whybrow? Are you criticising  
the decision because it cannot be a criticism of  
how Mr Koperberg allocates his resources? Are you  
asking him why? If you are asking him why, that  
is a perfectly legitimate question.

40 MR WHYBROW: And indeed, Mr Koperberg, why, given  
Thredbo --

MR BRET WALKER: With respect, your Worship has  
45 asked a question: is it a criticism or not?  
Your Worship knows my objection is only directed  
to the possibility of criticism. Comment,

narrative, exposition of the facts - all that is well within what you have to do and therefore a proper question by my friend. But I am entitled to be sensitive about implications of criticism  
5 and, with respect, the sequence of questions clearly convey a criticism.

THE CORONER: I understand.

10 MR BRET WALKER: That is my only point and your Worship's question is entirely proper. The counsel should answer that before proceeding to questions.

15 THE CORONER: I understand your sensitivity to this, Mr Walker, and you understand my view. The whole purpose of this inquest is to find out why - why certain things happened, why they did not happen and the reason for those things  
20 happening or not happening. If you understand that too, Mr Whybrow, and I am sure that you do, then that is the basis on which you put the question to Mr Koperberg to ask why that officer was moved.

25 MR WHYBROW: Your Worship, I have been granted leave to appear for Mr Castle. He has been subject to some criticism for things he did and did not do, and information he may or may not have had. If at the end of the inquiry it appears that New South Wales were in not much of a better situation than him, they should not be immune from criticism, in my view. I am not aware as to what --

35 THE CORONER: That is further down the track, Mr Whybrow.

MR WHYBROW: But in protecting Mr Castle's  
40 interests, it is important to know what information and assistance he received from those that were fighting the fire that burnt Canberra.

45 THE CORONER: That is appropriate and that is what you have been asking. There is no objection to you asking questions on that level.

MR BRET WALKER: To ascertain the facts, quite so.

THE CORONER: Yes, and that is what we want to know - why. I will let you repeat the question.

5

MR WHYBROW: Q. Mr Koperberg, since the Wednesday before, you were concerned for Canberra?

A. I was.

10 Q. On Friday night the weather forecasts had come to fruition?

A. No, the weather forecasts for Saturday could not have come to fruition on Friday night; the principal concern was for Saturday the 18th.

15

Q. There was every indication of what was your fear on Wednesday would eventuate on Saturday?

A. Would materialise, yes.

20 Q. And indeed as of 12 o'clock, as we went to before lunch, indications were that the north-westerly winds had commenced?

A. That's correct.

25 Q. You spoke to Mr Wade at 7.30 on that evening, if you accept that you did speak to him and direct him to Jindabyne?

A. Yes, I do.

30 Q. In the normal course would you have received an update from him as to the situation in Canberra?

A. May I answer it in this way: Mr Wade is, was, a relatively junior media officer. My decision to move him to Jindabyne was predicated on the need to augment New South Wales media resources within New South Wales. Had I, for instance, received a request from the ACT to make Mr Wade available to them, then I would have acceded to that request.

35 40 I had no such request and therefore I was not to know whether the media resources within the Australian Capital Territory were adequate or otherwise.

45 If I could illustrate that point by saying, despite the risk to property in the Yarrowlumla Shire as it was assessed by Superintendent Bruce

Arthur, I nevertheless took the decision to move firefighting resources as to relatively junior media resources from New South Wales into Canberra on the 18th. So there was no question about 5 giving appropriate attention to operational matters as I saw them.

Q. You just noted in that answer Mr Wade was a relatively junior media officer. I thought before 10 lunch you had accepted the assessment by Mr Winter that he was your - he was his most experienced media officer?

A. That does not necessarily mean that he is particularly senior.

15 Q. Okay. The question is why, if in your mind there is a real grave risk to Canberra that may emanate from one of your fires and there is a less imminent risk to Jindabyne, would you move 20 the person who has been dealing with the media on that issue that very day at that time?

MR BRET WALKER: Well, I object. It has been asked and answered now, I think, four times.

25 THE CORONER: It has been answered.

MR WHYBROW: That was the question you answered before I asked it.

30 Q. At the interview that is on the screen, if Mr Wade, based on your earlier answers, had been asked, "What is the risk to Canberra houses", based on what you said it would be not his place 35 to comment.

A. I would expect Mr Wade to have obtained operational advice, which he then would have been at liberty to communicate.

40 Q. Sorry?

A. I would have expected Mr Wade to obtain operational advice at which time he would have been free to communicate that, subject to jurisdictional issues.

45 Q. He would do what - speak to the ACT about it before he commented?

A. If it was advice specifically required in respect of properties in Canberra, then yes.

Q. If he was being asked questions about  
5 the McIntyre's Hut fire and the media asked him a question, "What are the risks to the houses in Canberra," would your expectation have been that he should say, "That is not for me to answer"?

A. Not in so many words. I would have expected  
10 him to say that there is a significant risk of the McIntyre's Hut fire traversing the border and entering the Australian Capital Territory. And as to the degree of specific risk associated with the urban interface, for argument's sake, it would  
15 be a matter for the ACT authorities to comment on because we don't have the necessary information to determine the extent of that risk.

Q. You do, if it is your fire, have  
20 the information as to whether or not the fire is likely to get there; do you not?

A. But what we don't know - what we didn't know was the capacity of the ACT authorities to mitigate that risk.  
25

Q. So rather than tell the members of the community that the fire might get there because you don't know what is there when you get there, you don't tell them anything?

A. I really believe that had we gone out and provided specific warnings to the communities of Canberra about what they should do, what they should not do, then we would have exceeded our authority and would have been liable to  
30 justifiable criticisms, because it may well be that the ACT authority had a different way of dealing with this. I have difficulty in accepting that it is a responsibility of the New South Wales authorities to deal in such specifics as to guide  
35 a community as to what it ought or ought not do. That far exceeds our authority, our moral, our legal authority.  
40

Q. If the ACT mistakenly referred to what the New South Wales position was, it would be appropriate for New South Wales to correct that mistaken belief; would it not?  
45

A. Would you mind repeating that?

5 MR BRET WALKER: Correct it privately or correct it by a public slanging match - which are we talking about?

THE CORONER: I think it is fair to discriminate.

10 MR WHYBROW: Q. If the ACT issued a press release referring to the McIntyre's Hut fire and what we have been told by New South Wales about it and it was wrong, would it not be appropriate as a minimum to contact ACT and tell them, "Look, you have got that wrong?"

15 A. That is probably - depending upon the importance of the issue. It does not follow that every incorrect contention is challenged.

20 Q. Could we bring up [ESB.AFP.0110.0910]. Mr Koperberg, after this press conference on noon on Friday when Mr Wade was present, at 3.45pm it would appear that the ACT Emergency Services released the following media update on the ACT bushfires. The first paragraph says:

25 "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 within containment lines."

30 35 You would hold the view, would you not, as of Friday pm that residents of the ACT should have been very concerned about that fire?

40 A. I would contend that the residents of Canberra, or at least the residents in those parts of Canberra with the greatest exposure, ought to have been sufficiently aware that some risk or threat was associated with the onset of the McIntyre's Hut and other fires. Incidentally, smoke covering the ACT as opposed to Canberra was not only emanating from the McIntyre's Hut fire. There were fires burning further south within the ACT which were also emitting smoke across

the ACT.

Q. That would be another inaccuracy as to what is being conveyed; would it not?

5 A. In this statement?

Q. Yes:

10 "Mr 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"--

15 As New South Wales effectively have told us it is still well within containment lines.

MR BRET WALKER: No, it says "is still within containment lines".

20 MR WHYBROW: No, it didn't say "well", it is still within containment lines.

THE WITNESS: But there is a big difference -  
25 "well within containment lines" suggests a greater level of safety than "within containment lines".

MR WHYBROW: Q. I withdraw the words.

30 The question I asked you is: if you had seen that, you would have been gravely concerned at the level of information being given to ACT residents given what you thought was going to happen?

A. There are two issues. One is whether I would be gravely concerned. I would certainly be  
35 concerned. The degree, I really don't know. And second that residents should not be unduly concerned. I don't know what "unduly" - perhaps that was correct. We certainly had the McIntyre's Hut fire behind containment lines. We had also  
40 said quite publicly that were the conditions forecast to materialise, it was unlikely that any fire, let alone the McIntyre's Hut fire, would remain contained. There was a clear understanding that this was tenuous, and if an agency recognises  
45 the tenuous nature of a containment line in the light of atrocious weather forecasts for just 24 hours hence or less, then I believe it may well

have said to its residents, "The containment line is tenuous, all containment lines are, and they are most tenuous in an environment of weather conditions such as are forecast".

5

Q. You already said earlier that you have through the experience learnt some lessons the hard way - not you personally but in terms of fighting bushfires there have been tragedies, there has 10 been loss of life and property, and lessons have been learnt the hard way.

A. That is very true.

Q. They are lessons that you personally and 15 others within New South Wales have learnt in that way?

A. That is true.

Q. And to the extent that you were aware, the ACT 20 had not been in a position to learn any of these lessons the hard way?

A. I have already long since proffered the view that the magnitude of this particular event was of an order not previously experienced by the ACT.

25

Q. Given what you foresaw, so you say as early as Wednesday, as being one of two scenarios, given your experience and no doubt bitter experience of learning things the hard way, would it not have 30 been more appropriate for New South Wales to get a bit more on the front foot in telling either the ACT authorities or even the residents what the risks really were, if you were so aware of them?

35

MR BRET WALKER: Your Worship, I take it this is subject to your Worship's comments about the difference between exposition of facts and criticism.

40

THE CORONER: Yes.

THE WITNESS: I suppose that, with the benefit of hindsight, had I been aware of what may or may not have been done as the case may be within the ACT, it may have prompted me to attempt to be more persuasive or more unilateral. I certainly would 45

have exceeded my authority and I believe that I would have been justifiably subjected to legitimate criticism - not that that would have particularly worried me.

5

But for me to unilaterally - having already expressed the view both privately and quite publicly that, in my opinion, there was significant potential for all manner of things to go wrong and having ensured that there was effective liaison between the ACT and New South Wales at the operational level, there might have been a better appreciation of the potential.

10

15 Q. Can I suggest that New South Wales was, because it was a New South Wales fire, the lookout for the Australian Capital Territory in relation to that fire. They had the responsibility - you had the responsibility to let the territory know what was happening with that fire and what the risks were, not to the territory residents necessarily but to those who are running emergency services in the ACT.

20

A. It is not being suggested, is it, that whilst we had a responsibility to advise the ACT by whatever mechanisms that the fire from McIntyre's Hut had crossed the border into the Australian Capital Territory, once it was in the ACT that we dictate how the fire is dealt with or how the community might respond?

30

Q. No, not at all.

35

A. The way in which a fire is fought and the way in which communities are prepared to deal with that fire is a matter for the jurisdiction on whose territory the fire is burning. When fires crossed the Queensland border towards the early part of the 2002/2003 fire season, I certainly didn't expect my Queensland counterpart to start warning the residents in the outlying rural properties of Tenterfield, Glen Innes, Guyra and other places that they faced a threat. That was for me to do, and I did.

40

45 Q. Even if such warning may have saved property and lives?

MR BRET WALKER: Can we just have it clear again because we are ducking in and out: warnings to officials or warnings to residents?

5 THE CORONER: Yes, there is a distinction.

MR WHYBROW: Yes, there is. The answers tend to go well beyond the question, your Worship, and I know it is an inquiry so I am not, despite what 10 people might think, trying to cut Mr Koperberg off.

Q. Let me put it this way, Mr Koperberg: the fire that ended up burning Duffy and Chapman was 15 the McIntyre's Hut fire; you accept that, I think you have already said.

A. Yes, I do.

Q. Mr Wade, would you accept - to some extent at 20 least on the Friday, the day before - was providing information to the ACT public and others as to the level of threat of that fire as part of his role as a New South Wales media liaison officer?

25 A. Would you remind repeating that please?

Q. Do you accept that on 17 January, as part of his role as a New South Wales media liaison officer, Mr Wade was in Canberra providing 30 information which would have gone to the Canberra public setting out the circumstances and risks of that fire, the McIntyre's Hut fire?

A. He was not in Canberra specifically to deal 35 with the McIntyre's Hut fire, and the other point that it is necessary to make is that, once the fire had crossed the border, it was not the McIntyre's Hut fire; it was a fire in the ACT. I am not suggesting for one moment that its origins was not what was colloquially known as 40 the McIntyre's Hut fire but it was a fire burning then within another jurisdiction.

I think Phil Cheney once said, and almost to 45 the point of being immortalised, that whoever owns the fuel owns the fire. I am suggesting by that that once it crosses a border, unless there is an agreed strategy that one jurisdiction or another

should play a lead role or a subservient role or a secondary role or that one jurisdiction or another should make comment or provide advice, then we have to assume that it is the jurisdiction which has responsibility for the land on which the fire is burning that will determine outcomes in that regard, because to do otherwise would be asking us to assume that the ACT was capable of doing this, that or the other - and we could not assume that.

10

Q. Mr Koperberg, I am suggesting to you the position that there was no proper and clear indication at any stage to anyone in the ACT emergency services and involved in fighting the bushfires of the view that you say that you expressed on the Wednesday. Do you understand that that is the position that I am putting to you; that there was at no stage in clear terms that level of threat to Canberra put to anyone in Canberra?

15

MR BRET WALKER: Your Worship, I object. The first is along the lines I have already put; namely, the insertion of this idea of a proper warning involves questions of legal or other standards that are inappropriate in such a question and certainly are inappropriate in this inquiry.

25

The second in our submission is the question is far too vague as to the "level of risk". Counsel has been conspicuously silent as to what that level of risk was in fact that his client apparently did nothing to tell the public about and now he wants to criticise this witness for not having told the public about.

35

Now it is only fair that counsel for Mr Castle come out from behind generalities and name the level of risk and ask the witness whether he says there was a clear warning about that level or not. We have not heard at all through counsel's mouth, on behalf of Mr Castle, what was the actual level of risk compared with what Mr Castle told the public about.

45

THE CORONER: That is a fair comment, and

the other point that I would add is whether or not, Mr Whybrow, you mean whether or not Mr Koperberg personally warned anybody in Canberra or whether any of his officials, officers - be 5 they the media or the people at the Queanbeyan control centre - whether they were warned.

MR WHYBROW: Q. Let me use Mr Koperberg's words to set the risk I am talking about. At 2160 he 10 said:

" ... our opinion, was that if the Bureau of Meteorology was correct in its predictions then no matter what was done between 15 Wednesday the 15th and Saturday the 18th it was inevitable that containment lines be breached and the fires would end up in Canberra and they did."

20 That is the level of risk I am talking about. I am suggesting to you that that was never expressed to certainly Mr Castle and on my understanding to anybody else within the ACT? A. Well, with respect, you are correct in as much 25 as it was not expressed to Mr Castle, because at no stage did I speak to Mr Castle until January 18, 2003.

Q. Yes.  
30 A. But, it was most certainly expressed in, as I have said before, quite emotive terms on the morning or early afternoon of Wednesday the 15 January at a meeting held in the OEC Queanbeyan at which Mr Peter Lucas-Smith was 35 present. It could not otherwise have been so, because if it had not been so then the offer of assistance to protect Canberra on Saturday the 18th would not have been made - or for that matter perhaps accepted.

40 The decisions taken thereafter in terms of resources I have to assume were predicated on my suggestion that, if the forecast weather materialised then the containment lines would be 45 breached and if the containment lines were breached there would be no impediment to the fires moving in an easterly direction ultimately ending

up in Canberra, and that was speculated upon as early as Sunday the 12th, re-affirmed on Wednesday the 15th and referred to by me in a press conference immediately after that meeting.

5

Q. Are you saying that, in the press conferences that have been played here, the level of risk that you have said to Her Worship that it was inevitable, subject to the weather, that 10 the containment lines would be breached and the fires would end up in Canberra - that apart from your assertion that you told Mr Lucas-Smith that, you said that clearly anywhere else at any stage?

15 A. There is somewhat of a difference between making a statement to the media and providing evidence to this court. I said to the media on the 15th inter alia that the weather was likely to deteriorate and deteriorate severely, and that 20 would constitute a threat or a risk to a number of areas. I referred to pine forests, I referred to border issues and I referred to Canberra. It was certainly not competent for me to start 25 speculating on degrees of risk to the interface at that particular point - or for that matter any other point - because I did not have the jurisdiction to do so. Because I was not cognisant with measures that may or may not have been able to be taken by the ACT authorities in 30 terms of communicating the risk to the community or dealing with the threat mitigation.

Q. Mr Koperberg, is the answer to that question then, "Apart from what I told to Mr Smith, I never 35 said that in those terms to anybody else"?

A. I never said that in those terms to anybody else, that is correct.

40 Q. Finally - and I understand that you wish to have a break, your Worship - Mr Koperberg, given the evidence that has been given here today and your indication to the Canberra community through this evidence that you realised there was a problem on Wednesday and that the only time you 45 specifically said anything was to Mr Lucas-Smith on the 15th, four days before the firestorm, and that the fire that hit Canberra was a New South

Wales fire that broke the borders on that morning, why should not the Canberra community feel that New South Wales through its commissioner saw an iceberg coming and never bothered to tell anybody, 5 the crew or the captain?

MR BRET WALKER: I object. First of all, it is decidedly insulting; secondly, it is nothing other than grandstanding; and, third, it crosses over 10 the jurisdictional limit which in our submission obtains notwithstanding the probably very broad ambit of your Worship's inquiry. But the first two grounds of my objection, in my submission, suffice. For that kind of question in my 15 submission to be asked under privilege is a questionable piece of advocacy.

MR LASRY: Your Worship, if I might say that, for the reasons not including the jurisdictional one, 20 we support the objection.

THE CORONER: Yes. I am not commenting on the third, but I certainly agree with Mr Walker and Mr Lasry in relation to the first two 25 objections.

MR WHYBROW: I withdraw the comment; if it please your Worship.

30 Q. Mr Koperberg, is it possible that, given the amount of hindsight that everybody has engaged in quite understandably and naturally, your evidence that I have read out on a number of occasions that you knew on Wednesday - subject to 35 the weather, this was inevitable - is coloured to some significant degree by the hindsight as to what happened?

A. I doubt that I would have expressed myself so publicly if the concerns I harboured were not 40 legitimate. There was little benefit to the community or to my agency or New South Wales in my speculating that entirely as a result of the forecast weather and having experienced what impact that sort of weather can have on a 45 significant fire - to have done so under any false premise. I might have said nothing, and that would have been to portray an inaccurate picture

of what was happening generally across southern New South Wales. I was concerned about the ACT; I was concerned about Canberra; I was concerned about the alpine villages, Jindabyne, other  
5 places - said so and expressed concerns about the forthcoming weather. I was not the only person in receipt of that intelligence. Anyone who read reports knew that. It was only a question of appreciation or worse.

10

Q. Is that no, you don't accept that there may be any level of hindsight in the expression of that opinion?

15

A. Well, we know that what I feared occurred. My assumptions were not based on any magical formula or particular technical or scientific data. If you like, it was a gut feeling. I knew the weather was going to be bad or at least the met bureau thought the weather was going to be bad.  
20 I knew there was a lot of fire to the west of Canberra. I knew if you put two and two together you got four, and that meant that the tenuous containment lines incident - which incidentally only surrounded the McIntyre's Hut fire, a number  
25 of other fires were not so contained - that there was nothing impeding the eastward spread of those fires. Since the ACT and Canberra lay to the east, I could draw no other conclusion.

30

Q. And in fairness to you, you are not going so far as to say what you foresaw is what happened; you foresaw something happening to Canberra. You are not saying for a moment that you saw two plus two equalling 4,000 like what happened; are you?

35

A. No, I harboured a concern that if everything that was being predicted materialised, there would be consequences. I shared those concerns at an appropriate level at a meeting on Wednesday 15 January.

40

MR WHYBROW: Thank you, Mr Koperberg.

THE CORONER: Mr Walker, we might just take a short adjournment.

45

**SHORT ADJOURNMENT**

[ 3.10pm ]

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

5   MR BRET WALKER:   Can I ask for [DPP.DPP.0003.0476] to be put up at 0486.

10   MR LASRY:   I think the first page of that document might be the reference with the last four digits - 0476.

15   MR BRET WALKER:   Q.   You were asked some questions in particular by counsel for Mr Castle about this press conference transcript which sets out the words of Mr Cameron Wade.   Do you remember that?

A.   Yes, I do.

20   Q.   At the top of that page, 0486, there is a reference to the "McIntyre's Hut fire burning to the direct west of Canberra in New South Wales"; do you see that?

A.   Yes, I do.

25   Q.   From your experience in firefighting, would somebody of your experience in firefighting need to have explained to them that a fire burning to the direct west of Canberra, fire which was in New South Wales, might travel towards Canberra with appropriate wind?

A.   That would not need to be explained to me.

Q.   Is that in the category of the extremely obvious?

35   A.   Patently obvious.

Q.   There is a reference of it "still burning within containment lines" in the next line; do you see that?

40   A.   Yes, I do.

Q.   But two lines further down Mr Wade says:

45                 "We are expecting those - the lines on the south-eastern side - to be tested fairly extensively today."

Could you tell the court what you understand by his expression "tested fairly extensively"?

A. Yes. A containment line is either a natural feature or a constructed feature providing an opportunity to set fire to the intervening fuels, that is the fuels between the containment line and the fire that line is designed to contain. A containment line may vary in width and depth, as may the back-burn which is invariably lit from the containment line.

The containment line itself is subject to breaching in all manner of ways. It may be breached by a spot fire occurring from the main fire jumping over, so to speak, unburnt fuels and the containment line into fuels on the other side of the containment line. It may be breached as a result of the main fire overtaking the back-burn or coming so close to the containment line as to make the back-burn ineffectual, and it may be breached by spot fires emanating from the back-burn itself and crossing the containment line.

Q. In this particular passage of Mr Wade's statement to the media, a couple of lines further on he refers to the fire being about two kilometres from pine plantations in the Australian Capital Territory; do you see that?

A. Yes, I do.

Q. And he goes on to describe the area as "the edge of the border" and "edge of the pine plantations" in the next sentence; do you see that?

A. Yes.

Q. "13 aircraft in the area keeping a very close eye out for spot fires" and so forth; do you see that?

A. Yes.

Q. In the next sentence he says, and you were asked about that:

45

"At this stage there is not threat to any property in the area."

Are you able to understand that in any way as applying to Canberra suburbs?

A. No.

5 Q. He goes on:

"It is more those pine plantations we are keeping a close eye on."

10 10 Is pine plantations an asset which could be set fire to by spot fires in the manner you have just described?

A. Very readily.

15 15 Q. The media then asked Mr Wade about a change of wind as being a change in threat, and he responded:

20 " ... the threat was on the western side with the easterly and south-easterly"--

That is easterly and south-easterly wind; is that correct?

A. Yes.

25

Q. "That has now totally turned around. The threat is now to the southern and eastern sides." That means of the fire area; is that correct?

A. As a result of the north-westerly winds, yes.

30

Q. He then uses the words "of course" to describe the consequence and says:

35 " ... that means it is more heading back towards the ACT."

Do you see that?

A. Yes.

40 40 Q. At the time he was speaking, were you aware of anything in the nature of what you understood concerning the country and assets which would stop a fire heading towards the ACT from continuing in that direction with appropriate wind and fuels?

45 A. Nothing at all. Fire under those conditions needs little fuel. All fire needs fuel. A fire under those conditions needs relatively low

volumes of fuel to traverse vast areas.

Q. The media's response to that was to describe what Mr Wade had just said as more heading back 5 towards the ACT, as taking it away from those properties which Mr Wade describes as being in the Brindabella area. Do you see that?

A. Yes, I do.

10 Q. Properties which had formerly under the other winds been threatened; is that correct?

A. Yes, for some days prior to the 17th winds had been easterly.

15 Q. Turning to the next page, 0487, Mr Wade's words towards the top of that page, having been asked about fires in that region - those are the ones of course which he said were more headed towards ACT; is that right?

20 A. That's correct.

Q. He described that as having been described to him as fairly intense, wind conditions picking up, and then an expression "making the situation more 25 desperate as the day goes on"; do you see that?

A. Yes, I do.

Q. He said "we" - presumably meaning the service on the basis of information to him - "are 30 expecting this to continue for the next few days"; do you see that?

A. Yes, I do.

Q. He summarises some steps that had been taken 35 at the end of that passage by saying a lot of resources have been brought into areas, including the area in question; do you see that?

A. Yes, I do.

40 Q. Can I ask now for 0489 to be brought up. After a passage that you were taken to by counsel for Mr Castle, the media in the middle of this other page comes back to the question of level of threat to the pine plantation; do you see that?

45 A. Yes, I do.

Q. That is plainly enough the pine plantation in

the ACT to which reference had been made earlier;  
isn't it?

A. Yes.

5 Q. Again Mr Wade's response, obviously passing on  
what incident controllers had expressed in  
relation to a certain concern, said:

10 "Spotting activity up to a kilometre,  
kilometre and a half."

Do you see that?

A. Yes.

15 Q. That is the kind of activity which, with  
increasing wind, might increase in its distance;  
is that right?

A. Yes, conceivably up to 10, 15 kilometres.

20 Q. He ends up that statement by saying:

"There is a real threat to that pine forest.  
At this stage everything is holding at  
the moment."

25

Do you see that?

A. Yes, I do.

30 Q. You may recall counsel for Mr Castle put to  
you a number of questions and suggestions, not all  
of them complimentary of you, in relation to what  
the RFS - by you personally or by your officers,  
had put out in public. Do you remember that  
generally?

35 A. Yes, I do.

Q. If I could just inform you that in paragraph  
108 of his own statement, which is  
[ESB.AFP.0111.0117] Mr Castle described Mr Wade's  
40 contribution at that press conference, of which he  
was obviously aware, in these two sentences, and  
I quote:

45 "Cameron Wade, media spokesperson for New  
South Wales Rural Fire Service, followed our  
midday press conference with his own press  
conference where he expressed optimism about

containment of the McIntyre's Hut fire. He briefed the media on the fires in New South Wales."

5 Based on the passages to which I have taken you from the transcript of Mr Cameron Wade's press conference, so far as you understand the English language, would "optimism" be your description of what Mr Cameron Wade told the public?

10 A. Optimism is about the last sentiment I would attribute to Mr Wade on the basis of those passages.

15 MR BRET WALKER: Your Worship, I am not sure we picked up the exhibit number you gave to the hard copy, the paper version media releases that my friend Mr Walker tendered.

THE CORONER: That was 0032.

20 MR BRET WALKER: Is it possible for that to be made available to the witness, please.

Q. The first of those is Thursday  
25 16 January 2003; is that correct?

A. Yes.

Q. It is headlined "RFS crews sent to assist with ACT fires"; do you see that?  
30 A. Yes, I do.

Q. In the second paragraph there is reference to "a current forecast for winds to shift and to pick up coming into the weekend"; do you see that?  
35 A. Yes, I do.

Q. And then there is a reference to "these fires", and that is fires that we would understand are Stockyard and Bendora; is that correct?  
40 A. Yes.

Q. And a third currently burning in New South Wales in the Brindabella National Park Goodradigbee River area. That is what we  
45 understand is the McIntyre's Hut fire; isn't it?  
A. It is.

Q. That statement on Thursday, 16th ends up by saying that the "likelihood is that the winds will blow the three fires back towards the city"; do you see that?

5 A. Yes, I do.

Q. Could you imagine anyone understanding that expression "the city" as anything other than Canberra?

10 A. No, I couldn't.

Q. Mr Castle, when you first met him, you understood him to be a head of agency; is that correct?

15 A. I have known Mr Castle for some time as the director of the Australian Capital Territory Emergency Services Bureau.

Q. The head of agency?

20 A. Yes.

Q. Has he ever complained to you in any way at all on any occasion, other than through his counsel today, that the New South Wales Rural Fire Service or you personally had failed to tell him that fires burning to the west of Canberra would, if the winds shifted to the general westerly direction burn towards the city?

A. No, he has never so complained.

30

Q. The words attributed to you two paragraphs further down, after your reference to being eager to help the ACT, refers to impact on increasingly more populated areas; do you see that?

35 A. Yes, I do.

Q. The most populated area in the vicinity of the Brindabella fire would be Canberra city, would it not, and all its suburbs?

40 A. Yes, that is so.

Q. "Very high potential", is that the kind of language that firefighting professionals use among themselves to describe the existence of risk?

45 A. It is one of the terminologies used, yes.

Q. Would you describe it as something which is

either reassuring or an indication of no risk?  
A. The potential is invariably used to describe  
the likelihood or otherwise of something  
occurring, in this case the imminent threat or  
5 eventual threat, and therefore we described it as  
a high potential or low potential. One could have  
said a big chance or a little chance.

Q. Or in this case "very high potential"?  
10 A. Correct.

Q. It means a very big chance, does it?  
A. Very big chance.

15 Q. Can I take you to the next on Thursday  
16 January, with the headline "Firefighters focus  
on control lines on ACT border fires"; do you see  
that?  
A. Yes, I do.

20 Q. The subheading "Firefighters contain  
McIntyre's Hut fire Brindabella National Park", do  
you see that?  
A. Yes, I do.

25 Q. The passage begins:

"Control lines are complete on this fire."

30 Do you see that?  
A. Yes, I do.

Q. The next sentence is:

35 "Containment was achieved with the completion  
of back-burning."

Do you see that?  
A. Yes, I do.

40 Q. Could you just explain what is the relation  
between control lines and containment?  
A. Very little in as much as that ultimately a  
containment line could also become a control line  
45 and invariably becomes a control line when  
the back-burn, if that is the measure employed,  
from that containment line has been completed and

the peripheries, the edges of that closest to the containment line, have been thoroughly mopped up, with the expectation that the back-burn will continue to burn towards the main fire, thus depriving it of combustible fuels.

Q. The control line is part of the overall containment exercise; is it?

A. Yes.

10

Q. At the foot of that first page there is a reference to the west north-west winds expected on the weekend; do you see that?

A. Yes, I do.

15

Q. The language used is "pressuring lines to the east and south-east". "Pressure" means test as you explained it earlier; is that right?

A. Yes, very much so.

20

Q. Presents a risk of containment being broken; is that right?

A. Yes.

25

Q. It there concludes by saying that "those winds will force the fire to the ACT border"; do you see that?

A. Yes, I do.

30

Q. In the third paragraph back up the page, the second sentence says:

35

"The firefighters are concerned that the wind changes will force fires back towards the ACT."

Do you see that?

A. Yes, I do.

40

Q. Those are your firefighters; is that right?

A. Principally.

45

Q. Referring - thank you for the correction. They are the firefighters, New South Wales and lent ACT firefighters, working on the Brindabella fires; is that correct?

A. I assume that to be the case, yes.

Q. As at 16 January was there anything of which you were aware which would prevent a fire burning towards the ACT under winds favourable for that course from crossing the border and continuing?

5 A. No.

Q. Is that a matter that you would regard a head of agency engaged in the emergency business as needing to have spelled out to him?

10 A. No, it is a fact that, if a fire is not within containment lines and no such lines are being contemplated, it will continue to burn in whichever direction, unless direct suppression occurs, the wind blows it and whilstever there is  
15 fuel to sustain it.

Q. You were asked yesterday about situation report forms; do you remember that?

A. Yes, I do.

20 Q. You gave the court some information about what they are not used for. Are they used at all for operational decisions during the days of fire campaign?

25 A. It depends - they are very much a snapshot. They are devoid of intricate detail, other than resource commitment. They are a reflection of what has occurred and is likely to occur in terms of the suppression strategy and they may contain a threat analysis. Thus the extent to which they are used to determine future strategy depends very much on how testing is the demand for resources.  
30 In other words, if there is one fire occurring and there has been a minimal demand on resources, then  
35 it is likely that strategies will just continue to be employed as depicted.

If, however, there are many fires and there are some risks greater than others or there is a threat to property elsewhere, then strategies may need to be changed in order to resource areas of higher priorities. But in general terms that situation report is a snapshot of what is happening, and of course is necessary to enable us  
40 to gauge the potential for future resource demands.

Q. It was suggested to you by counsel for Mr Castle, who informed you that Mr Castle had been criticised for what he had not said, that there had been some shortcoming on either your personal part or the rural fire service's part in not informing Mr Castle or other authorities in the ACT that the fire was coming their way - his expression.

A. Yes, I recall that assertion.

10

Q. Have you ever been involved in any deal between senior fire officers or emergency personnel in which one needed to be told by the other that a fire of which the first was aware would be coming their way under a wind whose direction was known to both?

A. Only in cases where one party was not even aware of the existence of the fire in the other party's territory.

20

Q. You used the expression "breakouts" at transcript 2207, line 16, to describe occurrences that may be need to be dealt with by firefighters. Are breakouts related to spot overs?

25

A. Spot overs is one potential cause of breakouts. It is a term, not a particularly technical one. It could also be occasioned by a fire itself crossing a containment line or traversing a natural feature which was being used to contain a fire.

Q. You also use the expression "ember attack". Does ember attack cause breakouts?

35

A. Yes, it does. Ember attack - I guess they are another form of spotting. Spots are caused by burning embers and destruction of property is caused by those same type of embers.

40

Q. I think by your reference to the platelets from radiata pine you intend to convey to the court that one example of ember attack is by airborne fragments of vegetation still combusting which conversed into flame when hitting fresh fuel together with oxygen; is that correct?

45

A. That is entirely correct.

Q. I take it that material that is not actually

alight in the sense of visibly emitting flame is still well capable of setting a house on fire; is that correct?

5 A. Yes, it is a source of heat and is not dependent upon flame to ignite combustible material.

Q. Could [ESB.AFP.0110.0910] be thrown up, please. Counsel for Mr Castle took you to that, 10 and you might remember he asked you with more than a hint of criticism as to why you didn't correct anything misleading in it; do you remember that?

A. Yes, I do.

15 Q. The first quotation attributed to Mr Castle being, one supposes, his warning to the public is:

20 "Because of the prevailing winds, ash and burnt materials may be deposited in some suburban areas of Canberra."

Do you see that?

A. Yes, I can.

25 Q. Undoubtedly he is talking about the McIntyre's Hut fire as the source; is that correct?

A. On the basis that he referred to smoke inundation of the ACT emanating from the McIntyre's Hut fire, it would follow that any burning material would also be from that fire.

Q. It is the only fire referred to in the text before his quote; is that right?

A. That's correct.

35 Q. The prevailing winds means that whoever spoke those words, Mr Castle or the person who put the words in his mouth, must have understood, as a simple matter of compass geometry, that the winds 40 were such as to drive fire towards the ACT from McIntyre's Hut; is that correct?

A. Yes, it is.

Q. Furthermore, carrying with those winds 45 the very kind of fragments of vegetation as a heat source which could set fire to houses; is that right?

A. That is so.

Q. Or to pine forests intervening; is that correct?

5 A. Exactly.

Q. Or to dry grassland intervening; is that correct?

A. Yes.

10

Q. Or to dry sclerophyll intervening; is that correct?

A. Yes.

15

Q. Has it ever until this afternoon occurred to you that any senior fire officer or emergency head of agency would need to be instructed by you or by any of your officers that there was a danger to persons and property posed by ash and burnt materials being blown into suburban areas? Has it ever occurred to you that you would need to warn them of that?

20

A. No, it did not occur to me and, as I have already suggested, I had alluded on several occasions to the possibility of circumstances prevailing which would ultimately lead to a varying level of threat to Canberra with my ACT counterpart.

30

Q. On the other hand, this is a media release, and you have told the court, haven't you, that at least so far as the practices which you supervise are concerned, instructing or helping members of the community to deal with ember attack is done by more direct local means than by press release; is that correct?

35

A. Yes, it is one of the mechanisms. Certainly the majority of property on an interface, the majority of property is more likely to fall victim to ember attack than it is to flame contact.

45

Q. To be fair to Mr Castle, although there is nothing about how to combat ember attack in this press release, as at Friday 17 January you didn't know one way or the other what, if anything, had been done by your ACT counterparts to carry out

the equivalent of your phase 1 or phase 2 approaches; is that right?

A. No, I had no idea whatsoever.

5 Q. You were also subjected to criticism in relation to the deployment of Mr Wade to a locality in New South Wales and away from Canberra. Until this afternoon, has that matter ever been the subject of anything in the nature of  
10 complaint, allegation, regretful comment by any of your ACT colleagues to you?

A. It has been the subject of no comment whatsoever.

15 Q. In the document still thrown up on the screen, before the quotation attributed to Mr Castle there is a reference to "the fire", McIntyre's Hut fire, "still within containment lines"; do you see that?

A. Yes, I do.

20 Q. In your experience, is the fact that a fire is still within containment lines coupled with prevailing winds of the kind known about by a quarter to 4 on the afternoon of Friday,  
25 17 January such as to justify reassuring residents about the risk of damage to property or threat to life?

A. Even the term "still within containment lines" has a hint of suggestion that it may not always be behind containment lines. And that in itself, quite apart from the fact that containment lines depending upon the proximity of asset to fire, topography, weather conditions are tenuous at best, would suggest that containment is by no  
35 means a panacea so far as asset or community safety is concerned.

Q. That approach to assessment that you have just given the court, is that something secret to you or special to New South Wales, or is it dead standard ordinary firefighting understanding?

A. It inherent within a basic knowledge of how fire behaves and the strategies engaged to combat fire.

45 Q. Again to be fair to Mr Castle, you drew attention to the word "unduly"; didn't you?

A. Yes, I did.

Q. It would all depend upon what it meant to be "unduly concerned". You certainly wouldn't be wanting residents to be panicked; is that correct?

A. That's correct. "Unduly concerned" does not necessarily mean not to be concerned, of course.

Q. No. Presumably it means not to be concerned more than they should be concerned?

A. That is right.

Q. Whatever the level of their concern should be. In relation to possible approaching threats to Thredbo and other settlements in the Kosciuszko region you referred to the fact that your officers, I think together with NPWS, had already started taking some steps towards community liaison about preparation; is that right?

A. That is so. The incident management team was based at Jindabyne in the National Parks and Wildlife Service headquarters there. It was a multi-agency incident management team, with a National Parks and Wildlife Service officer being my appointee pursuant to the provisions of section 44 of the Bushfires Act 1997. That team had orchestrated a community information unit which was engaging directly with the communities within the alpine villages and further afield. That included rural property holders and so forth. Meetings were convened, literature and advice was distributed, and strategies were imparted.

Q. Can you tell the court so far as you are aware when that process commenced?

A. I can't tell the court exactly when it commenced, but the threat having been perceived, work began immediately to ensure that that process manifested itself in the ways I have described.

Q. When you say "threat perceived", are you talking about a threat in the order of impact within a few hours or something further removed than that?

A. Even further removed. It obviously intensifies as the time frame decreases. But if it appears inevitable that impact is going to

occur - whether it is in one day, two days, or even if it appears not inevitable but likely - then this process begins to be implemented to ensure that the community, whether the fire 5 arrives or not, is at least as prepared as it can be to deal with it.

Q. You were asked quite a few questions by counsel for Mr Castle about warnings to 10 the Canberra public. Can you tell the court first: is it the case there is a range of responses by local residents from immediate evacuation at one end to staying to fight and look after property at the other end; is that 15 the range, correct range?

A. Yes, and the community is much better equipped to make a sound judgment if they have the circumstances which are likely to confront them described and are aided in coming to their 20 decision by the imparting of advice on the soundness of their house or the preparatory nature undertaken and their own mental and physical capacity to withstand the trauma that constitutes a fire attack.

25 Q. So there is a level of personal judgment for each individual resident or householder making their mind up as to what to do; is that correct?

A. Yes, indeed.

30 Q. And that is being assisted by, in New South Wales's case, officers such as in your service helping them to assess their actual situation, the officers being there and then helping them; is 35 that correct?

A. Yes, it is not uncommon to use firefighters as units ahead of the onset of fire to directly speak to householders or the residents of streets.

40 Q. Because there is also a measure of judgment by fire controllers and more senior people as to whether, for example, to invoke statutory powers or to order evacuation; is that correct?

A. Indeed. In New South Wales police have 45 the statutory power to evacuate, but the planning mechanisms dictate that they do so in consultation with fire officers, and therefore invariably that

takes place on the advice of fire officers.

Q. Evacuation involves traffic going in one direction rather than another; is that right?

5 A. Yes.

Q. Firefighting may involve traffic in a quite different direction; is that right?

A. Invariably that is the case.

10

Q. In light of the questions which were directed to you in relation to what you should or should not have done by way of media release or other communication, could you comment to the court about the implications of New South Wales directly communicating with local residents in Canberra through the press or radio or television about what to do as fire approaches on an assumption, Commissioner, that the Canberra authorities were 15 in the course of making up their minds about the exercise of statutory powers, the organisation of evacuation and the deployment of emergency services. Can you explain to the court the implication of those two processes - New South 20 Wales direct communication and ACT decision making - going on at the same time?

25

A. It is potentially a recipe for disaster in as much as it well may have been the view of the ACT - I am not saying it is or was; but it may well have been; we weren't to know - that 30 evacuation in the prevailing circumstances was the best course of action. Police, for argument's sake, normally favour evacuation, understandably, charged with or confronted with what to them would 35 constitute grave peril to people. If a decision had been taken that evacuation, for argument's sake, was the best course in this particular case, then we would have provided contrary advice and you would have had people terribly confused and 40 they may well have been exposed in a manner that they otherwise would not have been endangering them to a very large extent.

45

Moreover, the sort of advice we provide is specifically targeted having in mind topography, having in mind construction standards, having in mind fuel loads and what have you. They don't

generically apply. Therefore, it would have been for that and other reasons inappropriate for us to assume that we should tell the Canberra residents how to prepare themselves from this particular fire in this particular circumstance.

5 Q. It was also suggested to you by counsel for Mr Castle that you or your officers should have broadcast to the Canberra public something which 10 included this message, and I quote, "Take precautions"; do you remember that?

A. Yes, I do.

15 Q. Can you comment on the merit, in light of your experience of your phase 1/phase 2 approach, of that punchy advice, "Take precautions"? How would you assess the virtues of an officer in your service contenting himself or herself with that advice to the public?

20 A. I think that advice is inadequate. A member of the public is entitled to know if they are required to take precautions what the nature of those precautions are.

25 Q. Flee or stay, for example?  
A. That is one of them.

Q. Counsel for Mr Castle also drew to your attention Mr Winter's opinion about the McIntyre's 30 Hut fire under the influence of winds to be expected moving to a sparsely populated area by implication rather than densely populated Canberra suburbs; do you remember that?

A. Yes, I do.

35 Q. Is Mr Winter a firefighter?  
A. No, he is not - he is, I am sorry, in fact a member of a brigade as well as formally being the director of corporate communications within 40 the RFS. So, yes, he is in the technical sense a firefighter.

Q. When you say in a technical sense, you mean he is what might be called one of the foot soldiers; 45 is that right?

A. Yes, he is.

Q. He is not by profession at the supervisory or officer level, is that correct, as a firefighter?

A. I am not sure that he does not currently have rank within the brigade. He may well be a captain or deputy captain. But, in any event, his assertion of sparsely populated areas was right in the first instance, because the fire would in fact have traversed sparsely populated areas before it got to the densely populated areas.

10

Q. The densely populated areas being generally in line with the wind direction which would first carry the fires through sparsely populated areas; is that correct?

15

A. Quite so.

20

Q. Have you ever heard, except perhaps today, it suggested that either Mr Lucas-Smith or Mr Castle held the view that, if the winds veered so as to come generally from the west, the McIntyre's Hut fire could only strike sparsely populated areas? Have you ever heard that that was their view?

25

A. I recall being made privy to a tape of a press conference at which Peter Lucas-Smith said that the potential for the fire to impact upon Canberra was within his planning thinking and that there was a possibility of that. I assume that in so saying he shared to a degree the view that I held that it was indeed possible for the fire to hit 30 the densely populated parts of Canberra.

30

Q. Do you recall you were asked - or challenged rather - by counsel for Mr Castle to recall any clear warning by you to the ACT authorities that the McIntyre's Hut fire was coming their way; do you remember that passage of questioning?

A. Yes, I remember that.

40

Q. You referred, among other things, to your conversation with Mr Lucas-Smith on 15 January and subsequent public statements by you; is that correct?

A. That's correct.

45

Q. Since then, beyond your own personal communication, have you brought to mind a liaison which is relative to that matter?

A. Yes, I have. Attached to the staff of the ESB in Curtin was one of our officers, one Kevin Cooper, who was part of a contingent we sent to assist on the incident management team.

5 I understand that contained in Mr Cooper's statement are a number of references to occasions on which he alluded to the fact that the McIntyre's Hut fire or the fires burning in the west of Canberra were more likely than not to  
10 impact upon Canberra itself. He did so as part of that team looking at the whole fire situation.

Q. In the challenges by counsel for Mr Castle to you there is repeated reference in his questions  
15 to you having given such a warning in a piece of paper or by writing; do you remember those references?

A. Yes, I do.

20 Q. I think in one of your answers you said "that would be a precedent". By that do you mean it would be a pattern that everybody should follow in the future or do you mean it had never happened before?

25 A. I don't recall it ever happening before, simply because the level of interaction and liaison ought to be of such an order, and I believe it was, that this sort of information was simultaneously available to all of  
30 the interested parties.

Q. Speech and understanding being more rapid than writing?

35 A. Depiction, maps, discussions, canvassing of scenarios.

Q. It was suggested to you today that the request which followed discussion between you and Mr Lucas-Smith on 15 January for New South Wales  
40 resources was not fully met. Do you remember those suggestions?

A. Yes, I do.

45 Q. Have you made some inquiries as to the detail of the degree of response?

A. Yes, I have.

Q. What was that?

A. I during the adjournment sought clarification of what was provided to the ACT authorities.

Following my meeting with Peter Lucas-Smith on 5 the 15th, and following confirmation of the request by him to our state operations centre at Rosehill at about 2100 hours on the same day, and we provided initially - and that is on the 16th of January the following day: three 10 category 1 tankers; two category 2 tankers, which are of similar ilk; 13 category 7 tankers, which are a medium; and two category 9 tankers, which are a light strike unit; together with 132 personnel. In other words, there were four task 15 forces sent, a total of 20 vehicles.

Q. They involved incident management team personnel as well?

A. I am not sure whether the 132 included 20 incident management personnel or not. Subsequently, on 18 January we provided a further 18 category 1 tankers, four category 7 tankers, one category 9 tanker, a total of 23, with obviously commensurate personnel to operate them.

25 Q. Between the evening of the 15th of January and the evening of the 18 January, did there come to your attention in any way any suggestion that Mr Lucas-Smith was dissatisfied with the response 30 by New South Wales to his request?

A. No. I have inquired during the course of the adjournment whether or not any subsequent contact occurred querying the composition in terms of category type of those four task forces, and 35 I have been advised that there was no such contact.

40 Q. On the other hand, I think you were concerned that there was an inaccurate reference in this morning's 'Sydney Morning Herald' suggesting that Mr Lucas-Smith had said that the ACT didn't need help. Have you got a comment on that?

A. I think the headline said "ACT refused help". I want to make it perfectly clear that at no 45 stage - at no stage - did the ACT refuse help.

Q. But it was to the contrary - they requested

help?

A. Indeed. Not only did they request it at times they considered it appropriate, but accepted it at times we offered it.

5

Q. You have no criticism whatsoever of the nature of their requests?

A. Certainly not.

10 Q. You have told us about the experience in Berowra with all the differences between New South Wales, and Sydney specifically, on the one hand and ACT and Canberra on the other hand. Could you tell the court in those circumstances from that  
15 example in your experience the success of this approach that has been worked out over the years in New South Wales, the phase 1, phase 2 involvement of the community?

A. As much as I dislike the term, it does empower  
20 people to be constructive in the protection of their assets in as much as it provides them with the wherewithal in terms of knowledge to not be helpless and reliant solely on the response of emergency services and firefighters in particular.  
25 It also provides a basis for ongoing good practice because, having so advised potentially exposed residents of what they ought to do to render as safe as possible their properties and themselves, then the benefit flows beyond that into  
30 the future, so that the next time they are confronted with a similar situation you have the benefit of having a better prepared community.

35 But most importantly the imparting of this advice and knowledge is a significant augmentation to firefighters' capacity to deal with the threat, but particularly so when it comes to ember attack. Ember attack invariably causes ignition within houses or in close proximity of houses after  
40 the main fire front has gone and when the focus of firefighters is elsewhere; otherwise it would necessitate leaving firefighting appliances perhaps for an hour or more at where the fire front was rather than where it is. And residents,  
45 if properly equipped and properly informed, can undertake all manner of measures to deal with the effect of ember attack. Without that advice,

without that knowledge, they remain - as do their properties - extremely vulnerable.

5 Q. In the case of Berowra example you gave the court, was the assistance to the firefighters successful?

A. It was very successful. I recall driving the streets of Berowra on the evening before impact to find the community almost transformed, 10 proudly displaying what they were going to wear when the fire impact came; proudly showing what they had done to their properties in terms of clearing up, blocking downpipes; having basic firefighting equipment at the ready; and being 15 very much up to the challenge when the fire front did arrive and ferocious firefighting took place. There was a unity of purpose on the part of both the community and the firefighters. The fire came and it went, and minimal damage was occasioned to 20 that particular suburb.

THE CORONER: Thank you, Mr Walker. Yes, Mr Lasry.

25 **<RE-EXAMINATION BY MR LASRY**

MR LASRY: Q. Mr Koperberg, on the information that you have just been providing and the inquiries that you have made to which you have referred, where does that information come from? Who did you speak to?

A. I asked Assistant Commissioner Crosweller during the luncheon adjournment to contact our state operations centre at Rosehill and attempt to 35 make comment with the officer who processed the request in the first place. It is my understanding that he did so and he imparted this advice to me.

40 Q. Thank you. I wonder if the witness might see again, your Worship, document [MLI.DPP.0005.0187]. This is the letter written to Mr McLeod on 8 July of 2003, with the chart attached. I just have one question in relation to that. The chart, as 45 I understand it, and indeed as the letter says, "It is a graph depicting the commitment of personnel to the McIntyre's Hut fire for

the period indicated." If you look at the chart itself, it indicates that on the 8th, 9th and 10 January, as I read it, the commitment to McIntyre's Hut was by way of direct attack. It 5 actually says:

"Direct attack, no night crews."

Is that correct?

10 A. It is not strictly correct in as much as the incident controller, Superintendent Bruce Arthur, and his incident management team had determined quite early that direct attack was inappropriate and --

15

Q. Indeed, on the night of the 8th?

A. Yes.

Q. They determined that?

20 A. Well, they actually determined it at a planning meeting, as I understand it, on the following day. But they were still waiting for assessment as to the extent of fire and the number of fires and what have you that was 25 being undertaken, as I understand it, by a National Parks and Wildlife Service helicopter.

Q. The evidence given to this inquest so far, Mr Koperberg, includes evidence from 30 Mr Lucas-Smith and from others that he attended the meeting I think at about 6.30 or 7 o'clock on the night of the 8th in which the indirect attack tactic was discussed and settled upon, and I should say it was a tactic he agreed with, and 35 so the consequence of that, as I understand it, was that direct attack on the McIntyre's fire was never a tactic which was used; is that correct?

A. That is certainly my understanding. Thus I am at a loss to really explain why direct attack 40 appears there.

Q. Well, I presume in fairness to you that you wrote the letter to Mr McLeod with a chart prepared by somebody else potentially using 45 information in turn provided by somebody else again?

A. That is correct.

Q. I take it that chart does not represent your own personal research?

A. No.

5 Q. There was one other thing that I needed to ask you about that. I will try to ask you quickly. In the interview on 'Stateline' in May of 2003, and I don't think we need to actually bring it up, at the very start of the interview do you remember  
10 the interviewer commenced with a typical journalist's question whether you were confident that all the cards would be laid on the table and you responded positively. Then she asked:

15 "If we go back to when the fire started, was there enough done on those early crucial days?"

And your answer included a passage which said:

20 "I can assure you that the attack on both McIntyre's Hut fire and Bendora fire which was in the Namadgi National Park and the ACT, the other of course being in the Brindabella  
25 National Park within New South Wales, were the subject of very aggressive attack."

Then you went on to describe what else happened in New South Wales. Knowing what you now know about  
30 the tactics employed for the McIntyre's Hut fire, very aggressive attack would not be words that you would describe the approach to McIntyre's Hut with; would you?

A. It is a relative term, and I accept that  
35 aggressive attack may well include a very active planning regime to decide upon one tactic or strategy or another. What I meant to impart by that was there was no lethargy associated with coming to any decisions on how to tackle the fire.

40 Q. But someone who was not a fire expert listening to you answering that question might have thought that what you were describing in "very aggressive attack" was a large number of  
45 people engaged in an instantaneous direct attack at the fire line?

A. Yes.

Q. That is not what happened?

A. No, that was not what happened, and I may well have chosen or I may well have - yes, I may well have chosen other words. But certainly - and  
5 I need to reiterate, Mr Lasry, if I may - what I meant to impart was that there was absolutely no foundation for any suggestion that these fires were treated with apathy.

10 Q. No, and I was not putting that proposition to you. Your chart of course also indicates, going back to that for a moment, that there were no night crews deployed to the McIntyre's Hut fire on the first night or indeed on the second night?

15 A. That's correct, yes.

Q. Can I come to the conversation that you had with Mr Lucas-Smith on 15 January, albeit briefly, and perhaps put to you the obvious proposition at  
20 the end of a long analysis of that discussion: it is the case to start with, isn't it, that that conversation with Mr Lucas-Smith in which you conveyed your views, and I don't want to go over the detail of that again, was a conversation that  
25 took place effectively because Mr Lucas-Smith insisted on seeing you?

A. Yes.

30 Q. It is a conversation - perhaps I should ask you the question rather than put it by way of proposition. Is it a conversation which would have been otherwise unlikely to have occurred but for that happening?

A. No, it would have been likely to have occurred  
35 in a different circumstance. I was asked, I think perhaps by you, did I have any intentions of visiting Canberra on that day and, no, I did not because I had a particular schedule. I guess it is somewhat hypothetical to speculate on whether  
40 had Mr Lucas-Smith not come to that meeting would I have done anything, but I suggest that I would have.

45 Q. All right. So it is at least a possibility, I take it you are saying now, that if Mr Lucas-Smith had not insisted on seeing you on that day, at some time over the next few days you

might well have found it appropriate to speak to him?

A. I would have orchestrated some form of communication with him, yes.

5

Q. At page 2152, being asked about that conversation, you were specifically asked a question by Mr Philip Walker about what it was that caused you to glean from the conversation a lack of pessimism on Mr Lucas-Smith's part, and you said:

"A. Yes, I can with some reluctance. However, since you draw me to this matter, 15 I was told that Peter Lucas-Smith didn't need me to come from Sydney to tell him what the threat to Canberra was.

"Q. Who said that?  
20 "A. Peter Lucas-Smith.

"Q. It is not something that you have put in any statement?  
25 "A. No, why should I? I am not here to be critical of my colleague."

In relation to that part of the conversation, was it a conversation which occurred seriously; in other words, was there a degree of hostility or offence being taken by Mr Lucas-Smith in uttering those words to you?

A. There was no hostility. I have said previously that I was reluctant to offend and I felt by the statement that there may have been 35 slight offence taken. I responded, as my memory serves me, to the statement by acknowledging that, no, he didn't need me to come down from Sydney and tell him that. But, as I explained earlier, we had canvassed a range of scenarios and my pessimism may well have been considered at that time to be inappropriate.

Q. I am sorry to interrupt you. I am not asking you to justify what you said. The question I am 45 asking is really directed to try to understand the atmosphere between the two of you at the point that he said what he said to you, and you

responded by saying, as I understand it, "No, I know you don't".

A. It remained cordial.

5 Q. But am I right about this: you understood that that conversation represented some signal on his part that he was, to some degree at least, offended by the fact that you were expressing a view?

10 A. As I said, one of two things: either it was simply a statement of fact, that he had already acknowledged what I was telling him and didn't require my telling him that; or that he didn't accept or that I perhaps was out of my territory  
15 in suggesting such a thing.

Q. All right. You didn't establish which of those alternatives were the reason for him saying what he said?

20 A. No. It was a moment that passed very quickly and, as I said, it remained cordial. It was not the only reference made of course to the Sydney syndrome, if that is the word or the term that applies.

25 Q. Yes, I am familiar with the Sydney syndrome, Mr Koperberg - in a broader sense, anyway. We suffer from some of it here. Is it a conversation that was clear in your mind from that day onwards?

30 Is that something you retained a memory of, that he made that response to you?

A. Yes, it was.

Q. Why wouldn't you put it in your statement?

35 A. I guess because I didn't consider it relevant. There were a number of things said and terms used that are not contained within the statement. It was not a verbatim account of the meeting.

40 Q. No, but you have a clear memory of this, don't you, this particular passage of the conversation, and it is a passage of the conversation that concerned in broad terms the threat to Canberra? Why wouldn't that be relevant to a statement you were making for an inquest or an inquiry into the fires which occurred in Canberra? Why would you make that judgment?

A. I don't know why I would have made that judgement but, since the statement was prepared post the event, post 18 January, I could see little purpose in suggesting in such an overt way 5 that any advice we were giving was potentially being rejected. I could see that serving no purpose in the statement.

Q. You accept that it is relevant, I take it?

10 A. I responded in the way I did because I was asked to validate my supposition that my pessimism was not shared, and that is the only reason I mentioned it. I still believe, rightly or wrongly, that the degree of its relevance didn't 15 warrant me including it in the statement.

Q. This is perhaps a difficult question for you to answer, but are there other passages in that 20 conversation where you have made a judgment yourself about the relevance of particular things that were said and decided to omit them from the statement that you made?

A. Not that I can recall.

25 Q. That is the only one?

A. As far as I am able to recall. As I said, I can't remember every word that was uttered during that conversation.

30 Q. No, I understand that, Mr Koperberg. Of course you can't. But you see, don't you, that in a sense it is not really for you to determine what is relevant; it is simply for you, in the position of a witness making a statement, to put as much 35 information as you can and leave the question of relevance to others?

A. Yes, of course. But at the time I took the view that it did not add value to what I was including in my statement.

40 Q. There was one other matter which I should ask you about, simply because I am not sure I really understand what you meant. It was also in relation to this conversation, and you were being 45 questioned by Mr Johnson, on behalf of the government of the ACT. The question at page 2136 at line 44 was:

5            "Q. Do you allow for the possibility that there may have been some confusion between those who were present as to some of the topics being discussed. May I illustrate it this way: that Mr Lucas-Smith may have considered the resources he was wanting were for the purposes of dealing with the current fires in the ACT?

10          "A. Absolutely, as I do concede that there may have been some confusion about what constituted containment."

15          It is the second part of that answer that I want to ask you about. How could there be any confusion amongst the people who were at that meeting as to what "containment" meant?

20          A. I didn't mean necessarily amongst the people at that meeting, but "containment" is a term which is very fire service specific.

25          Q. I understand that.

A. When I responded by saying that I would concede that the term could be easily confused for something better than containment, I meant in the broader spectrum.

30          Q. But, amongst the people who were present and discussing the status of the McIntyre's Hut fire at that meeting where the term "containment" was being used, you would not anticipate there was any confusion as to what that meant?

A. Everybody would have clearly understood what that meant.

35          MR LASRY: Yes, I have no further questions.

THE CORONER: Q. Mr Koperberg, I will just ask you: from the time that the fires did start burning on about the 8th, was satellite tracking used in New South Wales to see where the fires were and how they were progressing - and I am talking about all the fires not just perhaps the McIntyre's Hut fire; was that used by you or your people?

45          A. Yes, but to a minimal extent. Certainly scanning was used. We have the capacity, using the airborne scanner, to detect fires and so

forth. The Noah satellite, for argument's sake, is used occasionally but it is very dependent upon when it makes a particular passage over that particular area as to how old the information is and what have you. There are several databases available which are in fact net based which you can access to see where the fires are. So whatever technology was available to us we employed whenever it was appropriate to do so.

10

Q. Because you said in your evidence that on the morning of Saturday the 18th, because of the smoke, there was no clear indication as to where the fire, the McIntyre's Hut fire and indeed perhaps the other fires, where exactly they were at and when they had crossed the border or even broken the containment lines.

A. Quite so, and so the information would not have been instantaneously available. You have heard evidence, your Worship, that an ACT helicopter was able to determine that the fire had crossed. But conditions were of such an order during the course of that day that flying became more and more difficult and vision became more and more obscured by smoke. So the capacity to have detailed data instantly available was very difficult.

Even the scanning aircraft which was engaged I think during the course of the afternoon of the 18th was reporting difficulty in not only getting airborne but landing and what have you, and I know that even big aircraft such as the Eriksson air crane, which I redeployed from Jindabyne to Canberra, on arrival in Canberra had to wait for a little while until weather abated a little before it could actually become airborne. So there were those sorts of difficulties associated with getting instantaneous access to that sort of data.

Q. And there was no other data you had or no other system that you had to be able to locate accurately how a fire progresses?

A. Not that could have been instantaneously deployed. There would have been subsequently - I mean, as there is today,

the scanning, the multi-channel scanning mechanism technology has increased and is being used. But we are now talking about something that occurred 18 months ago, or almost, and then it was not  
5 instantly available to us.

THE CORONER: Yes, thank you, Mr Koperberg. Is there any reason why Mr Koperberg could not be excused?

10 MR LASRY: No, there is not.

THE CORONER: Thank you, Mr Koperberg, you are excused.

15 <THE WITNESS WITHDREW

THE CORONER: We will adjourn until tomorrow morning at 10 o'clock. Who is the next witness?  
20 Is Mr Keady back, Mr Lasry?

MR LASRY: Ms Natalie Larkins will be the next witness, your Worship, followed by Ms Marika Harvey. Then we will see what happens.

25 THE CORONER: So we will resume at 10 o'clock tomorrow morning.

HEARING ADJOURNED AT 4.40PM UNTIL THURSDAY,  
30 18 MARCH 2004 AT 10.00AM.

35

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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 25

Thursday, 18 March 2004

MR LAKATOS: Your Worship, before my learned friend calls Ms Larkins, I wish to say that Mr Johnson isn't here today. He tenders his apologies and I will be sitting in his place.

5

THE CORONER: That is fine.

MR DAWSON: Your Worship, may I announce my appearance. My name is Dawson and I seek  
10 your Worship's leave under section 42 of the act to appear in the interests of Ms Larkins.

THE CORONER: Yes, certainly, that leave is granted, Mr Dawson, thank you.

15

MR LASRY: I call Ms Larkins, please.

**<NATALIE KATE LARKINS, SWORN**

20 **<EXAMINATION-IN-CHIEF BY MR LASRY**

MR LASRY: Q. Is your full name Natalie Kate Larkins?

A. Yes.

25

Q. Are you a journalist by profession?

A. Yes.

30 Q. Are you employed by the Australian Broadcasting Corporation?

A. Yes.

Q. What is your professional address?

A. Northbourne Avenue, Dickson.

35

Q. How long have you been an ABC journalist?

A. Seven years.

40 Q. Does that represent the totality of your journalistic career or were you a journalist in --  
A. As a journalist, yes.

45 Q. Prior to being in Canberra in the early part of 2003, have you worked as a journalist anywhere else?

A. I have worked as a journalist in South Australia and also in Queensland.

Q. In either of those places - you are a news journalist, if that is an appropriate categorisation?

A. That is true.

5

Q. It means obviously compiling news stories on various issues?

A. Yes, for radio and television broadcast.

10 Q. Does that mean that you are normally the interviewer or the face of the particular item?

A. I do conduct the interviews, yes.

15 Q. In Queensland and South Australia, had you on previous occasions been involved to any extent in reporting emergency type situations?

A. I had opportunities in South Australia to broadcast warnings when there were potential fire threats, particularly around areas such as Mt Gambia. Also in Queensland, I was responsible for issuing warnings at times when there were cyclones. That was particularly up in the Gulf of Carpentaria when I was working in the Mt Isa newsroom.

30 Q. So in those incidents, did you become familiar to some extent at least with the workings of liaison between the media, journalists and emergency services organisations?

A. I certainly did, including doing training with the Country Fire Service in South Australia.

35 Q. I don't want to go into an analysis of those other incidents but, in either the Queensland situation or the South Australian situation, did you encounter what might be described as communication difficulties - that is, in getting information about those incidents - or was there a reasonable clear protocol by which information was obtained?

40 A. In both states there was very clear communication lines. There was always very open communication with any potential risk or threat, whether it be by fire or cyclone or flood.

Q. Again, without wanting to go into

the extensive detail, was there a written protocol or arrangement or system that formulated the way the media and the emergency services managers would communicate with each other?

5 A. There was. I don't have access obviously to them in full, but there certainly was.

Q. In January 2003 you were living - you no longer live there - at number 29 Darwinia Terrace, 10 Rivett?

A. That is true.

Q. How long had you lived there?

A. We had lived there approximately nine months.

15 Q. We will come back to this, but that house was destroyed by the fire?

A. It was.

20 Q. You were a tenant of the house. That house was actually owned by Mr Adams; is that correct?

A. That's correct.

25 Q. You lived there with your husband - he is now your husband?

A. Yes.

Q. Although he was not at the time?

A. No.

30 Q. In the week leading up to Saturday the 18th, had you been at work at the ABC and generally aware of the fact of the fires in and around the ACT?

35 A. That is prior to the Saturday?

Q. Yes.

A. I had, yes.

40 Q. In relation to the events that day, have you made a statement to the Australian Federal Police, which is document [DPP.DPP.0003.0054]?

A. That's correct.

45 Q. Have you signed that statement? I think the statement was made to a Detective Senior Constable Faulds?

A. Yes.

Q. As far as you are aware, is the content of that statement true and correct?

5 A. The content of that statement is true and correct.

Q. Perhaps I will add this caveat for you: as I understand it, you are conscious of the fact  
10 that the statement was taken by the police in the usual manner that police take statements. They ask you questions and then they formulate the answers into a first person narrative. So to some extent the first person narrative also has  
15 the input of police officer as well as yourself?  
A. I would say possibly some is not how I would have stated it; it is more the interpretation.

Q. But essentially the facts are correct?

20 A. Are correct, yes.

Q. You say in the statement that at 9 o'clock on Friday the 17th you commenced work knowing that you would have the responsibility for the local news broadcast before midday on Saturday and Sunday. Is that a responsibility that week that had not previously been your responsibility; in other words, were you in effect responsible for the weekend news bulletins?

30 A. That was my ongoing position where I was responsible for the weekend news bulletins.

Q. As you say in your statement in effect, conscious of the fires being an important issue  
35 made arrangements to speak with either Mr Lucas-Smith or Mr Castle first thing on Saturday morning, and you were successful in making those arrangements?

A. I made several calls the day before to ensure  
40 that I had that interview, so we could have fresh information that morning.

Q. The interview that you did was with Mr Castle at about 6am; is that correct?

45 A. It was.

Q. Before we come to that interview, you point

out in your statement on page 2 in the third or fourth paragraph that, when you came home on the Friday evening, you did not have the expectation that the fires were going to personally affect you, although you go on to say you had been mindful of the fires during the week and the weather forecasts.

5 A. I had certainly been keeping an eye on it but I had been given no indication at that stage that 10 we would have any potential risk.

Q. You say in the following paragraph:

15 "I wasn't overly concerned at that stage" - and I take it "at that stage" refers to Friday evening - "because the feeling generated by the authorities, particularly on that Friday, was that the fires were 20 kilometres away and moving slowly. We 20 were told that the fires were unlikely to affect Canberra."

What particular information, if you are able to say, are you there relying on to come to 25 the conclusion about the feeling that the authorities generated? What are you really referring to there?

A. Obviously the news stories and the interviews that I had monitored throughout the day as well as 30 the other media as well. Being in the newsroom, I was keeping abreast of what was going on with the fires, knowing that I would have to then carry on the stories the following day.

35 Q. What you are describing in that paragraph is an impression you had; is that correct?

A. Certainly.

Q. By Saturday morning on 6am, you had made 40 the arrangement to have the interview with Mr Castle and you had set out, to some degree, the content of the interview which was tape recorded?

A. It was recorded onto our computers.

45 Q. So you conducted the interview from the ABC office?

A. I did.

Q. And I think he has given evidence that at the time he was at home when he did the interview?

5 A. I believe that is the case.

Q. And the recording is no longer available. It has been recorded over or deleted in order to make space for other recordings; is that correct?

10 A. Our computer system stores only a certain amount of time for interviews and, obviously given the great volume of interviews done that day, earlier interviews were deleted from the system as the day progressed.

15

Q. You have some notes, which I think you have with you?

A. Yes.

20 Q. Of the interview. Are the notes of what actually was said or are they notes that you prepared for the purpose of conducting the interview?

25 A. The notes of what was said, being that I would be recording the interview into the computer, I didn't keep concise notes. I would make record of what time a particular comment was said and make brief notes as to what the content of those comments were.

30

Q. In the last part of page 2 in your statement and going over onto page 3 you have set out in summary what was said in the interview. That information comes from those notes; I take it?

35 A. From my own recollections as well as from the notes.

Q. So is there anything in the notes, as far as you are aware, that you have not then placed in your written statement?

40 A. There are some brief notes that obviously were not relevant. The main points were the ones that I went back to when I was actually writing my stories --

45

Q. It is difficult perhaps to do it sitting there in the witness box but, if you could have a look

through your notes and if there is anything that immediately strikes you as being something that has not found its way into your statement, would you mind just indicating what it was?

5 A. I have a note there that refers to the fact that the Paddys River Road was closed; there was some concern for farms south of Mt Tennant; and also a note there regarding that there were 40 units out at Paddys Road; the fact that  
10 the McIntyre fire was putting pressure on farms at Mount Creek Road; a brief reference to the Uriarra, but I can't recall whether - sorry, it follows on the next page saying that there may be spot fires there, but at that stage  
15 the reference I have from Mr Castle was that the smoke was so thick that they could not actually see the spot fires at that stage.

There is a reference there between a break between  
20 the two palls of smoke in the ACT, then the Bendora and Stockyard becoming one smoke pall and the fact that spot fires had occurred between those fires. Also a reference again to the weather, being the winds were north-west tending west-easterly.  
25

Q. Just in relation to the weather, you have said in your statement at the foot of page 3 - you have put it in the form of a concession by saying that "he admitted that the conditions were awful". Was "awful" a word that he used, as far as you can recall?

A. The words are "conditions are awful. Put pressure on all fronts".  
35

Q. Is there anything else in the notes that --  
A. No, that is the extent of my notes.

Q. As you have just mentioned, there was  
40 discussion during the course of the interview, as your statement says in the second paragraph on page 3, of the prospect of the fires entering the Uriarra pine forest?  
A. Yes.

45 Q. And then it would appear you asked him about the McIntyre's Hut fire and you have said that he

gave an indication that they would only focus on that fire once it came into the ACT?

A. As it comes into the ACT, yes. That was my recollection.

5

Q. That is what your note says?

A. It says "McIntyre as it comes into" - obviously I am writing quick notes so I can go back to it later and I would have gone back to it 10 later.

Q. What sort of questions did you ask him, do you recall, about the McIntyre's Hut fire; if any? You obviously raised the topic of it. Can you 15 remember what you actually asked?

A. Just I believe it would have been what potential risk it had to cross into the ACT.

Q. Were you conscious of the fact or did you have 20 a view as to whether or not the McIntyre's Hut fire was the largest or the most dangerous of the fires that were then burning? Is that something you were aware of?

A. I would have had notes that would have 25 indicated the size of the fires. They would have been in the media releases that came out that morning. But I cannot recall specifically at the moment. It may have been indicated in the stories I wrote.

30

Q. I think you said closer to the more accurate thing that he said was in relation to the McIntyre's Hut fire they would only focus on that as the fire came into the ACT.

35 A. That was the impression or that is what my notes indicate.

Q. Did you ask any questions about what that meant or --

40 A. I think at that stage I was just looking for what the potential risk was, particularly - I mean my main focus at that stage, being given no indication that there was any risk to the ACT, was what was the risk to people in the outlying regions of the ACT.

45 Q. You say in your statement that you have some

notes indicating when the fire was likely to enter into Canberra. I take it when you say "the fire", you mean the fires or do you mean particularly McIntyre's Hut?

5 A. No.

Q. The fires colloquially?

A. Any of the fires, yes.

10 Q. What does your note actually indicate that you asked about that?

A. It just indicates that "appreciate people's concerns".

15 Q. That is what he said?

A. That would be what he said, yes.

Q. Have you kept any note of the question you asked him?

20 A. I have not, no.

Q. Is it an appropriate reconstruction from what you can recall that you raised the question of whether or not the fire was likely to enter 25 Canberra?

A. That certainly would have been the question I asked, whether people should be concerned of any risk to Canberra.

30 Q. What you have noted is that, in response to that, he said he appreciated either people's concerns or community concerns. Did he specifically respond - are you able to recall - with an opinion as to whether or not that 35 was a possibility?

A. I believe that had he said to me there was any risk to Canberra, that would have been the story that I would have written. So the indication would be that, from everything I was told, there 40 was no risk to Canberra.

Q. Although you don't claim that he specifically said that?

A. No.

45

Q. You don't claim that Mr Castle said there is no risk to Canberra?

A. I can't say that that is specifically what he said.

5 Q. The next step in the process was that I think you reached the point where the various matters that you discussed in the interview weren't going to be able to be easily condensed into a short item for the news, and you say - you suggested that he do a live on air interview subsequent to  
10 your interview, and I think you had in mind 7.30 or something like that in the morning; is that right?

A. My constraint was that I had to get the main points - the main information into less than a  
15 minute for broadcast; whereas I knew from the content of the interview that we did that there was a lot more information that would have been relevant to particular people again in those outlying areas. That is why I suggested that  
20 I pass on his number to the program's presenter so he could do a full interview again.

Q. He did that; as far as you are aware?

A. He did.

25 Q. I don't want to take you to it. We have already seen the transcript of that interview. The next thing that you sought to arrange with Mr Castle was an interview later in the morning,  
30 as I understand it, the principal purpose of which was to get fresh information for you, particularly with a view to being used at midday; is that correct?

A. That is what I did just before we concluded  
35 the conversation. I asked if I could do another interview at 11 o'clock. Our major bulletin for the day is at 12 o'clock, so I wanted fresh information by then because otherwise we didn't have another local bulletin until the following  
40 morning. As it turned out we did, but at that stage we were not planning to.

Q. So he agreed to do an interview at 11am?

A. He did.

45 Q. You then started to assemble information which would enable you to conduct that interview and to

have fresh information about the fires at the time that interview occurred; is that --

A. Throughout the morning I had spoken to various people. I was also keeping close contact with the National Parks and Wildlife Service because I was also covering the events as they were happening in Thredbo as well. So I was gaining information through there which was giving me a broader picture, as well as receiving media releases from Environment ACT about road closures, and all that information was helping me form a greater view of what was going on.

Q. In the lead-up to 11am, I think the evidence makes it clear that you attempted to contact Mr Castle and you were unsuccessful in doing so, and the interview never occurred; is that right?

A. That is true.

Q. We will come to the conversation with Ms Lowe in a moment, but you contacted his media adviser and eventually you were informed that Mr Castle would not be available?

A. That is true.

Q. Was that Amy Lowe or was that somebody else?  
A. That was Amy Lowe.

Q. I think the evidence is clear that you had attempted to ring and we have already seen some records that indicate you had attempted to ring and left a message. Mr Castle in his evidence which I will just refer to briefly - at page 1771, your Worship, Mr Castle was giving evidence and being asked questions by my learned friend Mr Woodward. He then was asked about a particular paragraph in his statement which read:

"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 11.41 with 2CC. I believe these interviews and subsequent press releases all included advice of what to do if a fire approached residences."

"Q. Did you make the contact to the ABC at 11.36?

"A. Yes, I did.

5 "Q. Your recollection is that you got a recorded message at that stage?

"A. I believe so.

"Q. Who did you ask to speak to?

10 "A. I presume Natalie Larkins, because that was the message I was following back.

15 "Q. Is that your memory of it? You say you presume, is that who you think you were returning the call to?

"A. Yes."

20 So in relation to that evidence, was there a process at the ABC where you worked for incoming callers to leave recorded messages of the kind that Mr Castle describes?

25 A. In the newsroom there is no message recording system, and there were people in the newsroom that day who would have answered the phone had there been a call.

30 Q. In what circumstances would someone in his position ringing back be likely to get a recorded message? Is there any circumstance you can think of?

A. Had he called a particular line in the programs area he may have received a recorded message, but certainly not in the newsroom.

35 Q. The telephone records, Ms Larkins, which have been produced to us by Mr Castle of his telephone indicate that the call to which I have just referred at 11.36am was to 6275 4511, and the call lasted 20 seconds. I think that is the right way 40 to read it. Are you familiar with that number 6275 4511?

A. That is a newsroom telephone number.

Q. That is the newsroom?

45 A. Yes.

Q. So is that the number that you would say there

is no --

A. There is no recorded message on that, no.

5 Q. You then describe conversations with Amy Lowe about whether or not she had telephone numbers. In relation to the original appointment with Mr Castle, was this a conversation that occurred shortly after 11 o'clock?

A. It is.

10

Q. The paragraph of your statement on page 4 says:

15 "Because of the lack of information, I was concerned that our contact phone and fax numbers had been lost. I actually asked Amy Lowe, ESB media liaison, if she had our phone numbers. She seemed vague as to whether she had them or not. I obtained a fax number for 20 her, prepared a comprehensive phone list for ABC News and Programs; then faxed it to her. Despite doing this, there was still no information emanating from the ESB."

25 When you say that Amy Lowe seemed vague as to whether she had them or not, can you recall what she actually said?

30 A. She didn't - such as that. I was not confident from the responses she was giving me, that she was not stating that, "Yes, we have this number and we can contact these people". So I didn't feel confident. That was why I wanted to ensure that she had numbers in front of her, because I was concerned that we were not getting 35 any information.

Q. From your previous experience that you briefly referred to earlier in Queensland and South Australia, what was your expectation as far as 40 getting information was concerned? What did you believe should have been happening?

A. Certainly as far as my experience had been in South Australia, the moment there had been a break out of a fire, a potential threat, the media 45 liaison person with the Country Fire Service would ring the ABC, let them know a fax was on the way. This is what the situation was so we could

immediately ascertain whether we needed to broadcast a warning or let the people in the local area know what was going on. That was the type of information I would have anticipated that we would have got here as well.

Q. In times of emergency like that, does the ABC have a different status from commercial radio and television as far as the way it is used for  
10 the purpose of transmitting emergency information?

A. Certainly - I mean, I am not privy to all the protocols but the ABC does have the transmitters in all those locations in order to provide that information so that if people  
15 do - and so many people do - look to the ABC for that sort of information in those times.

Q. You say in the following paragraph of your statement that you were becoming frustrated and  
20 you told her that, apart from anything else, you wanted fresh information for the midday news and she then referred you to the 'Canberra Times', according to your statement. Was it the 'Canberra Times' she referred you to or did she use  
25 the words "Canberra Connect"?

A. It was the 'Canberra Times'. We were referred to the newspaper. She said, "Have a look at the information that is in the newspaper." Of course I responded that information was very  
30 outdated, being the paper had been published the night before.

Q. In the end you didn't get any fresh information for the midday news and, as you say in  
35 your statement, that broadcast that you made at midday was a rehash of old information?

A. Unfortunately.

Q. You interpreted, as I follow your statement,  
40 this lack of response or the lack of information which was causing you some frustration as also a sign that the situation was deteriorating; is that correct?

A. That was the impression that I was gaining, as  
45 well as of course the physical surroundings.

Q. Yes. But in your statement you say in

the fourth paragraph from the bottom on page 4:

5            "By this time I was becoming increasingly frustrated and annoyed. I was given the clear impression that things were far worse than what we were being told and the fires were a lot closer than what we were being told."

10          I am just asking really to get at the source of that impression. Was it anything in particular or was it simply the circumstances?

A.          It was the other calls, the other people I had been talking to and of course my own, you know, 15 firsthand knowledge of the fact that the sky was turning orange, there was smoke and the fact that anyone can understand that fires are not stationary, they were obviously moving and they would have been moving with the winds which was 20 closer to Canberra.

Q.          Who else were you speaking to you; who was giving you information which led you to come to that information?

25          A.          That would have been people including the Rural Fire Service in New South Wales, Cameron Wade I had spoken to during the morning, and also to the National Parks and Wildlife Service. As I said earlier, listening also to the weather 30 bureau about what was happening on their front.

Q.          Then you attended the midday media briefing at the ESB headquarters at Curtin; is that right?

A.          That is right, yes.

35          Q.          You refer to that in your statement?

A.          Yes.

40          Q.          That is document [DPP.DPP.0004.0047]. You formed certain opinions about that briefing, which I will not trouble you about because we have the transcript of what was said and Her Worship, of course, can come to her own conclusions about that information. However, the consequence of 45 the briefing from your point of view was that there was a significant problem for the Canberra suburbs, as you say on page 5, near the top of the

page.

A. It was certainly during that briefing that the penny was starting to drop in my mind, so to speak, from the information that I was gaining  
5 that certainly made me believe that at this stage the Canberra suburbs were under distinct threat, even though that was not clearly stated at any stage during that press conference.

10 Q. As you were driving I think after the briefing back to the ABC offices you describe in the relevant paragraph on page 5, three down from the top, that you were driving back to Dickson from Curtin to prepare the 1pm release?

15 A. That is true.

Q. And had formed the view that the information being provided was not reflecting the seriousness of the situation as you perceived it?

20 A. I would have assumed at that stage that that would have been when warnings would have been issued, that there should have been - it would have been clearly stated, "Yes, there is a risk to Canberra," and certainly that was not indicated.

25 Q. Your particular concern was for your suburb, and particularly whether or not people in that area were aware or should have been made aware of what was happening?

30 A. I don't believe people would have been aware at that stage. There had been no reason for them to think - I mean, I lived there and I had been given no reason to think that I should be keeping an ear out for any warnings.

35 Q. The 1 o'clock release that you prepared went to air I think at 1 o'clock and then your own thoughts turned to your own home?

A. Immediately after the 1 o'clock bulletin went  
40 to air, I first went on live to air with Julie Derrett on 666 because I wanted to - again in the news I didn't have enough time to give off all the information, only the main points, so we went live to air and we went through my notes from  
45 the press conference and discussed in more detail some of the issues that had been raised during that press conference.

Q. I don't think there is a record now of that either; is there?

A. That should be in the official transcripts of what went to air.

5

Q. We will see if we can locate that, your Worship. I must say as I stand here I don't think I have ever seen that. We can take it from your statement in your evidence, Ms Larkins, that 10 what was said was at least intended by you to convey a sense of urgency. You were now convinced that the matter was extremely serious?

A. I was. I felt it was time that people had a greater warning or a greater sense of urgency 15 about what was going on.

Q. Indeed in the fourth paragraph from the bottom of your statement you set out the sorts of things that you referred to. I will just read it 20 briefly. You say:

"Shortly after 1pm, Julie - who was Julie Derrett - and I went live to air, utilising information previously made availability by the emergency services. We advised listeners 25 of precautions and preparations that should be taken around the home with regard to fire. This was all despite the fact that we hadn't been officially told to do this. This course 30 of the action had been entirely due to our own initiative based on my level of concern and belief that the public should have been aware of what was happening."

35 Then you say:

"I continued on with what I was supposed to be doing. I was preparing for the upcoming 2 o'clock news."

40

But you then concluded it would appear at about 20 to 2 that you needed to go home?

A. At about 1.30 - I am afraid that is not reflected in there - my now husband rang me. He 45 had just become aware that he did not have a car at home and he was a little concerned about that. And of course at that stage I thought that I had a

greater responsibility at home than I did at work. I had done all that I could, there were people there to relieve me, and that is when I went home.

5 Q. And arrived there at about 2 o'clock?

A. I did.

Q. Just describe the atmosphere in Rivett at the time that you arrived home at 2 o'clock. What  
10 did you see?

A. I saw people going about their normal business, which of course concerned me a great deal, even driving home people were just doing what they normally do on a Saturday. There was  
15 obviously no awareness amongst the general public as far as I could tell of what was potentially about to hit. Of course when I got home there was smoke in the air, not very strong at that stage, but obviously the sky was orange and it was very  
20 hot and very windy.

Q. Yes. When you arrived home, as you say, in your statement particularly on page 6, you then commenced to prepare the house. I take it your  
25 view was that your house was at risk of some kind of attack, whether from the fire front itself or whether from embers or whatever?

A. I was concerned. Where we were situated we often got the wind coming throughout and we were basically facing grassland that then faced the equestrian centre, which the next stop was the Namadgi. So we were directly in the firing line, so to speak.

35 Q. In the period up to these fires, for the time at least you had been living there, did you ever receive any information, whether personally or through the letter box or mail or anything else, as to how a fire of some kind which might affect  
40 that area should be coped with by local residents?

A. None at all. Any information that I had or knowledge that I had had come from my previous experience through the media and also through stories I had done in the year before - at  
45 the start of the summer about the approaching bushfire season.

Q. Did you have any understanding or sense of the fact that, living where you did, you were vulnerable to damage from bushfire?

5 A. No, there was certainly no official notification or anything like that.

Q. No, but did you --

A. Just a sense.

10 Q. Any sense of it yourself from either the environment or perhaps --

A. Given that obviously Canberra was very dry and any part of Canberra at that stage was, I believe, a potential fire risk.

15

Q. Did you have any sense of the knowledge or understanding of the local community that lived around you as to whether they understood what the risks were?

20 A. I can't say, no. Certainly just speaking to neighbours there was never any sense of that. There was never anything that was discussed.

25 Q. In the preparations - you were making preparations at your house and you were collecting - doing what obviously people would do in the circumstances, collecting valuables and being in a position to leave, if you needed to, and making such other preparations as you thought were appropriate, which you describe in your statement, including filling gutters and the bath and getting wet towels and things of that nature. At about 2.30, as I understand it, you became aware of the emergency siren, which was

30 35 broadcasting obviously the emergency warning.

A. Mm-hm. I can't specifically say what time it was. That hour felt - it was not something I was looking at my watch. I had so many other things to do. It was impossible to tell whether it was an hour or five hours, but of course it was only an hour.

40 Q. You did hear a colleague you describe in your statement, Michael Turtle, somewhere in Eucumbene Drive describing for the ABC what was occurring?

A. I did.

Q. And you then, as I understand it, coincident with that, started to make your own observations about the way the situation was worsening?

A. I was standing out on the front yard and by 5 that time it was getting very dark and I could hear the noises. Obviously the smoke was getting thicker and it was soon after that that I saw - we live down from the pine forests at Duffy on Narrabundah Hill and it was soon after that that 10 I could see the flames coming out of that particular forest.

Q. What was your feeling about what you were looking at at that stage?

A. I was very scared. But it had obviously travelled very fast and was very ferocious. I remember looking up at the pines, and the flames themselves were the same height as the pines again and it was coming closer towards us.

20 Q. And it was apparent to you that you were in the path?

A. Without a doubt. I was looking directly at it. I knew it was coming straight at us.

25 Q. You then started to make preparations to leave the house?

A. We did. Tony, my husband, came down off the roof. He took a look as well because we could 30 see the flames coming out of forest, and he said, "Lock the door, let's get in the car." By the time I had gone, locked the door, got back out the front again, I watched the fire come straight across the front and start embers and small fires 35 start burning in the neighbours' and our yard.

Q. And it was in, I think, your front yard that you first noticed fires actually burning?

A. It was. It was, yes, across the neighbours 40 and our front yard.

Q. As you drove away from the house, what was happening to the house?

A. I didn't look back at the house. I was too 45 busy watching where I was driving and there were cars obviously coming out everywhere. We had horses coming through the road as well from

the equestrian centre. It was like hell; it was black. You could not really even see the car in front of you. All I could see was the red flames outside and vaguely see people's headlights and 5 hear horns beeping. It was just - it was very scary. It was ferocious.

Q. Now I think as you drove away the radio on the car was on?

10 A. It was.

Q. And you were hearing lists of suburbs that should be on alert being broadcast?

A. That is right.

15

Q. Did you notice whether your forecast was in that list?

A. I don't think I recall specifically hearing it being listed. I remember hearing about Duffy and 20 Chapman. I do recall later on hearing within the next five or ten minutes that people who lived in Rivett should go back to their houses. I had a very strong feeling at that stage that there were houses in Rivett that were on fire. Obviously 25 I was concerned about that.

Q. In your statement, you note that you recall at the time thinking that the official information being given was hopelessly outdated, and you go on 30 to explain in the statement that that was because the information didn't actually reflect the fact that the fires had hit the suburbs.

A. At that stage it wasn't. I mean, I had seen the fire with my own two eyes and the reports we 35 were still getting, apart from obviously the live reports that I was hearing from the journalists, but the official reports would seem to be indicating that it had not hit - and obviously it had.

40

Q. You went to a relative's place in Queanbeyan from there; is that right?

A. We did. We stopped first at my husband's sister's house at Warramanga and got them as well. 45 We didn't know where this fire was heading. They had a small child staying with them, so we wanted to move a bit further along. We actually next met

up at the Southern Cross car park at Woden; we thought that would be a good meeting place to assess what we would do next. When we got there of course Mt Taylor was on fire. That is when we 5 got back into the car and kept driving to Queanbeyan, and that is where we stopped.

Q. Some time later at about 4 o'clock I think you were told by the owner of the house that you were 10 living in that the house had been burnt - had been burnt down, destroyed?

A. That's correct.

Q. And I take it that, although it was no doubt 15 distressing, it did not come as a surprise to you when you heard that news?

A. I was not surprised. I had fully expected that would have been what had happened.

20 Q. At the point when you and your husband left, had you come to the conclusion between yourselves that the circumstances, as you saw them, meant it was impossible for you to stay and protect your house?

25 A. The way that fire came at us so fast, there was no way we could stay. It was moving at such a great rate. I am glad that we left. I mean, in hindsight maybe we could have tried to stay, but it was not worth the risk. Our lives were much 30 more important.

Q. Yes, of course. You conclude your statement by referring to four issues in relation to 35 the management of the crisis which you make observations about which are primarily concerning information?

A. They are.

Q. You say firstly that information should have 40 been communicated by the media to the public as soon as any potential risk was identified. Just looking back at that week and that Saturday in particular, what sort of time frame are you there referring to? When are you saying that 45 information should have been communicated to the public as soon as a potential risk was identified?

A. I believe that certainly from the first thing that morning, if not at least from lunchtime. Had at that 12 o'clock press conference we been given a clear idea of what was going on, specifically  
5 that there was a potential risk to Canberra suburb, even that extra hour or two could have made a difference to people, could have made a great difference to people.

10 I believe that the information - in a situation like that where there is risk to life and property - I believe that the information should be set out very clearly, straight down the line. There should not be any "let's not alarm people".  
15 People have a right to be alarmed.

Q. The second point you refer to is "their methods and means of communications are woefully inadequate, bordering on non-existent".  
20 Using the word "their", I take it you are referring to emergency services; is that what you mean - their means of communication are woefully inadequate or are you referring to the media's means of communication?

25 A. I am specifically referring to the information flowing from the emergency services to the media so that the media, in turn, can give specific information to the public.

30 Q. You then refer, as you already have in describing your own statements, that the information provided to the public was grossly outdated and at times inaccurate. I don't think we need to go back to that. The last point you refer to is that there was a failure to portray the seriousness and the potential of the threat until they were completely out of their depth.  
35 Just describe what you mean by that?

A. As I say, at that press conference at  
40 12 o'clock no-one clearly stated out that there was a potential threat and, by the time that that threat was realised, it was too late for people to be warned in advance. It was too late for people to prepare. It just seemed like from then on it  
45 was just reactionary. There was nothing there that prepared people in advance of what was happening.

Q. Ms Larkins, after these fires I think you yourself were interviewed for the local ABC program 'Stateline' and, in the course of that interview, you expressed some concerns about  
5 whether you had done everything that you could have done in the circumstances. Do you remember giving those answers?

A. I do.

10 Q. That has been an issue for you, I take it, since the fires?

A. It took a lot of months, a lot of sleepless nights just coming to terms with the fact that - trying to work out if I had missed  
15 something, if I had done it wrong. You know, had I misinterpreted - it took me a lot of counselling and a lot of time to come to the conclusion that I did do everything I could do given the information I was given at the time. But it  
20 obviously played on my mind for a long time and still does that, you know, had we had better information, could we have done more; could it change the outcome for people who lost their lives; people who lost everything they ever owned.  
25

MR LASRY: Thank you very much. I have no further questions.

30 THE CORONER: Q. Ms Larkins, how far is the equestrian centre from where you were in Darwinia Terrace?

A. We lived almost opposite Kathner Street and the equestrian centre was off Kathner Street.

35 THE CORONER: Mr Archer, do you have any questions?

**<CROSS-EXAMINATION BY MR ARCHER**

40 MR ARCHER: Q. Ms Larkins, I represent the Australian Federal Police. The briefing, as you have described it, that occurred at midday on the 18th, that was actually delayed for some time; wasn't it?

45 A. It was. We were left standing in the corridor for it seemed like 10 or so minutes.

Q. Could it have been longer than that?  
A. It may have been longer than that.

5 Q. How long did it take you to drive from Curtin back to Dickson?  
A. Probably about 10 minutes by the time I loaded all the equipment in my car.

10 Q. It is hard to remember now, I know, but how long would it have taken you to prepare your piece for the 1 o'clock news?

15 A. I was writing that as we were in the car on the way back. I was writing it in a notebook and, as soon as I got back, I typed it into the computer, printed it out, recorded the voice component and alerted our Sydney office that I was sending it to them.

20 Q. Is it possible that that media conference actually started as late as 12.30?

A. I would have thought it would have been more like 20 past 12, if that, because of the time I would have needed to get back and turn over the content of what I did.

25 Q. Yes.

A. It is possible. As I say, I didn't actually look at my watch.

30 Q. Perhaps I am being misleading there. Perhaps about 12.30?

A. I couldn't give you a precise time, sorry.

35 Q. The drive back to your house you have described. What time was it that you got back to your house; do you recall now?

A. Just before 2 o'clock or just around 2 o'clock, it would have been.

40 Q. When you arrived at your house, did you look up and down your street to see what other people were doing at that time?

45 A. I did, and there was no-one doing anything other than what they would normally do, as far as I could see. I do seem to recall at one stage perhaps seeing a furniture removal truck coming down from Kathner Street, but whether that was

just a coincidence or not.

Q. But the measures that you took at that time to get up onto your roof to fill your gutters and  
5 that sort of thing, you didn't see evidence of that being done so much in your street?

A. I was not on the roof. My husband was on the roof, but he certainly did not see anyone else on their roofs. I remember only minutes before  
10 the front actually hit us looking down at the house two down, and the women that lived there had just poked their heads out the front door to have a look around. At that stage we were racing so fast I didn't even have time to yell at them.  
15 They just basically saw with their own eyes what was happening.

Q. So far as the steps you took, they seemed to be very appropriate steps according to the book,  
20 as it were. Where did you get information from that that was an appropriate thing to do? Was that something you had learned over years?

A. Yes, that is information I have learned and acquired over years, and I passed on to my husband  
25 as well as to what steps you were to do if that sort of situation had eventuated.

Q. Were you and your husband the only people in the house at the time you evacuated?

30 A. No, our landlord was still with us at that time.

Q. So he chose to stay at the house for a little while?

35 A. No, he left at the same time as well. He went back to his house in Weston and then came back to the house in Rivett a little later on.

Q. So far as the garden of that house was concerned, what was the form of it out the front?

A. We had wattle tree or there was a large front nature strip which had big gum trees and then across the footpath we had wattle trees along the front.

45

Q. Reasonably heavily treed?

A. It was a very well-established garden.

Q. And the surface of the - was there a lawn in front of the house?

A. There was - because of the water restrictions though we had not been watering, so the grass had 5 mostly gone back to dirt almost.

Q. That sort of configuration, was that sort of typical of the houses close to yours?

A. Similar. There are different sorts of gardens 10 along the street. The neighbours that are next door, they basically had the same sort of grass as us and just one bush out the front and a few gums on the nature strip.

15 Q. How long before you left did you actually see the fire, the flames coming out of the pine forests?

A. Only minutes. It moved incredibly rapidly.

20 Q. And you describe I think that it moved, what, 500 metres in 20 seconds or --

A. It seemed that quick. I just remember seeing it jump across Kathner Street and just roar past and come straight --

25

Q. I take it that was a very frightening thing to see?

A. Certainly the adrenaline levels were very high, but obviously we were trying to keep as calm 30 as possible given the circumstance so we didn't mess up and end up losing our own lives or getting seriously injured as we tried to leave.

35 Q. At that stage you knew a fire was coming. But what actually came, was that something different by an order of magnitude from that that you were expecting?

A. I guess over the years you see a bushfire and you see people out there patting it out and 40 getting their buckets of water and doing those sorts of things, but there was absolutely no way in the world we could have done that with this fire, not at the rate it was moving and the ferocity of it. It would have been completely 45 useless to even try and point a hose at it. Nothing was going to help.

Q. Once you were outside, did you actually see that fire, what you have just described, from inside the house looking out, or were you in the front?

5 A. I was in the front yard. The door that we entered and exited the house was on the side of the house where the carport was. So I basically locked that door and ran straight back out the front to see what had happened, and that is  
10 when I saw it come straight over at us.

Q. Preceding that fire, were there a lot of embers blown towards the house?

A. There was a lot of ash. I remember being in  
15 the backyard talking to Tony up on the roof, exchanging instructions, et cetera, and that was when all the ash was falling down on us then.

Q. Tony, your then partner now your husband, he  
20 was on the roof. Was there a strong wind at that time?

A. There was - very strong. I remember putting my hat on my head and then it just blowing straight off again. The wind was so strong and so  
25 loud also that we were shouting and screaming at each other to be heard.

Q. Was Tony having difficulty keeping his feet on the roof?

30 A. I think he was. By the time I saw those flames in the forest, that was when I was saying, "Get off. Don't stay on the roof any longer."

Q. By that time you had a ladder I think that  
35 the landlord had brought over?

A. We had, yes.

MR ARCHER: Yes, thank you.

40 **<CROSS-EXAMINATION BY MR LAKATOS**

MR LAKATOS: Q. Ms Larkins, you said at the beginning of your evidence that part of your previous experience before being in the ACT was working in the Country Fire Service in South Australia and also the Queensland emergency services; do you recall?

A. That was in my position as a journalist liaising with them.

5 Q. I am sorry, I didn't mean to imply anything different. That was in the context you said of some fires which had occurred in Queensland; was it?

A. That was in South Australia.

10 Q. And in the context of cyclones which had occurred in or around Queensland?

A. That is correct.

15 Q. What is the name of the Queensland emergency services counterpart, do you know?

A. I must say that it has been over five years since I worked in Queensland. I could not precisely give you the name now.

20 Q. In the event, would it be a fair summary to say that both of the organisations, the Queensland organisation and the South Australian Country Fire Service, are far larger and older organisations to your knowledge than the Emergency Services Bureau in Canberra?

25 A. I would assume that that would be.

30 Q. Indeed, just from your observations, it would be fair to say that the resources and personnel of those organisations were to your knowledge considerably larger than those in Canberra; would that be a fair statement?

A. Again, I can only assume given the population size and the difference between those and the ACT.

35 Q. In the events that you interacted with those organisations with the fires in Mt Gambia and the cyclones, were they catastrophic events - and I use that term advisedly - of the kind that

40 Canberra underwent last year in January?

A. Not of the same scale.

Q. Considerably smaller? Would that be a fair --

A. As they eventuated they were, yes.

45 Q. Had you had dealings with the Emergency Services Bureau in Canberra prior to January 2003?

A. I had, yes.

Q. You said in your statement I think that, when you went back to your house on the afternoon of 5 18 January, you put into action certain information you had gleaned previously from the ESB about what people should be doing if fire threatens one's home?

A. As I mentioned previously, I had done stories 10 at the start of the summer. I believed they were with Peter Lucas-Smith regarding the potential of the bushfire season, what people should do; stories also about how people should start looking at preparing themselves just in case.

15

Q. And those sorts of stories were stories done with the ESB cooperating with the media, including the ABC for whom you work?

A. They were. They are fairly standard stories 20 that you do at the start of each bushfire season, the start of summer. Similarly, you do the same sort of stories at the start of the snow season.

Q. I understand that. So at least as far as your 25 position was concerned you had sufficient information from those stories to know in the general ballpark what you should be doing if fire threatened your home and you did so; is that correct?

A. We followed that, yes.

Q. The stories that you did with Peter Lucas-Smith went to air on ABC Radio?

A. Yes.

35

Q. On television perhaps?

A. I believe that there were stories we did. I do recall doing one on the ridge at Red Hill prior to the fire season where some clearing had 40 been done then, and that was a television story.

Q. You gave evidence about the telephone conversation or interview that you had with Mr Castle, the director of the Emergency Services Bureau, at 6 o'clock on the morning of 18 January. Mr Lasry took you to one portion of that, which is 45 at the top of page 3 of your statement, in which

this is attributed to you:

"He admitted the conditions were awful and  
were placing pressure on all fronts."

5

You were asked about the word "admitted". Can I ask you this: earlier in your evidence you said that some of the words which were used in your statement were words that you would not have used 10 yourself but the substance as I take your evidence of your statement is correct; is that a fair summary?

A. In that there is a particular reference there that says "conditions are awful, put pressure on 15 all fronts".

Q. I am particularly concentrating on the word "admitted". Was that a word that you chose or was that one that was chosen by the interviewer?

20 A. I imagine I would have said that he said the conditions were awful.

Q. Because "admitted", of course, carries with it a connotation that he had to make a concession; he 25 had to move from a previous position; do you agree?

A. I merely say that that was a statement that he made.

30 Q. I understand. That is your best recollection.

A. Yes.

Q. He was simply giving you information in generally the terms that you record as he was 35 answering your questions?

A. Yes.

Q. Do you know now how much material he gave you in that interview actually went to air?

40 A. Only a small amount, but the content of the interview he gave at 7.30 was basically the same. I was listening to that as I was preparing other information.

45 Q. Was the decision as to what went to air in that first broadcast at about 7 o'clock one which was made by you or others?

A. I was the only staff member on at that time, so it was mine. I wrote the story and prepared it to go to air.

5 Q. Could I ask you when you had a discussion with Mr Castle about the fire possibly having entered the Uriarra pine forest, that is again at the top of page 3, was that statement significant to you in terms of fire risk to Canberra or not?

10 A. It wasn't conveyed to me that that should be something I would be greatly concerned about.

Q. On page 4 and in your evidence you have elaborated on your contact with Amy Lowe. Can 15 I just ask this: your statement says, and I take it to be the fact, that you were working with the ABC part-time three days a week?

A. I was, yes.

20 Q. You were in effect doing the weekend work?

A. That was true.

Q. And that was between Friday and Sunday?

A. That is correct.

25 Q. May we take it that other people at the ABC were - perhaps I will say it this way: a number of staff worked between Monday and Friday, a regular week as it were?

30 A. They certainly did, yes.

Q. And there would be perhaps additional staff working in positions on Saturday and Sunday?

A. On a Saturday and Sunday there was myself, 35 I had a news reader. And in the programs area there was one presenter, one producer and then a sports presenter who came on at 11 o'clock.

Q. That group of people was a different group, 40 was it, to those working between Monday and Friday?

A. There was a crossover with most of us.

Q. The terms of your evidence orally were that, 45 when you asked Amy Lowe if she had your phone numbers, you said in evidence, "I was not confident about the response."

A. I was not.

Q. What was said by Ms Lowe which gave you that impression?

5 A. I couldn't specifically tell you now. I can't recall the exact words of what she said, but certainly the impression she was conveying didn't give me confidence that she had the numbers that were relevant on that particular weekend. She did  
10 not have my contact numbers nor did she have after hours contact numbers that she could tell me about for other people that would need to be informed in the case that things deteriorated.

15 Q. Of course you had only come on the scene relevantly on Friday, 17th January, hadn't you?

A. That particular weekend, yes. I had, of course, been monitoring carefully what had been happening.

20 Q. But the point of contact, the first occasion she would have had approximate to 18 January to have cause to contact you would have been some time on the 17th, because that is when you  
25 actually started to work on the story?

A. We had been speaking on the previous weekend though as well, and obviously we had had much contact through the previous months.

30 Q. Can I suggest this proposition to you: that Ms Lowe asked of you who was the appropriate person on the weekend shift to be contacted, or words to that effect?

A. I believe I asked her if she knew.

35 Q. Would you agree that the issue was who was the appropriate person on the weekend to be contacting?

A. Yes.

40 Q. Because that person might be a different person - in fact almost invariably would have been a different person - to that between Monday and Friday?

45 A. That is true.

Q. To your knowledge, had the ESB been

communicating with the ABC in the course of the week, Monday to Friday?

A. I couldn't tell you.

5 Q. There is a high likelihood that was so; was it not?

A. Certainly. I don't have direct knowledge of it.

10 Q. You would have been aware that a number of media releases were provided by the ESB to various media outlets?

A. I understand that. Of course there was, and there was also regular press conferences as well.

15

Q. So there were some lines of contact or communication which appeared to have been working, one might assume, in the days leading up to your entry into the scene on 17 January?

20

A. There was on that daily basis, but certainly there didn't seem to be an increase in communication that I would have perceived would have been warranted given the great deterioration in the circumstances.

25

Q. So the impression that you formed was really that when, as it were, things got really crucial, the communication lines weren't as good as they should have been; is that fair?

30

A. I believe it should have been the responsibility of the ESB to be getting the information to us, not me having to make call after call after call to try to get any sort of information I could from them.

35

Q. I understand. Finally you were saying that some time after 2.30 or thereabouts as you were driving your car, you turned on the radio and heard the standard emergency warning signal.

40

I think that was the time; was it not?

A. I was still at the house at that time.

Q. Remind me please what time approximately was that?

45

A. Some time around 2.30, probably after 2.30, I got one of the portable radios out of the house to listen to outside.

Q. And your best recollection is that your suburb that you were then living in, Rivett, was not one of the suburbs which was placed on alert by that signal?

5 A. My recollection is that I was hearing over the course of that next ten minutes or so that people in Rivett should return to their houses, not that they should evacuate their houses.

10 Q. If I suggested to you that the standard emergency warning signal which was broadcast after some time after 2 o'clock included the following suburbs on alert, "MacGregor, Holt, Higgins, Woodhaven Green, Hawker, Weetangera, Cook, 15 Macquarie, Aranda, Duffy, Rivett, Chapman and Holder - residents in these areas are urged to return to their homes", would you dispute that the message that you may have heard at around 2.30 was along those lines?

20 A. I am sure you would appreciate that at that time I was very active. I was trying to listen but I was also trying to do what I had to do to protect ourselves and to get what I could out of our house.

25

Q. I do understand.

A. So had it, I missed it; that might have been the case.

30 MR LAKATOS: Yes, thank you, your Worship. Those are the questions that I have.

THE CORONER: We will take the morning adjournment.

35

**SHORT ADJOURNMENT**

[11.15am]

**RESUMED**

[11.40am]

40 THE CORONER: Yes, Mr Whybrow.

**<CROSS-EXAMINATION BY MR WHYBROW**

45 MR WHYBROW: Q. Ms Larkins, I represent Mr Castle. You indicated earlier in your evidence that, when you started work on that Saturday morning at about 4.30, driving in you listened to

the overnight reports on the press from New South Wales and the ACT as to the overnight situation, I suppose. Did you in what you heard from the New South Wales Rural Fire Service hear at that stage 5 any indication that the McIntyre's Hut fire would inevitably breach its containment lines and end up in Canberra.

A. I could not specifically recall that.

10 Q. If you heard at 4.30 in the morning --

A. Had I heard that, I would have pursued that, yes.

15 Q. It would have been a fairly significant warning if you heard from the New South Wales Rural Fire Service media that the McIntyre's Hut fire would inevitably end up in Canberra that day?

A. I certainly, as I said, I would have pursued that had I heard that during that day.

20

Q. Also during the course of the day you left a pager message for Mr Castle in the morning at about 6.04; do you recall that?

A. I had a telephone number for him, yes.

25

Q. You called that number and left a page; I would suggest?

A. That may be the case, yes.

30 Q. In any event, he called you back soon afterwards?

A. Yes, he did.

35 Q. Can I suggest that the pager you left was to call the newsroom number at the ABC?

A. Yes.

40 Q. In any event called you back there and you spoke to him and you have given evidence about the notes that you took of that conversation?

A. Yes.

Q. You say there was an arrangement later that day to again get an update at about 11?

45 A. I had sought that, yes.

Q. Did you listen to the report of the live

interview with Mr Castle at 7.30?

A. I was listening to it in the background. As you appreciate, I was doing other work at that time also. But I was listening and understanding 5 that the content of it was the same as what Mr Castle had spoken to me about.

Q. Did you hear the last thing that Mr Castle said in that interview - I suggest what he said 10 was "Mark" - that is Mark--

A. Mark Kenny.

Q. He said:

15 "Mark, can I just add the information site, we have actually activated the Canberra Connect website, which people can access..."

20 And he then gave details of that website and that updates could be accessed from there. Did you hear that information?

A. I don't recall specifically hearing that.

25 Q. I can show you a transcript of everything that was broadcast from the ABC between 7 and 8 - and/or what I am instructed is everything that was broadcast - and I suggest that that information was given by Mr Castle at the end of his interview. Would you disagree with that?

30 A. If that is the case, then I would agree that that was what was said.

Q. I will just show you so you can perhaps refresh your memory.

35 THE CORONER: Is there a reference to that document, Mr Whybrow?

MR WHYBROW: No, there is not, your Worship.  
40 I checked it against the system and I understand it is a document that is known to the inquest. What I have is a folder of what appears to be a complete transcript of the broadcasts on the ABC from 6am until midnight.

45 Q. What I am showing you is something that I have referred to for the purposes of transcript as 666

Saturday 18 January, 6am to 9.30am, disc 1. If you peruse that document from the start, you will see it starts with ABC news with John Hall and the news. If you go through to page 8 of that 5 document:

"We go now to Mike Castle, Executive Director ... good morning."

10 And there is an interview that I think you refer to.

A. Yes.

15 Q. Over the next few pages is a transcript of that interview, I suggest. I don't ask you to read through it, but generally could you just check that it accords with what your recollection is?

20 A. It is basically the same where it discusses the issues of property protection.

Q. And your references to people are asked to stay basically east of the Murrumbidgee River and things of that nature?

25 A. Yes.

Q. On page 10, the third full paragraph, the interviewer says:

30 "Mike Castle, executive director of Emergency Services Bureau, thanks very much for your time this morning, and we will obviously be keeping a close eye on that and updating people as regularly as we can with new 35 information."

The next paragraph:

40 "Mike, can I just add the information site, we have actually activated the Canberra Connect website, which people can access if they are aware of the ... website."

45 And it then goes on to give the call centre numbers and the Canberra Connect website. Do you see that?

A. I see that.

Q. I appreciate that you were obviously working and listening at the same time. You have no reason to doubt Mr Castle gave that information on the radio at that time?

5 A. I accept that, yes, he did give that information.

Q. After that interview in the course of the morning, I think you indicated that you called 10 Cameron Wade from the New South Wales Rural Fire Service media section?

A. I did, yes.

Q. Were you aware that the McIntyre's Hut fire 15 was actually a fire burning in New South Wales and being fought by New South Wales firefighters?

A. I was aware of that, yes.

Q. When you spoke to Mr Wade, did you discuss 20 with him the McIntyre's Hut fire?

A. I would have, yes.

Q. Do you have notes of the conversation you had with Mr Wade?

25 A. I don't have notes of that. I have notes from a conversation with John Ross from the Tumut fire control. I believe that at that stage the interviews with the Rural Fire Service were being conducted out of Sydney, which is why 30 I would have got general information, I imagine, from Cameron as it affected the ACT but left the interviews with himself or John Winter to our Sydney newsroom to do.

35 Q. I am not talking about interviews; I am talking about conversations that you had with him. About what time would it have been that you spoke to Mr Wade?

40 A. It would appear from my notes that I would have contacted him just before I left for the 12 o'clock press conference, so some time between 11 and 12, perhaps earlier than that.

45 Q. But at that time did Mr Wade indicate to you that the McIntyre's Hut fire would inevitably end up in Canberra?

A. No, not that I have any notes that I could

recall that directly.

Q. If he had, it would have been something that you certainly would have remembered?

5 A. I certainly would have pursued that.

Q. You say that that conversation would have occurred some time between 11 and 12?

A. I could not give you a specific time because  
10 I don't have those particular references there.  
It could have been as early as some time around  
10. Probably I would imagine, because I was not  
getting any response from Mike Castle at around  
11 o'clock, I would have called Cameron Wade just  
15 to try to get additional information to see if  
I could get someone who would give me fresh  
information for 12 o'clock.

Q. Your recollection is that you did get on to  
20 Mr Wade?

A. I do recall speaking to him.

Q. You didn't get advice that the McIntyre's Hut fire was going to burn into Canberra that day?

25 A. No.

Q. You had, of course, Mr Castle's mobile number because you had rung it earlier that morning and left a pager message?

30 A. Yes.

Q. Did you ring a mobile number or did you ring his Emergency Services Bureau number when you were following up the 11 o'clock interview?

35 A. It would have been my recollection that I would have called both numbers, just to try to get a hold of him. Certainly that is what I would do in those situations. I would have called directly on the mobile, no response there; I would have called the ESB.

Q. Can I suggest that there were no further pager messages left on Mr Castle's mobile paging service by you other than the 6 o'clock one on that  
45 morning?

A. That is possible. I imagine that, if I had not got a hold of him on his mobile, I know

I would have rang Amy to talk to her. Perhaps it was the case that I left it up to her to pursue it, being that that was her position to do that.

5 Q. So it may have been that somebody answered the phone and passed on your request, and they had not got back to you before you left the ABC?

A. No, no-one had got back to me before I left the ABC.

10

Q. You were concerned particularly about having some update before the 12 o'clock news?

15 A. I was, as I said earlier, that is one of our major news bulletins and certainly I wanted fresh information by then, because the nature of a fire is that it would have changed by that time.

Q. And you had made efforts to contact somebody at ESB, Mr Castle, and hadn't had any success?

20 A. That is true.

Q. Did you or do you know if anybody else made any access to the Canberra Connect website to see if they had put any updated information on between 25 7.30 and 11?

A. At that stage I was not aware that that information had been given that morning. It was not something that I recalled Mike Castle directly telling me about during our interview.

30

Q. So it was not something that you were consciously aware of to think as a possible source of information?

35 A. I had been looking at the Internet, I believe, and obviously I recall that a year ago the New South Wales Rural Fire Service had a website that you can gain information from, and I do believe that there was one for the ACT Government as well. That may have come up later.

40

Q. Certainly you didn't access that before you left for the press conference?

A. No.

45 Q. You understand that the records show - I think Mr Lasry put to you or showed you that a call, and Mr Castle gave evidence that the call to 2CN

newsroom at 11.36 and there is a record of that, of a 20-second phone call?

A. There is a record of that.

5 Q. Your evidence is that the newsroom would have answered the phone; it would not have been a recorded message?

A. There was no recorded message.

10 Q. By that time you would have probably been on your way to Curtin for your noon press conference?

A. My recollection is that I probably would have been still in the office at that time because I do recall that I was worried that I was going to be 15 late for the 12 o'clock press conference because I was waiting for my cameraman at that time. So I believe I didn't actually leave the ABC until about quarter to 12.

20 Q. So if it is the case that Mr Castle rang at 11.36 and spoke to somebody in the newsroom, is it possible that there was just some breakdown of communication within the newsroom as to whether you were there or not?

25 A. No, I am greatly concerned to hear about that now, because certainly that was not put to me at the time. There was no phone call that I knew of, and I would have taken it had it come through.

30 Q. Do you accept that there was a phone call at 11.36 for 20 seconds at your newsroom?

A. If your records state that there was a phone call, then there must have been.

35 Q. Did you cover the 2001 fires in Canberra?

A. No, I didn't move to Canberra until March of that year.

40 Q. You say though in relation to your experience on that afternoon with your property that, although you had taken some precautions yourself, what occurred was nothing like what you were expecting in terms of being able to fight it with a hose or things of that nature?

45 A. That was in reference to, you know, fires of the past, not any particular fire that I would relate to Canberra, but fires in other states.

Q. What - fires you had either covered or seen on TV?

A. Just general things that you had seen on television, yes.

5

Q. What you experienced was factors well beyond anything you had ever seen or experienced before; was it?

A. It certainly was, yes.

10

Q. You had, because of your own concerns developing, called your fiance and he had started taking some preparatory action on the home?

A. That is correct.

15

Q. Given the enormity of what struck you that day, do you think if you had days more time that you really could have done anything in the light of what hit you?

20 A. I certainly think we could have been better prepared, given a little bit more time. That would give you a chance to make your own contingencies as to what to do, to be able to take more things and assess what was important to you, 25 rather than having less than an hour to do that.

30 Q. No, I asked you - do you think you would have been able to do more in terms of saving your property in light of what actually struck you that afternoon?

A. No, short of stripping the entire garden and covering - I don't know.

35 Q. I think you described, just in terms of the ferocity of that firestorm, that it was travelling when you saw it approaching - that it covered 500 metres in 20 seconds?

A. It seemed like that. It was incredibly fast, yes.

40

Q. You have made some criticisms, which are no doubt valid criticisms, about the level of warning that residents got on that day. However, can I ask you: in the terms that you have expressed 45 criticisms about warnings in your statement, have you in expressing those criticisms taken into account at all the extremely fast nature and

unexpected nature to which this fire impacted Canberra?

A. Sorry, could you repeat that for me?

5 Q. You made some criticisms about the lack of warning to residents in your area and generally about the approaching fires and opportunities to take preparation. In what you have put in your statement and expressed to the court about those  
10 concerns and criticisms that you have, had you taken into account the extremely fast nature and unexpected nature that the fire approached in that afternoon?

A. It was not for me to judge the unexpectedness of it. The fire obviously moved over a great distance, but it didn't do it instantaneously. It had obviously been moving all morning, which would have given some indication that if it was moving close to Canberra there should have been some  
20 warning that it was coming in. I mean, certainly at the end it moved incredibly fast, but it did not get from one point to the other in a matter of seconds. It would be my understanding it that was over the entire morning. So I think there would  
25 have been some time where warnings could have been given about, as I said, the fact that it was coming closer to Canberra.

Q. Given that answer, is it the case that you would accept that the level of prewarning that could be given is obviously dependent on how fast and the time that the fire starts moving quickly towards Canberra?

A. Sorry, I am not quite clear as to what you are asking me.

Q. I will withdraw that question and ask another one. You have covered fires in I think you said South Australia and Queensland?

40 A. Yes.

Q. And had experience of dealing with the fire media in reporting on those sorts of fires?

A. Yes.

45 Q. There has been some evidence about hypotheticals if Canberra was part of New South

Wales and there were no borders. The McIntyre's Hut fire you now know burnt to Canberra and indeed destroyed your house that day. If in your opinion there were no borders, would it have been your  
5 expectation that Mr Wade would have given you some warning about that possibility when you spoke to him some time between 10 and 12 that morning?

A. Yes.

10 Q. Just finally: you have said in your statement, Ms Larkins, that in a sense after having attended the press conference at noon or thereabouts, you still didn't think there had been enough urgency conveyed and in preparing your 1 o'clock bulletin  
15 or your 1 o'clock report - I am not sure what your words are - you beefed up to include some further urgency:

20 "Accordingly, when I prepared my 1pm release I wanted to convey a sense of urgency even though we were not being given an official warning."

25 A. That was my interpretation, that there was need for greater urgency, and that was what I tried to convey in my story.

Q. That was above and beyond what you felt had been conveyed by Mr Castle and Mr Lucas-Smith at  
30 the 12 o'clock press conference.

A. That was taking the information that I had heard during that press conference.

35 Q. Can I show you the transcript of ABC news from 1 o'clock which includes your report at that time.

THE CORONER: That is not part of the document brief?

40 MR WHYBROW: That is the third one. This is disc number 3, 1pm to 2pm.

Q. You may have already given this evidence, but the Canberra news at that time was, on weekends,  
45 coming out of Sydney?

A. It was.

Q. And that is indicated there by the reference to 1 o'clock "Peter Colin", who was - and probably still is - a Sydney news reader?

A. Yes.

5

Q. The news starts off with:

"I am Peter Colin. Bushfires burning in the Namadgi National Park to the west of 10 Canberra are now less than 10 kilometres from the capital. Natalie Larkins reports contingency arrangements are being put in place to protect the urban fringe.  
15 Firefighters have pulled back from the fire front in the Namadgi National Park and are now concentrating on rural property protection. With searing temperatures and strong winds, firefighters expect rapid growth in the fire in coming days but  
20 the Emergency Services Bureau believes the fire will become easier to contain as it leaves forest areas and enters grasslands. Residents on the western side of Canberra are being warned to prepare for the approaching 25 fires taking all precautions to protect their homes."

That seems to be the end of your quote at that time?

30 A. That was.

Q. Are you able to - I know it is a long time ago now - point out which part of that was in effect you beefing up the warnings that you had been given at 12 o'clock?

A. I think just the actual wording of it. You appreciate that the story I was writing for was for a national audience as well. So again it could not go into the specifics. I think 40 the words I had used were that the bushfires were bearing down on the capital - sorry, it was changed in the Sydney newsroom. But I was trying to convey within that story that sense of urgency that I didn't feel was being portrayed in that 45 press conference or was being given in that press conference.

Q. You certainly said:

5 "Residents on the western side of Canberra  
are being warned to prepare for  
the approaching fires, taking all precautions  
to protect their homes."

10 A. There was towards the end of that press  
conference, and I understand you have  
the transcripts of that, the suggestion  
that - sorry, I will just see if I can find that,  
if you don't mind.

Q. We can bring it up for you.

15 A. There were some comments there about "there  
was always a chance that fire would reach  
the urban area".

Q. It is [DPP.DPP.0003.0490] at 0494?

20 A. I have comments here that in the press  
conference people who live near grasslands need to  
take precautions on the western side of Canberra:  
be prepared and vigilant, i.e. hoses connected,  
drains cleared, just those general preparations -  
25 again similar to the ones that were made reference  
to at the start of the bushfire season, but not  
specific warnings.

30 Q. If you look to the screen to your left,  
Ms Larkins, the document is a transcript of that  
press conference from audio or video recorded at  
it, and that first paragraph appears to be  
consistent with the notes that you have just read  
out.

35 A. Yes.

Q. It starts:

40 "There is no doubt whatsoever that people  
need to be taking precautions that may live  
adjacent to the grassland area on the western  
side of the suburbs of Canberra."

45 A. Again, that was similar warning to what was  
given generally at the start of the bushfire  
season. To me, that didn't say that there was a  
direct need for people to be doing that as we

spoke.

Q. It goes on:

5 "They need to be making sure that they have nothing combustible near their homes."

Again, that is consistent with what you had been told through the summer; is it?

10 A. It is.

Q. You had heard those types of messages in the lead-up to the bushfire season?

A. In the stories that I had done previously,  
15 yes.

Q. And you were aware that there had been stories promulgated in the ACT about the sorts of preparations that need to be taken in the event of  
20 bushfires?

A. Just general bushfire good sense, so to speak.

Q. Do you see the last sentence:

25 "They need to make sure that their gutters are clear, their hoses are connected and they can reach all corners of their houses and to be vigorous for any flying embers that might come as the day progresses."

30 A. That says "that might come". There certainly was not an indication that that could happen. To me, the language is suggesting that it might be a possibility, not that it was a potential risk or  
35 probability.

Q. You didn't see that paragraph taken as a whole in any way upping the level of warnings that had been given throughout the work?

40 A. The way I interpreted it and the delivery was that it was just a repeat again of that general information that had been given earlier. As I say there, the language was suggesting that it might happen but not that there was a probability or a  
45 possibility that people should be alert and aware of.

Q. The next question somebody asks in the media is:

5 "Is that advice that you are giving to residents of Tuggeranong, we are not talking about suburban Canberra residence must take these precautions?"

The answer is:

10 "I think it is prudent under the current conditions that certainly anybody that lives on the western side of the ACT urban area needs to be taking these sort of  
15 precautions."

Again, did you see that as, if you like, a greater sense of urgency in the warning?

A. Well, that is the information that is reflected in the story that I wrote, that I feel that I gave it a greater sense of urgency than even as we look at the printed word.

Q. The next question:

25 "Media: Does that include Weston Creek and parts of Belconnen?"

30 Peter Lucas-Smith: Certainly Weston Creek and their south."

Again, that appears to be consistent with what you broadcast at 1 o'clock?

A. Yes.

35 Q. Just so Her Worship is clear, your opinion was that provided no more level of urgency than the advertisements you had seen in November about general bushfire?

40 A. I would have anticipated, as I had in the previous experience, that had there been an expectation of this being a very real possibility that that would have been spelt out directly to us from the start of the press conference - not  
45 under, you know, close questioning further along from journalists trying to extract that information. I would have anticipated that

information would have been put forward very clearly and concisely if that was the real risk.

Q. However it may have been extracted, do you not accept that those statements conveyed a sense of urgency about immediate action needed to be taken by persons in those areas?

A. Again, to me it looked like precautionary information as opposed to direct orders, so to speak, of what people should do.

MR WHYBROW: Thank you, I have no further questions.

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

MR PHILIP WALKER: Q. Ms Larkins, you said--

20     MR DAWSON: Might he indicate whom he represents for the benefit of the witness.

MR PHILIP WALKER: Yes, Mr Lucas-Smith.

Q. You said you had experience with fires in South Australia and I think also in Queensland; that is correct?

A. My experience in Queensland was more on cyclone information.

30     Q. Yes, that is the way I thought I originally understood it. But you seem to have said fires in Queensland when Mr Whybrow put it to you. Did you have experience with fires in Queensland?

A. No, I don't recall giving that impression.

35     The information I gave was that I had undertaken training with the Country Fire Service in South Australia and had given warnings relative to cyclones in Queensland.

40     Q. So no fires in Queensland?

A. Not at the time I was reporting in Queensland. There was some minor ones, but certainly nothing significant.

45     Q. All right. How many fires in South Australia did you have some experience with?

A. Well, not directly. I was not at the fire

front reporting. But what we had done - again when I was working on weekends in South Australia - when there were reports of fires coming in, be they in particular different rural areas, was that we organised to get a broadcast out immediately about those particular fires. So overall there would have been only a few, but we were trained in the eventuality that there were worse fires.

10

Q. So was this your role as a journalist or some other role?

15

A. As a producer. My weekend role generally also in South Australia was to produce the news. So I work as a journalist and also produce and present the news there on the radio.

Q. So what you did occurred from a studio or an office or something like that; is that right?

20

A. Yes.

Q. How many fires would you have had experience with in South Australia in that capacity?

25

A. Only a few. I could not tell you specifically how many. I didn't count them up.

Q. Two or three?

A. Perhaps two or three.

30

Q. And were they major?

A. No. As they eventuated, they weren't.

35

Q. Did you get your news information from some media unit attached to the South Australian fire service?

A. Yes, it was the media person for the Country Fire Service.

40

Q. That would be a centralised position for that service; I take it?

A. It was, yes.

45

Q. I dare say that that person would therefore cover all the fires of any significance in South Australia?

A. They do. They cover the entire state.

Q. Accordingly, such a person might have six, 10, 12 different fires in the course of a year perhaps, depending upon how bad the season is.

A. I could not tell you, but yes perhaps.

5

MR PHILIP WALKER: I have no further questions, your Worship.

10 THE CORONER: Mr Dawson, do you have any questions?

MR DAWSON: There were a couple of matters that I was going to deal with. I do not know if Mr Lasry has anything by way of re-examination.

15

THE CORONER: He may, but I will let you go first.

**<CROSS-EXAMINATION BY MR DAWSON**

20 MR DAWSON: Q. You were asked at the end of the questions that my learned friend Mr Lakatos asked you about the warning that you heard on the afternoon of the Saturday that we have been talking about. He asked you whether or not you could recall precisely the warning that you have talked about in your statement. I take it from your evidence that you heard two warnings; is that right?

A. The warnings were repeated.

30

Q. Is it right that you heard one warning when you were in the garden at home?

A. That's correct, yes.

35 Q. And also a warning when you were in the car leaving the property?

A. When I was in the car, I was listening in greater detail to the warning. Obviously at the time I was in the house or outside the house, 40 as I said earlier, I was busy doing other things as well.

Q. So is your evidence then that the warning that you may not have heard in quite as much detail as you would had you not been distracted by things was the warning that you heard in the garden as opposed to the warning that you heard in the car?

A. That's correct.

Q. You are certain that the warning you heard in the car suggested that residents of Rivett, your  
5 suburb, ought to return to their homes?

A. That was the warning I clearly heard in the car and that is when I called in to the ABC and did that live interview to say, "Well perhaps that is not right."

10

Q. It is that warning that you heard in the car that caused you the alarm that you have told Her Worship about earlier today?

A. Yes.

15

Q. And the decision that you made to leave home on that Saturday, was that as a result of any warning that you heard broadcast?

A. No. That was as a result of what I was  
20 confronted with, the fact that we were suddenly in the middle of the fire and really, as far as I could see, we didn't have any other option but to leave. We certainly were not evacuated or told by anyone to leave. We just did it out of  
25 survival instinct.

Q. You were asked some questions about the utility of stories that you broadcast as part of your role as a reporter at the beginning of  
30 the bushfire season, about general precautions that can be taken when there is no particular threat but just by way of sensible preparation in the event that there is one. Why is it that you say that those stories were not sufficient to  
35 inform the community about what needed to be done as the fire approached on Saturday the 18th?

A. They were good general bushfire advice stories, but on that particular day I said I felt there needed to be a lot more clearer and concise  
40 updates as to precisely what the situation was and precisely what the risk was to people as that morning progressed rather than waiting until later in the day as it turned out to actually get precise warnings.

45

General bushfire advice is good and people need that but, in that sort of situation where there

was a risk to life and property, I think there needed to be many more clear warnings about what was coming. It should not have been left to journalists to interpret. It should have been 5 the responsibility, in my view, of the authorities to provide those clear warnings.

Q. I want to turn now to some questions that my learned friend, Mr Whybrow was asking you. Do you 10 recall he was asking you some questions about the phone call which appears to have been made by Mr Castle to the ABC newsroom?

A. Yes.

15 Q. At approximately 11.36 on that Saturday?  
A. (Witness nods).

Q. Let me just read to you a question that he asked you and the answer you gave, and then I want 20 to ask you something about that. The question was:

25 "It may be that someone answered the phone and passed on your request and they had not got back to you before you left the ABC?"

That is a reference to your telephone call trying to contact Mr Castle. Your answer was:

30 "No, no-one had got back to me before I left the ABC."

I just want to clarify something with you. In 35 your statement on page 4 in the first paragraph, and you have added to this in your oral evidence today, you tell us that Ms Lowe eventually told you that Mr Castle was unavailable; is that right?  
A. That's right.

40 Q. And that was the advice you had been given before you left the ABC to go to the 4 o'clock --  
A. I was not anticipating that we would do an interview before that briefing. That briefing was going to be my first chance to talk to him then.

45 Q. I see. Mr Whybrow also asked you some questions about whether you could have done

anything more in relation to your own property had you been given more information or more warnings. Do you recall that questioning?

5 A. I do. I don't think - we could not physically have done more to save the house. But had we been given more warning, we may have been able to get more things out of the house; we may have been able to ensure that our neighbours were alerted and help them as the case was.

10

Q. I think you have answered the next question, which was when my friend used the word "property", you understood him to be meaning your house rather than your possessions?

15 A. Yes.

Q. Were you able to save any of your possessions?

A. Very few. A few photos, a few files, cameras, the cat and that was all.

20

Q. I take it then that, had you had more time, you say that you could have done a lot more in terms of what possessions you tried to take with you?

25

A. I could have assessed and been able to get more of those possessions that you can't replace, those important things that unfortunately we lost.

30

MR DAWSON: I don't have any more questions, your Worship. Just two housekeeping matters which might be of assistance. The document I think for the transcript of the 7.30am interview that Mr Castle gave - I have a reference at page 1754 of the transcript that the document number is 35 [DPP.DPP.0004.0007], if that is of any assistance.

THE CORONER: Thank you, Mr Dawson.

40

MR DAWSON: And the news reader that was mentioned earlier, Peter Colin, is in fact a female, Peta, if that is of any assistance.

THE CORONER: Thank you.

45

MR WHYBROW: I am not sure if those documents are on the system. If they are not, if those two transcripts I referred to Ms Larkins could be

tendered.

THE CORONER: It appears that they may be.

5 MR WHYBROW: I don't think they are.

MR LASRY: They are not, your Worship, as far as I am aware; so they do need to be tendered.

10 THE CORONER: So they are transcripts of the interviews dated--

15 MR WHYBROW: Your Worship, rather than being piecemeal, I have a folder that has been tabulated. It might be appropriate - if other parts do become relevant - to tender the entire transcript of the ABC's broadcasts that day. Can I indicate in case there is any doubt, certainly my instruction is there should not be any  
20 criticism of the ABC. What they did that day was a sterling job. I tender the transcript of the day's broadcasts.

25 THE CORONER: Is that useful? I don't know whether we need to scan all those documents into the system but certainly if there are some--

30 MR LASRY: We will look into it, your Worship, and identify those parts which will form part of the evidence.

35 THE CORONER: Then I will return those others to you, Mr Whybrow. I am told that some of the documents are on the system, but there only appear to be about four pages on the system. So that bundle of documents, Mr Whybrow, which represents the transcripts of the ABC broadcasts will become exhibit 0034.

40 **EXHIBIT #34 - TRANSCRIPTS OF ABC BROADCASTS AIRED ON 18/01/2003 ADMITTED WITHOUT OBJECTION**

**<RE-EXAMINATION BY MR LASRY**

45 MR LASRY: Q. Ms Larkins, you were taken to the transcript of the conference on 18 January at midday or slightly thereafter. I wonder if we

could go to page 0494 of that transcript which is [DPP.DPP.0003.0490]. Ms Larkins, you were asked some questions by Mr Whybrow about this media conference and you were taken to a couple of 5 passages. I just want to ask you about this particular passage which involves Mr Lucas-Smith being asked a question, as you can see:

10 "Q. You were saying yesterday that there was a minimal chance of the fires reaching suburban Canberra, is that still your assessment or have you re-evaluated?

15 "A. I think the word minimal was your word but there has always been a chance that the fire would reach the urban area. I think that that chance still exists and is certainly not out of our planning arrangements but there precautionary arrangements at this stage."

20 I think in your note of your conference you may have referred to that particular response of Mr Lucas-Smith?

A. Yes.

25 Q. But in forming a view about the degree of urgency or the lack of it, did that question and answer play any role?

A. It did.

30 Q. What was the effect of it on you?

A. The effect was that it was not - it was just a precaution. As I said earlier, precaution to me was similar to precautions they issued at 35 the start of the bushfire season. It was a precautionary measure. There certainly was not any sense of urgency or definite risk, or potential.

40 MR LASRY: Thank you, your Worship, I have no further questions.

THE CORONER: Q. Ms Larkins, I just want to ask you three questions. You said that at the start 45 of the bushfire season you had I think an interview or some stories with Mr Peter Lucas-Smith about awareness, general public

awareness. On whose initiative was that undertaken; do you recall?

A. I had done those sorts of stories myself, but I do believe that they had also done some official releases. Certainly in my role, I was always looking for stories for the weekend, being that news is sometimes hard to come across. And that was the story that I was pursuing as a possible story, being that the bushfire season was about to begin.

Q. You said you had a telephone conversation with Cameron Wade at about - I think you said some time 11 o'clock and 12 o'clock on the morning of the 18 January. Do you know where Cameron Wade was located at that time when you spoke to him, physically located?

A. I can't recall, I am sorry.

Q. Where did you expect him to be? Had you spoken with him before?

A. I had spoken to him before.

Q. Through those weeks. What was your impression as to where he was located before you spoke to him?

A. I am sorry, I can't recall, but my impression had been that he was in Sydney or Queanbeyan. I am not exactly sure. I also recall speaking to Stewart Cowen who was based in Queanbeyan. Obviously they were people I spoke to regularly. But my first point of contact would have been John Winter who was based in Sydney, and I believe Cameron Wade was assisting him that weekend.

Q. There was some evidence given yesterday that, at some stage on the Friday evening, Mr Koperberg had telephoned Mr Wade and asked him to relocate to Jindabyne. Did you get any impression from your telephone call with Mr Wade on the Saturday that he was perhaps in Jindabyne --

A. I do seem to recall that now, I believe.

Q. That triggered your memory?

A. It has. That was probably where I was getting my information about Thredbo from - through him and through Stewart Cowen as well.

Q. So you were speaking with Mr Wade - he had been located in Jindabyne at the time?

A. That would make more sense. I have not given it much thought since, but it would make more

5 sense.

Q. On page 6 in your statement on the second paragraph you say that, when you were preparing your home, you gave some assistance to a 15-year

10 old neighbour who was home alone. Do you know what happened to your 15-year old neighbour? Did she leave?

A. It was a young lad. He was at home asleep. It took me a while to wake him up. Fortunately

15 I spoke to his mother, because she asked me to keep an eye on him while she was away. She was in Wollongong that weekend. He was working. That was why he was at home. After I woke him I spoke to her on the phone, and she organised one of her

20 friends who lived at Stirling to come around and collect him. So fortunately that happened.

THE CORONER: Thank you. Are there any questions arising from those questions that I have asked

25 Ms Larkins?

MR LASRY: No, your Worship.

THE CORONER: No reason to keep Ms Larkins? Can

30 she be excused?

MR LASRY: Yes.

THE CORONER: Thank you, you are excused and you

35 are excused also, Mr Dawson.

MR DAWSON: Thank you. I am obliged.

**<THE WITNESS WITHDREW**

40

MR LASRY: I call Marika Harvey, please.

**<ARIKA HARVEY, AFFIRMED**

45 **<EXAMINATION-IN-CHIEF BY MR LASRY**

MR LASRY: Q. Is your full name Marika Harvey?

A. That's right.

Q. Are you presently the manager of public relations within the Chief Minister's Department  
5 of the ACT Government?

A. No, I have now taken up a new position as manager of public relations and media services at the Australian Capital Tourism, but that was my position at the time of the bushfires.

10

Q. What is your professional address? Where do you work from?

A. It is locked bag 2001, Civic Square, ACT, 2608.

15

Q. On 28 November of last year you signed a statement in relation to this particular matter, a document that appears to have been prepared by an organisation called the Independent Review and Investigation. I am not sure I am familiar with who that is. Do you understand who they are?

A. My understanding was that that was a company, a man named Wayne Carney and he was doing that on behalf of the ACT Government Solicitor's Office.

25

Q. A process was undertaken by him whereby he asked you a number of questions, no doubt?

A. Yes.

30

Q. You gave answers and then it was reduced into this particular statement?

A. That's correct.

35

Q. You have checked it - before you signed it, you checked it?

A. Yes, I edited it before I signed it.

Q. And satisfied yourself that it was true?

A. Yes.

40

Q. And then signed it?

A. Yes.

45

Q. Are you still of the view that what is in that statement is true and correct?

A. Yes.

Q. You have already pointed out that you were then the manager of public relations for the Chief Minister's department. In your statement you refer to your involvement during the 2001 bushfires, and in particular I think that involvement occurred as a result of a request from Mr Robert Tonkin, who is or was the Chief Executive within your department in 2001?

A. That is right.

10

Q. The idea was that you would assist with media aspects in relation to the 2001 fires; is that right?

A. Yes, that is correct.

15

Q. In fact, as at 2001, you had worked in public relations within the ACT Government at that stage for the previous six years?

A. Approximately that, yes.

20

Q. Does that include media work and media liaison? Is that what public relations includes?

A. It certainly includes that, yes.

25

Q. Your qualifications I think are a Bachelor of Arts in library information studies and your major in your degree was professional writing?

A. That's correct.

30

Q. Were they skills and talents that were useful, firstly, in media relations and, secondly, in the bushfire liaison and media liaison role you played in 2001?

35

A. They were certainly of some use, but heavily supplemented by my professional experience.

40

Q. In the 2001 fires, you describe the fact that you were predominantly attending to media liaison and on page 2 of your statement at the top of the page you refer to yourself predominantly attending to media liaison, organising media conferences and preparing written media updates, dealing with media phone calls, assisting the media with photo opportunities, and so on.

45

A. Yes.

Q. Was that essentially for you an organisational

role? In other words, was it simply a matter of making the arrangements for the conferences and making sure that written media updates were prepared twice each day?

5 A. Yes, and handling a number of calls from the media.

Q. Yes.

A. Yes.

10

Q. There is obviously the liaison role and there is the substantive information that is to be communicated to the media. Were you involved in both of those things?

15 A. In communicating the information, our role was more in passing on through the written statements rather than giving any commentary to the media beyond what was in the written statements.

20 Q. So was it part of your role in 2001, for example, to obtain information from the people who were heading the operational response to the fires, people like Mr Lucas-Smith, and then converting that information into something which 25 could be given to the media; was that part of your job?

A. Yes.

30 Q. Did that involve therefore some level of interpretation on your part as to what you were being told by the experts?

A. I would not say a great deal of interpretation, no, simply because it was factual information about the resources that were 35 deployed, roads that were closed, those sorts of things.

40 Q. I take it from paragraph 5 of your statement you are dealing there with the fax stream, as it is called, and you note in the fourth line of that paragraph in relation to 2001 that the fax machine did not have a media fax stream programmed into it. Let me understand what that means. Does it mean that if you want to send out, for example, a 45 media release to the media, you can put it into the machine and press a button and, without having to dial every number, the fax stream automatically

distributes that release to everyone who is on the list?

A. Yes, that is correct.

5 Q. And that was not the situation in 2001? That had to be set up; did it?

A. There was not one in that room. My understanding was that there was one elsewhere in the building that did have that facility located  
10 in it. But the day that I first got there, particularly Amy was not there --

Q. That is Amy Lowe?

A. That is right. Amy Lowe was not there.  
15 I think it was a weekend and that fax machine might have been in another area of the building - I think that was shut off to me anyway.

Q. I am still talking about 2001?

20 A. That's correct.

Q. Is that what you are describing?

A. Yes.

25 Q. I don't want to spend a lot of time on 2001, but just a couple of matters you raise in your statement, one of them you refer to in paragraph 6 is that an issue, as you described it, is that you faced were that a number of members of the public  
30 were ringing on the media phone asking about factual information about things like road closures, and somebody kept putting the calls through to you. And you go on to point out that there was no public information hotline set up for  
35 the bushfires. Was that something that was discussed after the 2001 fires?

A. Yes, it was.

Q. Do you have a view as to whether it was  
40 rectified before 2003?

A. Yes, my understanding is that Mike Castle and Amy Lowe had met with Canberra Connect to discuss with him the potential for Canberra Connect to provide an information service via telephone and  
45 the Internet.

Q. You say in paragraph 9 on page 3 that, amongst

the lessons learnt from the 2001 fires, one of those was that:

5            "The media role is quite demanding and  
important, and it is important that  
operational people are not constantly being  
taken away from their primary role to handle  
media. There needs to be a team of  
experienced media officers who can be called  
10          upon throughout the bushfire season if  
necessary."

I take it what you are describing there is  
particularly in circumstances of urgency where  
15        someone who has an operational role is also being  
regularly requested to provide information to  
the media and perhaps to give interviews and to  
formulate material which is suitable for  
publication to the broad public; is that right?  
20        There is simply a pressure of time on the people  
of the organisation?

A.        Generally, yes.

Q.        Was that situation improved, if I can ask you  
25        that general question at this stage, in 2003?

A.        Yes.

Q.        In particular how had it improved?

A.        I had worked with Amy Lowe and Mike Castle  
30        again through the year to set up, I guess, a  
network of public relations officers across  
the ACT Government who could be called upon to  
come and assist in times of emergency. And Mike  
Castle had come and briefed a team of people about  
35        the nature of emergencies and what they might be  
called upon to do. Amy Lowe had also gathered  
together a list of all of those people's holiday  
plans over the Christmas/January - at least -  
period so that she knew and the Emergency Services  
40        Bureau knew and had after-hours contact details  
for people who could be called upon at short  
notice.

Q.        You had been obviously quite heavily involved  
45        in the media liaison aspect of the 2001 fires.  
When the 2003 fires began, I think you first  
became involved some time around Friday

10 January; am I right about that?

A. Yes, that was the first day that I went to the Emergency Services Bureau.

5 Q. Throughout your statement you have made a series of errors in relation to dates and I just want to ask you whether you agree they are errors. You say, for example, in paragraph 16 that you were speaking with Judith Downey on the morning of  
10 Thursday, 10 January. I think it is clear that 10 January was a Friday?

A. I was speaking to her on the Thursday. Yes, that is incorrect. It was definitely the Thursday that I spoke to Judith. My anticipation had been  
15 was that - when I was interviewed for my statement, I think I made the point at that time that my memory was a little bit shaky on some of the dates rather than the days of the week. And I had anticipated that those things would have  
20 been corrected in my statement. When I edited it, I was looking much more at the other sort of content than the actual dates; that is all.

Q. It is not a criticism. So it is Thursday  
25 9 January that you would have had that discussion with Judith Downey?

A. That's correct, Thursday the 9th.

Q. Can I just ask you about one other date: Just  
30 go across to paragraph 22, if you would, for the moment.

A. Yes.

Q. The Monday in that week was clearly the 13th,  
35 not the 14th.

A. Okay.

Q. So are you describing an increase in national media interest as commencing on the Monday or  
40 the Tuesday?

A. On the Monday.

Q. And of course the Monday the 13th, no doubt you recall, was the date on which the helicopter crashed into Bendora Dam. Does that accord with your recollection now?

A. I am not sure if that was the Monday or

the Tuesday.

Q. I am telling you because I know that it was the Monday.

5 A. Thank you. I will believe you.

Q. You refer to the Chief Minister in his underpants. I thought that might have anchored the matter in your memory. Anyhow, it is Monday,

10 13 January

A. All I can say is that I was down there for many, many days. I cannot always remember exactly what.

15 Q. The point that I wanted to just be clear on is it was the Monday of that week that the media interest commenced, not the Tuesday?

A. Yes, the Monday.

20 Q. And of course exacerbated by the helicopter crash on the Monday.

A. Yes. But from memory I think that there was greatly increased media coverage and interest well before the helicopter even came down.

25

Q. Before we go to that in a bit more detail, can I just go back for a moment to paragraph 11 of your statement. In that paragraph you describe an Exercise Minotaur in August 2002 and you describe what it was about. As you point out in the paragraph:

35 "... simulating an outbreak of foot and mouth disease. This provided the ACT Government to test the arrangements of the emergency management plan, the Department of Agriculture, Forestry, Fisheries Australia, which would have primacy in response for such an outbreak, ran the simulation of the foot  
40 and mouth disease outbreak."

Just pausing there for a moment, this exercise was obviously one involving both state and federal government departments?

45 A. That's correct.

Q. I take it interdepartmental liaison and

cohesion was part of that exercise; was it?

A. Yes.

Q. But at the end of that paragraph you say:

5

"Public communication and information was identified as being a major issue in managing the incident, particularly communications between different jurisdictions, and to manage and coordinate this, a public relations team was put together to participate in the simulation, including myself, Amy Lowe and Cecilia Bourke from Environment ACT."

15

Do I take it from that paragraph that the question of the efficient dissemination of information to the public was something which that exercise dealt with, at least in part?

20

A. Yes.

25

Q. And in particular I also gather from the passage I have just read to you that communications between jurisdictions, whether state to state or between state and federal, were recognised as something that needed to be dealt with in that efficient dissemination of information?

A. Yes.

30

Q. Did the simulation exercise produce measures which made that dissemination of information more effective? Is that something that was learnt during the course of it?

35

A. Yes, we learnt a number of lessons about the challenges that those sorts of exercises involved and the need for, you know, a lot of resources in the public communication role and the importance of the communication between different jurisdictions.

40

Q. I ask you that, Ms Harvey, because that issue arose again during the course of the 2003 fires, didn't it, in the sense that the fires obviously were on both sides of the ACT/New South Wales border and different jurisdictions were involved?

A. Yes.

Q. Were there any particular lessons or developments that came from that simulation which were applied to the more cohesive dissemination of information from New South Wales and the ACT during these fires?

A. What I would say is that the biggest lesson we learnt in the foot and mouth disease simulation is that we could not get any information from the Commonwealth government about what was going on. We found it impossible to deal with them to get any form of information about what they were doing publicly.

Q. You have been in court over the last day or so?

A. Yes.

Q. Were you in court during Mr Koperberg's evidence, for example?

A. For the majority of it, yes. I came at about 2 o'clock on Tuesday afternoon.

Q. You may have missed the best part, but still I am sure you heard relevant parts of it. You are aware of the fact, aren't you, that in his evidence an issue arose as to about whose responsibility it was, for example, to provide information to the Canberra public concerning fires which were in New South Wales and had the potential to cross and indeed actually crossed the border and affected Canberra; do you recall broadly that issue being raised with him?

A. Yes, I do.

Q. Listening to his evidence and looking back at that exercise in August 2002, do you think it is fair to say that there is still obviously a co-ordination problem as between the two jurisdictions?

A. The exercise in 2002 really did not get to that level of communication between the ACT and New South Wales. Our communications were with the Commonwealth government. So there were no lessons learnt specifically in dealing with New South Wales that could have been applied in the 2003 bushfires.

Q. Perhaps we will come back to that. You note in paragraph 13 that the simulation and the 2001 fires underlined the importance of keeping the public informed, in the first line of that paragraph, and I take it that that was something that you took with you into the 2003 fires?

5 A. Yes.

Q. Was your engagement into the 2003 fires to 10 carry out the duties that you did a formal engagement or was it in a sense an ad hoc - your statement suggests that it may have been to some extent by chance, because you happened to be discussing what you had done in 2001 with Judith 15 Downey, and she then suggested that perhaps it would be a good idea if you offered to help out at ESB. Is that broadly the way it occurred?

A. I explained to Judith my involvement in the past, and the arrangements that Mike Castle 20 and Amy Lowe had been putting in place. She then left me a message later in the day that she had been speaking with Mike, and they believed that it would be of benefit if I went to assist. But I would say it was - I would assume ad hoc.

25

Q. Yes.

A. There was no paperwork or any sort of formal arrangements in me going there.

30 Q. When you got there, what did you understand to be your role; what job were you to do?

A. Liaising with the media via fielding calls, setting up press conferences, drafting the statements that we would then clear through 35 Peter and Mike before issuing them - those sorts of activities.

Q. And a place had to be selected for you to be working in, which was the meeting room at ESB?

40 A. I believe they already had somewhere set up in the general area in which they were managing the fires.

Q. In paragraph 20 of your statement on page 6, 45 you refer to the formulation of a basic template for media updates, and the paragraph says:

5           "Our templates were primarily based on our  
2001 experiences - key things such as fire  
status, where the fires were, how many  
hectares had been destroyed and the current  
operational response to the fires. This  
included resources deployed, road closures,  
park closures and where to get further  
information. All the material was gathered  
from the regular briefings and meetings and  
10          from conversations with Peter"--

I presume that refers to Peter Lucas-Smith?  
A. Yes.

15 Q. It goes on:

"And others such as Rick McRae and Nick  
Lhuede in planning and Dave Ingram from  
logistics."

20          That list of things that was to go into the basic  
template for media updates, was that something  
that you discussed with Mr Lucas-Smith or  
Mr Castle in formulating it in January 2003?

25 A. I believe so. I could not say 100 per cent  
sure, but all statements were cleared through  
either one or the other of them before they went  
out, and over time we added to the template as we  
saw a need to provide better information.

30 Q. The list of items in that template does not  
seem to include any reference to threat levels.  
Was there any discussion about including the level  
of threat in that basic template?

35 A. I don't recall any discussion, at that stage.  
I guess as a bit of an example of how things were  
when we were creating that, the first press  
conference I was involved in, I contacted  
the local media to invite them along to a press  
40 conference. And one of the local television  
stations fairly much sort of said to me, "We don't  
think we can make it. Do we really need to have  
to come there?" The interest at that stage was  
very, very low from the media. The fires had only  
45 just broken out.

Q. Yes, I follow that and I am not really asking

the question so much from the point of view of media interest but whether, from the discussions you had with anybody, anyone suggested that one of the things that needed to be incorporated into a  
5 media update was the level of threat to particular parts of the community. That was not something you could ever recall being discussed?

A. I don't recall that being discussed.

10 Q. Mr Woodward is reminding me that I am not sure that I have clarified the date back in paragraph 18, but I take it in that paragraph where you refer to preparing the basic template, you are describing an event on Friday 10 January; am  
15 I right about that?

A. I assume so. You will have to check the media release files to see whether the first statement we issued was on the template. I cannot recall exactly when we first established that. I assume  
20 the Friday, but I couldn't be 100 per cent sure.

Q. Can I ask you to look at [ESB.AFP.0014.0268]. The document will come up on the screen next to you in a nanosecond or perhaps a little more.  
25 The document is a media update for Sunday, 12 January. Do you see that, Ms Harvey, at about 6.30pm?

A. Yes.

30 Q. Is the document familiar to you? Do you recognise it?

A. Yes.

Q. I don't think your name appears on it - apart  
35 from people like Mr Castle and so on. But one of the things that is offered as a possibility is a photo opportunity, and the numbers given at the bottom of that page are 6207 8458 or a mobile (0409) 180 343. Do you know whose numbers they  
40 are?

A. I would say that the 6207 phone number would be one of the media telephone numbers that was established in the room that we were based in. The mobile number I don't recognise off the top of  
45 my head, but I would say it might be Amy Lowe's old mobile number, because we were trying to over the entire period get media calling a set phone

number that would be a media number rather than our personal numbers, seeing that we would be coming and going.

5 Q. I don't need to take you to it at the moment, but at the very end of the document two pages on, those same two numbers are given in bold as the media contact; so that sounds consistent with what you have just been saying. As to  
10 the substance of the media update, and in particular the quotes which are set out in page 1, are you able to recall who prepared those?

A. What do you mean by the word "prepare"?

15 Q. Let's see if we can deal with the reality of the preparation of one of these documents. A document like a media release or a media update in this case will be prepared by someone which will include from time to time quotes - in this  
20 particular case a quote attributed to Mr Castle. The reality is, isn't it, that it will not necessarily mean that he spoke those words, but the document goes out as though he has? That is right, isn't it?

25 A. It can mean that - what it would mean is he may not have said those words aloud. Somebody may have drafted those words for him and got him to check them, or he may have written them down for one of the team and given it back as the words  
30 that he wanted attributed to him.

Q. Yes. When I say "prepared", I mean is this a document that either you or someone or are you able to say if it was someone else actually drafting it?

35 A. I would just like to check my statement of whether I worked on the Sunday or whether Geoff Death did. I think I might have worked on the Sunday, and in that case it would have been  
40 prepared by me. My recollection is that it was Geoff Death and myself who were working over that weekend and we took a day each. I think it is in paragraph 17.

45 Q. Quite right.

A. Yes, I say that I worked on the Sunday.

Q. Yes. So by a process of deduction, if you worked on the Sunday you probably prepared this document?

A. Yes.

5

Q. But the document is not particularly familiar to you. You don't actually remember this document?

A. I can't remember this one above any of  
10 the others that I was involved in over that period. I would say it looks like my handwriting, the word "copy" that is written at the top of that looks like my handwriting as well.

15 Q. So in this case where you are formulating a media update which contains information to go out to the media, what were the steps that would have been likely to have been involved in this? Would you have first gone to Mr Castle and had a  
20 discussion with him, or would you have formulated the document and then taken it to him for approval?

A. It could have been either. I may have talked to a number of others, such as somebody from  
25 planning, somebody from logistics. I may have talked to Peter as well in getting some of the statistics and the factual content to go into it. I think I would have worked closely with Mike in working out what he wanted attributed to him in  
30 the quotations. And then the final document, in this case, I would say would have been cleared by Mike if it contained quotations attributed to him. But I know that other media statements were cleared by Peter.

35

Q. Yes. You wouldn't of your own initiative formulate a document which said "firefighters have managed to reduce the rate of spread" without checking with someone in the operational area that  
40 that was so; would you?

A. I don't think I would have come up with words of that nature by myself. I am no expert in fires. I would say I would have been given words like that.

45

Q. Likewise, in the quote attributed to Mr Castle which says:

5           "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  
10          contingency arrangements, and I am advised  
that this includes the availability of water  
experts."

15          That has inevitably come from at least Mr Castle  
and possibly from Mr Castle and possibly other  
operational people, as you have described -  
Mr Lucas-Smith, Mr McRae?

A.          Yes.

20          Q.       People like that?

A.          Yes.

Q.          But it certainly has not been created by you?

A.          No.

25          Q.          Created by you without consultation with them?  
A.          No. It was beyond my capacity to be  
formulating statements like that.

30          Q.          Just before we finish for lunch, can I show  
you one other document which is  
[DPP.DPP.0003.0226]. Looking at that document,  
Ms Harvey, it appears to be a draft of  
the document I have just shown you; would that  
35          appear to be correct? Are you able to see that  
that is so from looking at it on the screen?

A.          It certainly appears to be something that was  
not issued, the fact that it does not have a time  
up the top. It does not look like to be the draft  
40          of the same document though; the quotations look  
different to me.

45          Q.          Yes, I was going to ask you about that. It  
might be just as easy if I hand you the document  
and ask you to have a look at it for a minute. It  
will be easier to see in hard copy form. Just  
concentrate on the substance of the quotes. It is

clear, isn't it, from the lack of a date that that is an earlier draft of the press release we have just been discussing and it is dealing with the same subject matter?

5 A. Can I just check what time did the other one go out? Do you have a record?

Q. The time on the other one is 1830pm, 6.30 at night.

10 A. Then I would assume that this might have been an earlier draft. If the other one had been earlier in the day, this might have been a follow-up that was planned for issue later that night but never got issued. It appears to be an  
15 earlier draft.

Q. It appears to be an earlier draft. Seeing you have that one in front of you, I might ask that the later one be brought up, which is [ESB.AFP.0014.0268]. So you will have the draft in front of you and the later one on the screen.  
A. Mm-hm.

Q. You see that in the draft in the quote  
25 attributed to Mr Castle the words:

"While we have been successful in reducing the growth rate of the three fires" --

30 A. Sorry, in the draft or in the one which was issued?

Q. In the one that was issued. Look at that first. You will see it says:

35 "While we have been successful in reducing the growth rate of the three fires we are still expecting ..."

40 Do you see that in the draft that those words don't appear?

A. Yes.

Q. And the quotation in the draft is attributed  
45 to Mr Lucas-Smith, not Mr Castle?

A. Yes.

Q. So the purpose for drawing this to your attention is obviously there is a process of evolution before a final product is reached?

A. Yes.

5

Q. Am I right in saying that changes such as the ones that I have just been asking you about and including the decision as to who should be attributed with the quote are changes which are 10 made in consultation in this case both with Mr Castle and Mr Lucas-Smith?

A. Yes.

Q. It is overwhelmingly likely, isn't it?

15 A. Yes.

Q. And they would have been the ones centrally involved in formulating the words to be used, and in effect what you are doing is producing 20 the document on their instructions. That is correct, isn't it?

A. Yes.

MR LASRY: You can hand that document back. I see 25 the time, your Worship. Your Worship, perhaps I should announce - I should take the embarrassment rather than leave it to my learned friend Mr Woodward. For reasons which I will not trouble your Worship with at this 30 point, I will be departing. The balance of this witness's evidence-in-chief will be led from her by my learned friend Mr Woodward, if that is acceptable to your Worship.

35 THE CORONER: That is acceptable. Thank you. Thank you for that information. We will now take the luncheon adjournment and resume at 2 o'clock.

LUNCHEON ADJOURNMENT

[1.04pm]

40

RESUMED

[2.00pm]

<EXAMINATION-IN-CHIEF BY MR WOODWARD

45 THE CORONER: Ms Harvey, you are still under the affirmation you took this morning.

MR WOODWARD: Q. Just before lunch Mr Lasry was asking you a couple of questions about the document that is up on screen. I want to check one final thing about that. The one on 5 the screen is the one I think that it has certainly been assumed was the final one that was sent out at 6.30pm on the Sunday. You will see in the very first paragraph it includes the reference to:

10

"... firefighters have managed to reduce the rate of spread, executive director Mike Castle said."

15 Do you see that?

A. Yes.

Q. And in the third paragraph the opening words, "While we have been successful in reducing 20 the growth rate of the three fires", that is again attributed to Mike Castle?

A. Yes.

Q. If I could just get the other one brought up, 25 the draft that appeared beforehand, which is [DPP.DPP.0003.0226]. I think you agreed that was most likely to be an early draft of the one that was sent out at 6.30?

A. Most likely, yes.

30

Q. You will see that those particular passages I took you to - namely, the reference to the managing to reduce the rate of spread and the reference to it being successful in reducing 35 the growth rate - don't appear in the draft?

A. Yes.

Q. And in both cases the quotes are attributed to Mr Lucas-Smith, not to Mr Castle?

40 A. Yes.

Q. Does that assist you at all or are you able to remember at all the circumstances in which those references in the final draft came to be added in 45 and the change to Mr Castle?

A. No, I don't recollect any of the circumstances. It was just one of, you know,

many amendments that we do daily as part of our jobs. And I don't recall any particular significance about anything like that.

5 Q. And you don't recall anyone in particular asking you to make those particular amendments?  
A. No, I don't recollect.

Q. Does the fact that the attribution changed  
10 from Mr Lucas-Smith to Mr Castle signify anything in relation to those changes?

A. I think what it may signify is that possibly Peter Lucas-Smith may not have been available to handle media inquiries the next morning or they  
15 may have chosen that Mike Castle was going to take the early morning calls. It could have been as simple as that; but I am not sure.

Q. Thank you. Just while we are on the 12th,  
20 I might just ask you about some notes that you provided to the inquest, one of which we got a little more recently than the first set. I think it is in the system as [GSO.GSO.004.0014]. Do you have the notes with you, those are the ones that begin "stats"?

A. Yes, I have the originals here.

Q. The first sort of substantive reference on that page is a reference to planning meeting at 4pm. Are you able to say what planning meeting that refers to? If it assists you, if you go forward two pages you will see there a reference to "Sunday update, 4pm", and I think the content would suggest that was Sunday the 12th?

35 A. Yes, I would assume these notes on the first page would be from Friday because I did not work on the Saturday.

Q. Can we take it then that you attended a  
40 planning meeting at about 4pm on Friday,  
10 January?

A. I think from these notes you can take it that way, yes.

45 Q. Could I just ask you about a couple of things and, as best you can, if you can perhaps try and elaborate on what issue was being discussed as you

made the note that appears below. You see about halfway down the page there is a reference to "park closures and camp grounds" and then under that the words "what are we doing to prevent New 5 South Wales coming over border"?

MR LAKATOS: Fires.

A. New South Wales fires.

10 MR WOODWARD: I beg your pardon, yes, "coming over border".

Q. Do you recall the discussion which led to you taking that note?

15 A. What I would actually say is that I think that is probably me writing down a question that has occurred to me that I might be anticipating that the media might ask, rather than a statement that anybody may have made in the meeting - just by 20 the fact that it is a question.

Q. Having written that down, did you ask that question of anyone so you could deal with any media query that might follow?

25 A. I can't recollect.

Q. Do you recall a discussion at that meeting about what was being done to stop the New South Wales fires coming over the border?

30 A. No, I can't recollect any conversation about that.

Q. A little further down the page there is a reference to "how long do we expect ACT fires to 35 burn". Can you assist us at all as to the circumstances in which you took that note?

A. No, I am sorry, I can't say anything specific about that one.

40 Q. And you don't recall anyone giving an answer to that question, or do you?

A. I can't say anything particularly about that one. But I know that some of the media statements referred to the fact that the fires may continue 45 to burn for some weeks - or it may even be further on in my notes. I remember just recently, in reviewing what I have got, there were some

comments made that, you know, they could burn for six weeks unless we got a very heavy amount of rain. But I don't recall whether that was any part of the conversation in that particular meeting.

Q. In that context, do you recall any discussion about the difference between a fire burning uncontaminated and contained? Was it a reference to 10 it possibly burning uncontaminated for six weeks or was it more a reference to it just continuing to smoulder or what was the discussion about?

A. I don't recall any specifics. And I found during those meetings the majority of people in 15 those meetings knew quite a lot about bushfires and talked terminology which I was not always completely across that sometimes then, you know, I might clarify later. So there seemed to be a much greater understanding between them than what 20 I ever had.

Q. Just over the page, can you identify whether this is still part of some notes you are taking during the meeting, by what appears before?

A. It looks to me that they are notes from a meeting or that something that somebody has said to me rather than questions that I have been noting down or content that I thought we needed to put into media statements, which a lot of 30 the content on that first page just may have been my mental notes and thoughts. The second page looks more like notes from a meeting, and I would say it would be the same meeting because of the fact that the following page goes on to 35 the Sunday.

Q. Yes. So that is the planning meeting at 4pm on the Friday?

A. Yes. But at the same time I may have 40 attended - if there was a Sunday morning planning meeting, I may have attended that and not written it down that that is where they were from. So I can't be too sure about when they were taken.

Q. But I think you just said that what appears on the second page appears to be you jotting down things that other people are saying; is that

right?

A. That is what it appears to me, yes.

Q. About a quarter of the way down the page, you  
5 will see the reference "no chance of getting  
resources from outside ACT for our fires". Do you  
recall what discussion that is recording? Do you  
recall the discussion?

A. I don't recall any specifics of that  
10 discussion but I do have a memory that, because of  
the number of fires that occurred all around that  
same time through that storm, there was a huge  
call on resources in New South Wales and the ACT.  
And from memory I think the ACT had actually sent  
15 assistance to New South Wales to help fight those  
fires. So that is about as much as what I can say  
on that. But whether that was something I gleaned  
at that meeting or over the follow days, I could  
not be specific.

20

Q. But your recollection is that it is a  
reflection of the fact that there were a lot of  
other fires burning in the area and it was going  
to be difficult to get resources to assist with  
25 the ACT fires?

A. Definitely, yes.

Q. The next line "all fuels being consumed, one  
30 in ten years scenario". Stopping there, are you  
able to explain what those notes are referring to?  
A. No.

Q. What about --

A. I have to admit I took a lot of notes that  
35 sometimes I look back at and wasn't quite sure why  
I took them down and what use they might be to me  
in future. Particularly the "all fuels being  
consumed", I have no idea what that might have  
meant. A one in ten year scenario, my guess would  
40 be that somebody had said that, you know,  
the fires that had started might have been in a  
one in 10-year scenario or it might have related  
to, you know, the dryness of the ground in  
the area.

45

Q. So it may be a reference to what appears  
immediately above it; that is the level of dryness

is a one in 10-year scenario?

A. Possibly, but I am really not sure what "all fuels being consumed" means.

5 Q. Finally, just in that little passage "efforts will be focused on Bendora". Can you assist with that?

A. Just at a guess that may be the highest level of resourcing was on Bendora. There were three  
10 ACT fires, I think, at that stage.

Q. Yes. Do you recall any discussion about why the focus was on Bendora?

A. I can't recall any. But there might easily  
15 have been.

Q. Was there any discussion about the relative threat of each of the three ACT fires perhaps?

A. The threat?

20 Q. Yes, or which one was the bigger threat or the bigger fire or something of that kind?

A. I can't recall any specific comments on that.

25 Q. Just finally on that page, the second last note:

"chances of fires being put out in 48 hours slim. Fire danger escalating".

30 Can we assume that that is self-explanatory?

A. Yes.

35 Q. These are really, I think, the only notes we have of these meetings. That is why I am spending a bit of time on them.

A. That is okay.

40 Q. You are probably aware that the formal minutes of planning meetings only began on 14 January?

A. Oh, okay. Right.

45 Q. The next page you have written at the top "Sunday update 4pm". We can assume that is Sunday, 12 January?

A. Yes.

Q. Again, can you indicate whether or not these are notes of things that you have jotted down as you are sitting in a planning meeting or something else?

5 A. It looks to me like notes that I have jotted down of things that were said in the planning meeting.

Q. I think it is the third or fourth line down:  
10

"ACT still under threat from any change in direction of wind".

15 Do you recall what was being discussed when you made that note?

A. No. Sorry.

Q. I should just check with you: the next three pages, is it likely that those are continuing to  
20 be notes of what was discussed at that meeting?

A. No. I think that that next page, "how much water" - let me see. No, I think again these are things that I am jotting down to myself, questions that I either needed to follow up on; it may also  
25 have been points that I started to make - yes, I think possibly even on Monday.

Q. All right. Perhaps is it likely then that the page that we were on earlier which begins  
30 "Sunday update 4pm" is the totality of the notes you took at that planning meeting?

A. I think so because I don't think I would have turned on to a clean page if I was continuing on with the one meeting.

35 Q. The final line of that incidentally:

"Tanker gone off road - Mt Franklin".

40 Again I suggest that is something that someone said at that meeting?

A. Yes.

45 Q. Returning to your statement, paragraph 22, where I think Mr Lasry before the luncheon adjournment asked you, and you agreed, that there was a lot of national media interest generated

from about Monday, 13 January?

A. Yes.

Q. And that was, in part I think, attributed or  
5 caused by the helicopter accident but you said  
that interest generally in the fires was  
escalating at that stage; is that correct?

A. Yes, especially because it was a weekday  
again, whereas over the weekend there is much  
10 fewer media people working. And I think that at  
that stage as well there was a lot of national  
interest because a lot of the staff up at  
the press gallery were being sent down to cover  
the story. Parliament was not sitting. They  
15 probably didn't have a huge amount of other  
stories that they were following and probably  
their Sydney based headquarters were sending them  
to follow it up.

20 Q. But at least your impression was that it was  
not just the helicopter accident that generated  
that additional interest; it was just the fact  
that the fires were still burning and the fact  
that it was a weekday and --

25 A. Yes.

Q. Fires generally were creating interest?

A. Yes, that is right.

30 Q. You talk a little bit about the details of  
the helicopter accident in paragraph 23 of your  
statement, and you in particular say:

35 "The day the helicopter came down in the dam,  
it had a big impact on our workload."

Other people who provided statements - I think  
Mr Cooper in particular, Ms Harvey - has suggested  
that the helicopter accident was a diversion  
40 really for everybody working at the ESB. Would  
you agree with that?

A. Diversionary in that it diverted us away from  
other things, most definitely.

45 Q. It was not just media, was it? Almost  
everyone was affected and diverted by  
the helicopter accident for that time?

A. I can't really comment too much on everybody else, but certainly our team was heavily impacted and so were particularly Peter. You know, the media was particularly trying to make Peter  
5 into a huge hero, and there was a lot of pressure for interviews with him.

Q. Did that continue really for the whole of that day, the 13th?

10 A. And the next day as well because, as the media understood more about the circumstances of the rescue, they then wanted to interview the Chief Minister; they wanted to interview the man from SouthCare who had initially rescued  
15 the helicopter pilot; and there was a lot of media wanting photographs of him, biographical information about him. And I think we organised a media call possibly on the Tuesday so that the media could interview I think it was Ewen  
20 Mackenzie.

Q. You then in your statement go on after paragraph 23 to talk about what as I understand are broader demands from the media, so they are moving off the helicopter onto the demands that were generally arising in relation to the fires; is that correct?

A. Yes.

30 Q. In paragraph 24 you indicate that there was a lot of pressure to provide photo opportunities, people wanting to go up in helicopters. And you refer here to:

35 "Arguments between media teams were common, although we tried to share the opportunities between them".

A. Yes, that is correct.

40 Q. In fact, if I can just jump back on that same theme to paragraph 22 where it again covers the pressure generally from the media about halfway through that paragraph?

45 A. Yes.

Q. You talk about:

5                 " ... media crews complained that the footage  
was not close enough and they could not see  
flames. They did not seem to understand that  
they could not get any closer, that it was  
dangerous, and therefore they were putting a  
lot of pressure on us."

10                 Perhaps if you could just explain, if you can, in  
a practical sense - did that come from lots of  
phone calls to you or how was that pressure being  
applied?

15                 A. Yes, a lot of phone calls every day from local  
and national media, some of them - yes, they  
particularly wanted to get television cameras and  
still photographs up near the fires. They wanted,  
you know, by vehicle and they also wanted to go up  
in the helicopters. We tried to implement pooling  
arrangements, which means that you allow one media  
agency to go up under the condition that they  
20                 share the footage or vision with other media  
agencies.

25                 We found that over time while we tried to keep a  
record of who we were sending up, there would then  
be arguments about accusing us of favouritism,  
favouring one lot over another, even though they  
all got equal access ultimately. There were views  
from the press gallery that they didn't want to  
share photographs with other local newspapers.  
30

35                 We had a lot of - yes, journalists or media  
agencies who wanted to go up into the fires, into  
areas that were closed off to the public, and that  
would have meant that we needed to provide them  
with not just an escort from the media team but  
somebody who was more appropriately trained. And,  
as I think I have said in my statement, when we  
did something like that - these fires were such a  
long way away that it would be losing a member of  
40                 our team for about four hours or half a day. But  
even when we made arrangements like that,  
the media would complain that the vision was not  
spectacular enough or all they got was smoke, they  
wanted flames, why couldn't they go near  
45                 the flame. Just as much as we tried to explain  
that we could not get them that close - our  
firefighters were not that close - they just

5 really didn't understand that. And I had some of them telling me quite blatantly that they had broken through road closures to go into areas where they thought they might be able to get some more, you know, visual footage or photographs.

Q. You talked about diverting members of your team for up to four hours. At that stage on about the Monday - I think we know from her statement  
10 that Amy Lowe, who had not been around for the weekend on the 9th and 10th, was back at work on the Monday. Apart from you and Ms Lowe, what other personnel comprised your team or the media team at that point?

15 A. I can't remember exactly who was there on which days, but Geoff Death was involved, Cecilia Bourke, both of whom were from Environment ACT; Michael Whiteman, a former colleague of mine was also down there possibly on the Tuesday - I would 20 not be sure - at one of the earlier days that week. One of my colleagues at the time, Kieran Chestnut, was involved some time during that week. I think Kathy Atkins from Business ACT may also have been there, but that may have been a little 25 bit later in the week. But each day maybe from the Monday onwards, we might have had between three and five staff.

30 Q. I think you said before lunch you put together a list of potential contacts before the season who could be brought on board to assist in that role. Was that drawing on that list?

A. Yes. I am not sure if Geoff Death had been on that list initially, but generally that is what we 35 were drawing on.

Q. Was that supplementing of the team the difference between what you had, say, in 2001 fires and what you had in 2003, and was that  
40 the additional assistance you had by then?

A. Yes, because in the 2001 fires it was just myself and Amy, from memory.

45 Q. Just without getting into too much detail and perhaps it may differ from person to person, but apart from yourself and Ms Lowe, those other personnel - I think you said you had a total of

three or five, so the others might have been between one or two or three, what was their role generally? Did they have a specific role or are they there just to do what they were asked to do?

5 A. I think generally to do whatever we needed, but particularly on the telephones because the telephones just never stopped ringing; chasing up information for us and for other people; responding to requests to draft other media  
10 statements, as in the case with Michael Whiteman; conducting media up as close as we could get them to the fires. And there were requests at different times from people like Maxine Cooper from Environment ACT to draft media statements of  
15 a certain nature to get other stories out, responding to those sorts of demands.

Generally it was myself and Amy that went to the planning meetings, I think, but at different times different people went to those. We tended to always have somebody in the planning meetings. But as that week went on, I guess we learnt how to try to best use the people who were being brought in, because it was I guess a challenge for them to come in, try to get across a lot of information in an unfamiliar workplace and with unfamiliar people around them - to try to get across all of that. If they only came in for the day, then you would be starting again from scratch the next day. So  
20 we tried to bring people in for at least two days and be rotating one new person in each day so that they had the chance to build up their expertise, I guess.  
25

30 Q. I think you have described already, and you certainly do in your statement, the process by which things like the media releases and information to the media was gathered, and you talked about getting the detailed operation information from people like Mr Lucas-Smith and others in the planning unit. Was that process of obtaining that kind of operational information something that you largely did or was everyone involved in the team getting that?  
35

40 A. It certainly was not just me. I think the majority of us would have been involved. Some of the people who might have only just arrived

were unlikely to have been involved. They wouldn't have even recognised, you know, some of the faces - people that they needed to talk to and chase up. So probably would have been myself, 5 Amy, people like Geoff Death and Cecilia Bourke.

Q. You talked about attending the planning meetings. I assume that was, for you at least, an important way of getting up-to-date information 10 about what was going on, which could then be used in preparing releases and the like; is that correct?

A. Yes.

15 Q. In your notes for I think the next page, the one I last asked you about, there is a reference to Tuesday update. Do you have that?

A. Yes.

20 Q. Tuesday was 14 January. Are you able to say again whether that is notes taken at a planning meeting and, if so, whether it was the morning or afternoon one?

A. The majority of it is notes from the planning 25 meeting, something like the top like "update helicopter stats" is a mental note to myself. But the rest of it particularly where I have drawn arrows and so on, what I am trying to get to "Gingera is working down Mt Franklin Road" - that 30 would definitely be comments I was writing down from the planning meeting.

Q. The reference below that:

35 "North-west air flow until evening southeasterly potentially dangerous fire behaviour this afternoon."

Would that suggest that that is notes taken during 40 the morning, or is it just not ...

A. Yes, it probably would be then. Yes. I can't say that I attended every single planning meeting. I might have been on the phones or drafting a statement or doing something else. So just by 45 the fact that I have written down "afternoon" leads me to believe that it is probably in the morning.

Q. Can you recall whether or not you attended the planning meeting that afternoon at 4.30?

A. I have no recollection whether I did, but the fact that I have no notes - probably I didn't then.

5 Q. You may recall or you may have heard questions being asked about: I think that is the first meeting - it is the second meeting at which 10 minutes were taken but it is the first meeting where section of minutes were devoted exclusively to media. In that particular section on that afternoon, there is a reference to a discussion that Mr Lucas-Smith had apparently on 15 the 13th with Mr Phil Cheney. Do you recall anything about that?

A. No, I don't recall anything.

20 Q. I might ask you to perhaps look first at the typed minutes of that afternoon meeting, that is 14 January. [ESB.AFP.0110.0775] at page 778. Just go down to the middle of the page under the heading "Media". Perhaps if you just have a 25 read of that reference. Does that assist your memory at all as to whether or not you were present during this meeting?

A. No, I am sorry, it does not. Sorry, I went to so many meetings that --

30 Q. I suppose I was --

A. I just don't recollect this.

Q. This was, I think, the first time there was any specific section devoted to a media issue, 35 which was one no doubt you were particularly interested in; would that be right? That is that section of the meeting?

A. Oh, yes.

40 Q. There is a reference in one of the sets of notes we have of that meeting. It is [ESB.AFP.0110.0048] at page 0058. Actually leave that where it is. I think it has been generally agreed this is the note that was taken by one of 45 the two note takers at the meeting which then found its way into that minute which you just had a look at. You will see:

"WIN Phil Cheney fire expert interview told any strong winds from west into Canberra city. Media attention on this aspect Marika fielding questions."

5

Does that help?

A. Sorry, no.

Q. Do you recall either at the meeting or at any  
10 other time before or after the meeting having a discussion or hearing of the fact that Mr Cheney was going to do an interview with WIN TV?

A. It is not ringing any bells, sorry.

Q. So you are not able to assist by the reference to you fielding questions as to what that might be about?

A. I can really only guess, which might be that, you know, we may have had calls coming in from media wanting some form of response or information about it. But I just don't have any recollection of this specific one.

Q. I take it that if you weren't present at that meeting - I guess it is still your position you don't know whether you were there or not?

A. I am not sure.

Q. Someone from your team would have been present?

A. I think so. That would have been normal practice, unless we were doing something else. And I am pretty sure that some time on the Tuesday we were arranging a big media call for Ewen Mackenzie. You know, I don't know if that was at the same time. But at a guess I would have thought that somebody would have been there representing the media team at the meeting. And it looks to me like either I or somebody else has raised the fact that we have been getting questions about that interview, but I just don't remember any of the circumstances about that.

Q. Do you recall getting questions about that interview or anyone talking to you about that?

A. No. But it certainly does not mean that it didn't happen. I just can't recollect that one

above any other of the many that we dealt with.

Q. Because you understand the fact that Mr Cheney  
is saying on the Monday that there is a risk to  
5 Canberra city, that might be a matter of some  
importance in the scheme of things. But it still  
does not ring any bells?

A. No, sorry.

10 Q. Just returning to your statement, I think we  
covered paragraph 23 and 24. Your statement  
appears to start renumbering for some reason at  
that point and goes back to paragraph 19. Again  
perhaps we have already covered this, but I should  
15 perhaps just read at the top of page 9 in  
paragraph 19 as it appears for the second time.  
You give an example of the sorts of distractions  
that you had and you say:

20 "Quite a bit of time was spent on chasing  
the maps, and explaining them to the media.  
I recall spending at least half an hour on  
the phone with a Canberra Times journalist  
explaining that north is always at the top of  
25 a map and east on the right - and explaining  
where Queanbeyan was in relation to ACT.  
I relate this as an illustration of how time  
consuming it often is dealing with  
the media."

30 So that is just another example of the sort of  
time consuming task that your team had to deal  
with?

A. Yes, that is right. I remember that night  
35 very clearly because it was about 10 o'clock in  
the night, and I was on the phone for about half  
an hour trying to explain how maps work and where  
the fires were in relation to Canberra and  
Queanbeyan and that, you know --

40

Q. Were you --

A. That is just how it works sometimes.

45 Q. Were you getting asked that question during  
that time drawing on about risks to Canberra?

A. We didn't generally handle those kinds of  
questions ourselves. If we were asked any

questions like that, they were always referred to either Peter or Mike. We limited whatever we gave out to the facts of the media statements and chased up any other factual information that media 5 asked for, photo opportunities and so on. And also anything like maps that just showed basically where the fires were in relation to the border and Canberra and so on.

10 Q. Those maps incidentally, are they the ones that are generally attached to the back of the media updates? Perhaps I should bring an example up on the screen. If we go back to the document I was asking you about before 15 [ESB.AFP.0014.0268]. At page 0271 - you might even reduce it more, if you can - is that the sort of map that you had obtained and were distributing to the media?

A. Yes, that is the kind of map that we were 20 using. Sometimes we used things like that and altered them by hand, because the majority of the media don't reproduce them in that format. As you can see, they are not of the most wonderful quality and not really print or broadcast quality. 25 So the media tended to use these as a guide and then used their own graphics packages to reproduce them.

30 So because these maps came from the planning team who were often really busy on other things, sometimes we would get them to work with us just on a version like this and maybe change things by hand. And we would issue that to the media, especially with the 'Canberra Times', they tended 35 to want updated maps later on in the evening because they needed to be as up to date as possible for the morning paper. Where I think the maps were generally given out, if they were attached to the press statements it might have 40 been more at midday or at an earlier time in the day.

Q. When you changed, presumably the changes that were being made to that kind of map was just 45 adjusting the fire area as things developed?

A. Yes, that is right, and we tried our best to make it quite clear that the size of the blackened

areas representing the fires were in a lot of cases fairly just representative and were not exact representation of how big the fires were or exactly how close they were to Canberra or  
5 the border.

Q. In paragraph 21 of your statement, speaking generally about the lead-up to 18 January, you say:

10

"Another work pressure during the week in the lead-up to 18 January was that we were trying to organise good news stories. This was because areas like Environment ACT were  
15 keen for us to get positive stories into the media."

Do you recall the discussion about that as to the need to get positive stories into the media?

20

A. Yes, the particular one I recall is Maxine Cooper, the executive director for Environment ACT, who was very keen to be getting a positive story out of some of the successes that had been made in protecting environmental assets or  
25 anything like that. The one that we then used was about a particular research project that had been going on for some years and firefighters managed to save the lizards that were the subject of the research.

30

Q. Do you recall more generally a concern on the part of the operations people, people like Mr Castle and Mr Lucas-Smith, to keep things upbeat and positive in relation to what was going  
35 out into the media?

A. No.

Q. Could I just ask you about the document [ESB.AFP.0110.0166]. This is a handwritten note  
40 of the planning meeting on 15 January. Do you have a note - I won't get it brought up on the screen at this stage because it does not refer to the specific issue - in your notebook in front of you that you were present at the am update on  
45 Wednesday?

A. Yes.

Q. So is it likely you were at this planning meeting on the 15th?

A. The Wednesday am one, it looks like it, yes.

5 Q. You will see, if I can just jump to page 0171 of that document, towards the top of the page do you see a reference there "MC positive spin"?

A. Yes.

10 Q. Do you recall what was being discussed at that time, what Mr Castle - assuming the MC is him - was talking about there?

A. No, I don't have any recollection of that. It may have been relating to, you know, stories like 15 that which are also important in keeping up morale among the firefighters, giving them some positive recognition of what they are managing to achieve.

20 Q. Perhaps just another general question: you talked in your statement and have here today a lot about the sort of pressures you were dealing with in relation to the media. At that stage at least, was that essentially the focus for your team in terms of getting information out to the community; 25 was it essentially by these dealings you are having with the media that you were facilitating that process?

A. At that stage, yes. Generally the process for getting information out was through the media 30 statements, although information was also being updated on the emergency services website. That was not something that our team was involved in. My understanding is that that had always been a function not just during, you know, any kind of 35 emergency but more generally in the organisation, I understood that Rick McRae - I think he has some sort of planning role or certainly did during the fires - that was a responsibility that his team looked after. And I think we were giving our 40 information that we were issuing in the media statements to him to be placed up on the website as further public information.

45 Q. Is that the ESB website as distinct from the Canberra Connect web site?

A. Yes, is that is the ESB website and we moved to the Canberra Connect website closer - towards

the end of the week, yes.

Q. About the Friday?

A. I think we issued a media statement about  
5 the Canberra Connect web site on either  
the Thursday afternoon or maybe the Friday.

Q. That information that you are referring to as  
going up on the ESB website at that point, was  
10 that, as far as you knew, just general statements  
of the kind that appeared in the media releases  
about where the fires were burning and how many  
resources were being used - that kind of thing?  
A. That is my understanding, yes. And I think  
15 the maps might have gone up there sometimes too.

Q. Are you aware as to whether or not  
the information on the website included  
information about potential threats?

20 A. I am not aware myself. I was never very  
familiar with that website.

Q. The next paragraph of your statement - I am  
sorry to be jumping around - paragraph 22, you  
25 say --

THE CORONER: That is paragraph 22 on page 9  
opposed to paragraph 22 on page 7?

30 MR WOODWARD: Yes, thank you, your Worship.

Q. You say:

35 "At this stage, my recollection is ESB  
management were aware that containing  
the fires may not be possible but they were  
working as hard as possible on containment  
lines to prevent the fire coming into  
the suburbs and fallback positions were being  
40 developed."

I am just trying to get a sense from  
the statement, because up until that point I think  
you had been dealing with what was occurring on  
45 the Wednesday. And then over the page I see that  
you refer to what was happening at paragraph 25 on  
the Thursday. Just trying to get a sense from you

as to when you say "at this stage", what stage you are referring to?

A. It is a bit difficult to say because I think in the second paragraphs 19, 20 and 21  
5 I am talking quite generally about the period leading up to, you know, when things really started to escalate on the Friday afternoon. So I don't think I can be much more specific than that. You know, somewhere around Thursdayish,  
10 maybe.

Q. That recollection you refer to, is that something you would have got from planning meetings or do you remember some specific  
15 conversations that led you to form that impression?

A. I think probably planning meetings, but there may also have been other conversations that I was a part of, but generally probably the planning  
20 meetings.

Q. Do you recall any discussion about what the consequences of the failure to contain might be in that sort of mid to late week period,  
25 obviously before the Friday?

A. I don't remember any specific discussions. There obviously were some in the planning meetings and so on. I don't recall any specific ones.  
I think what I am referring to in that point is  
30 that there was sort of discussions about, you know, if this containment line broke then they would move to such and such a containment line as the next line; or that maybe it was that they were already putting something in place to create  
35 the next containment line if it broke - or something.

Q. I suppose I should ask you: the reference in your statement, I am not suggesting you are attributing this to anyone, but to prevent  
40 the fire coming into the suburbs, do you recall any references on discussions on, say, the Wednesday or Thursday of that week about that possibility or prospect?

A. I don't recall any specific ones, but I do think that there were comments made possibly some time that, if things went really, really badly

with the weather, there was the potential for the fire to reach the suburbs. And I took that to mean the way that it did in the 2001 bushfires where the fire reached the suburbs and the grounds around the Mint and so on.

Q. I don't think there is any suggestion in your statement or otherwise, but were you at all involved in the process of preparing for 10 the cabinet briefing that occurred on the morning of Wednesday the 15th?

A. No, I was not.

Q. Just while I think of it: you may have been in court today and possibly yesterday where reference was made to a number of New South Wales media releases, in particular releases that were sent out on the 16th and 17th. Firstly, just about that as a general question, was there a process in 20 place at ESB for receiving releases that the New South Wales Rural Fire Service was issuing?

A. We had a process in place to be receiving, you know, media statements that a number of other organisations put out, including ACT police 25 statements and ActewAGL because of possible water containment issue after the helicopter came down drawing on. I am afraid I don't recall whether we got the New South Wales Rural Fire Service ones, but it certainly would have made a lot of sense 30 to. I guess I would be surprised if we didn't.

Q. I should just mention to you that during Mr Castle's evidence at page 1690, I was asking him some questions about warnings being given to 35 the community in the context of releases by the Rural Fire Service, and I am trying to get the sense of the question. I asked him at line 32:

40 "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?"

There I was referring to the actual media, not to 45 you?

A. Yes.

Q. And he said:

"A. "Not at the time, no. Not that I was aware of.

5

"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, about threats from McIntyre's Hut?

10 "A. Not that I am aware of.

"Q. Was there any system in place to check whether that was occurring?"

15 That is whether there was warnings or information being provided about McIntyre's Hut to the Canberra community.

"A. There may have been in the media cell.

20

"Q. Who should we ask about that?

"A. I presume Marika Harvey."

25 That was perhaps a more general question about whether anyone was monitoring what was going out to Canberra communities other than obviously what you were sending out. Was such a process in place that you are aware of?

30 A. No, I don't think that we were - certainly I would not say we were monitoring who might have been issuing other statements. We were very keen to get other statements that were going out just for our records, but I don't think we could go so far as calling it monitoring. I just could not 35 say for sure whether or not we were already getting the New South Wales ones at that time.

40 Q. So certainly as far as you are aware there was not a formal process by which, for example, all New South Wales media releases would be collected by someone and distributed to people in planning or elsewhere in your organisation drawing on?

45 A. I am not aware of any formal process like that at that stage. I am not sure when, but we did set up a process at some stage where any media releases that came in on the media fax were copied to give to me, particularly to Mike - I am not

sure whether they were given to Peter as well - and I am not sure when that process was put in place.

5 Q. I think you said you would be surprised if that sort of information was not being disseminated, albeit informally?

A. Yes, it is just a fairly general statement that, you know, it is something that I am sure we 10 would have been interested in to get. But at the same time I don't know that I could say that I even really knew that they were definitely putting media statements out. Because just 15 looking back at it now, Cameron Wade particularly, who was the first contact that I had with the New South Wales Rural Fire Service, seemed to handle a lot of media inquiries in person or over the phone. So ...

20 Q. I suppose I was particularly interested in two things, and I think you have dealt with the first - namely, whether you had a sense of what was going out to the community from other media sources - but the other one is also 25 the extent to which New South Wales was generating that sort of information, how that was being fed into the ESB at Curtin generally. So Cameron Wade may have been dealing with queries coming in and answering questions, but was the information that 30 was being generated out of Queanbeyan, including press releases and so on, was that really just a question as to whether you had any knowledge as to whether that was being disseminated among people like Mr Castle and the planning unit?

35 A. Yes, I could not say for sure at that stage. I can't say for sure that we were definitely getting it at that stage.

Q. I think the next thing in your notes - in fact 40 I think I have already asked you about the Wednesday am update. I think that notebook finishes, does it not, with a note about matters discussed at the afternoon meeting on Wednesday the 15th; is that correct?

45 A. Yes. That looks about right.

Q. You then, it appears, begin a new notebook; is

that correct?

A. Yes.

Q. I will perhaps come to that in a moment. That  
5 notebook begins at Thursday at a press call on  
Thursday, which I assume was the media conference  
at 12 noon on that day; is that correct?

A. I am not sure whether that was at 12 noon or  
11 or what that day, but ...

10

Q. In your statement at paragraph 24 - this is  
paragraph 24 on page 10, 0205 - you talk about  
press conferences during the lead-up to  
the weekend:

15

" ... my recollection is that some members of  
the media were very keen to increase the news  
worthiness of what was happening."

20

You talk about how that is common among  
journalists. You say in the last sentence of that  
paragraph:

25

"I believe that in phrasing their responses,  
Mike and Peter were trying hard not to temper  
this, and not generate widespread community  
alarm unnecessarily. I think this is always  
going to be a challenging issue, how to warn  
the community, but not necessarily alarm  
them."

30

Perhaps if I could just ask you first, the first  
part of that sentence, should that read "were  
trying hard to temper this"? In other words, is  
the "not" --

35

A. I think the "not" is a mistake. Can I also  
say that I don't think that I have said that it is  
common amongst journalists to do that. It is more  
that it does happen sometimes. Certainly I would  
40 not be like to be saying that it is common.

45

Q. I understand. I am sorry; I should not have  
tried to paraphrase. It was really that second  
sentence I was concerned about. Was that  
something that you ever discussed, this issue of  
what you have described as a challenging issue,  
"how to warn but not necessarily alarm"; did you

ever discuss that with Mr Castle or  
Mr Lucas-Smith?

A. I can't recall any specific discussions then,  
no.

5

Q. So is that just an impression that you formed  
from hearing their press comments?

A. I think it is just my general impression of  
even from things like the foot and mouth disease  
10 simulation and from previous bushfires from  
the media subplan of the emergency plan. It was  
just sort of a general feel, I guess, that  
I had - and I guess it is not just an impression  
that you create from that, but when people do  
15 media training it is all about teaching you how to  
deal with the media who sometimes may be asking  
you questions to try to get you to say certain  
things which may not be the exact words you want  
to say it in. It is always a little bit of an  
20 exercise of working around some of these issues  
that are, I think, just commonplace in handling  
media interviews.

Q. I think your answer was at least - you don't  
25 recall any specific discussion. I take it that  
I should not read anything into the word  
"specific". You just don't recall discussing that  
issue generally or specifically with Mr Castle or  
Mr Lucas-Smith?

A. No, I don't recall any discussion, no.

Q. To the extent that you were involved in  
preparing media releases and in particular those  
parts of releases where you were, for example,  
35 putting in a quote from someone or something of  
that kind, other than the sort of general  
information, do you think that concern to warn but  
not alarm influenced your approach to those  
documents?

A. No, not really because I think, you know, my  
involvement in preparing those statements, they  
were generally very factual sort of statements and  
so I don't think that I in any way, you know, held  
back on anything that I would otherwise have put  
45 in.

Q. I should have perhaps broadened that question.

I asked you about Mr Castle and Mr Lucas-Smith.  
Do you recall discussions with anyone at ESB  
during this period about achieving this or dealing  
with this challenging issue, this balance between  
5 alarm on the one hand and drawing on the other?

A. No, I just don't recall any specific  
discussions along those lines.

Q. Did you incidentally have any dealings with  
10 Mr Keady during this period in relation to your  
role?

A. No, I don't believe so. Tim was often at  
meetings, but I don't think that we would have  
done more than, you know, pass the general time of  
15 day.

Q. Did you consult with him - I take it from that  
you were not in the habit of consulting with him  
about the content of media releases?

20 A. No, I don't think so.

Q. Do you recall ever doing that?

A. I don't recall it. I don't imagine he would  
have been involved, but ...

25 Q. There is a media release, and I will come to  
that shortly, on the 15th, I think, where  
Mr Castle thought an amendment had been made by  
Mr Keady.

30 A. Right.

Q. On that date. Do you know anything --

A. It does not ring any bells, but it might have  
happened.

35 MR WOODWARD: Your Worship, is that a convenient  
time?

THE CORONER: Yes, we will take a short  
40 adjournment.

**SHORT ADJOURNMENT**

[ 3.05pm ]

**RESUMED**

[ 3.15pm ]

45 MR WOODWARD: Q. I will just get you to go if you  
would to your book which commences I think with

the note "Thursday press call". On our system  
that is [ESB.AFP.0024.0002]. I think I had got  
you to indicate whether you thought this was a  
note of the midday - using that loosely - press  
5 conference that Mr Lucas-Smith and Mr Castle gave  
on 16 January; is that correct?

A. Yes.

Q. That goes for three pages. Then the document  
10 headed "Thursday pm update" is at page 0005.

MR WOODWARD: Unfortunately, your Worship,  
the copy that is on the system, because of the way  
it was photocopied, is a little hard to read  
15 because of the back of the page. But I have  
the benefit of having a slightly cleaner copy. So  
when there is a relevant reference, perhaps  
between us we can read that on to the transcript.

20 Q. Is this, as you understand it, notes taken by  
you at the planning meeting on the afternoon of  
Thursday, 16 January?

A. That's right.

25 Q. You see there the reference to what was going  
on, the fires Bendora and Stockyard, and there is  
a reference there to a fire ban for the next five  
days. Do you remember any discussions about  
the circumstances in which that fire ban was  
30 imposed?

A. I don't remember any discussions. Generally  
fire bans are just determined on I think just  
the weather conditions and the circumstances, and  
I think my understanding is that Peter Lucas-Smith  
35 has a particular process for determining fire bans  
and issuing them or putting them in place.

Q. I suppose I was perhaps asking you - I should  
have been more specific. Was there a discussion  
40 around that, as you recall, about the fact that  
conditions were starting to deteriorate - weather  
conditions - and therefore fire conditions?

A. I don't recall it, but the fact that I have  
taken notes here saying "Friday and Sunday about  
45 the same, Monday the worst", they are obviously  
comments that I have written down from  
the meeting.

Q. Your notes then next move on to "Friday am update". We have moved to the morning of Friday the 17th, and that is at 0006. There is a reference there to:

5

"Heavy aerial incendiary this morning, breakouts at top and bottom. Top one added another five kilometres containment getting specialist chainsaw crew to get at - looks like - dangerous crews."

10

Is that how you read it?

A. That is how I read it. I read over this the other day and I was not quite sure what I was writing down there.

15

Q. Do you remember a discussion about the aerial incendiary drop that was occurring at that time?

A. Not particularly, no.

20

Q. Over the page at the top I think you start to make some notes about weather. Do you recall whether that was notes you were taking during the weather briefing by I think it was Mr Mason at the bureau at this point?

25

A. Yes, it looks to me like notes from whoever was representing the Bureau of Meteorology. It was often Ian, but I think sometimes there might have been other people there.

30

Q. I think your first note says "Today, Saturday, bad." So we can assume that is a reference to Friday and Saturday?

A. Yes.

35

Q. Then:

40

"Maybe respite Sunday. Monday, bad, maybe not as bad as expected".

Do you recall having an understanding, or from what was being said by Mr Mason that, whereas Monday had been thought it was going to be particularly bad, by Friday morning it was looking not as bad as it first thought?

45

A. I cannot recollect the discussion, but from my note it appears to reflect that.

Q. You would agree, would you, that at least at that time in any event - and before then in fact - Saturday was always considered to be a bad day?

5 A. Yes, but I think Monday was thought to be the really bad day, just from memory, and I think somewhere else in my notes it said something about that.

Q. Yes, I think the note I asked you about  
10 earlier on the Thursday, you had "Monday worst" - that is Saturday worse and Monday worst?

A. Okay.

THE CORONER: Do you have a better copy than that  
15 on the screen?

THE WITNESS: I have the original here.

THE CORONER: So yours does not have all the that  
20 backing information?

THE WITNESS: No. Mine is quite clear,  
your Worship.

25 MR WOODWARD: I have a better copy too,  
your Lordship. We can certainly - I have only recently got that.

THE CORONER: No, that is fine. I was just  
30 wondering what Ms Harvey was referring to.

MR WOODWARD: We gave her back the original.

Q. What I will do is move to the pm update,  
35 Ms Harvey, which is a couple of pages further on at 0008. Can you confirm that that page - perhaps I should ask you that and how many pages following are notes taken at that meeting? As far as you can recall, it looks to me that --

40 A. It looks to me that the initial page and part of the following page. There are some notes in the middle of the following page that are questions or reminders that I think I am writing to myself, rather than notes of things that were said in the meeting.

Q. They are the things between the two lines?

A. That is right. Normally I draw lines in a notebook to sort of separate out two topics or two different meetings. Then there is a blank page and then a following page, which it looks to me like I have started to put down topics. I can't say for sure now whether that was with a view to revising the media template or whether they were issues to follow up after the meeting. I can't even say whether those points were written down during the meeting or possibly afterwards.

The only thing I guess, because I have got a note at the top of that page "Do you think we should have Felicity in here tomorrow," I have obviously written that down to show to somebody in the process of some kind of meeting. So these things could have been written down, my own thought processes, during the meeting.

Q. Can we assume though that those three pages that you have just taken us to constitute notes that are likely to have been taken either at the meeting or after - but on any event on Friday evening?

A. Yes.

Q. Just turning to the second page, and in particular the line directly above your line that blocks out those bits in between, can you assist with that? The words are definitely "threat from McIntyre's Hut". But what is the word above "threat"?

A. Could be "main".

Q. My guess was "new"?

A. No, "main", it looks like to me.

Q. Do you recall what was being said and by whom that caused you to write that note?

A. No, it could have been one of the people who, you know, as a rule spoke at the planning meetings telling us how things were going and from a planning perspective what might be coming. So it could have been somebody from planning. It could have been Peter.

Q. All right, or Rick McRae?

A. Or Rick, yes. Rick is from planning; Rick and Nick Lhuede spoke from a planning perspective - or even Bill Woodruff sometimes.

5 Q. Perhaps I should jump to it. In the minutes of that meeting - which is [ESB.AFP.0110.0865] - at 0866 Mr McRae seems to be talking about the McIntyre's fire. Do you see that on the screen next to you? It reads:

10

" ... need to assess the risks of the new situation ... provided an overview of unattended fire behaviour for various periods until tomorrow afternoon. There is potential 15 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. Planning is to provide a map of predicted unattended rate of spread. 20 There is a significant threat to the pine plantation as a result of the McIntyre's fire."

Do you recall that discussion at the meeting?

25 A. Only very generally.

Q. Is it likely that that is the discussion - or that minute is what coincides with your note here "main threat from McIntyre's Hut"?

30 A. Possibly.

Q. Because immediately after that you have drawn a line, haven't you, and made - I think you said - some notes or questions that you have written for 35 yourself; is that correct?

A. Yes.

Q. Sorry, jumping back to your notes between those lines, the second note you have there is 40 "public warning?" - what were you referring to there?

A. I can't be sure exactly, but I know that we came out of that meeting I think with, you know, a feeling that we needed to be ready to warn people 45 in the rural areas.

Q. So is it your evidence that that reference to

"public" there is limited to rural areas?

A. I am not entirely sure. My recollection is that evening what we were focusing on as a top priority was warning people in the rural areas, but we were also beginning to think about what else we needed to do.

5 Q. When --

A. For the public, for the more general Canberra 10 community.

Q. You say "Canberra community". Are you referring to the city of Canberra community?

A. Yes.

15 Q. Do you recall any discussions about that topic; namely, the need to provide a warning to beyond the rural area into the Canberra community, the city of Canberra?

A. I don't recall any specific discussions, but I also don't recall exactly what the discussions were about warning the rural residences. I just know that we came out of that meeting and started working on that straight away, but I just don't recall the nature of any of the discussions really.

30 Q. If Mr McRae is saying at the meeting - you tell me if I am wrong, but giving the impression at least on one scenario there is a risk which involves spotting activity and the fire reaching Narrabundah Hill, for instance, by 10 o'clock the following night, was it in your mind that an issue that needed to be considered was warning 35 the public of Canberra as distinct from the rural areas?

A. I find it hard to recollect exactly what was in my mind. I know that I felt a strong feeling of pressure that we needed to - that you know 40 there was a huge task ahead of us in public communication and that is why there was the note about "Felicity". Felicity worked for Canberra Connect and the discussion was really about - my note there was about ramping up Canberra Connect 45 as a public information tool. So I think definitely we were thinking about what we needed to do from a public communication perspective.

And that is why later on that evening I worked with David Prince from the fire brigade to arrange a meeting for really early on Saturday morning to discuss evacuations, public information, 5 communication.

Q. As I understand it, but correct me if I am wrong, the focus of your discussions or your work with Mr Prince that night and the following 10 morning was again the rural community; wasn't it?

A. No. The earlier part of the evening there was a lot of focus on the warning of the rural residents, and I was working on - for want of a better term - a script that a team of people could 15 use in ringing all the rural residences and talking to them about what their presentations were and giving them advice on, you know, whether to stay or go.

20 But the meeting that we were organising for the following morning was on much more broadly public communication and evacuations, the recovery centres, those sorts of things. And that is why we called in a number of different people to be at 25 that meeting from Canberra Connect, a representative from the Office of Multicultural Affairs because we wanted to make sure that we were, I guess, considering the needs of people with special needs, whether they be for 30 information in other languages or so on.

Q. Do you recall any discussion at that meeting or afterwards about the need to start to work on or consider a broader message to the community - a 35 broad warning to Canberra and the Canberra community?

A. I don't recall anything as specific as that, but I began working on the bare bones of a public communication strategy.

40 Q. I think you say in paragraph 32 of your statement just that:

45 "On Friday night I also started working on a broader communication strategy that included things like how to get information to some of these rural residents if the police had to

5                   evacuate them overnight or on Saturday.  
The strategy I started writing also began to  
address communication with the broader  
community, but I never got to complete it due  
to other work that night and events  
overtaking us."

10                  So that I think just articulates what you just  
said; is that correct?  
A.    Yes, that is right.

Q.    Jumping back just a little bit in the day,  
there have been some media releases that have gone  
out. I will not take you to each of them but  
15   I should just ask you perhaps about one that went  
out shortly before the meeting at 6pm. Can I ask  
you first to have a look at [ESB.AFP.0110.0904].  
This is the media release or a draft of the media  
release I referred you to earlier, where I think  
20   you can see from the screen there are a few Xs and  
question marks and then some handwriting where  
someone has suggested some words to put in that  
second section. Do you recall having any role in  
relation to that media release?  
A.    I can't recall. I could have. That is not my  
handwriting --

Q.    I should tell you --  
A.    But that does not mean I was not involved in  
30   that. It could be somebody else's who gave it to  
me.

Q.    Mr Castle at least believed that  
the handwriting was that of Mr Keady?  
A.    Right.

Q.    If that assists. No?  
A.    I really couldn't - I couldn't say.  
  
40   Q.   Do you have a recollection of Mr Keady being  
involved in settling the media update with you on  
Friday?  
A.    I don't have a recollection of it, but --  
  
45   Q.   It could have happened?  
A.    It could have happened.

Q. What appears to be the final version of that document is at [ESB.AFP.0110.0910]. I suppose the thing to note about this, Ms Harvey, is it is in a slightly different format to the more standard template; is that correct?

A. Yes, it appears to be. I can't see the top of it so I can't see the letterhead - or anything else.

10 Q. Does that help?

A. So there is no letterhead at all on that one?

Q. I should say that is the document we have got. It would appear that there was no letterhead with  
15 that.

A. Mm-hm.

Q. Do you recognise that update?

A. Not any more than any other of the media  
20 statements that we issued.

Q. Broadly, what now appears in that update is consistent with the amendment that was made on the draft I showed you before?

25 A. Right.

Q. Again, does that assist your recollection about the way in which this document was developed and whose words - I see they are attributed to  
30 Mr Castle, but where those quotes have come from?

A. I am afraid it does not, and I was not involved in the preparation of all the media statements, so this one does not bring back any memories.

35

Q. I take it you would agree, based on what was said and I took you to that particular passage in relation to the pm meeting on Friday, that certainly the prospect of the fire impacting on  
40 Canberra was becoming a more significant prospect than it had up to that point; would you agree with that?

A. Yes.

45 Q. Did you have a sense coming out of that meeting that there was now a significant risk of some impact? I am not suggesting that you would

have anticipated - you made it clear in your statement that no-one could have anticipated the form of impact that actually occurred; but some impact on the Canberra area. Did you have 5 that sense at the end of Friday, at that meeting on Friday?

A. I think my sense was that, yes, there was a chance of the fire reaching the suburbs. My view or understanding of what that might mean was based 10 on my experience in the 2001 bushfires when the fire did reach the suburbs, but no property was destroyed and no lives were lost. I think that is what my understanding was of the potential risk.

15 Also from some of the notes that I took or from mental notes of things to consider, just in the past few days going back through them, I have noticed that I mentioned I think in notes on 20 the Friday and the Saturday the need to identify safe places for the media to get photos. I think that is, in a way, a good illustration of my understanding of what might happen; that there would have been no need to identify safe places 25 for filming with a fire front that long or anything quite so catastrophic. So I don't think I had any concept of what was going to happen. To me, it was just going to be like in 2001.

30 Q. As I understand what you were saying, that was the impression in your mind at least on the Friday night of the sort of impact that might occur?

A. Yes, on the, I guess, more urban fringe rather than the rural residences.

35 Q. But even that level of threat - don't you think at that stage it would have been appropriate to have started warning the Canberra community about a threat of an impact, albeit one that you 40 were not able to identify at that stage?

A. With hindsight, I do, yes.

Q. That is something that could have been done by way of media releases at least that night, if not 45 during the afternoon perhaps?

A. That meeting was not until, I think, 6 o'clock that day.

Q. That is right.

A. So we probably didn't get out of it until maybe 7, maybe a bit before. We could have issued a media statement that night that would have got 5 early morning radio coverage and coverage in the 'Canberra Times'. But it might have proved more difficult for us to get a message out through the media that got to the people of Canberra that evening.

10

Q. There was a media release that went out later that night at 10 to 9, it is [ESB.AFP.0110.0905]. I will just get you to go to the second page, only because I don't have it, just to check. Looking 15 at that first just so you can satisfy yourself that on that page it is simply the usual, if I may put it this way, information about where the fire is and what people can do to get more information. If you just scroll that down - then jump back to 20 the first page. There is a reference you will see there that people can check the Canberra Connect website?

A. Yes.

25 Q. And then the first page is a summary of what is headed up "fire status". Perhaps in particular the third bullet point you will see there:

30 "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."

35 The ACT will be coordinating with New South Wales to manage a spot fire from McIntyre's Hut fire close to the ACT border."

40 There is a reference to the staging areas and logistical support. I think you would agree, Ms Harvey, there is no reference in that to any threat or impact other than smoke to the ACT community - Canberra community I should say?

A. Yes.

45

Q. Do you recall being involved in the preparation of that media release?

A. I don't recall being involved in it, but I might have been.

5 Q. Can you think of any reason why that was not seen as an opportunity at 10 to 9 on the Friday night to at least begin alerting the Canberra community to the threat?

A. I can't answer that. It is an opportunity in hindsight, yes.

10

Q. But you don't recall any discussion about whether that should be done or should not be done?  
A. No.

15

Q. Perhaps moving to the Saturday morning in your notes, [ESB.AFP.0024.0002], there is a reference at page 0011, which is headed up for your purposes "evacuation planning meeting, 8am Saturday". There is a reference there to "Duffy, Rivett, Holder. Don't go west of Murrumbidgee". Can you tell me first: was that a note of the evacuation planning meeting at 8am that you referred to a moment ago?

20

A. It looks like it. I think that there were some other papers that I provided about that meeting as well.

Q. Were they notes --

A. Of an agenda.

30

Q. An agenda, that is right.

35

A. I wrote something on the back of some of the papers. It might have been a list of the people who ended up at the meeting. I am not sure if it went further than that.

40

Q. All right. I am reasonably confident that if there were notes it would not have contained anything other than what is in this. But perhaps if I could just ask you about the references there to Duffy, Rivett and Holder. Do you remember what the discussion was about that at 8am on Saturday which picked up Duffy?

A. No, I am sorry, I don't.

45

THE CORONER: Q. Why is that, Ms Harvey? Why can't you recall? You are making the notes; you

are at the meeting. Why can't you recall? It is a significant event. Have you been through anything like this before?

A. No, I have not.

5

Q. Try your best to recall, if you would, please. Try to be of assistance to this inquiry, try your best.

A. Your Worship, I am honestly trying my best, 10 but this was quite a pressured time for me - an amazing experience to go through. And my memory - I mean, it was quite a horrifying experiences to go through - and my memory of some of these things is very, very blurry. There are 15 things that I read in the note that I don't remember anything about. I am honestly doing my best to remember as much as I can about what was said at the meeting. But that meeting was a sort of - the people who were there, I don't recall 20 them giving an update on what was happening with the fires --

Q. Who mentioned Duffy? Who said Duffy?

A. I just don't know. The people who were there, 25 there was David Prince there, people like Robert Tonkin and Lucy Bitmead - I don't know remember them being there really until that Saturday. So they would not have been talking about those sorts of things. I think there was a representative 30 from the police there, from the Chief Minister's department and from Canberra Connect. We were more talking about processes. There were also people there from --

35 Q. It is an evacuation planning meeting, is it not, and somebody is mentioning suburbs? And you are telling me that you can't recollect what was being said and who was saying anything in an evacuation planning meeting on Saturday morning, 40 18 January?

A. Yes, I can't recollect, I am sorry. I honestly can't.

THE CORONER: Yes, Mr Woodward.

45

MR WOODWARD: Q. In paragraph 37 of your statement you refer to Mr Tonkin being present and

you think you recalled also Lucy Bitmead, and you have also mentioned Nick Manikis.

A. Yes.

5 Q. Was there anyone you can recall who was involved on the operational side of the firefight, anyone from planning or Mr Lucas-Smith --

A. No.

10 Q. You don't recall?

A. They were not there, no. The list of people who were there I wrote down by hand and provided that over - immediately after the fires and again recently because it appeared that nobody had that 15 in my conversations with counsel. David Prince would have been the main one who knew what was going on.

Q. I appreciate you have been asked this by 20 Her Worship, but there is other evidence that would suggest that Mr Prince was certainly concerned about these sorts of issues at that time. Is it possible that he is talking about these matters?

25 A. Yes, highly possible.

Q. Was there anyone else - the list of people seems to include a group of people who are largely high level bureaucrats or people who were involved 30 for the first time that morning. Was there anyone else there? I appreciate you say you have provided a list and you may well have - I may have overlooked it - but was there anyone else there who was likely to have detailed operational 35 knowledge?

A. The only other people I can think of were whether people like Janet Weekly and Barbara Baikie were there, who had been working on the recovery centre side of things. There was 40 somebody else from the fire brigade, maybe Kell - I am not sure what his last name was - I think assisting David Prince or something like that.

Q. You said to Her Worship that, although it is 45 headed "Evacuation planning meeting" it was a meeting that was also concerned with the broader issue of community warning; is that correct?

A. Yes. Communication - I also wrote up an agenda for that meeting on the Friday night and I have provided that over as well.

5 Q. Yes, you have.

A. And that I think listed some of the topics for discussion.

10 Q. Can you recall any discussion, whether focused on those places or otherwise, at that meeting about the way in which the message to the community was going to be delivered that day?

A. There was a lot of conversation about how we would use Canberra Connect and how we would 15 increase the statements, the information going out to the media and to Canberra Connect.

Q. Anything else?

A. I just remember that, you know, I had grave 20 concerns about our ability to continue to get updated information out; I raised those concerns in the meeting.

Q. Was your concern about that obtaining 25 the information out of operations and disseminating it; or was it just the dissemination side you were concerned about?

A. No, it was obtaining the information. We had already found, you know, in the days leading up to 30 the Saturday that it was a difficult process getting up-to-date information or confirmations of questions that the media asked, because the fires in the week leading up to the 18th were in quite remote areas and it was very difficult to say 35 where the fires were at any given point.

It was also very difficult sometimes for us just to get people who were very busy to be able to give us time when we needed it to update the media 40 statements, and by that I am referring to people in logistics, in the operations centre or in the communications room where they actually sort of allocate resources, I guess. Whenever I went in there, they were always frantically busy and 45 would have, you know, phones going all the time and a line of people waiting to see them. And you would be sort of joining in the line.

Sometimes we struggled to get two updates out a day and the process that was being proposed at the meeting at 8am that morning was that we were going to do a written statement every hour. And  
5 what I had concerns about was that we would never be able to get information fast enough to be able to update something like that every hour, and that the approval processes that I recollect being proposed were going to take up quite a lot of  
10 time, with not a huge amount of benefit that I could see.

Q. You refer to that in paragraph 39 of your statement. Just going back to the issue of  
15 the process you were discussing, I understand what you say about the difficulty of getting the information so that you could provide these. But in terms of the process, assuming when you had the information, how was that going to be  
20 disseminated? What was discussed at that meeting or during that morning about that process?

A. My recollection was that we were going to issue it to the media. It was also going to be issued to Canberra Connect, who would be placing  
25 it up on the website and be giving it to their call centre operators as well so that, whether the people were looking up on the Internet or ringing up the call centre or listening to the media, the idea was that they would be getting  
30 information through any of these means.

Q. As far as I am aware - and I want to come back in a moment, Ms Harvey, to the meeting that morning - the only or the first media release or  
35 media update that went out that day was timed at 12 noon on Saturday. It is [ESB.AFP.0014.0375]. Do you see that document? That appears to be again a document that contains - this time it does not have the usual quotes or anything at  
40 the beginning. It is simply the information about the current status of the fires.

A. Sorry, did you say that is the first one that was issued on the Saturday?

45 Q. Well, the first of the media updates. I am not suggesting for a moment that it was the first bit of information. There is evidence of numerous

interviews and so on being conducted that morning.  
A. Right.

Q. Just so far as media updates are concerned, do  
5 you have a recollection of any going out before  
that on the Saturday?

A. No. I don't have a recollection of it, but --

Q. It surprises you, does it?

10 A. Yes, yes. But my sense of time on that  
Saturday is a complete mess, really. I thought  
that we declared a state of emergency at about  
5 o'clock, I think because I had been there since  
5 that morning and I had probably, I guess, an  
15 hour or two of sleep. It was quite an incredible  
day. So my recollection of things on that day is  
very shaky.

Q. While we have got this up, I will ask you to  
20 go to the second page, 0376. You will see there  
that there is a reference to the sorts of things  
that people can do if they are affected by fire.  
Again, Ms Harvey, as far as we are aware - and  
I did ask Mr Castle this and I think he agreed  
25 that he was not able to tell me about any others -  
this was the first media update in which that kind  
of information, that is at least in a form of a  
written media update, was disseminated.

30 Are you in a position to either confirm or deny  
that? I should say to be fair to you that we are  
not sure that this information was probably  
appearing on the Canberra Connect website earlier  
than this, but this is the first media update that  
35 we can identify.

A. My only real recollection on that is that we  
were working on that information on the Friday  
evening and we must have been using it in ringing  
the rural residents, because I just do recollect  
40 Kathy Atkins and some others doing some work on  
this on the Friday, the Friday night. But I could  
not say when it first went into a statement,  
sorry.

45 Q. Assuming for the moment, which I will ask you  
to do, that this was the first occasion on which  
that type of information was distributed at least

in a media update, and having regard to the fact that at 8 o'clock that morning discussions were going on about hourly updates and so on, are you able to explain why it took so long for something like that to go out?

5 A. That specific information or a statement?

Q. Well, I suppose I should ask about this specific update. The media update had been  
10 the significant means of communication in the weeks prior to the Saturday, had they not?

A. Yes.

Q. As you say, there was a discussion about  
15 the sort of information that needed to go to rural residents about preparing for fire that previous evening?

A. Yes.

20 Q. As I say, this is the first we have been able to find in the documents that has that type of information going out to more broadly to the Canberra community at 12 - and that being at 12 noon. Do you know why it took so long for a  
25 media update with that type of information to be sent out to the Canberra community?

A. I could not say for sure. My impression is that, in providing that kind of information, Peter and Mike were very careful about those sorts of comments. They took that very, very seriously.  
30 Not just then but over the following week, I learnt quite a lot about what you do or don't say, how much debate I guess there has been over whether to tell people to stay or leave their house, whether to tell them to leave the curtains up because it will stop rocks from flying through the window and damages or hurting someone, versus pulling the curtains down because they are likely to be flammable. I learnt quite a lot of this.  
35 No fires are going to be the same, and each situation needs to be considered. And possibly that might have had an impact on the timing of that information going in.  
40

45 Q. That is your guess, is it?

A. It is a guess.

Q. You don't recall - you are not able to assist, at this stage at least, as to why other than making a guess people were taking time to make sure the information was accurate as to why it took so long?

5 A. No, because like I say, I am surprised that we didn't get any statement out at all until midday when we had the meeting at 8 o'clock. And the idea had then been that there was going to be  
10 an hourly update.

Q. What happened with that?

A. I raised my concern that this was going to prove very, very difficult to get information for  
15 an hourly update. But the meeting decided we would still go down that path, and the process was to be that somebody from the media team would update - would go around and talk to the various parts of the organisation, gather the information,  
20 take it back to the team of people who had - or some of them at least - been in the meeting at 8am. They would go through it, make alterations or suggestions which our team would then revise.

25 I don't know if we then took it back to them or whether it then went to Mike I think for clearance and then it would be issued to the media and in theory we would start all over again collecting it. I just had real concerns about our ability to  
30 get information on where the fires were or anything of that nature fast enough and get anyone to stand still for long enough to tell us those sorts of things.

35 Q. What you described just then is the process that was being agreed, if you like, at that 8am meeting, is that correct?

A. Yes.

40 Q. Because that does not appear to have been a process that was implemented?

A. No. Not from what you are showing me. I am surprised we didn't get one out before midday. But it may have been that as I sort of have been  
45 saying that it took so long sometimes to get these things that maybe somebody was trying to get all of this together and the time kept slipping past

to the point where you could not do a 10am or a 11am or ...

Q. I should say to you that that is based on  
5 the documents we have got, and I did raise it with  
Mr Castle and no one has produced anything yet and  
it is possible that there is an earlier one but no  
doubt we will be told about that before next  
Monday. Is that a convenient - I might have  
10 another 10 or 15 minutes, your Worship, so it may  
be a convenient time?

THE CORONER: Is that all that you are going to  
have? It might just be kept on sitting then  
15 seeing that --

MR WOODWARD: I am conscious that we will not  
finish with Ms Harvey.

20 THE CORONER: We will not finish with her in any  
event. We will adjourn until Monday morning at  
10 o'clock.

**HEARING ADJOURNED AT 4.05PM UNTIL MONDAY, 22 MARCH  
25 2004 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 DOROTHY MCGRATH,  
ALLISON MARY TENNER,  
PETER BROOKE, AND DOUGLAS JOHN FRASER  
AND THE FIRES OF JANUARY 2003

DAY 26

Monday, 22 March 2004

[ 10.10am ]

THE CORONER: Before we continue, Ms Harvey, I have considered the evidence you gave last  
5 Thursday and the impression that you have given me is that you have been less than forthcoming in your comments in the evidence that you have given. I want to inform you of some of the provisions of the Coroner's Act and the possible consequences  
10 for you and indeed anybody who is summonsed to give evidence to an inquiry.

I want to read you section 81 of the Act. That section relates to false evidence. It says:

15 A person shall not, at an inquest or inquiry or hearing, knowingly give evidence that is false or misleading in any material particular.

20 The penalty for that is \$50,000 or imprisonment for five years, or both.

Now I am of the view, Ms Harvey, that you are a  
25 person who could be subject to an adverse finding or comment by me. I also want to tell you that no counsel here represents you. I don't know what impression you have, but there is no counsel in this courtroom who represents your interests.

30 Now I am prepared to give you an opportunity to seek some legal advice, if you want to do that. But if you choose to continue to give evidence before me in this inquiry, then I must tell you that you are obliged to be truthful in your evidence and to do the best you can to give truthful evidence, to do the best you can to give a truthful recollection of events and to do the best you can to assist this inquiry because that  
35 40 is what you are here for, to assist. Do you understand that?

THE WITNESS: I fully understand that, your Worship.

45 THE CORONER: Are you prepared to continue to give evidence?

THE WITNESS: I am prepared to. Everything that I have said has been - I have tried to be as helpful as possible. I have only said the truth. I am sorry that I can't help but if I cannot remember 5 all the details of what was a very traumatic time for me.

THE CORONER: We will continue, Ms Harvey.

10 <MARIKA HARVEY, RE-AFFIRMED

<EXAMINATION-IN-CHIEF BY MR WOODWARD CONTINUING

15 MR WOODWARD: Q. On Thursday I was asking you some questions about the morning of the 18th of January 2003. You deal with this commencing on paragraph 37 of your statement which is [ESB.AFP.0111.0208] and you talk about the 20 evacuation planning meeting. You mention that you provided as indeed you had, a copy of the agenda that you prepared the previous evening for that meeting.

A. Yes.

25 Q. I will just bring that up because it may assist in discussing what occurred at meeting. [ESB.DPP.0001.0064]. I think this version of the document is one that was obtained off the ESB computer system. It is, if you like, a clean copy 30 of what you prepared, as I understand, on the night?

A. Okay.

Q. You may well have another copy that you 35 provided to us and it has come back?

A. I do have one in my bag. If you want me to get that out, I can.

Q. It might be useful if you do that.

40 A. I think I wrote some notes on the back of my version with at least who was at the meeting. It might take me a minute to find it. I have a copy here.

45 Q. It includes the notes on the back?

A. Yes, it appears to.

Q. Perhaps if I could ask you to hand that to me.  
A. Sure.

5 Q. There are a few handwritten notes. Perhaps if you hand me the whole bundle, and I will have a quick look through it.

A. (Handed).

10 Q. It appears to be a combination of what you described yesterday as your script for the discussion with rural residents on the night of the 17th; is that correct? The document headed "What will people call about?"

15 A. I think some of that was also some of the notes that I was taking in preparation of the general public communications strategy.

20 Q. And the agenda on the screen is the one you prepared. It includes under the heading "public information strategy" halfway down, the bullet point:

"Key aims, alerting the community to heightened risk."

25 When you prepared that document, what did you have in mind would be discussed in the context of that bullet point?

30 A. I think these were the points that we were gathering a group of people together that morning to decide how we were going to handle these issues. And I think I would imagine what I had in mind was that I knew that we were having some problems in quickly getting information to get out 35 to the community about what was going on.

40 Q. That's the problem you referred to yesterday of the people in operations and planning being very busy and very difficult to get them to stand still, I think you spoke of, to get them to give you information about what was happening.

45 A. Yes, that's right. And people like myself and Amy and the other people working with us couldn't go into the communications room and understand what was going on. We didn't know how to read the computer screens or the white boards or anything like that. So we relied on other people to give

us the information.

Q. I think you said before there was no-one, as best you can recall, from the operations or planning area at that 8am evacuation meeting; is that correct?

A. The people there from the Emergency Services Bureau were David Prince and a colleague of his named Kel - I just don't remember his last name.  
10 He was from the fire brigade is my understanding.

Q. There was no-one, as far as you can recall from the planning unit or the operations section - the operations section being the section under Mr Graham and the planning unit being the section under Mr McRae?

A. Not that I can recall, no.

Q. How long did the meeting last; do you recall?  
20 A. No, I don't. I don't know if we even started on time because people came who we weren't even expecting. It might have been 40 minutes. I think normally there was a 9am planning meeting, a general one. I would say we would have been out 25 in time for some of us to go to that if there was one that day.

Q. The minutes of that meeting suggest that it began at 9.30. Before I ask you some questions about that meeting, do you recall whether there was much time between the end of the evacuation planning meeting and the commencement of the actual bushfire operations planning meeting?

A. No, I don't recall, sorry.  
35

Q. I take it you would agree that the planning meetings were probably for you a very useful way of getting from the horse's mouth, as it were, the latest information about the current status of the fires?

A. I found that the planning meetings - a lot of it was highly technical and I couldn't always understand exactly what was being said and the media statements that we were putting out were 45 very factual. And the sorts of things like, you know, exactly how many people were deployed or exactly where the fires or how many hectares were

burnt. The sorts of things we were putting in the media statement were not mentioned numerically in the planning meeting; so we always had to sort of get the information we needed after the meetings 5 as well. The planning meetings I felt didn't exactly feed us the information we needed for what we were putting out.

Q. As at the morning of the 18th, given the 10 previous evening you spent a lot of time ringing rural lessees and other people who might be affected by the fire in those areas and following your evacuation planning meeting, wasn't really the issue of concern amongst those there 15 identifying what areas were at risk; wasn't that one of the major purposes of the meeting?

A. The major purpose of the meeting from my point of view was trying to determine what processes we were going to follow --

Q. I am sorry to cut you off. I was actually asking about the planning meeting, once you had left the evacuation meeting and you then went to the planning meeting to hear what the latest 25 assessment of the fires was, wasn't it a very important part of that meeting, from your point of view, to hear what areas were at risk; what assets were at risk?

A. Yes.

Q. Indeed, there was a discussion, wasn't there, at that meeting of precisely that issue; that is, where the fire might impact during the course of the day?

A. On the Saturday morning planning meeting?

Q. Yes.

A. Sorry, I don't recall many of the planning meetings and what was discussing - probably that 40 was the case.

Q. It is something that you would be very concerned - it is one thing that is quite clear. If someone says in a meeting, "This area is at 45 risk," that is something you would understand?

A. Yes.

Q. That is something that would be very central to your role, isn't it, to know what parts of the Canberra community are going to be affected by these fires?

5 A. Yes.

Q. I just ask you to look at the minutes of the planning meeting for 9.30 on 18 January [ESB.AFP.0010.0266]. Are you familiar are these documents? Were you on the distribution list for these minutes?

10 A. I'm not sure. But I certainly didn't read any minutes that I was given. We really didn't have time. I think I recall copies of the minutes, 15 seeing them around at different times but --

Q. Did you have a look at the minutes and other documents that might assist you to prepare your statement before your statement was prepared?

20 A. No, I have never been shown any minutes. I was not given anything in preparing my statement at all. I don't know that I even had all copies of all the media releases.

25 Q. You had your own notes, I assume?

A. I had my own notes, yes.

Q. Did you ask to be provided with any documents to assist you in preparing your statement?

30 A. No. I felt I was in the hands of people who would guide me of what I needed to do.

Q. That was the --

A. I wasn't really - how my statement was 35 prepared, I was interviewed by somebody who said he would ask me questions and I would answer them, and he would type that up into a statement that I could review. That's basically what happened.

40 Q. Perhaps then what we might do is - I will just take you to your notes then rather than the minutes, if that is the best source of your own recollection of what was occurring. The document number is [ESB.AFP.0024.0002] and if we could go 45 to 0011. We were talking about this yesterday. At the top of the page you have referred to 8am Saturday:

"Evacuation planning meeting."

I asked you about the references to "Duffy, Rivett and Holder, don't go west of Murrumbidgee". I  
5 will ask you again: have you got any recollection at all of who made reference to those suburbs?  
A. I don't have any recollection of it. The only person that I can think of who would have been talking on anything like that would have been  
10 David Prince. I don't believe anybody else there would have had that kind of information to know.

Q. Is it fair to assume, given the context of the meeting, Ms Harvey, that you noted those down  
15 because there has been at least some reference to a threat to those areas; is that a fair assumption from your note?

A. I suppose so.

20 Q. Can you think of any other reason why you noted those suburbs down at that meeting?

A. I can't think of any other reason.

Q. You then have a fax number and then jump to  
25 headings - you have drawn a line "Saturday am update". Can we assume that is a reference to the 9.30 planning meeting on the Saturday?

A. Yes, I think so.

30 Q. It beginning with a general statement of what is happening to the fires. You have got:

"West of Naas Road into Tid"

35 Tidbinbilla?

A. Tidbinbilla, yes.

Q. It goes on:

40 "Sectoring up the valley for property protection, looking quiet"?

A. Yes.

Q. "Into top tip of pines"?

45 A. Yes.

Q. Would that be a reference to the Uriarra

pines?

A. I couldn't tell you, I'm sorry.

Q. "Into private property"?

5 A. Yep.

Q. "McIntyre's: north-west corner"?

A. "Crossed river into pines".

10 Q. What river would that be referring to?

A. I'm sorry, I'm not very good with the geography of the area. I couldn't tell you what river that was.

15 Q. We know from evidence, Ms Harvey, that it hadn't, certainly by that stage, crossed the Murrumbidgee River. Is it possible there is a discussion there about the possibility of that occurring?

20 A. I'm not sure. I tended to just write things down, snippets as I heard them. It seems to be saying that some things crossed the river. But I'm not sure of what led to that point.

25 Q. Then you have got "Broken Cart fire near ACT border heading our way"?

A. Yes.

Q. That's a reference to the Broken Cart Fire?

30 A. Appears to be, yes.

Q. Over the page you've then got a summary of what appears to be the report on the weather by the representative of the bureau, which I think 35 that morning was Clem Davis that morning; is that correct?

A. I'm not sure.

Q. Have you got your booklet there? The next 40 page that is headed up "key tasks"?

A. Yes, that's right.

Q. Can you tell me whether that is something that has been discussed at the meeting or can you just 45 tell me the circumstances in which you made those notes?

A. Some of these may have just been things that I

was writing down that I was aware of or had thought of that we needed to do. But I'm just not sure if --

5 Q. If you just for the moment quickly jump over two pages you will see a heading "urban edge exposures". Under that, if I can indicate to you, is what appears to be a note of what was being said at the planning meeting because those are  
10 consistent with the minutes. Does that assist you to determine when you were making those key tasks notes; was it while you were sitting at the meeting?

A. I think it was highly likely I was doing it  
15 during the meeting. Yes, through the discussions. The discussions may have been triggering certain thoughts.

Q. Am I right --  
20 A. Other things, there might have been things that people said we needed to do. It looks like a mixture. Some of them are very detailed so I don't know that anybody would have brought all of these things up in a meeting. Some of them may  
25 also have been thoughts that I needed to raise in the meeting. I think it is a mixture.

Q. Looking at those key tasks notes, going back two pages and I will ask you about a couple of  
30 those. The third one:

"review media strategy plus media update content -- particularly for general community information - fire safety etc drop map?"  
35

Perhaps you should explain, if you can, what that is a reference to and whether it is something discussed at the meeting or something you have noted down?

40 A. I think it is something that I have just noted down. When I've put "media strategy" there, I imagine that what I am talking about would be our approach to media management, how we are working with the media. I'm not sure, because we just had  
45 a new process decided at the evacuation meetings.

Q. Which was the hourly update; is that right?

A. Yes. Which, as I have said to you, I had significant concerns over our ability to make a system like that work.

5 Q. Because of the difficulty of getting information from the operations --

A. That's right, yes.

Q. Then the next one:

10 "Put in place processes for radio updates and tie down spokesperson for standard times in morning and afternoon"?

15 A. Yes. I think that would have been a note coming out of the meeting at 8am and looking at how exactly were we going to access the information to do the hourly updates that the meeting decided to do. It looks like we were then thinking we must have been thinking about having - I don't know whether we were thinking about having somebody else beyond Peter or Mike as a spokesperson or whether I was just thinking about the fact that I needed to get either one of them ready at a set time morning and night, ready to do interviews and so on.

30 Q. But again you are not sure, are you, whether that was something someone has directed you to think about or whether it is just a note?

A. At a guess I think that is me writing a note to myself.

Q. The next one:

35 "Get list of weekend/after hours details for media in an emergency."

40 A. Yes.

Q. Can we take it from that that is not something you had at that stage; namely, after hours/weekend numbers for the media?

45 A. What we were looking for were the details for the media who were working that particular weekend because it was still in that, I guess, holiday

sort of period, and we were aware that on a Saturday some of them go from local to national broadcasting. So, no, we didn't have contact details at that stage.

5

Q. For after hours?

A. For after hours or for that particular weekend. That may have been something I think that was raised in the meeting or --

10

Q. You say in your statement that you subsequently - you believe Amy Lowe spent some time contacting local media, it would appear, in response to that issue?

15

A. That's my understanding, yes, that Amy did that. I am not sure if she was helped by other team members in that.

20

Q. Then three further down "check public info on evacuations". Again, can you say whether that was something that you were asked to do or you noted?

A. I think the majority of these are things that I have noted myself. But I am not entirely sure with that one.

25

Q. What led you to make that note?

30

A. I think just from the experience I'd had in working with Peter and Mike the night before and making sure that we had the information in the best way, given the circumstances. I think I talked about this on Thursday, that really over the entire bushfires I was left with a strong impression that this was taken extremely seriously and a lot of thought went into checking the words to give out to people of what to do. I think that changes depending on at what stage you are at, because I think there becomes a time when people have to decide do they stay or do they go.

35

Because if they live after a certain period, the most dangerous or one of the most dangerous places for them to be is in a car or out in a road. It would be better for them to be in a house. So I think what I would have been thinking about there is that we had been working on that on the Friday night, but it still needed to be reviewed of what to be put out more generally for the people who are in broader Canberra rather than the rural

residents.

Q. When you made that note, did you have in your mind, as I think you have just said, that 5 information being relevant to the people, as you put it, in broader Canberra rather than the rural residents; is that the position?

A. I think so. I don't remember sort of sitting and taking these notes.

10

Q. You had effectively dealt with the issues insofar as it affected the rural areas the previous evening; hadn't you?

A. Yes.

15

Q. The next but one "community alert processes - who does?" Have I read that correctly?

A. Yes.

20

Q. Was that again something that you were being asked or something you were writing down to follow up?

A.

I think that I would have been writing that down to follow up exactly how the standard emergency warning signal process worked. I know Amy knew all about that, but that was something that I had never been involved in before. It hadn't happened in the 2001 bushfires, so I think I was probably just writing a mental note of who does what and how it is put together.

Q. When you say the standard emergency warning signal, is that what you are referring to or is it something broader about alerting the community?

35

A. I'm not entirely sure. I imagine it is the standard emergency warning signal. At that stage I don't know whether I would have had even fully an understanding what it was called. It may have been I wrote that down because I wasn't aware of 40 the formal title of it.

Q. Who did you think did it at that stage?

A.

I'm not sure, sorry. As I say, I don't - I really have such a limited memory of what went on at some of these things. I am really just trying to gain some sort of idea from the way I have written things down. Yeah, I don't think I can

say who I thought at that stage, whether it was Amy writing it, Mike or Peter issuing it.

5 Q. I take it you are dealing with it at that sort of micro level, if I can put it that way, you weren't in any doubt that it was something that the ESB was responsible for, I take it?

A. I am sure I would have thought that the ESB that does that. Yes, it is the micro level of how 10 is it put together.

Q. The next thing, there is one more note and then you jump a page in your notes to another heading. So it is two pages further on. The 15 heading is "urban edge exposures". "MacI" which we can assume is "McIntyre" and then it says:

20 "Major run: Weston Creek, Greenway, west Belconnen, southern Belconnen, southern Tuggeranong, Pierce's Creek settlement."

Have I read that correctly?

A. Yes.

25 Q. We spoke earlier about how this is the sort of information that is probably the most concern to you in your role as media liaison to actually hear during the course of the meeting where the exposures were. Do you recall those places being 30 identified in the course of the meeting as areas of exposure?

A. No, I don't recall. I don't recall anything of that meeting whatsoever.

35 Q. I won't take you to it but, if you can take it from me that there is a reference in one of the handwritten notes that was taken from these meetings in a similar context, [ESB.AFP.0010.0278] where that same passage the words "high levels of 40 exposure" also appear. Does that assist you at all to know that someone at this meeting is talking about there is a high level of exposure or appears to be from the run from McIntyre's and identifies Weston Creek through to Greenway as 45 being within those exposed areas; do you remember that at all?

A. I'm sorry, I have no recollection whatsoever

of that meeting.

5 MR LAKATOS: With respect, I object to that question because my friend limited it to Weston Creek through to Greenway. In fact, the suburbs enumerated in Ms Harvey's note is somewhat broader than that lesser range.

10 MR WOODWARD: I am happy to identify the other suburbs.

THE CORONER: If you would, thank you, Mr Woodward.

15 20 MR WOODWARD: Q. Your note refers to Weston Creek, Greenway, west Belconnen, southern Belconnen, southern Tuggeranong, Pierce's Creek settlement. What I can indicate to you from the minutes of the meeting is that they indicate a very similar thing. Perhaps we should go to it [ESB.AFP.0010.0266] at 0267. If we just go down to the heading "current areas of concern include:" do you see that?

A. Yes, I do.

25

Q. It says:

30 "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;

35 A potential run from Tidbinbilla impacting on the Bullen Range and southern parts of Tuggeranong;

A potential treat from Stockyard Fire to the west of the Murrumbidgee River to Williamsdale."

40

Does that assist you at all to remember these things being discussed at that meeting?

45 A. I'm sorry, I have absolutely no recollection whatsoever of that meeting. I have very few recollections of many of the meetings at all. I just have very general recollections of being at them. I'm sorry; I just don't recollect it.

Q. As at the time of this meeting, Ms Harvey, whose responsibility was it to make sure that, where a threat had been identified as it was in clear and unequivocal terms at this meeting, those 5 people in those areas were notified of that threat?

A. I would imagine it would be Mike Castle and Peter Lucas-Smith.

10 Q. You don't consider it part of your responsibility to make sure that sitting and hearing these - as I assume you did hear because you were taking notes of it - areas identified as potentially exposed to go to, that one of the 15 things you do when you leave that meeting is to make sure that something goes out to those communities or to the community generally to identify those areas?

A. At that stage and throughout all of this, I 20 was simply responsible for co-ordinating information, as I was asked to do, that went out in media statements that were cleared by Peter and Mike. And at the 8am meeting we then had another sort of, I guess, level of direction coming from 25 the people who were at that meeting: the head of the Public Service, Robert Tonkin, and Lucy Bitmead were guiding us as to what we were to do.

30 Q. Someone has to make the decision, Ms Harvey, that, "Yes we need to get a warning out, we need to tell the community." Is it your evidence that that wasn't your decision, that you had to wait to be told that that was something that needed to happen?

35 A. Yes, that's my evidence, yes.

Q. Is it your evidence that the people who were responsible for giving you that instruction were either or both Mr Castle and Mr Lucas-Smith?

40 A. Yes, and possibly some of the other high level public servants who were involved at that stage and directing us what we needed to be doing.

45 Q. Your media unit, if I can call it that, were part of the planning cell within the ICS structure; is that something you were conscious of?

A. Only very loosely. Nobody ever explained to me what that system was. I have a recollection of somebody, I think it was Rick McRae, at some point telling us that we were now going into incident management system or whatever it was called - but we didn't have a great deal to do with Rick in terms of being given any sort of direction of what we were meant to be doing. So I never really had a strong impression that we were working under the planning unit.

Q. Perhaps to be more specific, I think you may have already answered this question: in terms of your reporting processes during this emergency, you were reporting effectively - I should ask an open question: who were you reporting to? Who did you consider you needed to report to in that process?

A. Mike and Peter.

Q. And you didn't see yourself as having an understanding that you had an obligation to report to Mr McRae?

A. No.

Q. In fact, your liaison or your reporting was largely with Mr Lucas-Smith and Mr Castle; was it?

A. Yes, that's right. Yes.

Q. Do you recall at any stage getting any instructions or direction from Mr McRae about how to fulfil your role?

A. No. Not that I recollect.

Q. Returning to your handwritten notes at the page that we just left the one headed "urban edge exposures", under the heading "issues" is "media call" - I am sorry, that last word has got me. Are you able to assist with that?

A. Sorry. I am trying to find whereabouts this is in my notes.

Q. This is continuing the notes of the planning meeting at 9.30 of the morning of Saturday, the 18th, after those key issues pages.

A. Do you mean the key tasks page?

Q. Yes, I beg your pardon. Key tasks. In my copy the next page after the key tasks is the urban edge exposures; is that correct?

A. That's what I have, yes.

5

Q. If you go halfway down the page there should be a heading "issues"?

A. Okay. Sorry. Yes, I've found that.

10 Q. Is that "media call"?

A. "Noon".

Q. That is "noon", is it?

A. Yes.

15

Q. Then:

20 "Canberra Connect ramp up. Setting up processes for info sharing using local radio".

Again, is that something you noted down as being discussed at the meeting?

25 A. I assume so. It looks like it from the fact that they are all written down after the urban edge exposures and I think that, in writing down "media call noon", I must have been noting down that the meeting was deciding that is what we would do. We generally did have --

30

Q. Do you have any recollection of that discussion, whether there was a decision made that there would be a media call at noon at that meeting?

35 A. I have no recollection of the meeting whatsoever.

Q. Could I ask you to turn a page in your notes, please. The next page should be headed up "info flows"?

A. Yes.

40 Q. "Road and park closures. Where is fire. Property damage. Prerecord call 000 to report emergency" - we don't have that up on the screen.

MR WOODWARD: Is there a page  
[ESB.AFP.0024.0016] - go to the top of that. Your  
Worship, I seem to have a different document.

5 Q. Is the next document in your booklet the one  
headed "info flows"?

A. After the "urban edge exposures", yes.

Q. I am not sure why there is something  
10 different. This is the last page I wanted to ask  
you about. We will make this available. I have  
read the section under "info flows". Do you  
recall again whether that is something you are  
writing down as being discussed at the meeting or  
15 at some other time?

A. I'm not sure. I think by the fact that I have  
left another whole page blank, I am assuming that  
it is not from the meeting because I think if I  
was continuing the meeting, I would have continued  
20 overleaf. It could be notes from another  
discussion that I had subsequently.

Q. The next section - you have drawn a line, I  
want you to think very hard about what follows in  
25 terms of the circumstances in which you wrote this  
down. You have written:

"Potential risks to urban edge. Firefighting  
resources deployed to deal with. But weather  
30 related and weather challenging."

Then you have written: "And therefore we've",  
which you have put a line through and written  
underneath that "no immediate risk."

35 Can you recall the circumstances in which you made  
that note?

A. No, I'm afraid I don't have any recollection  
of that.

40 Q. Can I suggest to you that you seem to be  
noting down what someone has suggested to you as  
being an appropriate message; is that a fair  
interpretation of that note?

45 A. Yes. I think it is either that or that I've  
written down what I have heard somebody say in an  
interview or something like that. Sometimes I did

take down notes of what was said in an interview or a press conference.

Q. Can you explain why the words "and therefore we've" are crossed out?  
5

A. I may have also - yeah, as you've said in the first part of your question, it may have been something that I was taking dictation for a statement or something of that kind, and somebody  
10 has changed their mind of what to say.

Q. You appreciate this is quite important at this point that someone is saying, apparently some time after the meeting that began at 9.30 in drafting,  
15 what appears to be a message that there is no immediate risk. Do you recall someone saying that to you or saying that that is what should be said to the community?

A. I'm sorry, I have no recollection of this. I  
20 have very little recollection of most of Saturday whatsoever.

Q. Were you present during Mr Lucas-Smith's noon media call?  
25

A. I imagine I would have been but I have no recollection of that either. I normally went to them all; so I probably would have been.

Q. I have not been informed, Ms Harvey, since I  
30 asked you about it last Thursday and I have done my own checks and again I am in the same position: as far as we can ascertain, the first media release that went out on Saturday was the noon media release that I referred you to yesterday.  
35

A. Right.

Q. Are you in a position to assist any further with that?  
40

A. No, I'm not.

Q. I'll get you to have a look at that document. There are a couple of versions of it. When I say a couple of versions, we have one in the brief which is an attachment to an email, but the  
45 content is the same [ESB.AFP.0014.0375]. You will see that that document begins with some general information about the current status of the fires.

In relation to McIntyre's it says:

5 "A spot fire from the McIntyre's Hut has crossed the ACT/New South Wales border. The fire has entered the north-west corner of the Uriarra pine plantation."

10 It describes what is happening in relation to Bendora and Stockyard. In relation to Bendora, it refers to rural residents in the Paddys River Valley and Tidbinbilla areas being contacted and advised to prepare for the bushfires approaching their property. Then in relation to Stockyard there is a reference to a potential threat to  
15 Williamsdale and Royalla.

20 Then there is a land and property damage summary and community safety summary, which includes the issues I took you to on Thursday, being the brief suggestions or indications as to what people should do if they are affected by the fire. There is a health warning about high temperatures and then lists and resources deployed.

25 That document contains no indication of there being any threat to any of the areas, at least so far as the minutes are concerned, of the planning meeting including urban areas from Weston Creek through to Greenway, Belconnen and so on. Do you  
30 agree with that?

A. Yes.

Q. Did you have a role in drafting this document?

A. Sorry, I'm not sure whether I did or not.

35 There were a number of us working that day.

THE CORONER: Q. Who else was working that day?

A. Myself and Amy, Cathy Atkins and I think possibly Geoff Death and Cecilia Bourke from  
40 Environment ACT; and there could have been a number of us involved in drafting it. I can't recall who. We all tended to be involved in those sorts of activities.

45 MR WOODWARD: Q. You will see there is under the southern fire a reference to "threat to property in the Williamsdale and Royalla areas", which is

consistent with the planning meeting minute that refers to potential threat from the Stockyard Fire to the west of Murrumbidgee River to Williamsdale but the update says nothing about the threats to Weston Creek, Greenway and so on. Can you assist at all to indicate why that would be, why the threat from the southern fire is picked up in the report but not the threats from McIntyre's Hut?

A. No, I'm sorry, I'm not sure.

10

Q. Do you recall at any stage discussing with anybody in the meeting or otherwise the way in which the threat to the urban areas of Canberra should be identified in this period up to noon on Saturday?

15

A. In that meeting?

20

Q. Either in the meeting or at any other time during the morning a discussion amongst the people you have just identified, with Mr Castle, with Mr Lucas-Smith about the process of warning the community, the urban community about the threat?

A. I don't recollect any discussion.

25

Q. I think I asked you this on Thursday: but are you able to indicate why, given there was an agreement it appears at 8 o'clock that morning that there would be an update of this kind sent every hour, nothing was done until noon?

30

A. I think that what would have happened was exactly what I had tried to predict in the meeting, which was that we struggled to get factual information and it was just so difficult to get people to stop still to give us information.

35

Q. The difficulty with that, Ms Harvey, is that at the planning meeting at 9.30 when you have everyone present who is seized with that information, people are talking about threats to various areas including Weston Creek through to Greenway and Belconnen; you've got the information at that stage, there is no difficulty at that point. Yet it is 12 noon before anything goes out and, when that goes out, it says nothing about those threats; can you explain that at all?

A. No, I'm sorry, I can't; no.

Q. Can you recall discussing with Mr Lucas-Smith and/or Mr Castle what they would be saying at the press media call at 12 noon that day?

A. No. Normally I never - I didn't play that kind of a role of advising them on what they should or shouldn't say. Basically my role was in dealing with media calls as they came in, preparing media statements as directed and issuing them.

10

Q. Was there any discussion that you can recall, either then or at any time during that morning, about a concern that we didn't want to cause panic or alarm"?

15 A. I can't recall much at all of that whole day. I can't recall that. There may have been one, but I can't recall any discussion like that.

20 Q. Do you recall having any sense - up to say midday on Saturday - of there being some degree of reticence or a concern about disclosing the true picture, the real threat that was out there?

25 A. I don't recall any feeling like that. As I've said in my statement, I think sometimes earlier on in the week there were concerns about unnecessarily alarming people. But I can't - I can't recall barely anything of that whole day or of the days following.

30 Q. Did that change, do you think, up to and including Saturday, there was that concern not to cause alarm; was there some point at which that concern evaporated and it was time to cause alarm?

35 A. Sorry, I really don't recall Saturday at all, aside from the 8.am meeting and sitting in Mike's office and working on the standard emergency warning signal.

40 Q. It is your position, is it, that to the extent that a decision needed to be made about sending out a warning, that was not your decision; that was a decision that had to be made by Mr Lucas-Smith or Mr Castle; is that correct?

45 A. Yes, that's correct. I certainly had no authority to issue anything. Everything that I did was cleared through others and basically at their direction.

Q. Presumably your working relationship with Mr Castle and Mr Lucas-Smith was such though that, if you had a concern that something needed to happen about a warning, you could have raised that 5 with them?

A. Yes I could, or with the other people by then I was working to more directly that morning, which was Robert Tonkin, the head of the Public Service. He took a very, very strong role at the 8am 10 meeting and I felt, yeah - I mean my recollection is that I did what I was told.

Q. I should put to you just a brief section from a taped record of conversation that has been 15 provided by Mr Prince. It may be [DPP.DPP.0004.0040] and it is at question 146, which is page 24. Mr Prince is asked some questions about the afternoon of the 17th and the 18th. At question 146 at the bottom of the page, 20 he referred that he was given a direction by Tim Keady and Ian Bennett in relation to working with you on the afternoon of the 17th. He is asked:

"Q. Was there any discussion regarding what 25 was approved or not approved for release for information that was to be released to the public?

"A. I do not recall. I am just trying to think, I think Marika - Marika was a very - 30 is in fact, is very strong of character, and was certainly in control of that media area, and wished to maintain that. Had been very close to Mike Castle that week and had been working closely with Mike, so it was important, I suppose for me to allow her to 35 set up the media, obviously with all the right contacts, was able to contact people, look at what we were going to do with faxing, telephone lines, information to radio 40 stations, et cetera, and how this was going to operate. So that sort of planning was going ahead."

Then he refers to discussions with Barbara Baker, 45 but I assume it should be Bakey?

A. I believe so, yes.

Q. Mr Prince certainly had the impression that you were taking a prominent role in terms of media, the media liaison and communication to the public. I take it you would not agree with that?

5 A. I guess it depends on how you look at it. He might have been talking about prominent as in members of our team. I was probably the most experienced media officer there generally in terms of years of doing public relations work in the  
10 government.

Q. Do you recall at any stage speaking with Mr Tonkin or anyone else or raising a concern with them about the need to get a warning out, that  
15 there was some degree of urgency about getting a message out to the community is that --

A. I don't recall having a discussion like that. I saw it that - sorry, I can't say that I saw it because I really cannot remember at the time. But  
20 looking back at it, I felt I was in everyone's hands to do what they needed to do. I don't think there is anything more I can add than that.

Q. Just returning to your statement, Ms Harvey,  
25 at [ESB.AFP.0111.0208]. At paragraph 41 in that document you refer to Amy, being Amy Lowe, contacting local media outlets to determine what personnel they had available, particularly because it was the weekend et cetera. You then make the  
30 comment further down in that paragraph:

"I think someone named Natalie from ABC has subsequently inferred that she had to type out a list of media contact details because  
35 we didn't have any contact details for any of the media, but this is not correct. We had many lists of media, one that Amy used regularly in her normal work, plus the lists I brought with me."

40 What Ms Larkins actually says in her statement about that issue at page 4 is that, because she felt there was not enough information coming out to her, she was concerned that their contact and  
45 fax numbers had been lost and she asked Amy Lowe if she had the ABC phone numbers:

"She seemed vague as to whether she had them or not. I obtained a fax number for her, prepared a comprehensive phone list for ABC news and programs; then faxed it to her."

5

I think in her evidence - I hope I am not doing her a disservice - she was also referring to after hours and weekend numbers, which were the numbers that she felt Ms Lowe didn't seem to have  
10 available to her. That would be consistent, would it not, with your own statement about that?

A. Yes. That's right. I mentioned this in the interview in preparing my statement and this was around about June 2003, and I had just been told  
15 by people who had seen an ABC TV program that Natalie had said that we didn't have any media contact lists whatsoever. That's why I mentioned it in my statement, just to clarify that we did have a number of things.

20

Q. But you would agree with her, wouldn't you, that you didn't have, at least at that stage, the after hours details for the ABC?

25 MR LAKATOS: I object to that on this basis: As I apprehend Ms Larkins' evidence, and it came out in my short cross-examination of that journalist, it was the specific person; it was not a question of not having after hours numbers; I think she agreed  
30 with my suggestion that the number required was the particular person who was on duty that particular weekend. So my friend has put it broadly. I think the evidence is more narrow than that.

35

THE CORONER: I would like that answered in the more broad. I would like to know whether or not anybody at this place had any after hours numbers of anybody, of any media.

40

MR LAKATOS: If that is the question, I am happy, your Worship, I will sit down. I think my friend was suggesting that Ms Larkins' evidence was a broader situation. My recollection is it was not.  
45 I am happy if the broader question is asked.

MR WOODWARD: Q. I will do it by preference to

your notes. I took you to your notes under the heading "key tasks" which are some notes you apparently made at about or during the course of the planning meeting that morning. One of the 5 tasks was "get list of weekend/after hours details for media in emergency". I think you agreed with me that was something you didn't have at that point; is that correct?

A. No, we didn't have - my understanding is we 10 didn't have after hours details for whoever might be working that weekend.

Q. That included the ABC?

A. That would have included the ABC, yes.

15 Q. Can I ask why at an earlier time that wasn't something that was thought to be important or something that was done earlier than the morning of the Saturday?

20 A. I don't have any particular reason why nobody had done that before.

Q. But it is your evidence, is it, that you did 25 have general contact numbers for the media, the various media outlets in the ACT; is that correct?

A. Yes, that's right. Amy had all her normal lists. I took some lists with me when I went, and during the week leading up to the 18th we had kept a kind of, I guess, logbook of calls that were 30 coming in, handwritten book of who had called, where they were from, their contact details, what we needed to do in following up.

So in addition to the general lists and the fax 35 streams and things that we had set up there, we also had this logbook which had other phone numbers because, depending on who the media representative was, sometimes they gave different telephone numbers. There are many, many numbers 40 at the ABC, for example, depending on if you were talking to a producer from a particular program.

MR WOODWARD: I only have a couple more minutes. I am happy for your Worship to take the morning 45 adjournment now or after the two or three more minutes.

THE CORONER: What is your preference?

5 MR WOODWARD: Perhaps if I could deal with these one or two issues and then I might take the opportunity over the adjournment to make sure there is nothing else.

THE CORONER: We started a little bit later so it is appropriate to continue.

10 MR WOODWARD: Q. Your statement goes on to deal with some of the events from about midday from paragraph 45 and beyond, and there are a couple of things without wanting to diminish in any sense 15 the significance of those events there is not a great deal of controversy. I will check one thing with you. You say at the top of page 15 of your statement that "Mike" - I assume that is a reference to Mr Castle - "signed off on the first 20 SEWS emergency warning statement"; is that your understanding?

A. That's my memory of it, but I also went back and checked that, you know, in the days immediately after the fires. So that's partly why 25 I have a recollection of that.

Q. Is that a document timed at 1405; is that your memory of it? That's the first one that went out?

30 A. My memory of it is only really in going back and looking at the paper version afterwards. I thought it was about 1.30 or 2 o'clock, yes.

Q. It could have been 2 o'clock?

A. It could have, yes.

35 Q. Just finally, Ms Harvey, you talk about concerns arising in the days following the 18th both about the adequacy of the resourcing to the media area, and that was a concern of yours at 40 that stage?

A. Yes.

45 Q. At paragraph 66 you talk about - is this Mr Tonkin who has arranged for someone called Terry to come and assist the media area on about the 20th of January?

A. Yes.

Q. You describe on Terry arriving, Mr Tonkin told you that Terry was in charge and you should relax and follow his lead. He decided to change previously arranged media conferences. You spent 5 some time briefing him. You say:

"Terry decided to hold the media conference - I assume for the 20th - outside rather than using the indoor room we normally used, and 10 he was insistent on having a fire appliance in the background as a photo opportunity, even though it was a resource problem."

When you say that, I take it you are saying that 15 it might have been required to fight the fires?

A. No. What I mean there is that there was a vehicle already at Emergency Services Bureau, but it was a resource problem in that people were really busy doing other things and we needed to 20 find a few people to shift vehicles around in the carpark so that we could put this vehicle in the place that Terry wanted it to be a photograph opportunity.

25 The vehicle was already there. There was no question of pulling a vehicle off any firefighting.

Q. Skipping to paragraph 68:  
30

"Because of the huge amount of press and the outdoor location, it was the worst press conference I had been to. About 40-odd media completely surrounded Mike, Peter and CPO in 35 a pack in front of the truck. They had cameras and were climbing all over parked cars so they could film the press conference. It was very stressful for the spokespeople and we had no control because of the location and there was no suitable way of pulling the 40 spokespeople out of the press conference. Some time later on Monday Terry disappeared and I never saw him again. I don't know why he didn't come back. This meant that we were 45 back to our previous levels of staffing and experience."

Do you know now who Terry was?

A. I've never heard anything about Terry since that day. I never knew his last name.

5 Q. I take it from your final sentence "this meant we were back to our previous levels of staffing and experience", you would agree in both areas the number of staff and the experience of staff were inadequate as to the job that had to be done?

10 A. Yes, I agree with that.

Q. One final thing, in paragraph 76 you talk about Mr Castle being overrun with demands on his time, particularly from the media. Your role was 15 to concentrate solely on supporting Mr Castle. We asked Mr Castle about a document [ESB.DPP.0001.0065]. These are some notes which we understand are your notes obtained from the ESB community which includes your key priorities. Is 20 this a document you prepared?

A. I'm fairly sure that I did it. Yes, especially from the time in the morning that it was prepared. Usually I was in very early, so I'm fairly sure I prepared this, yes.

25 Q. Having put to you what you have said in your statement, is that what you are referring to in "protect Mike Castle"?

A. Yes. By now is a poor choice of words. My 30 role was basically to do is just try to assist Mike by managing which media interviews that he did and when, making sure that we didn't have every single member of the media team chasing Mike to do interviews all at the same time. There was 35 no way for him to then be trying to, I guess, manage his own time. So what we started to try to do was prioritise media interviews, which was something we had to do so. International interviews we saw as a lower priority. The 40 highest priority was local media interviews because they were important in getting information out to the Canberra community.

Q. Paragraph 85 in your statement, Ms Harvey, you 45 say:

"In hindsight, I can certainly think of

5 things we could have done better. However, while it took us some time to get a system that worked well for issuing updates to the media and community, I believe everyone tried their best, and we did get there in the end."

Can I ask you where you say "we did get there in the end", I take it by that you mean at some point after 18 January?

10 A. Yes, well after the 18th.

Q. We can take it from that that the system - I assume this is a hindsight reflection - up to and including the 18th wasn't adequate; you would 15 agree with that?

A. Yes, I would agree with that.

MR WOODWARD: I have nothing further, your Worship.

20 THE CORONER: We will take the morning adjournment.

**SHORT ADJOURNMENT**

[11.30am]

25 **RESUMED**

[11.55am]

30 MR WOODWARD: Just before Mr Archer commences, because it is apparent, having checked it, that a copy of Ms Harvey's note pad commencing on the 16th with the heading "Thursday press call" on the system is incomplete, what I propose to do is have this tender or seek to tender the original notebook. It may be appropriate to leave it with 35 Ms Harvey for the moment. If that could be done.

THE CORONER: I will mark the notebook as an exhibit. You hold on to it for the time being, Ms Harvey.

40 Ms Harvey's notebook will become exhibit 0035.

**<EXHIBIT #0035 - MS HARVEY'S NOTEBOOK ADMITTED  
WITHOUT OBJECTION**

45 MR WOODWARD: I will hand back to Ms Harvey the notes she provided to me.

5 MR LAKATOS: Perhaps before my friend starts, so far as those records are concerned, Ms Harvey in paragraph 84 of her statement indicated she had some notes. Those were provided to my learned friend perhaps a week and a half ago or thereabouts. He made his selection and they have been provided to this inquiry.

10 THE CORONER: I don't think there was a suggestion that anything had been kept back.

15 MR LAKATOS: May I say, it was Ms Harvey who produced them to us; hence we produced them. I wanted that on the record bearing in mind some of the comments that have fallen.

**<CROSS-EXAMINATION BY MR ARCHER**

20 MR ARCHER: Q. Ms Harvey, do you have your statement with you?

A. Yes, I do.

25 Q. Feel free to refer to that if it assists. At the time of the commencement of the fires in January 2003, you were with the Chief Minister's Department; is that right?

A. Yes, that's correct.

30 Q. Mr Carter invited you over to assist during the campaign fire that seemed to be on foot?

A. I'm not sure of the nature of the discussion that Mike had with Judith Downey from the Chief Minister's office. I then got a call from Judith saying would I contact Mike about going over.

35 Q. Once you were there, were you the most senior person within the, if I could call it, the media unit that was there?

A. Do you mean senior as in a level or do you mean in the way that we structured ourselves?

Q. Were you the person in charge of the media unit?

45 A. We never really had any kind of formal arrangement. I think myself and Amy tended to take the lead roles. I was quite sensitive to the fact that I was helping out there and Amy worked

there normally, and these were things that were, I guess, more - some of the activities were more of a formal role for Amy. I tried to be careful in working closely with Amy and consulting her. I  
5 didn't want to be, I guess, inappropriately treading on somebody else's turf.

Q. You are talking about Amy there as the person whose sensibilities you kept in mind. You didn't  
10 want to tread on her toes?

A. No. But at the same time I wanted to provide whatever assistance I could.

Q. So far as respective Public Service  
15 classifications are concerned, are you considerably more experienced or more senior than her?

A. Yes, that's right.

20 Q. I read in her record of interview I think at the time - I am not sure if it is changed - she was an ASO3?

A. I wasn't sure what Amy's level was.

25 Q. During the course of the fires more people were gathered about you to provide some assistance. They came from other governmental agencies; is that right?

A. Yes, that's right.

30 Q. You referred to Cecilia Bourke, for example?

A. Cecilia, yes.

Q. Where was she from?

35 A. She was from Environment ACT.

Q. Mr Death?

A. He was also from Environment ACT.

40 Q. Do you know whether or not they had experience in dealing with emergency management issues?

A. The only experience that I would be aware of is that Cecilia had worked with Amy and myself during the simulation of the foot and mouth  
45 disease outbreak in mid-2002. The only other relevant experience that I'm aware of is I believe Cecilia and Geoff had been involved in managing

media around things like control burns that Environment ACT was involved in sometimes.

Q. Whose decision was it to bring those people to  
5 ESB during the --

A. Geoff Death was already working there before I got there. So I can only imagine that that was some sort of arrangement between ESB and Environment ACT. And Cecilia, I'm not sure 10 whether she and Geoff were taking it in terms at the early stages or what the arrangement was there.

Q. You had had experience in the 2001 fires?

15 A. Yes.

Q. Was that your only experience in dealing with media issues arising in the context of an emergency such as that?

20 A. Only that, and the experience that I had in the foot and mouth disease simulation.

Q. And in relation to that, it was an exercise conducted in August 2002?

25 A. Around about then, yes.

Q. It was an initiative of a Commonwealth agency I think; is that right?

30 A. I'm not quite sure on the history, probably because the Commonwealth was certainly involved with all the different states and territory.

Q. It wasn't just with the ACT, it was Australia wide?

35 A. Australia wide, yes.

Q. Perhaps the ACT took it more seriously than others, but emergency services organisations in other states were involved in that simulation?

40 A. Yes, that's right. I'm not sure if they were the emergency services bureaus but there was definitely involvement from other states and territories.

45 Q. And quite a complex simulation?

A. Yes. Very complex in that over the days of the simulation it shifted in the supposed date

that we were meant to be dealing with. So day one was the first day of the outbreak. Then you might go to the Thursday or our fourth day might have been three months into the simulation. So it was  
5 quite complicated.

Q. So far as the people who were involved in that, you were exposed to that particular simulation?

10 A. Yes.

Q. Was Amy Lowe involved in that?

A. Yes.

15 Q. Was Geoff Death?

A. No.

Q. Cecilia Burke was?

A. Yes.

20 Q. Where there any other people who became involved in ESB in the week or so leading up to the 18th that had been involved in that operation Minotaur?

25 A. The only person I can think of is Cathy Atkins from Business ACT. I have a memory that she was consulted or might have come into the foot and mouth disease simulation at some point because we wanted - we being all of the people involved - advice on how issues might affect the business community and how to manage those. I am sure that Cathy was at the very least contacted. She definitely did also work with us during the 2003 bushfires.

35 Q. So far as people with exposure or experience in public information campaigns at a time of crisis, you had the experience of 2001; that's right?

40 A. Yes. And I probably wouldn't call it a crisis. It was - it never really escalated to a --

Q. It was an emergency. Fire had got into the suburbs and indeed towards the centre of Canberra during that time. It was a significant event?

A. Yes.

Q. Did you feel in the week or so leading up to the 18th that there was a need to get perhaps somebody else with more experience involved?

A. I didn't really feel that in the lead-up to  
5 that because I really had no expectation of anything of that size ever happening. I said I think last Thursday that my idea of fire reaching the suburbs was the way that it had in 2001 where no property was lost, no lives were lost. It was  
10 beyond my wildest comprehension that something like this would happen.

Q. The police media unit was involved in the 2001 fires; is that right?

15 A. I don't recall working with them in the 2001 fires. Amy might, but I don't recollect it.

Q. The AFP provided a media spokesperson for the 2001 fires; do you recall that?

20 A. I don't recall that, I'm afraid.

Q. In the week or so before the 18th, do you recall Jane O'Brien from the police media unit ringing you offering assistance to you?

25 A. I don't specifically recollect her offering assistance. No. I don't recall it. I'm not saying that she didn't.

Q. You talked about a list of people who might be  
30 called upon during the bushfire season?

A. That's right.

Q. Jane O'Brien and perhaps Toni Purnell's names were on that list?

35 A. I didn't compile that list so I can't recollect now who was on it.

Q. And so far as your understanding of what the respective roles were as between the ESB and the  
40 AFP during a fire, it was the responsibility - speaking in very broad terms - of ESB to talk about matters directly concerning the fire and fire movement had spread and so on, that was the role of ESB?

45 A. It was certainly.

Q. And the police role, so far as getting it to

the press was concerned or into the media generally, was to talk about things that were relevant to them. They might talk about road closures, for example; they might issue a press release in relation to road closures.

5 A. We were certainly issuing information about road closures in our media statements in the lead-up to the 18th.

10 Q. Do you remember during the 2001 fires the AFP performed that role in issuing media advices about road closures?

A. I can't recall, I'm afraid.

15 Q. The emergency management plan, you had a role in looking at in the policy sense after the 2001 fires?

20 A. I was part of a general discussion with Jane O'Brien and Amy Lowe about the media subplan of that, and it didn't really reflect or it didn't go into enough detail about some of the work that might need to be done in an emergency. So we gave some verbal comments to Amy about that.

25 Q. So you were familiar with the plan?

A. I was across the general intent of the media subplan of it. Not the rest of the plan, no.

30 Q. Let us confine ourselves to the media subplan. In the week or at any time prior to the 18th, did you go to that document just for some inspiration in relation to how strategically you might go about your job, for example, of keeping the public informed on what was happening with the fires?

35 A. No, I didn't go to it. I'm not sure if anybody else might have.

Q. The local media organisations, how many of them were you dealing with or how many did you think that you had to provide information to during that period when the fires were coming towards Canberra?

A. Local ones, Canberra based ones?

45 Q. Yes, just local ones.

A. There would have been - if you could just give me a minute I'll just count them up in my head -

I'd say it would be around about 10 local ones.  
Some of them share newsrooms though so --

Q. So the actual contacts would have been less  
5 than 10; wouldn't it?

A. The actual number of contacts? What do you  
mean by "contacts"?

Q. If they did share newsrooms and resources. If  
10 you contacted one person, you might be able to  
thereby get access to a number of the local news  
outlets.

A. Say, for example, the two FM radio stations at  
that stage I am fairly sure shared a newsroom. It  
15 was only usually two of those. But within each  
media outlet, we might have a number of different  
people that we were dealing with.

Q. You personally would have dealt with those  
20 organisations - you had been in the Public Service  
I think since 1995; you would have had quite good  
personal relationships with a lot of the  
journalists in those local organisations?

A. I knew quite a few of them, yes. There are  
25 always some that you may not have had as much  
contact with or may not have dealt with.

Q. Some reliance seems to have been placed, I  
might be getting the wrong impression from your  
30 statement, about the fax stream process of getting  
information out. Was it contemplated that you  
might just adopt a more personal approach, just  
ring up the people that you knew as a means of  
alerting them to press releases or giving them a  
35 briefing in relation to issues that you were  
concerned with?

A. We generally relied on the printed statements  
because I certainly felt, anyway, I needed to be  
very careful in going much further than that  
40 because this was a topic that I was not really  
familiar with and was certainly no expert in. At  
certain times we did make contact with different  
media outlets to discuss things with them of what  
was the best time to hold the press conference.  
45 Or if there was an opportunity for a media crew to  
go up in a helicopter or something like that, to  
go on a trip by car up into the areas near where

the fires were burning, we would certainly contact them and discuss those sorts of issues.

5 Also I probably should point out at this stage we were dealing with a lot of members of the press gallery and interstate media as well.

Q. Going back to that telephone call that you don't have a recollection of - I'll say something  
10 more about it which might prompt your recollection. Do you recall speaking to Jane O'Brien and her offering the resources of the AFP but you indicating to her that you were wanting to use this as a bit of a development opportunity for  
15 a number of people within government departments within the ACT; does that ring a bell?

A. I don't recollect the conversation with Jane.

Q. Do you recall speaking to Jane O'Brien on the  
20 morning of the 18th at not long after or about half past 10 in the morning?

A. I don't recollect that conversation.

Q. That is it could have happened but you don't  
25 recall it?

A. Yeah, it could easily have happened. My memory of the 18th is very, very shaky.

Q. Again I will take you to perhaps another part  
30 of that conversation and see if it jogs a memory. She talked about a declaration of a state of emergency and what consequence that might have for media management?

A. Are you saying we talked about that?

35

Q. Yes.

A. I still don't recollect - you know, a conversation with Jane. Something new to me that I had that conversation. I know we had  
40 discussions at later stages about what the ESB were to talk about versus what the police were to talk about, and that there was definitely some confusion about that in the following days.

45 Q. That was in the following days. I am just wanting you to concentrate on Saturday morning. You don't recall that conversation with Jane

O'Brien?

A. No, I'm sorry, I don't.

Q. Were you talking with other people within ESB  
5 about the declaration of a state of emergency that morning?

A. I know we had discussions about it because I was in the room with the Chief Minister when he signed it. But I don't really recall any  
10 specifics of any conversations, just more being an observer when the Chief Minister was being advised about signing it and what the implications of it were.

15 Q. So your recollection is that, prior to that meeting that occurred at ESB involving the Chief Minister and others in the afternoon, before that you don't recall any other conversations with anybody about the declaration of the state of  
20 emergency?

A. No, I'm sorry, I don't.

Q. So when that meeting commenced and that subject was brought up, that was a complete  
25 surprise to you; was it?

A. I can't say it was a complete surprise because I just - I can't remember the majority of Saturday. I just have only about three sort of, you know, flashes of memory for the whole day.

30 Q. So far as your working assumptions on that morning were concerned, after the two meetings that occurred at about 8 and then the planning meeting at 9.30, were your working assumptions that day that at some point during the day the fire was going to impact upon the urban fringe of Canberra?

A. I don't know what my - I can't tell you now what my assumptions were because I can remember so  
40 very, very little on that day. But just judging from the minutes that have been read out this morning and comments in my note pads, I can only assume that, yes, I would have thought that the fire was likely to impact on the suburbs that day.

45 Q. The script that was developed on the Friday night in relation to possible evacuations in the

rural areas, you had a hand in the development of that script?

A. Yes, that's right.

5 Q. Was there any process of consultation involved in the preparation of that script outside ESB?

A. I just recollect working with ESB on it, particularly Peter and/or Mike. I'm not sure entirely whether both of them were involved. And  
10 we were working with Cathy Atkins and myself and possibly the staff who were there from the recovery team or representing recovery. But I don't recall any consultation that I had done. It's not to say that there wasn't any. But if I  
15 had of done anything, I am sure it would only have been at the suggestion or direction of someone else. I can't even think right now who I might have consulted.

20 Q. I represent the AFP. Did you consult with anybody in the AFP, for example, in relation to the preparation of that script?

A. I don't recall consulting with anybody. I've just got a vague recollection about David Prince  
25 and him talking to us. I don't know whether it was that night or the Saturday morning, about the police and whether they would be doing some door knocking. But I'm not sure on the timing of that. That's the only thing that's springing to mind.

30

Q. The declaration of the state of emergency had a significant consequence for you as a media person - or potentially it had a significant consequence; didn't it?

35 A. The declaration of a state of emergency?

Q. Yes.

A. Certainly we needed to publicise that. My understanding was that in order to issue the  
40 standard emergency warning signal, we didn't have to have signed a state of emergency.

Q. I didn't ask you that question. In relation to that, so far as your role was concerned, it had a significant consequence; didn't it? You as the - if I can say - manager of the media effort within ESB, that would be taken over, wouldn't it,

by somebody within the AFP if a state of emergency was declared?

A. Sorry, I'm understanding you now. What you are getting at is the fact that, once a state of emergency was declared, then you would have a territory controller put in place and the territory controller can then appoint a media officer who would then be in charge - yes. But I don't recall any specific discussions about all of that amongst the other discussions of the state of emergency.

Q. Are you aware of the existence of a document which provides guidance to fire chiefs and chief police officers or equivalents in relation to whether or not when there is a fire people should leave their house or stay at their house?

A. I can't say I'm aware of a specific document. I have a recollection that of Peter and Mike talking about there was some kind of nationally agreed standards about the kind of advice you give to people about bushfires and that it included things on whether to stay or go but also what to do if you were staying. But there had been different views - it is my recollection that some people had disagreed with some of the content. But I don't know what form the document was in or --

Q. You gave some evidence I think this morning about discussions that took place at least within your hearing involving stay-or-go issues concerning rural leaseholders; do you remember that evidence which you gave this morning?

A. Yes.

Q. Do you recall whether or not prior to that meeting that you referred to involving the Chief Minister there was any discussion within your hearing involving evacuations of urban areas? In the context of that document, that is, stay or go?

A. I can't recall any that Saturday morning. But it doesn't mean that there weren't any. I'm not sure what time the information ended up going into the press statement.

Q. The standard emergency warning signal, who was

that prepared by?

A. I believe that was prepared by Amy Lowe.

Q. She had it on her computer I think, didn't she, from the 2001 fires?

A. Something like that. The template and everything to do with that I was in Amy's hands with that because it was something that she had through the normal course of her job.

10

Q. Who provided the information to go in - it is a template but there are headings and you provide information in relation to those headings?

A. Yes.

15

Q. Who provided that information?

A. My recollection is that the majority of that was done in Mike's office and that the people who were in there - people sort of tended to come and go a little bit - I'm fairly sure that Robert Tonkin was in there, the head of the Public Service, Mike - I can't remember what time the Chief Minister arrived in there, not that he would have had much of an input into that. Tim Keady may have been in there. I'm not sure if Peter had any input. But I've just got a recollection that Amy would work on it or would gather the information largely from in that room and then type it up and brought it back. But I'm not sure if Robert Tonkin might have even been going and working with her on it, on the computers.

35

Q. So far as that first one that went out, had a number of suburbs identified as being potentially under threat from fire, was it that group that identified which suburbs they were?

40

A. I believe so, yes. I'm not sure if they might have consulted anybody else as well. I'm sorry, but because I went through all of that again the following weekend when we were leading up to - I can't remember now if it was the Friday or the Saturday that was expected to be really bad the following weekend, I also sort of worked with Robert Tonkin in Mike's office on a draft SEWS with all the suburbs then. So sometimes my memory gets a bit confused between the two times.

Q. Do you know Toni Purnell?

A. Yes, I do.

Q. She also works with the media unit of the AFP?

5 A. Yes.

Q. Did you see her at ESB on the morning of the 18th?

A. I have a memory of her being there at some 10 stage, but I don't recollect what day it was or whether it was morning or afternoon.

Q. When she appeared, that would have been the first time that you saw somebody from the AFP at 15 ESB; that is from the media unit of the AFP?

A. I'm trying to recollect if they had ever come to any of the press calls. That might have happened after the 18th. Yeah, that might have well been the first time, but I'm not entirely 20 sure.

Q. So far as methods of communication are concerned, did you have a mobile phone on the 18th?

25 A. I had my personal mobile phone but we were trying to get media to go through Amy Lowe's mobile because I guess it was the allocated media team mobile. But I also had a personal one.

30 Q. That personal mobile, were you giving people that number so they could get hold of you if they needed to?

A. I know I gave out both at different times.

35 Q. Was that on during the day or was that sometimes off so you could get about your work?

A. It was always on. But we had a lot of problems on the 18th with the mobile phones dropping out and very strange messages coming 40 through - not so much strange, just even though the phone was on you would suddenly get messages to ring phone numbers even though the phone hadn't rung and also sometimes when I'd - not just on that day but throughout the following week I found 45 the sheer number of mobile phone calls that I got were such that, while I was on one conversation, I would have six voicemail messages by the time I

got off the phone.

Q. Just some specific references in your statement. Could you go to paragraph 36, please.  
5 It is on the bottom of page 12. Do you see the second sentence there:

10 "While there had been comments during some daily briefings there was a risk of the fire threatening some suburbs, I never once anticipated anything like the devastation that occurred on Saturday."

15 Do you accept that that seems to suggest there was talk of risk to the suburbs prior to the Saturday?  
A. Yes.

Q. Do you recall when and where those comments were made?  
20 A. In some of the planning meetings. I don't remember any, you know, particular one. I can't remember exactly, but there were, I think, some points in some of my handwritten notes. I'm not sure though.  
25

Q. Can I take you to paragraph 46. That paragraph is concerned with the SEWS messages and the introduction of some comments there of a comment in the subsequent SEWS messages about obeying police directions. Do you recall when it was during the day that that was introduced?

A. No, I don't recall and I can't even say for sure whether it was Saturday afternoon. Right now I can't even recall whether we had to issue any further SEWS early on Sunday. I just remember hearing about it. I don't think I was present during any discussion. I just think somebody told me something about it that we had to add that in because people were refusing to leave their homes.  
35  
40 It might have been something that Mike Castle mentioned to me. My understanding was, I think, the police were keen for us to include something like that or that it had been raised by the police and that we thought this might be a way of addressing it.  
45

Q. In relation to the first SEWS that was issued,

we are assuming, it seems at about 2.05 on the Saturday afternoon. What was your state of knowledge at that point of time about whether where the fires were and what threat they posed?

5 A. My recollection is so bad of Saturday that I just can't recall, I'm sorry. Even just hearing this morning about the suburbs that were under threat in my note pad, I wouldn't have been able to name them to you without having some sort of notes to refer to.

10 Q. So far as the declaration of the state of emergency is concerned, you say and your evidence is, as I understand it, that you can't recall discussing it with Jane O'Brien that morning and you can't recall discussing it with anybody else within ESB prior to that meeting in the afternoon?  
15 A. I can't recollect any discussion. I can't recollect the discussion with Jane. Obviously it happened. We might well have discussed it, but I can't recall.

MR ARCHER: Thank you, your Worship.

25 THE CORONER: Yes, Mr Lakatos.

MR LAKATOS: I am happy to go now, your Worship, but thus far Ms Harvey is one of those persons for whom the territory is prepared to speak at this 30 time, if I can put it that way.

THE CORONER: Is she one of these people --

35 MR LAKATOS: As your Worship knows, Mr Johnson indicated that we appear for the ACT government and that unless persons are outside, as it were, and going to be the subject to special or adverse comment, that we will continue to appear for them. Thus far, the position has not yet been reached, 40 in my respectful submission. So I would ask my learned friends Mr Whybrow and Mr Walker to go first.

45 THE CORONER: So are you saying, because I want to be very clear on this, that you are now appearing for --

MR LAKATOS: No, I am not. What I am saying is the position remains as Mr Johnson said it was at the outset of this inquiry. But I am happy to go now, if your Worship wishes me to.

5

THE CORONER: No, that is fine. I have no preference as to who should go next, except that a person who does appear on behalf of a witness should go last, given counsel's right to re-examine. So you are not appearing for this lady. I just want to make sure that Ms Harvey understands that as well. As I say, I do not have any preference as to who should or should not go first.

10  
15

MR LAKATOS: Thank you, your Worship. I simply wish to say that the first two witnesses didn't have separate representation and this was the procedure we adopted thus far. Ms Harvey is in that position. As I say, if my friends care to go first, that is fine. But I can do it if your Worship so directs me.

THE CORONER: Are you ready, Mr Whybrow?  
25  
MR WHYBROW: Yes, I have no questions of this lady.

THE CORONER: What about you, Mr Walker?  
30  
MR PHILIP WALKER: No, me neither.

THE CORONER: No questions from Mr Whybrow or Mr Walker. It is over to you, Mr Lakatos.  
35  
**<CROSS-EXAMINATION BY MR LAKATOS**

MR LAKATOS: Q. I want to ask you about a number of discrete areas of your evidence. Mr Lasry on Thursday, when he commenced his examination of you, asked some questions about a procedure by which media releases were created or ultimately issued in the days leading up to particularly 17 and 18 January. Do you remember that broad topic?

45 A. Yes.

Q. I think you told Mr Lasry that the material

which went into the media releases may have come from discussion with Mike Castle - or Mr Castle amongst other people; is that correct?

A. Yes --

5

Q. Sorry, you were about to say something more?

A. A lot of the statistical information came from other people than Mike a lot of the time.

10 Q. I was about to ask you that question. Apart from Mr Castle, I think there were people who you identified in operations.

A. Yes.

15 Q. And who were they; do you now recall?

A. Dave Ingram in operations. Although sometimes there might have been, you know - sorry, not Dave Ingram in operations, he was in logistics. Tony Graham in operations. I am trying to remember the name of another man, Neil. He normally works for ACT Forests - Neil Cooper I think his name is. Sometimes when Tony wasn't on shift, I think Neil was doing that job. But I guess it was a set position. If it wasn't Tony, it was whoever was in that position in operations. Then, yeah, again, whoever was the main contact in logistics. But generally that was Dave Ingram.

30 Q. Apart from getting information from those persons, did you also glean information from your attendance at planning meetings?

A. Yes. And also in talking to the planning staff and getting maps from them, yes.

35 Q. What then was the process? Once you gained this information either from the meetings or from the people who you have nominated, what was the next step in the preparation of the media update?

A. We would then be typing it into the standard template and then taking that for clearance through Mike or Peter.

45 Q. The planning meetings, do we take that, as a point in time, they generally went for approximately how long in the days leading up to the 17th of January?

A. I'm just purely hazarding a guess, but say

half an hour, maybe a bit more. Sometimes I think there were other pressing things, so maybe sometimes they were shorter. But I'm not entirely sure.

5

Q. Generally speaking, although it changed a little bit, the morning planning meetings commenced about 9 o'clock; did they?

A. I think they were at 9, and the afternoon ones  
10 were at 4.

Q. If we assume that the meeting finishes between say 9.30 and 9.45, how long would it take then for you to go and type up the first draft of the media  
15 update?

A. It never took very long to do the typing, because we tended to copy over the previous statement. But it could take quite a bit of time, sometimes, to get the information that we were  
20 after. And sometimes that was approximate because people in operations didn't always have it either. I recollect - I know it must have been around toward the end of that week that there was so much smoke sometimes that they were finding it very  
25 difficult to be able to say exactly where the fires were.

So I just know sometimes we struggled even getting two updates with fresh information in them.

30

Q. After going to a meeting or speaking with Mr Castle or one of the other persons that you nominated, you'd do the draft and then you'd need to - is this what you say - go and find some  
35 additional information from other persons?

A. Yes.

Q. And that you just told us took a fair amount of time depending on what day it was?

40 A. Yes.

Q. And what was the next step once you got that information; was the media update altered in any respect after obtaining the additional  
45 information?

A. Once we obtained the additional information we would include that, print it, take it to Peter and

Mike for clearance and then, as soon as they cleared it, generally we would issue it straight away. Or if we were, I guess, coming straight up to a press conference, we would hand it out at the 5 press conference and issue it at around about the same time, depending on what our staffing levels were like.

Q. And can you now, thinking back, recall perhaps 10 an average figure - if that's possible; it may not be - as to approximately how long would it take for the media update that you prepared to go from its formation, that is the time you collected the information, to the time it was ready to be sent 15 out to the press?

A. Looking back, it sounds hard to believe, but I think at least an hour, because of the fact that in all this time as well we had a lot of other distractions in the form of phone calls and a lot 20 of the time the nature of the phone calls of media ringing in who were wanting to verify "is it true that blah blah" or "how many hectares have burnt" or "what is happening with this issue?" Then again on top of getting the information for the 25 statements, we would also be chasing information on straightforward questions and they also took a while to get answers.

Q. So at least an hour on the one hand, and how 30 long might it go for on a really bad day?

A. I find it a bit hard to say, but I just know that there was a day or two that we only ever managed to get one out. And that's because, you know, we didn't manage to get fresh information 35 that added anything additional.

Q. Can I go to another topic. You say in your statement and you confirm in your evidence that you worked on an ad hoc basis at the Emergency 40 Services Bureau in December of 2001 in relation to those fires?

A. Yes, that's right.

Q. Your statement also discloses that in August 45 of 2002 you did Exercise Minotaur with, amongst other people, Mr Castle?

A. Yes, that's right.

Q. As we know, you became involved in the January 2003 fires I think on the Thursday night, Friday 10th January or thereabouts?

A. That's correct.

5

Q. Had you worked with Mr Castle or with Mr Lucas-Smith before December 2001?

A. No, I hadn't.

10 Q. Between 2001 and August of 2002, had you worked with either of those two gentlemen?

A. No.

15 Q. Between August of 2002 and January of 2003, had you worked with either of those two gentlemen?

A. The only thing was when I arranged for Mike to come and give a presentation to a group of public affairs officers from across the government so that he could talk to them about emergency management. And he and Amy could then get contact details from public affairs officers who were prepared to help out. That's as close as - it's the only thing that I can think of.

25 Q. Would it be fair to describe your relationship with those two gentlemen right up to the present day is that of professional colleagues on an ad hoc basis?

A. Oh, yeah, definitely.

30

Q. I want to go to the 18th of January. You've indicated that your recollection of that day is very poor indeed I think it is fair to say; would you agree?

35 A. Yes, very. And of the days following as well.

Q. Your statement discloses and can you confirm that this is so, that you commenced work at about 5am that day?

40 A. Yes, that's correct.

Q. And your statement also discloses that you finished work at ESB at about 4pm?

45 A. Yes. I would have to refer back to my notes or my statement to confirm that. I think that's what time I left. But I went home and made some phone calls to ask for some help.

Q. Can I remind that you paragraph 55 of your statement, in particular the page referred to is [ESB.AFP.0111.0212] indicates:

5 "I went home at about 4pm. I was directed by Robert Tonkin to go home and get some rest."

A. Yes. I do recollect Rob telling me I needed to go home. I'd been there until 1am on Saturday 10 morning so I would have had about one hour - one to two hours of fairly unsettled sleep, at most.

Q. Indeed, the preceding night, as you have already given in evidence, you were a party to the 15 ring-around the rural lessees who were at risk?

A. I didn't do any of the actual ringing but I was helping to facilitate that, yes, and doing other work in preparing for the 8am meeting.

20 Q. Indeed, so far as the ring around rural lessees, you would agree, would you not, there was a group of people not on the urban edge who were identified at risk of the fire; you would agree with that; would you not?

25 A. Yes.

Q. Following that discussion of those persons at risk, steps were taken to warn them?

A. Yes.

30 Q. At paragraph 70 and following of your statement this is a wrap-up, I take it, of your experience between 8 January and I think 21, 22 January when you finished working at ESB?

35 A. I worked at ESB up until about the 25th, the Sunday.

Q. I am sorry I am corrected. Yes, I accept that. You say at paragraph 70:

40 "I was pretty exhausted myself at this stage as I had been working between 15 and 20 hours a day for quite a while and never had enough time to sit down or even eat a proper meal, 45 and it was very difficult to relax or get sleep."

Was that how it was?

A. Yes, that's how it was throughout the whole period; yes.

5 Q. You say at paragraph 71:

"This period was very stressful."

Is that an overstatement?

10 A. It is an underestimate, actually. I mean, pretty much every meal that I ate during that period had to be eaten with one hand because I was sort of running from place to place.

15 Q. In paragraph 71 you talk about being flooded with phone calls, getting voicemail messages - which you have already spoken of - and "the workload was immense"; was that how it was?

A. Oh, yeah. Definitely. I've never been through any experience like it before or since.

Q. You have said I think both in your statement and in the evidence you gave that your concept of the nature of the fire which would impact upon the 25 urban edge was something akin to the 2001 experience rather than what happened in January 2003?

A. Yeah, that was what I took any discussions of fire reaching the suburbs to mean.

30 Q. You were taken by my learned friend Mr Woodward in his examination of you to your notes and in particular the page headed "key tasks" which is, on my reference [ESB.AFP.0024.0002] at 0013. I think that is the correct number. Do you see that could you have your copy?

A. Yes.

40 Q. One part he didn't ask you about was going six lines from the bottom. What do the next two lines read, please?

A. Sorry, which lines?

45 Q. Six lines from the bottom?

A. "Review possibilities for media photograph opportunities. Advice on where media can safely

go to get pictures".

Q. These were notes, as I take it, you made some time on Saturday morning?

5 A. Yes.

Q. Do you remember what was going through your mind when you made those notes?

A. I can't recall exactly what was going through 10 my mind because my memory is just really gone of Saturday. But from what it appears to be saying, I was still thinking about the experience that we'd had in the lead-up to this point when we'd had such a lot of, I guess, difficulty in 15 satisfying the media's interest in getting photograph opportunities and vision of bushfires. And I just take this to mean that I was trying to think about where we could direct the media to safely get vision and photographs.

20

Q. You may not recall, but may I take it that by reference to the adverb "safely" that you had it in your mind that there was some safe point where such an activity could take place? If you don't 25 remember, say so.

A. All I can imagine is I just had no concept of what was going to happen and I thought this was going to be a useful or a task that we would need to do to be able to tell the media where they 30 could safely get shots. Not knowing there was going to be, you know, 65 kilometres or something of fire front.

Q. Can I finally draw your attention to one last 35 topic. This morning when the proceedings commenced her Worship addressed you. Do you recall?

A. Yes.

40 Q. She said - I am paraphrasing what she said - that she had gained the impression that you were less than forthcoming in the evidence that you had given; do you recall that being stated to you?

A. Yes, I do.

45

Q. Have you been as forthcoming as you can be?

A. Absolutely.

Q. Have you been intentionally been less than forthcoming?

A. Never once.

5 Q. Her Worship then took you to section 81 of the Coroner's Act which governs how proceedings such as this occur and the section that deals with giving false evidence?

A. Yes.

10

Q. Have you given false evidence in the days you have been in the witness box here?

A. Never.

15

Q. Have you given any misleading evidence in the days that you have been here, as far as you can say?

A. As far as I can say, never.

20

Q. Her Worship informed you that you could be the subject of adverse comment; do you recall that being said?

A. Yes, I do.

25

Q. And she also informed you that it was your obligation to be truthful in these proceedings?

A. Yes.

30

Q. Have you approached these proceedings in any other way than wishing to be truthful and frank?

A. No.

35

Q. You indicated, I think, in paragraph 84, which I drew attention to her Worship that you took copious notes during the whole period?

A. Yes, I did.

Q. I think going three or four lines into that paragraph:

40

"I didn't throw anything away but kept it for the coronial that I knew would follow."

A. Yes.

45

Q. Would you agree that that is an action which is hardly consistent with trying to suppress

facts?

A. Yes. I volunteered up everything that I had.

Q. The good with the bad, as it were?

5 A. Yes. 10 centimetres thick worth of papers.

MR LAKATOS: Yes, thank you. I have no further questions.

10 THE CORONER: Q. What about the next part of that paragraph 84:

15 "I also took notes afterwards as memory joggers to myself as it really was difficult sometimes to remember exactly what time and day some things happened."

What happened to those memory joggers?

A. I think they are in the note pad here.

20 Q. They haven't been very successful in jogging your memory to date though; have they?  
A. They were certainly nowhere near as comprehensive of the sorts of things that I have 25 been asked. Never once had it occurred to me that I would be questioned so intensively about why I might have taken particular notes or what happened at particular meetings. So the memory joggers - I'm sure they are still in here - they are nowhere 30 as detailed as what I would have needed to be able to answer the questions that I have been asked, your Worship.

35 Q. You are a media liaison person. You must be used to being questioned intensively by persons interested in information from you. You are telling me that you didn't expect to be questioned intensively at this inquiry; is that what you are saying to me?

40 A. That's right. I never had any expectation of being questioned like this right up until Thursday last week.

45 Q. Did you regard yourself at the time you got to ESB on the 10th or so of January, did you regard yourself to be the most experienced media officer at ESB at that time?

A. I don't think I really thought about it in quite that way. Looking back, I would have been a little bit more experienced than Cecilia but not a great deal more.

5

Q. You didn't think that you were the most senior. I'm not really sure what your answer was when Mr Archer asked you if you considered yourself to be the most senior. Did you regard 10 yourself to be the most experienced and, if not, who did you think was more experienced than you at the job that you were sent to ESB to do, to be the media liaison officer?

A. I was sent to the ESB or asked to go to ESB to 15 help out, and I went to help out in doing whatever I was asked to do, your Worship.

Q. Answer my question, if you would. Did you consider yourself to be the most experienced media 20 person at ESB from the time that you got there on the 10th of January?

A. Looking back I do now, yes. But I didn't arrive there and give it a lot of thought.

25 Q. So you do now consider that you were the most experienced media person there?

A. Probably, not knowing a great deal about Cecilia Burke's professional background.

30 Q. Did you ever see any press releases from the New South Wales Rural Fire Service from the time that you arrived at ESB from Cameron Wade?

A. I don't recall seeing them. But I may have. From memory, I think he arrived on the Thursday 35 and was gone by the Friday. I'm not sure, I'm sorry, your Worship.

Q. Did you yourself liaise with the New South Wales Rural Fire Service, the media people at New 40 South Wales Rural Fire Service?

A. Yes, we did --

Q. You, I mean you personally?

A. I had some conversations with Cameron Wade at 45 the Emergency Services Bureau. He came in and met us there and had some conversations then. I may have also spoken to him on the phone. I'm fairly

sure I had his mobile phone number for a while. And I also met John Winters, I'm fairly sure, at the Emergency Services Bureau.

5 Q. You would have been aware that the New South Wales Rural Fire Service were issuing press releases, were you not; you were aware of that?  
A. Your Worship, I still find it hard to remember a lot of the detail. My recollection was that  
10 Cameron Wade handled a lot of the media commentary in person at press conferences and giving interviews over the phone because my understanding was that Cameron Wade and John Winters were media spokespeople which we certainly weren't. So I  
15 think my recollection was - sorry, I think my impression probably was that most of it was done in person, your Worship.

Q. So you never saw any press releases by New  
20 South Wales?

A. I'm sorry, I don't recall. I may have seen some. But I just don't recall them. I don't recollect having any impression of having seen the one that was shown to Phil Koperberg the other day  
25 and the paragraphs at the beginning of that. If I ever did see that it didn't stick in my memory,  
your Worship.

Q. Did you ever think yourself of your own volition to ring Cameron Wade or anybody else in the New South Wales office in Queanbeyan to find out what was happening with the New South Wales fires close to the border?

A. I didn't think to do that, because my expectation would have been that I would be information as appropriate within the Emergency Services Bureau.

Q. Who by?

40 A. Mike Castle and Peter Lucas-Smith.

THE CORONER: Yes. Mr Woodward, do you have any re-examination?

45 MR WOODWARD: Very briefly, your Worship.

**<RE-EXAMINATION BY MR WOODWARD**

MR WOODWARD: Q. Ms Harvey, just picking up on that issue about your memory joggers, I note at the back of your booklet there - the last few pages of the written notes, which would not be in the document that is on the system - there is a page headed "Statement for coroner"?

A. Yes.

Q. Is that and the following six pages the memory jogger notes that you can recall?

A. Yes.

Q. At least in the version I have got, what appears immediately before that appears to be more notes of a planning meeting later in January. Can we take it that the memory jogger section begins with that heading "Statement for coroner"?

A. Yes.

Q. There is a note there "meeting with Ron McLeod." Did you have a meeting with Mr McLeod?

A. Yes, I did. I had at least two meetings.

Q. That was with Mr McLeod personally?

A. Yes, it was.

Q. What was the purpose of those two meetings?

A. He wanted to talk to me about my experiences during the fires for the purposes of his inquiry.

Q. You said also, didn't you, for the purposes of your statement that you met with someone from the organisation whose letterhead appears at the top of your statement, provided an interview, they took notes and then produced a statement?

A. Yes, that's right.

Q. Have you ever seen those notes since the time at which you were having that meeting?

A. Sorry, which notes?

Q. Their notes. The notes which they produced?

A. Sorry, do you mean in preparing the statement?

Q. Whoever it was that you met with, as I understand it, took notes of the meeting with you?

A. No. He recorded me.

Q. He tape recorded you?

A. Yes. My recollection was he was going to have a follow-up session with me, but I might be confused on that. And then some months went past 5 before he contacted me again and said that he had prepared the taped conversation up into a draft statement and was sending that to me for comment or revision.

10 Q. And then you were sent a draft of the statement. I think you have given some evidence you made some changes, gave it back and then finally signed a version of it; is that correct?

A. That's correct.

15 Q. Is it possible that your memory was better at the time that you provided that taped interview than it is sitting in court today?

A. Probably. Yes.

20 MR WOODWARD: In those circumstances, I would call for that recording - that tape.

25 THE CORONER: Just some inquiries, Mr Lakatos, if they could be made.

MR LAKATOS: Yes, inquiries will be made. If it can, it will be produced.

30 MR WOODWARD: I don't want to indicate, your Worship, that this is something we will be doing routinely, because that is no doubt the situation that occurred with many witnesses. But I think in the case where a witness is having difficulty, it 35 seems an appropriate course.

THE CORONER: Yes, I agree.

40 MR WOODWARD: Q. One final question: you were asked some questions by Mr Lakatos about the preparation of media releases, and we have covered this in some detail - that is, the issue of obtaining information. You will recall earlier that I took you to the media update of 12 noon. 45 Just by way of general example of the sort of thing that was included in these, there is quite a bit of information about the size of the fire,

number of resources and that sort of detailed factual information. Is it that sort of information that you were having trouble getting people to give you so these could go out?

5 A. Yes.

Q. That information was required by the template that had been determined in fact as early as the 2001 fires; is that correct?

10 A. Yes.

Q. I take it that, if there was any point at which in the process where a piece of information needed to be provided, it didn't have to be in the 15 form of one of these updates that was consistent with the template; you could put media information or media update out that had a discrete piece of information such as a warning; is that correct?

A. We could have.

20

Q. On a couple of occasions on the Friday evening there were media updates that were not in this form that were sent out; is that correct?

A. I believe so. But I can't say that I 25 remember.

30

Q. Is there any reason why on the Saturday morning - perhaps if I can show you an example, to be fair - the one that was sent at 2050 on the evening of Friday the 17th, which I think is document [ESB.AFP.0110.0905]. Would you agree that is an example of a media update that has gone out other than in the form of the template?

A. Yes.

35

Q. There would be no reason during the course of Saturday morning, for instance, why something again that is outside the form of the template couldn't have been sent?

40 A. Yes, that's correct. Yes.

MR WOODWARD: I have no further questions, your Worship.

45 THE CORONER: Thank you, Ms Harvey. You are not excused; you may be recalled; but you are free to leave now. If you would just leave the notebook,

please.

THE WITNESS: Sure, your Worship.

5 THE CORONER: The Court is adjourned until five past two.

<THE WITNESS WITHDREW

10 LUNCHEON ADJOURNMENT [1.06pm]

RESUMED [2.08pm]

MR WOODWARD: I call Amy Lowe.

15 <AMY LOUISE LOWE, AFFIRMED

<EXAMINATION-IN-CHIEF BY MR WOODWARD

20 THE CORONER: Don't feel distressed. Have a drink of water. Try not to be upset.

MR WOODWARD: Q. Your full name is Amy Louise Lowe?

25 A. Yes.

Q. Ms Lowe, I am going to ask you some questions about the circumstance of the fires of January by reference to a taped record of conversation that 30 you conducted. I will just check with you, you met on the 27th of January of this year with Detective Senior Constable Ian Faulds and Detective Kylie Matters to discuss the circumstances of the fires; is that correct?

35 A. Yes.

Q. Present at that discussion were yourself and also Mr Peter Lowe, that's your father?

A. Yes.

40 Q. And you were asked a series of questions about your involvement in the fires; is that correct?

A. Yes.

45 Q. Ms Lowe, you were aware at the time, weren't you, that that discussion was being tape recorded?

A. Yes.

Q. Have you since been provided with a transcript of the conversation that you had that day with Detectives Faulds and Matters?

A. Yes.

5

Q. Have you had a chance to read through that document since you met with them?

A. Once, yes.

10 Q. Were you satisfied when you read through it that the answers that you gave to the best of your knowledge are true?

A. Yes.

15 Q. What I want to do, Ms Lowe, is just to go to a couple of the issues that you dealt with in your record of conversation. Your Worship, I realised I don't have the document number for that document.

20

THE CORONER: [DPP.DPP.0003.0408]

MR WOODWARD: Thank you.

25 Q. I don't want to go through all of it - I want to highlight one or two things that you have covered and in particular I will probably summarise some of the answers you have given and ask you whether you accept my summary or not. If 30 you don't, please say so. At the time you had that interview you were unemployed. Is that still the position?

A. Yes.

35 Q. You described at question 10 that you were first employed by the ESB on the 19th of December 2001; is that correct?

A. Yes.

40 Q. I will come to this in a moment, but it was within a few days of your commencing that you were caught up in the fires of December of that year; is that right?

A. Yes.

45

Q. You ceased employment with ESB on 30 October of last year; is that correct?

A. Yes.

Q. During your time with the ESB, your job title was as community education and public relations 5 co-ordinator; is that right?

A. That was my job title.

Q. As I understand it you were, as you have 10 described in your record of conversation, under a short-term contract; is that right?

A. There are a number of contracts.

Q. They were progressive; is that right?

A. Yes.

15 Q. How long did they last for, Ms Lowe, each one?  
A. Initially they were three months for the first year and then after that as well. But I think personnel realised that they couldn't actually 20 continue on three-month contracts so then they backdated a contract which was somewhat longer, maybe four or five-month contracts.

Q. Is it the case that you were at no stage on a 25 contract longer than six months; is that correct?

A. Yes.

30 Q. You deal with this in your statement at some length, but it is the case, isn't it, that at no stage during your employment with ESB were you given a formal duty statement; is that correct?  
A. Not a formal duty statement. That's right.

35 Q. You describe at question and answer 19 the sorts of roles that you were fulfilling before the fires in January 2003. I will just read your answer at 19. You were asked what was your job you said:

40 "I was given a range of jobs to do. Ranging from assisting with the production of a firefighters calendar and the participation of the fire brigade and ambulance service in a fashion parade."

45 Over the page at answer 26 you say a little bit more about your role. You say:

5           "There was an expectation that I'd do a whole wide ranging - fulfil a wide range of duties from the handling of the media for small incidents such as house fires or car  
10          accidents or helicopter missions, to designing certificates to give to people in appreciation of things, organising the civic reception following the 2001 bushfires, and assisting with organising media launches and political initiatives and things like that."

For the next few pages you talk about aspects of, if I can summarise it, a media liaison role. Would it be a fair summary to say that media  
15          liaison was a relatively small part of your title role?

A.          I think it is fair to say that.

Q.          It was an area in which you had very little  
20          experience at the time you came to the ESB?

A.          Yes.

Q.          In fact your qualification which you referred to in answer 13 is a Bachelor of Communications  
25          specialising in public relations; is that right?

A.          Yes.

Q.          I think the two media liaison roles that you refer to in your statement as being ones that you did fulfil during the period were firstly - you deal with these in question 56 and following - you had a media liaison role in relation to minor incidents such as house fires, car accidents and the like; you had a media liaison role with  
35          assistance from others in the 2001 fires; is that correct?

A.          Yes.

Q.          You refer in answer 59 - it is in there as the  
40          "Moose Heads fire" - I assume it had should be Moor's Head fire?

A.          Moose Heads.

Q.          I think that is essentially it as far as media  
45          liaison, before the fires in 2003?

A.          In terms of - if you are asking if there were any other major incidents, then, no.

Q. Were you given any training or assistance to the extent that you had to fulfil that media liaison role as to how to go about that?

A. I wasn't given any training.

5

Q. But at the 2001 fires, Ms Harvey was brought in to provide some assistance in that role?

A. Mmm-hmm.

10 Q. In fact at question 81 you were asked in the context of the fires, you make it a point that it was within only a few days of you commencing at the ESB you got caught up in the fires which commenced on Christmas Day and you were asked who  
15 you were working with and you answered "Mike Castle" and you confirmed that Ms Marika Harvey became involved I think you said on the following day; is that correct?

A. I attended ESB on the 25th of December 2001.  
20 Marika was not there on that day. I didn't attend ESB on the 26th but I believe Marika was called in on the 26th.

25 Q. Did you have an involvement after the 26th in the 2001 fires?

A. Yes, I did.

Q. Were you working with Ms Harvey at that point?  
A. Yes.

30

Q. I think you also worked with Ms Harvey during the operation Minotaur exercise in August of 2003; is that correct?

A. For part of that, yes.

35

Q. You start to deal with your experience of the 2003 fires on page 29 of your statement at question 256 - if again I can briefly summarise. Although you were present at the ESB on 8 January,  
40 it was really almost as you were walking out or you finished work for the day that you heard that there had been fires started in the hills; is that correct?

A. Yes.

45

Q. Then you were off work for the 9th and the 10th. You didn't work on the Saturday and Sunday

11 and 12. So you returned to work on Monday  
13 January. That was your first substantial  
involvement in the fires; is that correct?

A. My first involvement, yes.

5

Q. By the time you returned Ms Harvey was well  
and truly involved in the media liaison and media  
role at ESB; is that correct?

A. Yes.

10

Q. I want to come back to something about  
Ms Harvey's role, if you like, from that time.  
You are asked at question 279 on page 32:

15

"Q. What did you understand your role to be  
from the 13th onwards?

"A. Assisting in any way I could."

20

Were you referring to assisting anyone in  
particular at that stage?

A. Assisting in the media role.

Q. Under the direction of whom?

25

A. Under the direction of Mike Castle, working  
with Marika.

Q. You were asked:

30

"Q. What did you understand the role of a  
media liaison to be during the fires? What  
did you see as your key priorities?"

And at 280 you give the answer:

35

"A. Answering the telephone, making - then  
logging those media calls or wherever the  
calls would come from, and I guess meeting  
the needs of those inquiries if I could, and  
if I couldn't then trying to meet the needs -  
if a radio station rang up and wanted an  
interview then I would try to find someone  
who could give an interview. Or the other  
duties I suppose were - we'd usually have one  
or two members of the team attend planning  
meetings so we knew what was going on.

40

45

"Q. How many of those planning meetings did  
you attend?

"A. I don't know."

Ms Lowe, Ms Harvey described herself attending a number of meetings and said it was a concern of 5 the team to make sure they had someone in attendance at all of those meetings. Are you able to give us a general idea of - were you attending them on your own or with Ms Harvey or both?  
A. Either with Marika or in place of Marika or 10 not at all.

Q. Do you recall attending any of them just in place of Marika on your own with no-one else from media there?  
15 A. No, I don't.

Q. So it's likely there were always two people, at least while you were there, there was yourself and some other media person present; is that 20 correct?

A. I think that's likely.

Q. Just jumping back a little bit. Your answers in relation to the general structure of the media 25 section - and you deal with this at around question 274 at page 30 - the question you were asked was:

"Q. ... were you told whether you would be 30 working with Marika or for Marika or where did she fit into the chain?"

"A. Going on the discussions of the media plan annex and how the hierarchy would be structured."

35 Your reference to the media plan annex, is that a reference to the subplan of the emergency plan?  
A. My understanding is that at that time it wasn't an actual plan. It was an annex to the 40 plan. It wasn't an actual endorsed plan.

Q. It continues:

"I felt that I would be working sort of under 45 Marika, because she had the whole-of-government approach."

Can you explain what you mean there by her having a "whole-of-government approach" - was it simply the fact that she had come from --

A. The Chief Minister's Department.

5

Q. When you say her approach was whole-of-government, perhaps if you could briefly explain what you mean?

A. I suppose in my role working for the Emergency Services Bureau, I was looking after the ambulance, bushfire service, ES and the fire brigade; whereas Marika probably took a holistic approach of everyone that was involved.

15 Q. Other departments and other interests?

A. Mmm-hmm.

Q. Perhaps if you could just indicate briefly, apart from yourself and Ms Harvey we have heard 20 there were other people involved. Can you give her Worship just a broad outline of how the unit was structured in terms of its lines of reporting. I think it has been discussed or referred to before that it was part of the planning unit. Was 25 that your understanding at the time?

A. Yes, at the time.

Q. In a practical sense, what did that mean? Who did that mean you were reporting to?

30 A. In the practical sense the way reporting to planning - I guess you would say that it was the person in charge of planning. But that's not really how it worked because that --

35 Q. How did it work?

A. The reporting line was from the media section to Mike.

Q. Mike Castle?

40 A. Mmm-hmm.

Q. So it's the case that you didn't report to or receive direction from Mr McRae; is that correct?

A. It wasn't the way that I remember it 45 happening, like that way.

Q. But you did from time to time obtain

information from the planning unit to assist you in your role; is that how it worked?

A. Yes.

5 Q. We've heard some evidence, Ms Lowe, about the way in which the media release form was developed. As I understand it, it was a template that was prepared for the purposes of the 2001 fires; is that correct?

10 A. If you compare the two templates, then that's how it would look, yes.

Q. That is where you started from in terms of preparing those media releases?

15 A. When I arrived at work on Monday, the template was already in place.

Q. In relation to those media releases, in fact you refer to this at question and answer 294 at 20 page 33, bottom of the page, you were asked some questions about how you formed your reports and media releases and you say:

25 "A. Yes, there was a template, I suppose, of structure of the media releases that was decided upon. I guess Marika worked out the headings and the basis template of what we would include in the media releases so what the fires were called, you know, could be the 30 Bendora fire, the Stockyard fire.

And you would get the information for completing the releases. Is that how it worked, as far as you were aware, when you arrived on the 13th?

35 A. Yes.

Q. What was your involvement in gathering the information that was then put in those various paragraphs of the standard media release?

40 A. To gather the information. As I think Marika said in her evidence, it was being gained from the planning meetings sometimes. But it would also be gathered from asking individuals in certain areas like in planning. Also information could be 45 gathered from the media conferences, actually what was being said in those.

Q. It was part of your role, as I understand it, to gather that information; is that correct?

A. Yes.

5 Q. The process after the information had been gathered was that the draft of the media release was prepared; is that correct?

A. Yes.

10 Q. Did you have any role in drafting the media releases?

A. Yes.

15 Q. Having drafted them, what did you do with them then?

A. They were given for approval by Mike Castle and Peter Lucas-Smith.

20 Q. Do you recall many changes or amendments occurring at that stage?

A. At what stage?

25 Q. By Mike Castle or Peter Lucas-Smith, did they make many amendments before they handed them back or how did that work?

A. They would make some. I couldn't say how many or how little. I couldn't really quantify that.

30 Q. There seemed from the material, Ms Lowe, to be in effect two different types or approaches to the media releases. There were ones that contained the basic information about where the fires are and how many resources are deployed; then there are some that also include some quotes that are attributed to either Mr Castle or Mr Lucas-Smith. Dealing with that category of media release, the ones that had those sorts of quotes, what was the process by which those quoted sections were developed?

35 A. There would have been some direction as to an instruction to write a media release perhaps along those lines. And going on the information that I had at the time, I would begin drafting that and seek further input and approval.

40 Q. Did the instructions - I think you mentioned Mr Lucas-Smith and Mr Castle were giving those

sorts of instructions; is that correct?  
A. Yes.

Q. Was there anyone else?  
5 A. The only other time that I remember getting input from someone else was on Saturday the 18th during the morning, and Robert Tonkin was involved in the input.

10 Q. Do you recall any time or any occasion in which Mr Tim Keady provided input?  
A. I didn't remember until I was in here the other day waiting. I think it is one of the releases from the Friday afternoon, which has  
15 handwritten notes.

Q. Yes, that's right.  
A. That did jog my memory.

20 Q. I will have that brought up on the screen. That is document [ESB.AFP.0110.0904]. I will ask you a couple of questions about that document. Were you involved in preparing the original draft of that; do you remember?  
25 A. I think I may have been, yes.

Q. Can you recall the circumstances in which Mr Keady came to suggest some amendments or suggest how to fill the gaps, as it were?  
30 A. No.

Q. Did he return the draft to you, do you recall?  
A. I don't remember having that close an interaction with Tim Keady, no.

35 Q. Do you recall getting Mr Castle or Mr Lucas-Smith saying, "you can ask Mr Keady about that" - I am trying to get a picture of the circumstances in which Mr Keady was involved in assisting with that release?  
40 A. I don't remember having direct contact with Tim Keady on that.

Q. In your transcript of your record of conversation at question 314 and following on page 35, you were asked some questions about dealings with New South Wales. You say what

triggered that process was in effect the New South Wales resources coming to Canberra; do you recall that?

A. Sorry, what is the question?

5

Q. Do you recall you first being involved with the New South Wales media people at the time that their 20 trucks and personnel came to Canberra?

A. Yes.

10

Q. That was Thursday the 16th of January - I think we have heard from other evidence - in the afternoon. You talk about it there at question and answer 314. Do you recall having any dealings with Mr Wade or anyone else from New South Wales at any time before that day?

15

A. The initial contact that I had with him was after I found out that there was the New South Wales task force coming to Canberra and I got in contact with him because they had not been in contact with us.

Q. At any time before then?

A. (Witness shook head).

25

Q. Perhaps I should ask you, was it on the day that they arrived that you first found out that they were coming?

A. I think it was the day before.

30

Q. We know from other evidence that the decision was made and a formal request was made for those resources late on the afternoon of the 15th. So would it be about then that you first had dealings with Mr Wade?

A. I remember speaking to him on the telephone when he was still in Sydney. It could have been that afternoon or the following day.

40

Q. Is it likely to have been any time before the Wednesday afternoon?

A. No.

45

Q. So in your memory the course of events was you first hear that a task force or a number of task forces are coming from New South Wales and some time after that you have a conversation with

Mr Wade; is that right?

A. Yes.

Q. In his statement at paragraph 4 Mr Wade says  
5 "on Wednesday, 16 January" which is an error. It  
should be Thursday, 16 January:

10 "At approximately 12 midday the director of  
Corporate Communications, John Winters  
deployed me to the ACT. I was assigned to  
report on the activities of four task  
forces."

He goes on to say:

15 "I travelled in my service vehicle with a  
convoy of trucks to Sydney."

20 I should give a number for this. I can't; I am  
sorry. It is only another short section:

25 "The group arrived at approximately 4.30pm.  
The CEO of ESB, Mike Castle, and the public  
relations officer, Amy Lowe, met us outside  
Canberra."

And so on. Does that accord with your  
recollection of what happened?

A. Yes.

30 Q. In his statement he seems to suggest that it  
was at about 12 midday while he was still in  
Sydney that he first learned that he was to be  
deployed in that role. Is it possible that that  
35 is about the time that you had your conversation  
with him?

A. It's possible.

40 Q. During the course of his evidence I asked  
Mr Castle some questions about the arrangements  
that were in place in relation to how each of the  
ESB on the one hand and the New South Wales Rural  
Fire Service on the other would deal with their  
respective fires from a media point of view. In  
45 his statement, he refers to the fact that:

"Right from the early days there was an

agreement with New South Wales that they would talk about the fires they were managing and we would talk about the fires that we were managing".

5

When I asked him some questions about that and in particular what he meant by "the early days", he said that he believes - transcript page 1643 at line 26 - I will read what he said:

10

15

"I believe Amy Lowe was talking to their media person and trying to co-ordinate what was actually being said. It was my understanding that from early days there was that coordination, and the specifics of what was happening with the McIntyre's Hut fire in detail."

20

I interrupt him and point out that his statement talks about the early days. As far as you can recall then, can we take it that the first dealings you had with Mr Wade were on or about the 16th or possibly the afternoon of the 15th?

A. Yes.

25

30

Q. Do you recall at any point during those discussions with Mr Wade having an understanding or coming to an understanding with him that the arrangement would be that the ESB would talk about the Canberra fires and New South Wales Rural Fire Service would talk about New South Wales fires and in particular the McIntyre's Hut fire?

A. I don't remember coming to an arrangement, no.

35

Q. Do you recall him saying to you at any stage, "This is the way we should handle it," or anything of that kind?

A.

I don't think it came from - I don't know if it came from Cameron Wade. But if you look at all the media releases somewhere along the line the media releases start saying, "To gain information on McIntyre's Hut fire contact New South Wales Rural Fire Service media". I don't know exactly how that came about.

45

Q. Was that something you were involved in, that change occurring?

A. No. I don't think so.

Q. Do you recall having any discussions with anyone, including Mr Wade or Mr Castle, about  
5 there being that division in place?

A. Not in an actual conversation.

Q. Were you ever given any instruction by anyone, including Mr Castle or Mr Lucas-Smith, to the  
10 effect of "We're only talking about the ACT fires so we shouldn't be saying things about McIntyre's Hut"?

A. Not an exact direction. But that note being at the end of the media release that inquiries  
15 about New South Wales fires should be directed to the New South Wales Rural Fire Service must have come about somehow. I can't say exactly how, but that's all I can think of.

20 Q. It wasn't something that you discussed or that arose out of a discussion between yourself and Mr Wade; is that correct?

A. That's correct.

25 Q. You have correctly referred to the fact, Ms Lowe, that at some point in the week leading up to the 17th and 18th there was this information about McIntyre's Hut and the reference in the standard media update that if information was required about McIntyre's Hut then you could refer to the New South Wales Rural Fire Service. But are you aware that on the Friday at least releases were being issued by the ESB that dealt specifically with McIntyre's Hut fire?

30 35 A. Yes. I've just said that I remember being involved in that.

Q. That was a draft, the one that was up there before. But the document that went out or appears  
40 to be the same - the amended finalised media release document [ESB.AFP.0110.0910] issued at 1545 dealing more or less exclusively with the McIntyre's Hut fire. So there seems to be a going back to a position that was in place earlier. Do  
45 you recall the circumstances in which that happened? Was there any deliberate change of approach or policy that you were aware of?

A. No.

Q. Were you present at any discussions where that occurred?

5 A. No.

Q. On a more general issue concerning New South Wales, were you aware during the week leading up to the 18th that the New South Wales Rural Fire Service was itself from time to time issuing media releases?  
10

A. Given that that's what they did, I would have probably assumed that they would be releasing information.

15

Q. What I really want to find out from you is was there any process of which you were either aware or involved under which those releases were collected and monitored by anyone at ESB?

20 A. When I spoke to Cameron Wade on the telephone about New South Wales Rural Fire Service personnel coming to Canberra, I asked him if they were going to do a media release about it and naturally they were. I think I requested a copy of that at the  
25 time for them to fax it through to us so we could have a record of what they were saying about the ACT at that time. But there was no process established at that time to receive all releases that New South Wales was releasing.

30

Q. Was there at any stage up to and including the 18th of January any such process to your knowledge?

35 A. When I met with the government solicitors a couple of weeks ago in preparation for this, they produced a word document that had New South Wales Rural Fire Service media services cut and paste into a word document as a record. They asked me if I reported that or doing that. I may have done  
40 that, I think, but it wasn't a formal thing. It was just for my own records.

Q. Were you informed at that time that that was a document that they believe you had prepared?

45 A. They said they had taken it off my computer.

THE CORONER: I don't understand that,

Mr Woodward.

Q. That is a New South Wales Rural Fire Service media release that you used to draft your own releases?

A. No. Just to keep as a record.

MR WOODWARD: Q. As I understand what the witness is indicating - correct me if I am wrong, Ms Lowe - there was a document that was a Microsoft word document into which extracts from the New South Wales media release had been cut and paste.

A. Complete media releases which I may have drawn off their website to gain information.

Q. Does that document have a date; do you remember?

A. No, I don't remember.

MR WOODWARD: I am not sure whether that is something that has been provided to us. It could well have been, but I don't recall seeing it. I call for that document.

MR LAKATOS: That can be produced. I don't know if it can be produced immediately, but it can be produced.

MR WOODWARD: Q. In any event, you don't recall a formal process where yourself or anyone else was under a standing instruction to collect that information and feed into the processes of ESB?

A. No.

Q. You deal with Friday afternoon and evening commencing at question 317 of your record of conversation, page 36. You refer to the Friday afternoon planning meeting. While I think of it, Ms Lowe, do you recall attending a planning meeting on the 14th of January 2003, the afternoon planning meeting when there was a reference to a media interview that was going to be given by Mr Phil Cheney; is that something you can recall?

A. No.

Q. When you attended planning meetings and other

sessions of that kind, did you keep notes yourself?

A. At the time, yes.

5 Q. You probably dealt with this in your record of conversation, I have overlooked it if you have, what has happened to your notes?

A. I don't know.

10 Q. Did you give them to someone at some stage or were they just left where?

A. I remember having them at some stage around January, but they would have been in my work space at ESB. Since leaving, I don't have them.

15

Q. Did you take any notes in a book or on loose pages?

A. I think it was a mixture of both. Sometimes in a notebook; sometimes on paper.

20

Q. The notebook, is that something that you can recall having after January?

A. Only immediately after.

25

Q. You don't know what has since become of it?

A. No.

Q. At question 321 after talking about the planning meeting you were asked:

30

"Q. Who chaired the meeting?

A. I don't know ... It was in their conference room and it was packed, you know, people standing up, people pretty much packed in I think, and I guess in my most vivid recollection is whoever spoke from planning."

And I think you thought it might have been Hilton Taylor or Rick McRae --

40

... and they had their map up on the wall with the coloured shaded-in areas of where the fire had been and then sort of footprints of where it would go and dissecting those were times, time of day --

And so on as to when the fire would reach the

urban edge of Canberra. That's something you say you have a pretty vivid recollection of; do you?  
A. Yes.

5 Q. Do you recall discussions at that meeting or after about letting residents or others know who might have been within those areas that were identified, making them aware of the fact that on one scenario they may be at risk from the fires?

10 A. I remember being involved in the production of the media release that was issued later that evening which has been brought up before.

15 Q. You were asked about that at question 329 and you were asked in particular at question 331 - perhaps I should get that document brought up - is this the media release that was sent out at 10 to 9 that night, 2050?

A. Yes.

20 Q. It is document [ESB.AFP.0110.0905]. Is that the one you are referring to?

A. Yes.

25 Q. I will read the passage of questions and answers commencing with question 331.

"Q. Do you feel that the media release that came out as a result of that meeting adequately portrayed the seriousness of what was happening? Just a personal opinion?  
30 A. In hindsight I guess not, but at the time there sort of, despite the guys from planning standing up there and saying, "The fire's going to hit here and here, or it has the potential to if it spots at this rate," you know, there was a certain sense of it's not going to be that bad."

35 40 It was put to you:

"Q. "We'll put the fire out," that sort of thing?

45 A. Yeah, exactly. So I guess at the time it seems like, you know, it was the right way to be communicating that."

Doing the best you can, Ms Lowe, do you recall firstly who was saying "Look, it's not going to be all that bad"?

5 A. I think in that interview I was getting my feelings, how I felt. I guess my overall impression after that meeting there wasn't - there was some urgency but not a really great sense of urgency of how bad it was going to be.

10 Q. So you don't recall - you are saying the overall - the broad discussion led you to think "Well, although they are identifying areas that might be at risk there is still a degree of optimism about the handling of the fires"?

15 A. That's how I felt.

Q. Do you recall any particular comments being made that led you to that particular view?

20 A. Not particular comments, no. Just an overall feeling after the meeting of not feeling like there was a great - great sense of urgency.

Q. Was there any discussion that you can recall, either at the meeting or at any time up to the 25 time when that media release went out at 10 to 9, as to whether there should be something in it that identified some level of risk to the urban area?

A. I remember working on that release with Mike Castle and him saying that it had to look 30 different from the other media releases, not with the fire status and resources deployed and things like that, that it needed to say something different, in a sense.

35 Q. Did he say why it needed to look different or did you have a --

A. Maybe because the fire had spotted and it wasn't contained.

40 Q. In the course of working on that media release with Mr Castle, did the question of whether something should be said about the potential for an impact on the urban area; do you recall discussing that with him?

45 A. No.

Q. Did he say anything to you at that time about

that issue, about whether there might be some risk to the urban area?

A. I don't remember that.

5 Q. Ms Lowe, at page 52 of your statement you were asked some questions - perhaps before I get to that, I should check with you in relation to the media releases that went out the following day. If document [ESB.AFP.0014.0375] could be brought  
10 up. Did you attend the evacuation and planning meeting that Ms Harvey referred to at 8 o'clock the following morning?

A. No.

15 Q. What about the planning meeting at 9.30?

A. I remember attending part of it but I don't think I was there for the full duration of that meeting.

20 Q. Do you remember the part of it that dealt with the potential exposures to areas such as Weston Creek, Greenway and Belconnen?

A. No.

25 Q. Can you remember at any stage during the morning of the Saturday there being any discussion of the risk to urban Canberra?

A. No.

30 Q. Do you recall discussion about the process of getting information out to the community that morning? Was there any discussions at which you were present about that issue?

A. I remember Marika telling me that we were going to try and put out media releases on the hour. I can't say what time of the morning she said that to me. But I remember her saying that that's what the plan was.

40 Q. As I've indicated before, Ms Lowe, we believe this was the first formal media update or release that went out on the Saturday that is timed at 12 noon. Is that consistent with your recollection that that is the first one that went out?

45 A. Yes.

Q. Do you know why it took as long as that, given

that there had been an understanding that they go out hourly, to get the first one out?

A. I remember being involved in the preparation of this document. I think you said earlier that 5 the planning meeting or someone today said the planning meeting didn't actually start until 9.30 that morning. And the planning meetings were usually the source of gathering information. So it wasn't until after the planning meeting that I 10 suppose work could begin on updating the media release. After that I remember being in Mike Castle's office with I think Mike, Marika, Robert Tonkin. There may have been other people there, but I can't remember who they were.

15 I had a draft of this document and I remember Mike and Robert Tonkin talking about which order to put things in. And renaming the fires. If you notice it says "northern, middle and southern". There 20 was some talk about renaming them. That discussion went on for a little while. So there was that process. I remember that taking some time - that entire sort of drafting process. That would probably be why it didn't get out until 25 later that day.

Q. In the course of that discussion do you recall - you will see from that document on the southern fire there is a reference to:

30 "... threatening property in the Naas and Top Naas areas, as well as potential threat to property in Williamsdale and Royalla."

35 Do you recall any discussion about similar statements being made in relation to the McIntyre's Hut fire?

A. No.

40 Q. Do you recall more generally any discussion about whether the statement should say something about a threat to any part of the urban area?

A. No.

45 Q. Do you think it is likely that you would remember if that was discussed?

A. I don't know. I was more or less the scribe

because I was the one who would then go back to the computer and make the amendments and prepare it for release.

5 Q. I have the impression, but correct me if I am wrong, that it was Mr Castle and Mr Tonkin that were effectively running the show as far as that document is concerned; is that correct?

A. That's what I remember.

10

Q. Do you recall there being any discussion - perhaps I should just check this with you - over the page on that document you will see the references to how to deal with the fire if it approaches and so on. Again this appears to be the first of these documents in which information like that appeared. Do you recall any discussion about those matters going into the release?

15 A. Yes. I remember again going back to what order things should appear in and this being moved to the second - I think it is the second heading after the fire status, community safety becomes the second heading. I remember discussion being around moving that to further up within the 25 release.

Q. Do you recall any discussion about the content of that section or was it just where it was located that sticks in your memory?

30 A. Just where it was located.

Q. Do you know where that information came from? Did you put it in there in the first draft?

A. I may have put it in there. I remember 35 putting together information like that on the Friday night in preparation for the script that was being used to contact the rural lessees.

Q. You think that's where you derived this 40 information from --

A. Yes.

Q. -- for the purposes of the script the previous evening, do you remember where the 45 information came from?

A. I think most of it came from the "Will you survive?" pamphlet/brochure.

Q. Was that something you picked up and used to assist you to put that information in?

A. Yes.

5 Q. Did you get any assistance from anyone in relation to the original drafting of that sort of information?

A. There was a group of people working on the Friday night collecting that sort of information.

10 I think Cathy Atkins was involved. I think I remember her being there and us gathering that sort of information and there may have been someone from the fire brigade, but I can't remember who it was.

15

Q. Mr Prince perhaps?

A. I remember David being there, but I think there was someone else who was giving us advice on this information as well.

20

Q. As far as you were aware, the main source for that information was the "Will you survive?" pamphlet?

A. Yes.

25

Q. You were asked some general questions commencing at question 461 on page 52 of your record of conversation.

30

"Q. How successful do you feel the flow of quality and relevant information into your area was?

"A. It was poor, that's how I feel, but I didn't know a lot was going on."

35

Further down at question 465 you refer to:

"A. We were forever on the back foot 'cause we didn't know."

40

That's a reference, as I understand it, to you not being sufficiently in the loop, as it were, as a media unit in relation to the operational information; is that a fair summary?

45 A. Yes.

Q. I should just ask you this: in relation to the

evidence of Ms Larkins about the telephone numbers, did you hear her evidence about that and the fact that she was concerned that you didn't seem to have the after hours contact details; is 5 that your memory of it?

A. In her evidence, did she refer specifically to the after hours or just general contact numbers?

Q. Her statement focuses on - I will read it to 10 you - at page 4, she said she was concerned that:

"Our contact phone and fax numbers had been lost."

15 She asked you if you had the phone numbers. She says:

"She seemed - referring to you - vague as to whether or not she had them. I obtained a 20 fax number for her, prepared a comprehensive list for ABC news and programs; then faxed it to her."

If I can summarise her evidence, she was there 25 referring largely to particular contact numbers for that weekend; that is for people who should be contacted on the weekend of the 18th and 19th. I think Ms Harvey agreed they were details that you didn't have as at the morning of Saturday; is that 30 correct?

A. Not specific details for Saturday the 18th of January 2003 as to who was at work at the ABC. But if I can just add that I don't think it was under Mrs Larkins' initiative that ESB gained 35 those numbers. I began ringing local media that morning seeking that specific information.

Q. Just finally, you were asked some questions at 40 page 55 of your record of conversation commencing at question 486:

"Do you believe from a media liaison point of view that the ESB was sufficiently equipped to cope with what happened?"

45 "A. No.

"Q. In what way?

5            "A. I don't think that our role, the role of  
the media team was given enough importance.  
It perhaps should have been a topic in the  
planning meetings like at, sometimes at the  
end, it would say "Oh, yes, and media," and  
Marika would go, "Okay, in the media release  
we're gonna, from what you have told us we're  
gonna say blah, blah blah," but I think as a  
whole it was: planning 32 per cent, logistics  
10          32 per cent, ops 32 per cent and media 4 per  
cent or less, you know."

15          So that's again confirming your concern that the  
role of the media cell and media people was given  
insufficient prominence during the course of the  
fires; is that correct?

A. During those meetings and I guess overall my  
opinion is that.

20          Q. You talk about the fact that you, being a  
person - I think you say - low junior level  
handling the media and being someone on a  
short-term contract is a general indication of the  
level of priority that that role was given; is  
25          that a fair comment?

A. That's how I feel.

MR WOODWARD: Thank you, Ms Lowe. I have no  
further questions, your Worship.

30          THE CORONER: We will take a short adjournment.  
How long will you be, Mr Archer? I am wondering  
whether we should take a short break. Would you  
like a short break, Ms Lowe, or are you okay to  
35          continue?

THE WITNESS: I am okay.

THE CORONER: Yes, Mr Archer.

40          <**CROSS-EXAMINATION BY MR ARCHER**

45          MR ARCHER: Q. So far as the formal lines of  
reporting were concerned, was it the case that  
Mr Foote remained strictly your supervisor during  
that time?

A. Strictly. I wasn't told any different.

Q. But in reality who was doing the supervision work during that time in January 2003?

A. Supervision of me?

5 Q. Yes.

A. I felt like Marika was supervising me, because she was a senior officer in the government.

10 Q. And so far as the drafting of press releases is concerned, did you do most of the drafts of those press releases? I acknowledge they were cleared through other people. Did you do most of the drafting of the original version of those releases?

15 A. No, I wouldn't say most. It was often a team effort and parts of it I would assist with. Other parts Marika would contribute and other people in the media team like Cecilia Bourke and Geoff Death.

20

Q. And speaking of those people, they arrived after the fire started. Were they on board when you got back to work on the 13th, I think it was?

25 A. Marika and Geoff definitely were because they were talking about what they had done on the weekend.

Q. And Cecilia Burke arrived later on; did she?

30 A. She may have arrived later that day, the Monday.

Q. Were you a team, the media team; did you consider yourself as such?

A. Yes.

35

Q. Did you have a meeting where you discussed strategy apart from the operational job that you were doing?

A. No.

40

Q. You were deputised after the 2001 fires to do work on a media plan. You would have read that plan in the context of that work that you were asked to do?

45 A. Yes.

Q. Who deputised you to do that work? Was it

Mike Castle?

5 A. I think that came out of one of the debriefs after the 2001 fires and the number of agencies were - it was all set up in the spreadsheet, a number of agencies were responsible.

Q. Do you know where they came from? Did that come from the Emergency Management Committee or was it directly from Mr Carter?

10 A. I don't know.

Q. Was the media plan used at all during the 2003 fire activity?

A. I didn't use it.

15

Q. Didn't use it?

A. I didn't.

20 Q. Was it ever discussed? Was it sort of used as a bit of a plan for what you might try to do with your media strategy?

A. I don't remember it being discussed.

25 Q. The list of people that were available over the Christmas period - I think Jane O'Brien's name was on that list. Was she contacted at all during this period? I suppose you can only speak for yourself. Did you?

A. I didn't.

30

Q. Do you know if anybody else did?

A. I don't know.

35 Q. Was there a bit of a concern - I get this sense from your record of interview, correct me if I am wrong - there was some anxiety about the police becoming too involved in the reporting of emergencies like this because they might become too dominant?

40 A. That was my impression of the general feeling, I guess, in having that review of that "media subplan", even though it wasn't a subplan, it would be better if it was a whole-of-government approach.

45

Q. In those two weeks or so before the 18th, did you ever speak to Marika about what criteria she

or others were using to recruit people to assist in the media effort?

A. No.

5 Q. Were you present - you may know from what others have told you - that there was a meeting that afternoon where a state of emergency was discussed and ultimately agreed. Were you present at that meeting?

10 A. No.

Q. Were you present at any time during discussions that took place earlier that day in the morning of the 18th where a state of emergency  
15 was discussed?

A. No.

Q. When was the first time you heard anything about the declaration of a state of emergency?

20 A. When I was given a photocopy of the actual piece of paper that the Chief Minister had signed, and I was asked to incorporate that into the standard emergency warning signal.

25 Q. So far as the SEWS message was concerned, were you involved in the drafting of that? I think you said that you were?

A. Yes.

30 Q. It had been used in the 2001 fires, hadn't it?  
A. It was used on the 24th of December, I think, in the 2001 fires.

35 Q. Was the template or a previous document on your computer?

A. Yes.

40 Q. You used that for the purposes of developing the first SEWS message that went out that day?  
A. Yes.

45 Q. Who suggested what went into the message?  
A. I can remember being in the big planning room, and I think it was Marika who came in and gave me some information as to what should be in there.

Q. Do you remember seeing Toni Purnell over at

Curtin on the morning of the 18th?

A. No.

Q. So far as the assumptions that you were  
5 working on on Saturday morning, what was your  
feeling? Did you assume that some sort of fire  
threat to the urban fringe would eventuate on  
Saturday? You might not have known exactly what  
it was, but did you assume in the morning of the  
10 18th that something was going to happen that day  
so far as a fire in the urban edge was concerned?  
A. Yes.

Q. When did you develop that assumption? Was it  
15 out of the planning meeting that morning?

A. No. It probably wasn't until I was told to be  
able to begin preparing for the possibility that a  
SEWS may need to be prepared or released. I think  
it was probably at that point that I thought that  
20 something may happen.

Q. Were you involved in the organisation of press  
conferences that were happening at Curtin?

A. Yes.

25

Q. Do you remember a conference that happened on  
the Saturday morning that was scheduled for  
12 o'clock? Did you have a hand in organising  
that one?

30 A. I guess in organising it, I may have faxed out  
the notification to the media that said what time  
it was on.

35

Q. Were you present during that meeting, that  
conference?

A. I think I was for part of it. Again, probably  
not all of it.

Q. Do you remember it starting quite late?

40 A. I do remember the media having to wait and,  
yeah.

Q. Do you know what time it actually started?

A. No.

45

Q. If I suggested a time after 12, 12.20, would  
you disagree with that or agree with that?

A. I don't know.

Q. Could it have been as late as that?

A. It could have been.

5

Q. Finally the script that was developed on the Saturday night for use in the notification of rural leaseholders --

A. Friday night.

10

Q. Sorry, Friday night. Did you play a role in drafting that particular document?

A. I think I became involved in the very beginning and in researching some of that information that was brought up earlier "if you are indoors" - what you should do indoors, what you should do outdoors - that sort of information. As far as an actual script, I wasn't involved in the final production of that script.

20

Q. Was there anything of a comparable type prepared the next morning for use in relation to people in Canberra that might have been used for example in a door-knocking campaign?

25 A. No.

Q. Not that you are aware of?

A. No.

30 MR ARCHER: Yes, thank you.

THE CORONER: Mr Whybrow.

**<CROSS-EXAMINATION BY MR WHYBROW**

35

MR WHYBROW: Q. Ms Lowe, I appear for Mr Castle. Ms Lowe, you were asked before about Ms Larkins' response effectively accusing you of being vague about having a list of phone numbers; do you remember that?

40 A. Yes.

Q. If the transcript page can be brought up 2305 where Ms Larkins was asked questions with reference to that paragraph. She said.

"Q. The paragraph of your statement on page 4

says: 'Because of a lack of information, I was concerned that our contact phone and fax numbers had been lost."

5 Just stopping there. Had you lost media phone numbers or contacts?

A. No.

Q. She says:

10 "I actually asked Amy Lowe, ESB media liaison, if she had our phone numbers. She seemed vague as to whether she had them or not. I obtained a fax number for her,  
15 prepared a comprehensive phone list for ABC News and Programs; then faxed it to her. Despite doing this, there was still no information emanating from ESB.

20 "Q. When you say Amy Lowe seemed vague as to what she had them or not, can you recall what she actually said?

25 "A. She didn't - such as that. I was not confident from the responses she was giving me that she was not stating that, 'Yes, we have this number and we can contact these people'. So I didn't feel confident. That was why I wanted to ensure that she had the numbers in front of her, because I was  
30 concerned we were not getting any information."

Ms Lowe, I think you have already indicated that you did have a fairly comprehensive list of media contacts at that stage?

A. Yes.

Q. Was that something that had been developed and built up since the December 2001 fire experience?

40 A. Yes.

Q. Was the actual situation you found yourself in that morning to the effect that, because some television stations and radio programs became  
45 national or emanated from outside of Canberra, you needed to work out who on the lists you had was the actual relevant local contact for that

particular day?

A. Yes.

5 Q. Mr Woodward asked you some questions about  
some dealings with Mr Wade and whether or not you  
had been advised along the lines of "you talk  
about your fires, we'll talk about ours"; do you  
remember questions of that nature?

A. Yes.

10

Q. The particular transcript reference is 2491 of  
today's transcript. In any event there were a  
number of questions as to whether or not he  
actually advised you of that. The question there  
15 was:

20 "Do you recall at any point during those  
discussions an understanding or arrangement  
that ESB would talk about the Canberra fires  
and New South Wales would talk about the New  
South Wales fires?"

And you indicated you didn't remember coming to an  
arrangement. You were then asked:

25

"Q. Do you recall him saying to you at any  
stage that this is the way we should handle  
it or anything of that kind?

30 "A. I don't think it came from - I don't know  
if it came from Cameron Wade. But if you  
look at all the media releases somewhere  
along the line the media releases start  
saying, 'To gain information on McIntyre's  
Hut fire, contact New South Wales Rural Fire  
35 Service media.' I don't know exactly how  
that came about."

Do you recall giving that evidence earlier?

A. Yes.

40

Q. Did you at any stage have contact with a  
gentleman by the name of John Winter from the  
media of New South Wales Fire Brigade?

A. I didn't have direct contact with him.

45

Q. If I was to indicate that he was the head of  
the New South Wales Bushfire Service media at the

time, and in his statement he indicates in paragraph 45:

5        "I reiterated in several conversations with Cameron Wade the need for us to only comment on fires within our jurisdiction. By dint of our accessibility and of our capacity to deliver good quality interviews, ACT media were frequently seeking our comment."

10      Given that that is what Mr Winter has apparently indicated the position was from his point of view, might it have been Mr Wade that gave you this impression that ACT would talk about ACT fires and  
15      New South Wales would talk about New South Wales fires or you still can't remember?

A.      I don't know exactly where it came from.

Q.      You were then asked some questions about the media release at 3.45 on the Friday before the fires. There was some suggestion that this may have reflected a change in the "don't talk about each other's positions". Do you recall that, at the press conference that day, Mr Wade was  
25      actually at Emergency Services Bureau and took part in the press conference?

A.      Yes.

Q.      Do you recall he spoke about the New South Wales, particularly the McIntyre's Hut fires at that press conference?

A.      Yes.

Q.      You can recall whether he was still around at the Emergency Services Bureau on that afternoon when this press release was sent out?

A.      I remember him leaving that day. I don't know what time it was.

40     Q.      Did you have any expectation as to whether or not he would be staying on in Canberra the next day?

A.      I had a personal expectation that he would because my impression was that he was with the task force that had come to assist the ACT. So I expected that he would stay with the task force.

Q. Yes, thank you, Ms Lowe.

MR WHYBROW: Nothing further.

5 THE CORONER: Thank you, Mr Whybrow. Mr Walker?

MR PHILIP WALKER: I have no questions.

10 MR LAKATOS: I have no questions.

10 THE CORONER: Any re-examination, Mr Woodward?

MR WOODWARD: No, your Worship.

15 THE CORONER: Thank you, Ms Lowe, you are free to leave.

**<THE WITNESS WITHDREW**

20 MR WOODWARD: I call Kathleen Margaret Keane.

**<KATHLEEN MARGARET KEANE, AFFIRMED**

**<EXAMINATION-IN-CHIEF BY MR WOODWARD**

25

MR WOODWARD: Q. Your full name is Kathleen Margaret Keane?

A. Yes, sir, that's correct.

30 Q. Ms Keane, you're an emergency management support officer with the Emergency Services Bureau; is that correct?

A. That was correct at the time, sir. I understand the business unit has now been moved to 35 the Department of Justice and Community Safety.

Q. You have provided a statement to the inquest in relation to your role during the fires of January 2003; is that correct?

40 A. Yes, sir.

Q. That is document number [ESB.AFP.0001.1228]. That is a statement of some seven paragraphs which you have signed on the second page. It doesn't appear to be dated, Ms Keane. Do you remember about when you signed it?

A. I spoke to Jim Venn who came to my house to

take the statement. His record stated it was  
10 December 2003.

Q. That you actually signed the statement?

5 A. That I signed the statement.

Q. Have you had an opportunity to read it before  
coming to court this morning?

A. Yes, sir.

10

Q. Are you satisfied that it is true and correct?

A. Yes, sir.

15

Q. I should just for completeness, your current  
professional address what is that?

A. Department of Justice and Community Safety,  
GPO Box 158, Canberra City.

20

Q. You describe your role at ESB in paragraph 3  
as being the emergency management support officer.  
Your duties are to develop and maintain effective  
emergency management support by facilitating and  
co-ordinating the emergency management functions  
of the bureau. You then say:

25

30 " ... my main role is that of providing  
administrative support to the Executive  
Director of Emergency Management (Mike  
Castle), and the Director ACT Bushfire and  
Emergency Services in his role as the  
Executive Officer of the Emergency Management  
Committee. "

35

That's a summary of your role at least at the time  
of the fires?

A. Yes, sir.

Q. Is that still your role?

A. Yes, sir. I am currently on maternity leave.

40

Q. The Director ACT bushfire in his role as  
executive officer of emergency management - that  
is Mr Lucas-Smith?

A. Yes, sir.

45

Q. So your involvement with him is solely in his  
capacity as the executive officer of that

committee; is that correct?

A. Yes.

5 Q. You essentially, as I read the material and your statement, had two roles during the course of the fires - two formal roles at least. The first was to communicate with members of the Emergency Management Committee; is that correct?

A. Yes.

10

Q. And you did that from time to time on instruction; is that right?

A. Yes, that's correct.

15

Q. By Mr Castle?

A. Yes. That's correct.

20

Q. The second role that you refer to in your statement was to assist with the taking of notes and the preparation of minutes of the planning meetings commencing with the meeting on 14 January; is that right?

A. Yes, sir.

25

Q. Is it the case that, for the purposes of those meetings that you attended, you were in a sense conscious of your other role which was providing information to the Emergency Management Committee?

A. Yes.

30

Q. So for that purpose, is it the case that your attendance at the meetings was not only to take minutes but you were also in a position to hear the information and then use it, if necessary, for the purposes of notifying members of the committee about what the current status of the fire was?

A. Yes, sir. I did use the information from the planning meetings as a source of information to give to the Emergency Management Committee.

40

Q. The first meeting you attended was that on the morning of - before I get to that, I should just ask you: is it also the case, Ms Keane, that you assisted Mr Castle from time to time for the preparation of requests to the Commonwealth for assistance?

A. Yes, sir, that's correct.

Q. I am just going to ask you some questions about documents in the period before you commenced your role assisting with the preparation of minutes. The first of these is a document

5 [ESB.DPP.0001.0071]. This is an email that is part of a chain of emails, which I think you may have had some involvement in earlier on. But I wanted to check with you whether you recall seeing that email that Mr Castle sent to Mr Murray on

10 9 January at or about the time it was sent out.

A. No, sir. I don't recognise that email at all.

Q. Mr Murray is on the Emergency Management Committee?

15 A. Yes, that's correct.

Q. But you weren't involved in helping Mr Castle prepare that email, as best as you can recall?

A. No, sir.

20 Q. If I can then ask about document [ESB.AFP.0007.0025]. As that is being brought up, this is the first request for Commonwealth physical assistance. You will see it there  
25 numbered ACT 0001. Can you indicate the process by which - perhaps not this one - these requests for Commonwealth assistance was prepared? Presumably it began with a request from Mr Castle that you prepare something of this kind. Is that how it worked?

30 A. Yes, sir. I understand on this one dated 13 January, number 0001, that Mr Castle had made a verbal request to Emergency Management Australia and he asked me to follow that up with a written request. The structure of that document is a template in the Emergency Management Australia provide. I used that template and then filled in the information.

40 Q. The information that appears against "situation" and "own resources" and so on, is that something you sourced in effect on your own - initially at least?

45 A. Yes, sir. As I wasn't involved in the planning meeting minutes on that date, information would have been sourced from the operations centre - possibly Tony Graham, Mike Castle or

Peter Lucas-Smith to get that information.

Q. So Mr Castle might have been one of the sources of the information that you then put in  
5 this document?

A. Yes, sir.

Q. Is it the case that, for the subsequent ones - I think there is a further one that day which is  
10 in a similar form - I think the next one was after the first of the meetings that the planning meetings then became a source of information for you for the purposes of completing those requests; is that right?

15 A. Yes, sir.

Q. If you look at that document there, towards the bottom you will see in the section on "own resources" - I should perhaps ask you, firstly, 20 you will see the second sentence of that section reads:

25 "The campaign has been operating 24 hours for five days and is expected to continue for possibly up to two weeks."

Do you recall where you got that information from?

A. I don't recall specifically where I got that information from. However, I would have gone to 30 the operations cell to get information about the fires and I would have also consulted Peter Lucas-Smith and Mike Castle to get that information. But I'm sorry, I can't tell you exactly where I got that information from.

35

Q. To be fair to you, the reason I ask is because I think Mr Castle agreed in broad terms at least, there was no firefighting activity on either the night of the 8th or the 9th. So in fact that is 40 not strictly a correct statement. Does that assist you to remember where that came from?

A. No, sir. Sorry.

45 Q. The next part I wanted to ask you about is the bit down the bottom, the second last sentence:

"This fire is very large and with a wind

change and no containment poses a substantial threat to the ACT."

5 Again, I appreciate it is not easy, but are you able to recall who gave you that piece of information?

A. No, sir, sorry.

Q. Can we take it that at this stage at least, 10 when you weren't attending planning meetings, you could only have obtained this sort of information from the individuals you've referred to as someone in operations. You weren't undertaking your own research or looking at other documents or anything 15 of that kind?

A. No, sir.

Q. So this is something someone has told you on that day, presumably?

20 A. Yes, sir.

Q. I am turning to the planning meetings, the first of those occurs at 9.30am on 14 January. Before we actually get to the planning meeting 25 itself, just again in terms of the general process of preparing the minutes of those meetings, as I understand it both yourself and Jillian Ferry attended almost all meetings; is that the position?

30 A. We attended the meetings starting from the 14th. Any meetings prior to the 14th, I did not attend.

Q. From the 14th to including the 18th or at 35 least the morning of the 18th, did you attend every planning meeting?

A. Yes, sir.

Q. Did Ms Ferry also attend every planning 40 meeting?

A. I understand she did, yes, sir.

Q. The process is that each of you took handwritten notes of the meetings and, as things 45 were being said, you were jotting things down?

A. Yes.

Q. I appreciate neither of you are an expert stenographer or have those skills, but you were doing your best just to record as much as you could verbatim what was being said; is that  
5 correct?

A. That's correct, sir.

Q. Perhaps if you could tell her Worship in your own words what was the process once you got the  
10 two sets of notes at the end of the meeting; what happened then, generally speaking?

A. Yes. Once the meetings had finished, we went back to Jillian Ferry's workstation and Jillian primarily did the typing. We would both consult  
15 our notes and develop sentences. I primarily suggested sentences. Once we'd come up with a draft that we were both happy reflected the conversation, we would normally take a copy of the draft round to the operations cell and just check  
20 that information in that operations cell was correct. We would also take a copy round to planning and check that the information in planning was correct. However, Rick McRae was too busy to provide comment. Once we got those  
25 comments back, we then took those minutes through to Peter Lucas-Smith for final authorisation before we distributed the minutes.

Q. In each of those processes and to the extent  
30 you can generalise, how often were you getting amendments firstly at the stage where you took the minutes to operations and to planning?

A. From memory very little. It's a bit hard to say, sir. I didn't often input the amendments;  
35 Jillian Ferry did.

Q. So it was Jillian who generally took the minutes for that approval process?

A. She generally incorporated any amendments,  
40 because it was on her computer and she had the log-in access.

Q. Which of the two of you or both of you physically took the drafts to each of operations and planning and Mr Lucas-Smith?  
45

A. It could have been either of us.

Q. The sorts of amendments that operations and planning were making, to the extent that you can recall, what sorts of things were they asking to be amended?

5 A. I have a memory of a minor one, changing the name of a helicopter. Again, I can't remember - it was either Seahawk to Skyhawk or Skyhawk to Seahawk; it was something minor like that. Bill Woodruff provided comment back and he suggested  
10 wording; but again I can't remember wording or what information he provided. It was of a minor nature is my understanding.

Q. From what you are saying, and correct me if I am wrong, it seems that at that level at least it was more matters of detail about whether a name was correct or a location was correct?

A. Yes.

20 Q. In the case of Mr Lucas-Smith, how often were you getting amendments from him to the minutes, as you can recall?

A. I'm not sure, sir because he normally placed the draft minutes back on Jillian Ferry's chair,  
25 and she incorporated the minutes. I'm not sure sorry, sir.

Q. Do you recall any occasion where it happened, where he did suggest amendments - seeing a  
30 document marked with his amendments?

A. Not specifically, no, sir.

Q. Do you remember what happened to the various drafts after they had been circulated - the  
35 amendments had been incorporated?

A. I don't know, sir. Jillian and I kept all of our handwritten notes. There was a folder developed that we put information into. It is possible that those amendments were also included  
40 in that folder.

Q. I don't have a copy of the notes taken of the meeting at 9.30. If I could ask you, based on the notes of the meeting at 4 o'clock on the 14th,  
45 there are two sets of notes that we have been provided with. I will just get you to tell me which is yours and which is Ms Ferry's. The first

one is [ESB.AFP.0110.0033]. Is that your handwriting or Ms Ferry's?

A. That's Ms Ferry's.

5 Q. The next document is [ESB.AFP.0110.0048]

A. That's my handwriting.

Q. Just again one final question in relation to  
the general process: You talked about when you  
10 sat down with Ms Ferry and you were preparing the  
typed minutes that you would sometimes suggest a  
sentence or so on. I take it what you were trying  
to do there was basically paraphrase what was an  
exchange between individuals into a single  
15 sentence or pick up the sense?

A. That's correct.

Q. From time to time, I think it is obvious that  
there were comments made and responses that didn't  
20 find their way into the minutes. Firstly, that's  
the case, isn't it, there were some things  
referred to in your notes that don't appear in the  
minutes?

A. Yes.

25

Q. Again, perhaps in your own words, perhaps if  
you could explain why that occurred.

A. When Jillian and I were first asked to take  
the minutes, my understanding from Peter  
30 Lucas-Smith was that he wanted a summary of the  
discussion from primarily taking into account any  
actions or decisions. But as the fire progressed  
during the week and more and more people attended,  
I found that more and more information needed to  
35 be included into the minutes. So from providing  
more of a summary overview, the early minutes may  
not have incorporated as much from our draft notes  
into the final minutes as later on during the  
week.

40

Q. I will just ask you firstly about that meeting  
on the 14th at 4pm by reference to your own notes  
which is up on the screen now. As a general  
question, how well do you recall the meetings,  
45 Mrs Keane, and what was discussed in them? Do you  
have a memory now of the meetings and how they  
progressed?

A. I have a memory of being at the meetings, but there was so much information I find it very hard to differentiate between the days or even the morning and afternoon sessions.

5

Q. Because as I think you agreed earlier, you were there as more than just a scribe; you were also there to some extent to absorb the information to use in your other role as executive 10 assistant to the committee; is that correct?

A. That's correct. It was very hard to absorb and take down notes at the same time.

Q. I would like to go to page 0058 of your set of 15 notes of the meeting on the afternoon of the 14th of January. Perhaps I should ask you one more general question. When you prepared the minutes in general terms it was straight after the meeting, is that correct, the typed version?

A. Normally within an hour of the meeting, we prepared the minutes.

Q. In addition to relying on your notes, at that stage presumably you also had a memory of what had 25 been discussed. Did you also rely to some extent on your memory when you prepared --

A. Very much so.

Q. I wanted to ask you about this reference under 30 the heading "media" to Mr Phil Cheney. Do you have any recollection of that discussion on the afternoon of the 14th?

A. I'm sorry, I don't have a memory of the discussion.

35

Q. I might just ask you to assist, if you can, either from the notes F, if they assist your memory. There is a reference to Mr Cheney, a fire behaviour expert interview. The minutes that you 40 later prepared - so we don't have to keep moving between documents - I will read what they say or reflect about that passage. They say:

45 "Peter Lucas-Smith stated that Phil Cheney, fire behaviour expert has conducted an interview with WIN TV."

Do you have any recollection of whether at that stage Mr Lucas-Smith was communicating that an interview had taken place or was to take place?

A. I'm sorry, sir, I don't remember.

5

Q. Your note would suggest that there was then Mr Lucas-Smith is reporting the interview would involve Mr Cheney or Mr Cheney had told Mr Lucas-Smith that "any strong winds from W" - I assume that is west?

10

A. Yes, sir.

15

Q. "Would bring into Canberra City". Do you recall any reference at that stage to the fire possibly coming into Canberra on the 14th?

A. I really don't remember that discussion, sorry, sir.

Q. We will keep going through it:

20

"Media attention on this aspect. Marika fielding questions."

25

Do you remember whether Ms Harvey was at that meeting?

A. No. Sorry, I don't.

30

Q. Someone said "not forecasting west winds" then it appears from the marginal note there you have got "MC". Would that be something that Mr Castle is then saying after what follows from that? Is that how you normally do it?

A. Yes. That would be my notation for Mike Castle. And that looks like a question:

35

"If fires are not contained what wind changes will bring fires into the city".

Q. The triangle is an abbreviation for change?

40

A. Yes.

45

Q. Are you able to say - we can assume he asked that question. You don't seem to have a note as to whether he was answered. Do you have a recollection of that?

A. Can I please refer further down that page to see if that helps me, if that's okay, please.

Q. Perhaps to assist that process you will see after the next line there is another MC "which are more threatening winds". So he appears to have asked the question again or something similar?

5 A. Yes. And it says:

10 "Tim K - which I believe should be Tim Keady - westerly change would make things difficult. Putting in place measures to control".

Q. Is that a comment that you have attributed to Mr Keady?

A. Yes, sir.

15

Q. Just as a general question, did Mr Keady participate actively in the meetings from your memory; the planning meetings?

20 A. I don't have a strong memory of him discussing much during the meetings.

Q. Do you recall this particular comment by him?

A. No. Sorry, sir.

25

Q. Just jumping back up, there is a reference to "ESB to be reasonable advice re threat". Can you assist us as to what that is referring to?

30 A. The way that that is written, it is that ESB needs to provide reasonable advice regarding a fire threat - reasonable advice I believe would be to the community in that context.

Q. Do you have any recollection of what was being said when you wrote that note?

35 A. I really don't remember that discussion. Sorry, sir.

40

Q. I will just ask you about a couple of references in Ms Ferry's note which don't appear in yours. It is at [ESB.AFP.0110.0033] at 0038. Just about halfway down the page - I appreciate these are not your notes but I will ask you if they assist your recollection of the discussion. First, in the words in brackets after the 45 reference to "Phil Cheney fire behaviour expert CSIRO" there is a reference to "cons expert in Australia" - considered perhaps. Do you know what

that is a reference to? Do you have any memory of that, discussions about who Mr Cheney is or was?

A. I certainly heard of Phil Cheney before the fires. The notes in brackets refer to Phil Cheney being considered an expert in Australia.

Q. A little further down below that is a similar note to your own "strong gusts from west into the city" and there is a reference to:

10

"B of M west wind into city - upset not forecasting west winds."

15 Do you recall anyone being upset or expressing upset about the fact that Mr Cheney seems to be saying something that is inconsistent with forecasts; if that is how it is to be read?

A. I don't remember that, sorry, sir.

20 Q. Just for the sake of handwriting identification, can I ask you to look at document [ESB.AFP.0110.0172].

A. That's my writing, sir.

25 Q. It just looked a little different from what appears at the bottom of the page?

A. I can explain that, sir. I do actually remember this part in that this information was written on a whiteboard when we walked into the 30 meeting; so Jillian and I took down the information that was written down on the whiteboard prior to the meeting.

35 Q. The section under the heading "objectives" and "strategies" is a note of what you saw on the whiteboard when you walked into the meeting; is that right?

A. Yes, sir.

40 Q. Where does the actual note of the meeting commence on that page or in that set?

A. The actual meeting would have commenced where I have got the initials "PLS" standing for Peter Lucas-Smith because he normally began each of the 45 meetings.

Q. Sorry I must have misunderstood - down under

"need to confirm"?

A. That's correct.

5 Q. The PLS at the top of the left-hand corner of  
the page that is under the heading "objectives"  
and "strategies" which as I understand it was on  
the whiteboard?

A. Yes, that's correct.

10 Q. Could I just ask you about a reference on  
page 0175, which is the fourth page of the minutes  
at the bottom of the page. You will see there a  
reference to "planning deadlines operationally  
Monday deadline for succeeding" - I can't quite  
15 read that. Is that "four strategies" or "in  
strategies"?

A. It looks like "in strategies", sir.

20 Q. Do you have any recollection of that  
discussion about the deadlines for completing the  
work on the fires or completing strategies?

A. Again, I don't remember that conversation,  
sorry, sir.

25 Q. A few pages further on at 0178 at the bottom  
of the page you will see a reference there to  
"Good news stories - Brett MacN"; is that  
Mr McNamara?

A. I think so, sir, yes.

30 Q. "Pryor's Hut saved and arboretum saved" do you  
recall that discussion about the need to have good  
news stories, for there to be good news stories?  
A. A vague recollection of a need to have some  
35 positives, yes, being disseminated.

40 Q. I will just ask you about a reference in  
Ms Ferry's notes of that same meeting at  
[ESB.AFP.0110.0166] at 171. Do you see there MC  
in the margin and then "positive spin"; do you  
recall that expression being used by Mr Castle at  
the meeting?

A. I don't remember that phrase being used, but  
it is a phrase that Mike Castle would use.

45

Q. Is it?

A. Does it make sense?

Q. Yes. Just as a more general question, do you recall - firstly, I think you have agreed that there was discussion about the need to get good news stories out. Do you recall other discussions at this meeting or otherwise about the tenor of the messages that need to be given to the public about the fires, what approach should be taken, whether it should be --

A. No, sorry, sir. No. Sorry.

10

Q. What about there being a concern not to want to cause panic or alarm; do you recall that being discussed at the planning meetings or at other times?

15

A. I think there was a concern not to cause panic or alarm.

20

Q. Do you recall about when that sort of issue was being discussed in the week leading up to the 18th?

A. Not specifically, no.

30

Q. Just before we break I will ask you about one other document. This is the third request for Commonwealth assistance. It is [ESB.AFP.0110.0115]. This is ACT 0003. I haven't asked about 0002 because it was essentially an update from the last one. There was relatively very little new information in it.

35

This is now two days later. There is some quite significant changes to the sections within the document. I particularly wanted to ask you about the section under "situation". Are you able to recall generally first where this particular information came from for the purposes of this request?

40

A. I think much of that information would have come from the planning meeting minutes, particularly the weather.

45

Q. Perhaps it won't surprise you that focusing in particular - I'm particularly interested in the reference to "gusting to over 60 kilometres an hour causing concern for the ACT urban environment" where those words - where you have sourced that information?

A. I can't be certain it would be information - gaining information from planning meeting minutes. The operations cell, Mike Castle and Peter Lucas-Smith were my main sources of information, 5 so I can't be specific as to where I got that information from to put in that particular way.

Q. I suggest it would have been something that you would have been perhaps noting that someone is 10 expressing a concern for the urban environment on Wednesday 15 January; is that something that would spark your own attention?

A. Possibly in that I would need to then provide information out to the Emergency Management 15 Committee, yes.

Q. But do you have any recollection of - if it assists, we have not been able to find any minutes pre-dating that time that refers specifically to a concern for the urban environment - can you assist at all to identify whose words those are, who said that to you?

A. Again, sorry, I can't be certain. My main source of information was the operation cell, Mike Castle, Peter Lucas-Smith and the planning meetings.

Q. Do you have a memory of when you first had any understanding that there was a concern for the 30 urban environment in that week?

A. Not a specific date. I do remember in one or more of the meetings - I can't remember what date - there were predictions for fire runs if there was no fire suppression intervention. They 35 had predicted the fires would move into areas like Stromlo and the urban areas if the fire had been able to continue on.

Q. The evidence would suggest, Ms Keane, that 40 that was on Friday where those predictions were made - the minutes confirm that.

A. Right.

Q. Given the time, perhaps I could leave that 45 with you to think about overnight as to where you got that information about a concern for the urban environment.

MR WOODWARD: If that is a convenient time, your Worship?

5 THE CORONER: That is a convenient time. We will adjourn until tomorrow morning at 10 o'clock.

**HEARING ADJOURNED AT 4.05PM UNTIL TUESDAY,  
23 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 27

Tuesday, 23 March 2004

[10.07am]

MR LAKATOS: Some housekeeping matters.  
Yesterday, my learned friend Mr Woodward made a  
5 call for two series of documents. I have produced  
to him our copy or the copy of Ms Lowe's Rural  
Fire Service media document placed on her  
computer, and that is with my learned friend now.  
10 The second call was for any outstanding interview  
tapes for the person that took Ms Harvey's  
statement. I am instructed that those tapes, if  
they exist, have been re-used. However, in the  
spirit of the co-operation which I hope we have  
15 been keeping up with, I have produced to my  
learned friend what we believe are three drafts of  
Ms Harvey's statement in the order we believe them  
to be, although that is somewhat of a  
reconstruction. So my friend now has the best  
20 record that we have had of how that conversation  
and the statement came about.

THE CORONER: Thank you very much for that,  
Mr Lakatos. I appreciate the fact you have acted  
25 so promptly on that information.

**<KATHLEEN MARGARET KEANE RE-AFFIRMED**

**<EXAMINATION-IN-CHIEF BY MR WOODWARD CONTINUING**

30 MR WOODWARD: Q. Ms Keane, I gave you some  
homework last night. I understand you have  
actually gone beyond what I have asked and found  
one or two other things that are relevant to some  
35 questions I asked you yesterday. Would you like  
to outline what they are?  
A. Yes, sir. Yesterday you asked me where I got  
information about the number of resources and how  
long the campaign had been operating for the  
40 request for physical assistance ACT 0001. I have  
in front of me a document which I believe has been  
handed across to you. I received that information  
from Mike Castle. I have his handwriting on my  
draft document that has that information written  
45 in his handwriting.

Q. Does that document have a bar code on it?

A. It has an [AFP.GSO.0010.0443].

Q. I might, if I may, ask you to hand that to me.

5 A. Certainly, sir. You also asked me yesterday about the types of comments I received back on draft minutes. I have a copy of comments from Tony Graham on one of the draft minutes.

Q. What day?

10 A. That is 16 January, 9.30 meeting minutes, bar code [AFP.GSO.0008.0218]. Again, I can hand those over.

15 Q. The originals of these are documents that you handed to the government solicitor; is that correct?

A. All original documents were handed over to Mark Travis, when the police were situated at ESB.

20 Q. We will follow that up. Just before I ask you about the specific question that I left you with yesterday, I just wanted to double-check: I know I asked you some questions about the process of note taking at the meetings and obviously you can only speak for yourself. When you were making notes, is it the case that you were simply writing down things as people said them; is that how it generally worked when you took your notes?

30 A. Yes. As people were talking, we would take down as much information as possible. And then, at the end of the meeting, it may take up to an hour before we sat down to write those minutes. We would have our notes in front of us. We would compare Jillian's set of notes and my notes, and 35 we would have at least a memory of the meeting to compile our minutes.

Q. Is it safe to assume, if you in your case have written something in your notes that is quite 40 quickly as you could write it a verbatim record of something someone is saying at the meeting?

A. I may have used my own words as an abbreviation. I may not have used their exact words.

45

Q. Perhaps if I ask the question this way: can we assume that, if you have written something down,

it is at least to the effect of something that someone has said at meeting?

A. Yes, yes.

5 Q. You weren't writing notes for other purposes?

A. No.

Q. Moving to the document we were talking about yesterday afternoon, that is document [ESB.AFP.0110.0115]. Just before I ask you about the specific reference again - I hope I don't do him any disservice but I think when I asked Mr Castle about the way in which these documents were compiled, he agreed with I think your evidence that you generally drafted them based on information you obtained from a variety of sources?

A. Yes.

20 Q. But from time to time he would add things in; is that correct?

A. Any emails to the Emergency Management Committee had to be authorised by Mike Castle. So, yes, I would include his comment.

25 Q. I was actually asking about the request for Commonwealth assistance.

A. Same with the request for Commonwealth assistance, sorry.

30 Q. When you produced a draft to Mr Castle, again just asking for the moment generally about these documents, did he from time to time add in sentences and cross things out; and so on?

35 A. Yes. I have again a copy in my folder an example of that, if that would help.

Q. Is that a request for Commonwealth assistance or the EMC?

40 A. I believe it was a request for Commonwealth assistance. If you could please hold, I will see if I can find that for you, sir.

45 Q. You provided to me this morning a version for the 12th of January which actually went out on the 13th which includes a number of handwritten amendments by Mr Castle?

A. Then that's it.

Q. Do you know if you have any others of these documents with his amendments on it?

5 A. They were all handed in with the folders.

Q. When you say "handed in" I will just check because the bar code number that appears on the copies you have given me are bar code numbers used  
10 by the government solicitor's office. I am not suggesting for a moment they were not also with us, did you provide them first to the Government Solicitor's Office and you are aware that they then passed them on to the AFP; or did you provide  
15 your documents directly to the AFP?

A. All of my documents were provided directly to the AFP.

Q. Were you given a copy?

20 A. No. I have only obtained these through my briefing prior to coming into court.

Q. Going to the specific reference that I asked you about in the document that is up on the screen - I will get that scrolled down a bit to the section on "situation" - do you recall I asked you yesterday about those words or the reference there to "causing concern for the ACT urban environment"?

30 A. Yes, sir.

Q. Have you been able to recall where those words came from?

A. Looking back through some of the documents I have here, sir, on my Emergency Management Committee email dated 13 January, two days prior to this, I have similar wording in that document. That's possibly where I got that information from. If I could please read that.

40

Q. Yes.

A. It is the second sentence. I do not have a bar code number on this one, sorry:

45 "There is also a large uncontained fire in New South Wales close to the north-west of the border that has the potential to pose a

serious threat to the ACT."

So I believe that's where I got that information from to put it in this document dated the 15th.

5

Q. That I think from memory is very similar to the first request, that is the one on the day of the 13th. Perhaps we should go to that. That is document [ESB.AFP.007.0025]. It is in the actual 10 section on "own resources" in that document. You will see there words very similar to the ones you just read out:

"This fire is very large and with a wind 15 change and no containment poses a substantial threat to the ACT."

Do you see that?

A. (witness nods).

20

Q. Is it likely that the words that appear in that 13 January document are those that you sourced from that minute to the EMC? The reason I am asking is because your note to the EMC doesn't refer to the urban environment, as I understand it from what you have just read. Would you agree?

A. No, that just says "serious threat" and this one is "substantial threat to the ACT". You are right; I haven't put in "the urban environment" in 30 those first two documents on the 13th.

Q. So I suppose if we can go back then to the one for the 15th and focusing just on the reference to the urban environment, do you have any 35 recollection as to where you had an understanding as at 15 January from where you obtained an understanding that there was a threat to the urban environment - or perhaps just to be fair to you - is it possible that those are some words that 40 Mr Castle added?

A. It's possible. I really don't remember, sorry, sir, those exact words.

Q. You haven't been able to find anything in your 45 notes at about that day or before then that make a reference to the urban environment?

A. Apart from the Phil Cheney reference.

Q. In the minutes?  
A. In the minutes.

5 Q. Is it possible that you sourced that from  
there?  
A. It is possible.

10 Q. In any event, once you completed these  
documents and they may have gone through a  
drafting process involving Mr Castle, you then  
provided it to him; is that correct?  
A. Yes. Once I incorporated his comments, the  
document was then handed back to Mr Castle for  
signature. I then drafted a fax header and faxed  
15 them off to Emergency Management Australia and, if  
it related to defence resources, I also faxed a  
copy to Garry Smyth, who was our defence liaison  
officer on the Emergency Management Committee.

20 Q. As far as you are aware at least - or did you  
observe Mr Castle to read them when you provided  
them to him before he signed them or did you  
just --

25 A. Normally I just incorporated his comments  
verbatim, in which case he then knew prior to  
signing it what would be put in it. He didn't  
necessarily read it again prior to signature.

30 Q. From your own observation and the process you  
went through with him to prepare these documents,  
is it the case that as far as you could tell he  
had read the contents at least in draft form or in  
the final form before he signed them?

A. Correct, yes.

35 Q. I won't ask you about the next request for  
Commonwealth physical assistance following almost  
immediately after. So far as the situation is  
concerned it has almost the same words as the  
40 previous one. We will assume you based that on  
the previous one?  
A. That's correct, yes.

45 Q. I want to ask you next about the planning  
meeting on 15 January in the afternoon. The  
minutes are [ESB.AFP.0020.0368]. They follow the  
usual format beginning with the discussion of the

fire operations, including a discussion on page 2 about the McIntyre's fire. Then under "planning" under "weather" on the second page at the bottom, your minutes state:

5

"Mr McRae stated that 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.

10

Mr McRae stated we need to be as ready as possible for these extraordinary conditions."

15

If I can just take you then to your notes of the meeting which are document [ESB.AFP.0110.0159] at page 0161 towards the middle of the page. You will see you have written "planning" as a heading and then:

20

"Worst fires of careers. Monday worst fire weather forecast of careers. 1:20-year fire. 1:40-year fire warn forecast on Monday."

25

Then it gives the figures for the fire danger index. Can we assume they are the notes that are translated into that section of the minutes?

A. That's correct.

Q. Do you recall that speech by Mr McRae on the 15th in the afternoon?

30

A. I don't remember specifics but, yes, I do remember him being very concerned about the weather.

40

Q. I should perhaps ask you about Mr McRae's statement. He deals with the events on the 15th of January commencing on paragraph 99 of his statement [ESB.AFP.0110.0481] at 0502. In this part of his statement he is talking about the planning meeting in the morning. In paragraph 102:

"After Mr Mason had presented his forecast ... said words to the effect of:

45

'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.'"

5 It appears Mr McRae may have mixed up the meetings. Do you recall him saying the same thing in the morning and afternoon meeting? I should say there is nothing in the morning notes to suggest --

A. There is not - okay.

10

Q. The notes would suggest that his reference to "worst fires of careers" both your notes and those taken by Ms Ferry would suggest that he made those remarks in the afternoon meeting?

15 A. It would appear that way, yes, sir.

20 Q. Putting that aside for the moment and assuming that he has got the meeting wrong, do you recall him saying words to that effect "We currently have the worst fire situation you will see in your careers" et cetera "do the maths"?

25 A. It does correlate with my notes. I don't remember exactly that - it would be what Rick McRae would say. He was very concerned about the weather.

30 Q. Was there any discussion following those remarks by Mr McRae as to what that meant in a practical sense as to what these fires might do, that you can recall?

A. Do you mind if I refer to my notes, please?

Q. Yes, by all means.

35 A. Just referring to the typed final version of the minutes, after "weather" it then goes into planning issues and they talk about containment lines and fallback positions. It says:

40 "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."

45 That was based on the weather and an unattended fire spread. So I think that statement was related to the weather predictions.

Q. Do you recall - I am sure if it was in your notes I would be taking you to it, so I think you can assume it is not. Can you recall any discussion that actually identified the sorts of assets that were being discussed, because he goes on to talk about future impacts. Accepting that you obviously couldn't be writing down everything that was being said, do you have any memory of there being anyone identifying or talking about what assets at that meeting were being - what assets he was talking about?

A. No, sir, not specifically that meeting. I do remember discussion of determining a list of assets under threat. There were fire action plans included with the original minutes, which I don't have copies of. That information may also have been provided in those documents.

Q. Perhaps being more specific, do you recall any discussion at that meeting following Mr McRae's predictions or concerns about risks to the urban area?

A. Not specifically, no, sir.

Q. Just moving then to the 16th.

A. Sir, just on that, just in my notes after "impact on property structure", it says:

"Main focus what go and where focus.

Current tasks - identify high risk areas in the south-east corner."

That may apply to assets under threat.

Q. Do you know what fire that is referring to?

A. I've got above in brackets "which fire?" No, sorry, I don't.

Q. Did you have any involvement on the evening of the 15th or morning of the 16th in the preparation of the cabinet briefing paper?

A. Yes. It was the evening before Mr Castle did the cabinet briefing, and I sat in his office and he pretty much dictated what he would like to put into the cabinet brief and I typed it up for him.

Q. Was he on his own at that time?

A. From memory there was just the two of us in the office, yes.

5 Q. Mr Castle thought that Mr Keady may have had some involvement in the preparation of that document. Do you recall that?

A. It's possible that document was then forwarded to Mr Keady but I don't remember Mr Keady being in  
10 the office that night.

Q. I might then ask you about some of the references in that document. It is [DPP.DPP.0003.0078]. As that is coming up and  
15 checking I understand what you are saying, you were effectively sitting at a computer screen typing this as Mr Castle was giving you the information; is that correct?

A. That's correct.

20 Q. Did he ask you at any stage that you can recall to source information from anywhere else or anything of that kind?

A. Not that I remember. We just sat in the  
25 office and I typed it up, and then the next morning Mr Castle did the briefing. I don't remember any other involvement.

30 Q. Can I ask you about on page 2 under the second heading on the page "New South Wales fires" you will see a reference in the third bullet point, the second sentence:

35 "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 Forests pines and subsequently the ACT urban area."

40 Is that something, as best as you can recall, Mr Castle dictated to you?

A. Yes, sir.

45 Q. Similarly, if you go down the page "assets under potential threat", you will see a list of assets there and the reference, second bottom bullet point the "the urban edge." Again, as best

as you can recall, is that something that Mr Castle dictated to you to put in this document?

A. Yes, sir. The areas saved - Pryor's Hut, arboretum, civil aviation communications equipment, they were the good news stories you asked me about yesterday.

5 Q. The one above that, I think you said was something that Mr Castle told you to put in this 10 document?

A. I believe so, yes, sir.

15 Q. Do you recall having any discussions with Mr Castle at that time about the document or about the references in it to threats to the urban edge?

A. No, sir.

20 Q. I will just ask you briefly about the planning meeting on the morning of 16 January. Your notes of that are document [ESB.AFP.0110.0108]. You will see reference to the weather under "planning" on that first page and it says "Saturday bad. Monday very bad". What was your impression as at the 16th, on the morning, as to the forecast for 25 Saturday and Monday? Can you elaborate on what you have put in the notes based on what was said at the meeting?

A. From memory it was very high fire danger index. Strong winds from the north-west.

30

Q. Is this for Saturday?

A. For both Saturday and Monday.

35 Q. Did you have a sense from what was being discussed that that is consistent with your note that Monday was going to be a worse day than Saturday?

A. Yes.

40 Q. Did you have a sense, however, that Saturday was still going to be bad?

A. Yes.

45 Q. Do you recall - we may come to this later in the minutes - that position altering in the subsequent days, on the Friday for instance that actually things switched around and Saturday was

starting to look like the worst day in the forecast period?

A. From memory, the fires made a run - I guess is the term used - on the Friday afternoon/evening 5 that the planning meeting was late and I think that indicated that the weather was bad as well; That things were getting worse for the Saturday.

Q. Perhaps I will just ask you also briefly about 10 your notes for the afternoon meeting [ESB.AFP.0110.0099]. On the second page 0100 in the middle of the page, these are your notes?

A. Yes, that's correct.

Q. It says:

"Fire spot on Sat. Scenario likely to happen on Mon. Spot fires head towards Bimberi then problems."

Do you recall what scenario is being discussed as likely to happen on Monday?

A. I will make sure I have got the right page. Nic Gellie was providing this information, and in 25 my notes I have got "predicted rate of spread". It is possible he was referring to a scenario in a document he prepared outlining predicted rate of spread. That might be the scenario that he is referring to.

Q. He provided a document to the meeting, did he, that had a particular rate of spread? I notice in the minutes --

A. I can't say, sir.

Q. In the actual typed minutes you have got - have you got those there? - it says:

40 "Nic Gellie provided a briefing on the potential fire behaviour at the Stockyard Fire and outlined the risk areas to focus on including ridge top exposed to the wind an unattended fire growth scenario. Map for the Stockyard Fire is attached. He will provide 45 a predicted rate of spread for the Bendora fire tomorrow morning."

Is that what you are referring to?  
A. Yes, sir.

Q. Can you recall, going back to your note  
5 though, any other scenarios being likely to happen  
on Monday being discussed.

A. No, sir.

Q. So just based on what is in the minutes and  
10 your note, can we take it that you are referring  
there in that section I asked you about to the  
Stockyard Fire?

A. That would be a fair assumption, sir.

Q. The next document I want to ask you about is  
15 [ESB.AFP.0010.0896]. This is a copy of the email  
to the Emergency Management Committee that you  
sent out on 16 January. There are better copies  
around. Unfortunately, this is the one we happen  
20 to have on the system. The information in that  
document you talked about the total fire ban,  
Monday is forecast - you say:

"There is an increase in fire danger weather  
25 over the next five days with temperatures in  
the high 30s and fresh winds from the  
north-west. Monday is forecast to have the  
worst fire danger indices for the past 20  
years with the potential for a very high  
30 temperature and strong north-westerly winds."

You don't mention Saturday in that email,  
Ms Keane. Do you recall why it is not being  
referred to as also being a bad day specifically?  
35 A. Not specifically. Given my notes we just  
looked at where I had "Saturday bad, Monday very  
bad", I think I've taken the Monday as the key day  
to provide that information.

Q. So is it the case that this email is based  
40 largely on information you were gleaning from the  
planning meetings; is that correct?

A. That would be correct. I also went to  
operations to get information about the size of  
45 the fires.

Q. Which appears later on in your note?

A. The first paragraph.

Q. Just over the page, if I could ask you about the final paragraph:

5

"A briefing to cabinet was conducted this morning. John Murray and Commander Newton were also briefed this afternoon."

10 Pausing there. Did you speak to anyone about what had occurred at those two briefings or were you just recording there that you knew those had occurred?

15 A. I was actually in that briefing with Mr Murray and Commander Newton, so I didn't speak to anyone. I just knew that that had occurred.

20 Q. And that had happened or certainly before - your email is timed at 6.26pm. At about what time did that briefing with John Murray and Commander Newton occur? I think other evidence suggests 2.30 - 2.20 in the afternoon; does that sound about right to you?

A. That sounds about right, yes, sir.

25

Q. Did you take notes at that briefing?

A. No.

30 Q. I don't mean to be disrespectful with this question but can I ask: if you weren't taking notes, were you there in your capacity as the assistant in relation to the Emergency Management Committee?

35 A. Mr Castle asked me to be there. Possibly in that role, yes.

40 Q. As best you can, because I think there aren't a lot of notes around of that briefing, can you recall things that were discussed during the course of that briefing; what Mr Castle said about the fire?

A. I think he used the cabinet briefing as the basis for the meeting. He used that document to brief Mr Murray, Commander Newton.

45

Q. Just pausing there. Do you actually have a memory of him having that document with him at the

meeting?

A. I think so. I think I brought a copy up with me.

5 Q. Do you have a mental picture of him sitting there with it in front of him or --

A. I more remember a map on the wall. Discussions around a map as well.

10 Q. I should ask you, do you recall him actually providing - or did you provide a copy of that cabinet briefing paper to either Mandy Newton or Mr Murray?

A. No. I did not.

15

Q. I interrupted you when you were doing your best to recall what other things were discussed. What else can you recall being discussed from the briefing paper or otherwise?

20 A. I think the potential of the fire growth. I'm just remembering an image of a map on the wall, but I don't remember a lot of the discussion. I think we just walked through the briefing notes, the cabinet briefing notes.

25

Q. Do you recall any reference at all during the meeting to a threat to the urban area?

A. Not specifically. Unless it was in the cabinet briefing, in which case I am sure it would have been discussed.

30 Q. Is that, in a sense, a reconstruction based on what you know is in the briefing paper; or do you actually have a memory of there being a discussion or reference to the urban area?

A. I think that's just my memory of the document I've looked at just recently. No, sir, I don't have a strict memory of it being discussed.

40 Q. I should, I apologise for this because I have only just myself come across it, there is a document in the material that we have been provided with and you may have a copy of it with you. It is not in court book but it is in case book. It is [ESB.AFP.0220.0154]. That appears, Ms Keane, to be a draft of the email that was sent - the one we have just been looking at dated

the 16th; is that correct?

A. Yes, sir. That's correct.

Q. It has some handwritten amendments to it. Are  
5 those Mr Castle's amendments?

A. That's correct. The Paul Perkins email address is my writing.

Q. But the balance of the amendments are all  
10 Mr Castle's writing; is that correct?

A. That's correct.

Q. Down the bottom of the page, if we can enlarge  
that you will see there that you had written - I  
15 should ask you, those words that have been crossed  
out, are those words that you put in your draft?

A. That's correct.

Q. You put in there:

20 "There's currently a low possibility that a state of emergency may need to be declared due to the significant coordination aspects and potential risks posed by Monday's weather".

It appears that Mr Castle has deleted that and then put instead the words that appear in the final version:

30 "Depending on the outcomes of the next 24 hours and the severity of the weather."

35 He actually has written "impacts", although that hasn't appeared in the final version:

"There may be need for increased coordination into next week."

40 Is that what has occurred in relation to that, he has suggested that amendment?

A. That's correct.

45 Q. Did you have any discussion with him about that amendment? Do you recall him saying why he deleted the reference to the state of emergency?

A. No, sir. I just typed in the amendments.

Q. The state of emergency reference that you put in that document, where did you derive that from?

A. Possibly from that briefing with Mr Murray and Commander Newton, that meeting. It is possible that that was discussed and I put it in that paragraph after I discussed that brief - that's potentially where I got that information from.

5 Q. Again I should ask you and you will be asked again, I am sure: is that a reconstruction based on your best reconstruction of the sequence of events or do you actually have a memory of the words "state of emergency", or words to that effect, being mentioned in the briefing with Commander Newton and Mr Murray?

10 A. I think we did discuss it because I had to make sure that I had a disk of the actual ministerial documents for signature in the event that a state of emergency was declared. So, yes, I believe it was discussed in that meeting.

15 Q. Do you recall thinking about the need to get those documents organised before or after the briefing with Mandy Newton and Mr Murray?

20 A. It would have been after. I know that Mr Castle had a disk with the ministerial instruments on them.

25 Q. He gave that to you; did he?

30 A. I took them from my copy of the emergency plan that I had on computer and I actually made sure that it had the correct title box down the bottom ready for signature.

35 Q. There is other evidence that shows that the state of emergency issue was discussed quite extensively at the cabinet briefing that morning. Is it possible that that was something that you were organising before the meeting with Commander Newton or is it your memory that it is after?

40 A. My memory is that my involvement was after.

45 Q. Do you recall Mr Castle coming back and talking to you about what occurred at the cabinet briefing?

A. No. I just heard what was discussed at the meeting with Commander Newton and Mr Murray.

Q. Did he in fact outline to them what he had discussed with cabinet or was it just that he was using the cabinet briefing - he seemed to be basing his discussion on the briefing paper?

5 A. I don't remember specifics. It is possible that he discussed some of the outcomes from the morning's cabinet meeting.

Q. Now, the planning meeting on the morning of  
10 the 17th January - I confess I don't have a copy  
of your notes on that because generally I didn't  
keep a copy if they weren't significantly  
different to what was in the typed minutes. You  
will have to correct me if I am wrong about this,  
15 but we do have some other notes that were taken at  
that meeting. I just wanted to ask you about a  
reference in those notes, which I don't think is  
repeated in your own notes or in the typewritten  
minutes.

20 There are some notes that Mr McRae has provided to  
the inquest [ESB.AFP.0110.0911]. If you just look  
down at the bottom of the first page, he has  
referred to Saturday. I should say it is not  
25 entirely clear - and I will be asking Mr McRae  
about this - whether these were notes at the  
meeting or taken by him in a discussion with  
Mr Mason before the meeting. It is probably the  
latter. You will see he has referred to Saturday  
30 down the bottom there:

"Maybe west or even south-west. Front late -  
after 10pm, maybe later".

35 Then over the page under "Monday" he has referred  
to:

"Light westerly winds. North-west maybe less  
wind than Saturday".

40 Do you see that?  
A. Yes.

Q. Similarly in some notes that have been  
45 provided by Ms Harvey of that meeting  
[ESB.AFP.0024.0002] and at page 0007. I won't  
take you to the previous page, but it appears

under "Friday am update 17 January". Under the heading "meteorology", it says:

5        "Today, Saturday bad. Maybe respite Sunday.  
Monday, bad, maybe not as bad as expected."

I wanted to ask you whether - please feel free to refer to your notes if it assists - you have a recollection on the morning of the 17th that the  
10 forecast was now indicating that Monday was not going to be quite as bad as first expected and Saturday was looking like the worst day in the forecast period?

A.      My notes don't really reflect that. My notes  
15 of the Saturday weather I've got:

"North-west winds 25-35 kilometres per hour,  
gusting up to 60, pull back to west or south  
side of west, easterly change after 10pm.  
20        37 degrees dew point 0-2 per cent. Monday  
north-west winds late morning.  
20-30 kilometres gusting 40 plus - so yes,  
that is reduced wind speed - 37 degrees-ish.  
Dew point low. Zero."  
25

So the temperature is the same but the wind speed is reduced on Monday.

Q.      In the typed minutes the dew point is showing  
30 for Saturday as zero to 2 degrees and the typed  
minutes say dew point 0 degrees or lower". Do  
your notes reflect that?

A.      We started to ask Ian Mason for copies of his  
briefing sheet. It is possible that we went  
35 straight off his original briefing sheet.

Q.      Just to the specific question then, apart from  
just by doing the comparison between the weather  
for the two days, do you recall someone actually  
40 saying - and most particularly Mr Mason saying -  
something to the effect that Monday is not going  
to be as bad as we expected?

A.      I don't recall that, sir, no.

45     Q.      Can I ask you about document - the copy of the  
document in my file doesn't have a number,  
unfortunately - there is another copy of it at

[ESB.AFP.0110.0882]. This is two parts of a chain of emails concerning the forming of an evacuation contingency working group. Were you involved in the process of organising that working group?

5 A. No. Frayne Prichard notified me, he's from the ACT Fire Brigade, of that evacuation committee.

Q. It would appear from that version going down  
10 to the first email down the page that you have sent on Friday the 17th of January, a little after 1pm a note to the Emergency Management Committee; is that correct?

A. That's correct.

15

Q. You have indicated in that note:

20 "The ACT Fire Brigade will be forming an evacuation contingency working group as a preparedness measure only and will be seeking appropriate agency representatives. There is no immediate requirement to evacuate areas."

You have then identified the proposed committee  
25 members. Is that your email that you sent?

A. That's correct.

Q. Who asked you to send that email?

A. I received the information about the  
30 evacuation working group from Frayne Prichard. Because he was looking for representatives, EMC was the most appropriate forum to get those representatives. Again, though, this email needed to be authorised by Mike prior to it being released.

Q. By Mike Castle?

A. Yes.

40 Q. The next document in the chain is an email from Frayne Prichard at the top of that page to the EMC members where the email states:

45 "... thanks for your prompt response to this matter - on behalf of Ian Bennett - on Monday the Commissioner - that's Mr Bennett - will notify you when the evacuation working party

will be convened, most likely Tuesday or Wednesday, dependent on operational priorities."

5 Were you involved in this process by this stage?  
A. No, sir.

Q. Are you able to comment at all on why it appears that there is no urgency associated with  
10 the organisation of this working group?  
A. No, sir.

Q. The next request for Commonwealth assistance is [ESB.AFP.0110.0921]. If you go to 0925 under  
15 "situation":

20 "Further to request 0005, numerous spot fires have significantly spread the fires. The predicted unattended rate of spread, with the current extreme fire weather conditions, indicate that the fire will spread into rural residential areas. Current operational focus is on identifying assets under potential threat and determining protection strategies.  
25 There is also a concern over significant assets at risks associated with spot fires from the New South Wales McIntyre's fire."

That document appears to have been at least  
30 finalised at 10 past 8 on Friday night; is that correct?

A. That's correct.

Q. Did you prepare that document?  
35 A. That's correct.

Q. That section I've just read out to you, can you recall where the information that appears there came from?

40 A. From the planning meeting minutes.

Q. Your reference in the final sentence to "significant assets at risk", did you have in your mind as you wrote that, based on the planning  
45 meeting or otherwise, what assets you were referring to there?

A. This is on the Friday?

Q. This is late on the Friday, yes.

A. Again, sir, I've got the other document in my mind. I hope I'm not just remembering that document that referred to the Stromlo pines.

5 There was in my notes I do remember an unattended fire run impacted on the Stromlo area and possibly Mt Stromlo Observatory was mentioned. I think that's where I got that information from. I think that was also provided in a fire action plan that  
10 was attached to the minutes as well - the Cotter.

Q. Do you recall that evening after the planning meeting yourself having a sense that there was a risk to the urban area of Canberra based on what  
15 you observed at the meeting?

A. The fact that the fires made a run, I think, was a concern, yes. That was unexpected.

Q. You talked about risks - assets including the  
20 Stromlo pines and assets at Mt Stromlo, can you recall discussion of any other assets further east?

A. Not specifically. There was discussion about needing to develop a list of assets under threat  
25 that planning were tasked to do. I don't remember specifics of those assets. I remember more the civil aviation infrastructure on Mount Ginini because I remember them calling up asking about the fires. But I don't have much other specific assets at risk in my mind.

Q. I will ask you again, you may have got a little bit off the track when I asked you before:  
35 Do you remember after that meeting having a sense, yourself, that there was a threat to the urban area of Canberra?

A. Potential.

Q. Is that something you recall discussing with  
40 Mr Castle or anyone else; or was it just out of the meeting that you had that sense?

A. It was just out of the meeting with the weather predictions that there was a potential for the fires to come into the urban edge.

45

Q. The last minutes I want to ask you about are the ones for the morning of the 18th

[ESB.AFP.0010.0266]. I don't actually have a copy of your notes for that meeting. I am sure they exist. You were at that meeting?

A. Yes, sir.

5

Q. I want to ask you about, if you have a look - if I first take you to the minutes, the second page under the heading in the middle of the page "planning considerations" you will see a bullet point:

10

"Current areas of concern include:"

There is:

15

"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."

20

Do you recall that discussion at the meeting on the morning of the 18th?

A. Not specific, sir.

25

Q. In notes taken by Ms Ferry, there is in that context of that discussion what appears to be at [ESB.AFP.0010.0278] at 0280 about a third of the way down the page, do you see there:

30

"Potential run from McIntyre's, Weston Creek to Greenway."

Do you see that in those notes?

A. Yes.

35

Q. At the start of that section Ms Ferry has made a note "high level of exposure". I think if that was in your notes I would have it here - by all means check that. Do you have a note of those words being said?

40

A. I will have a look for you. I have got on my bar code [AFP.GSO.0008.0095] bottom quarter of the page I have got:

45

"PLS exposure of urban edge? McIntyre's to south east Weston Creek to Greenway if more westerly west of Belconnen and south of

Belconnen. Tidbinbilla, Bullen Range, southern Tuggeranong updates on fire location weather. Assets at risk and data flow with forward control.

5

Q. That sounds reasonably consistent with what is in the minutes. I suppose one area of difference between yourself and Ms Ferry is she has referred to "high levels of exposure" whereas you don't seem to have a note of what level of exposure was discussed. Do you have a recollection of there being a discussion about the level of exposure to those areas?

A. Only my notes that state the McIntyre's fire, if it goes to the south east, could impact on Weston Creek to Greenway; more westerly to west Belconnen or southern Belconnen.

Q. So you don't have an independent memory of there being a reference to the level of exposure to those areas being high?

A. No, sir. I don't remember.

MR WOODWARD: Thank you, Ms Keane. I have no further questions.

THE CORONER: I note the time. I will take the morning adjournment. Thank you.

30 **SHORT ADJOURNMENT** [11.11am]

**RESUMED** [11.38am]

THE CORONER: Have you finished Mr Woodward?

35 MR WOODWARD: Yes, I have.

**<CROSS-EXAMINATION BY MR ARCHER**

40 MR ARCHER: Q. I represent the AFP. You have been or you were at the time the emergency management support officer at ESB?

A. That's correct, sir.

45 Q. As described in your statement, your main role was providing administrative support to the executive director of emergency management,

Michael Castle, and the director ACT bushfire and emergency services in his role as executive officer of the Emergency Management Committee; that's the formality of it. I take it over a period of time that would have brought you into contact with senior members of the Australian Federal Police?

A. Yes.

Q. John Murray, you would have had quite a few dealings with?

A. Yes, sir.

Q. He was the chair of the EMC?

A. Yes, sir.

Q. In that context you would have dealt with him quite regularly; I take it?

A. Yes, sir.

Q. And Mandy Newton as well?

A. Yes. She also sat on the committee.

Q. That committee worked effectively in the sense that the relationships were good between the individuals involved?

A. Yes, sir.

Q. And the lines of communication were well and truly open?

A. Yes, sir.

Q. It wasn't a matter of - if you, for example, on behalf of Mike Castle sent an email - those who received it would have to look through the tea leaves to define the meaning of what you meant. If something was needed by a member of the EMC; they would ask for it?

A. Yes, sir.

Q. Over the period that you were involved in that role, how long were you involved for?

A. Over the period of the fires or in my role within ESB?

Q. Within your role at ESB?

A. I have been employed in that role since

September 1997.

Q. And there would have been many instances over  
5 that period of time where, depending on the nature  
of the incident being responded to, members of the  
EMC would communicate with each other to get  
assistance with resources, be they pieces of  
machinery or people?

A. Yes, sir.

10

Q. And undoubtedly you would have played a role  
in that process; for example, if ESB wanted some  
assistance you, subject to the direction of Mike  
Castle, would either phone or communicate by email  
15 making such requests?

A. Yes, sir.

20

Q. You were asked some questions late in the  
piece by Mr Woodward as to your state of mind was  
at that particular time in relation to whether or  
not fires were going to impact on the suburbs of  
Canberra. Exactly when was it that you were  
assuming that was a real possibility?

A. On the 18th.

25

Q. On the 18th. When on the 18th?

A. In the mid-morning.

30

Q. Did that state of mind develop because of what  
you were hearing - what you heard in the planning  
meeting that morning?

A. Plus from that meeting with Commander Newton  
and Mr Murray, Mr Castle gave the briefing and the  
planning meetings up to that time.

35

Q. Sorry?

A. Sorry.

Q. I'm lost. Are you talking about --

40

A. When we had that briefing with Mr Murray and  
Commander Newton and the potential for a state of  
emergency was declared, that gave an indication  
that there was a potential for the fires to impact  
on the Saturday. After the fires had made their  
45 run on the Friday evening, then it was a bit  
clearer that there was a great potential on the  
Saturday for the fires to impact on the urban

area.

Q. I will come to that meeting in a moment but just to go to some background first: the emergency  
5 management plan is a document that you would have been well versed in; I take it?

A. Yes, sir.

Q. There was a redraft of that during 2000/2001.  
10 I would imagine you played a fair role in co-ordinating that process?

A. Yes. The emergency plan was reviewed in line with the Emergency Management Act in preparation for the Olympics in 2000.

15

Q. You would appreciate that the declaration of a state of emergency has a very significant practical consequence for the Chief Police Officer of the territory?

20

A. Yes, sir.

Q. If you could explain to her Worship what that practical consequence is.

25

A. Yes, sir. Once a state of emergency has been declared, John Murray becomes the territory controller and he is authorised to undertake any actions necessary in the event of an emergency to protect the ACT community on behalf of the ACT government.

30

Q. Over that period of time that you were involved in the Emergency Management Committee, it is a role that John Murray from the time of his appointment took very seriously, I suggest to you, from what you observed; is that so?

A. Sorry, could you repeat the question?

40

Q. In relation to his responsibilities on the Emergency Management Committee, he was quite conscientious in that particular role?

A. Yes, sir.

45

Q. In relation to that briefing that took place on the 16th, when did you first become aware that it was going to take place?

A. It was earlier that morning on the day that Mr Castle asked me could I please sit in on the

meeting - lunchtime.

Q. So by that time Mr Castle had briefed cabinet?

A. Yes. My understanding is he briefed cabinet  
5 in the morning.

Q. Did you see him after his return from the cabinet meeting?

A. I would have for him to ask me to sit in on  
10 the meeting; yes.

Q. Do you recall any other conversations that you had with him post the cabinet meeting? Did you ask him what happened?

15 A. No, sir.

Q. In relation to the meeting that occurred with Commander Newton and Mr Murray, do you recall who was present at that meeting?

20 A. There was Mike Castle, myself, Commander Newton, Mr Murray and then Ian Bennett and Peter Lucas-Smith came in at a later time, halfway through the meeting.

25 Q. Now, you have indicated that you did not take any notes of that meeting?

A. That's correct.

30 Q. Have you read any transcript of proceedings in this court in relation to what other people have said in relation to that meeting?

A. No, sir.

35 Q. Your recollection was tested by Mr Woodward in relation to a series of meetings that you were present at during the campaign to deal with these fires. The greater part of Mr Woodward's cross-examination was concerned with the planning meetings.

40 A. Yes, sir.

Q. You were assisted in your recollection - you were taken to notes that you took at those meetings, but I think the effect of your evidence was that you have no independent recollection of what was said but can attest to the fact that at various meetings you took notes of what was said;

is that a fair summary of your evidence?  
A. Yes, sir.

Q. In relation to the meeting of the 16th, your  
5 evidence, when you were asked questions by  
Mr Woodward in relation to your recollection was  
expressed using the words "possible", you used  
that three or four times. Is it the case that  
your recollection of that meeting is not strong?  
10 A. Yes, that's possible. That's the case, sorry.

Q. Is it the case that, so far as your  
recollection of what information was conveyed by  
15 Mr Castle to Commander Newton and Chief Police  
Officer Murray is concerned, you rely on that  
cabinet briefing document to give you a bit of a  
structure as to what might have been canvassed in  
the meeting; is that fair?

A. Yes, sir.

20 Q. Have you read that document recently?  
A. No, sir.

Q. Do you assume that, if that document referred  
25 to the declaration of a state of emergency, it  
would have been discussed during that briefing  
with Commander Newton and Chief Police Officer  
Murray?

A. Yes, I would assume that.

30 Q. If I said to you that that document does not  
contain a reference to a declaration of a state of  
emergency, what do you say in relation to that?  
A. I say if the document was looking at impacts  
35 on infrastructure then it's quite likely that  
there was discussion on whether or not a state of  
emergency needed to be declared.

Q. So you've used the words "it is quite likely".  
40 Does that mean you were assuming such discussion  
took place but you have no recollection of such  
discussion taking place?

A. Yes, I think I am making a logical connection  
without having a proper recollection, sir.

45 Q. So it is possible, is it not, that in fact  
that discussion did not take place at the meeting?

A. Yes, it is possible.

Q. Could I take you to the document we were provided with this morning, [ESB.AFP.0020.0154].

5 Can I suggest to you this document was prepared in draft form some time after a planning meeting that occurred that afternoon. Do you have the planning minutes with you as you sit there in the witness box?

10 A. Of the 16th?

Q. Yes.

A. Yes, I do, sir.

15 Q. If you do, could you turn them up, please.  
A. I have them in front of me, sir.

Q. You have got those?

A. I have the typed version.

20 Q. If you look for example at the heading "ACT Ambulance Service"?  
A. Yes, sir.

25 Q. There is a report there that "the ACT Ambulance Service is receiving assistance from the New South Wales Ambulance Service"; do you see that?

A. Yes, sir.

30 Q. If you look at that draft email and look at the last sentence in paragraph 4 --  
A. Yes, sir.

35 Q. -- does that suggest anything in relation to when you prepared the email?

A. It would suggest that it was after that meeting and the time that the email was actually sent was 6.26pm; so, yes, sir.

40 Q. The last sentence in the last substantial paragraph has been crossed out as drafted by you. That referred to "a low possibility that a state of emergency may need to be declared". That email was drafted in the expectation that it would go out to the members of the EMC?  
A. Yes, sir.

Q. That particular sentence was deleted from the draft that you had prepared?

A. By Mr Castle, yes.

5 Q. Do you recall why it was? Was there any discussion as to why it was that it should be taken out?

A. I don't recall discussion, sir.

10 Q. If we could just turn up the final version [ESB.AFP.0110.0896]. We have it in the form that it was ultimately forwarded to Steve Kirby, an officer of the AFP. If you could just confirm that indeed that was the form in which it went  
15 out?

A. Yes, sir. It was the final version that was disseminated.

Q. Sorry?

20 A. That was the final version that was disseminated.

Q. The addressees that are set out on the first page of that email, are they members of the  
25 Emergency Management Committee?

A. Yes, I have a group email listing of the members of the EMC.

30 Q. Garry Smyth is the defence representative of that committee?

A. That's correct.

Q. From time to time, not necessarily in relation to the fires but in relation to other events, if  
35 there were things happening that were particularly relevant to individuals on the EMC you might drop a copy of a particular document to them; was that a standard practice of yours?

A. Is this in relation to the fires or just  
40 during my normal working practice?

Q. Generally, and I'll ask you in relation to the fires as well.

45 A. Yes, I would. If required, I would send an individual email out to an individual EMC member, yes.

Q. Mr Woodward took you through a couple of those requests to the Commonwealth for assistance documents. Do you recall the questions that were asked?

5 A. Yes, sir.

Q. At one time you indicated you dropped an email copy of that document to Garry Smyth?

A. I faxed a copy through to him, sir. He  
10 actually requested that.

Q. Because he may have to answer questions in relation to the --

A. As a defence liaison officer, yes, sir.

15 Q. It wasn't necessarily a practice in relation to that document or those documents, you didn't fax those to other members of the EMC?

A. No, sir.

20 MR ARCHER: Yes, thank you.

THE CORONER: Thank you, Mr Archer. Yes,  
Mr Whybrow.

25 **<CROSS-EXAMINATION BY MR WHYBROW**

Q. I represent Mr Castle. Can I ask about the email, the draft that has been shown this morning?

30 A. Is that the 16th, sir?

Q. Yes. The draft of the 16th. I think you already indicated to her Worship that the words "Paul Perkins" at ACTEW were your writing?

35 A. Yes, sir.

Q. You will see apart from the changes to the last sentence of in effect the last paragraph, there are also two or three other changes, a few  
40 more earlier on. There is a reference to "the past 20 years" higher up?

A. Yes.

Q. And "monitor the impacts"?

45 A. Yes, sir.

Q. Can I suggest that those changes were not made

by Mr Castle. Indeed, if you check the handwriting on some of the words it appears there is a different formation of the words for example "FOR" in "for the past 20 years" and the "2" in "24 hours"?

5 A. Yes, sir.

Q. Are you able to say who, apart from Mr Castle, may have had some role in proofing this draft  
10 email?

A. Mr Lucas-Smith.

Q. Anybody else?

A. No. They are my two primary contact people on  
15 the EMC in relation to emergency management.

Q. In answering some questions from Mr Archer you referred to - I think in an answer to one of the questions - the low possibility of a state of  
20 emergency and what may have taken place in the briefing with the senior police.

A. Yes, sir.

Q. You used the phrase "impacts on  
25 infrastructure" in relation to your recollection of whether a state of emergency as a possibility was discussed. In terms of the use of that phrase "impacts on infrastructure", at that time did you have any or had you been involved in any  
30 discussions about possible impact of the fires on the MacGregor electrical facility?

A. I do remember discussions on that. I'm not sure if they were in that meeting or in a planning meeting.

35

Q. Could that have been one of the assets that from time to time had been referred to as being under possible threat from the fires?

A. Yes, sir.

40

Q. I note on the final that went out, apart from what I think you have indicated was a standard list of the members of the EMC, Mr Perkins has also been added to that list?

45 A. Yes. He actually requested to be included on information to EMC members. He emailed me directly or rang me.

MR WHYBROW: Thank you. They are my questions.

THE CORONER: Yes, Mr Walker.

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

MR PHILIP WALKER: Q. Just referring to the same document, is it possible you simply don't know whose handwriting it is at all?

10 A. "Monitor the impacts" looks like Mr Lucas-Smith's writing.

Q. Are you saying that definitely or you are simply not sure?

15 A. They are the only two people this draft would have gone - they are the two people who would have seen this draft.

MR PHILIP WALKER: I have nothing further.

20 THE CORONER: Thank you, Mr Walker. Yes, Mr Lakatos.

MR LAKATOS: I have no questions.

25 THE CORONER: Any re-examination, Mr Woodward?

MR WOODWARD: There is one matter which is not strictly a matter for re-examination. With your leave I will ask one question about the matter. Obviously if it gives rise to any further questions, then that will be appropriate.

**<RE-EXAMINATION BY MR WOODWARD**

35 Q. Ms Keane, you prepared some notes following your involvement in the bushfires of what occurred in advance of preparing the statement; is that correct?

40 A. Yes, that's right.

Q. There are not in the system but I just wanted to ask you about one reference in those documents. At the bottom of the page that you have in front of you, there is a reference to:

"At some stage between 20 and 27 January

received a document from Nic Gellie for PLS requesting it to be put in official records. Placed on PLS chair. Confirmed on 19 January that PLS had document."

5

Do you recall what document that was that is being referred to there?

A. No, sir. I didn't look at the document. I was just asked to make sure that Mr Lucas-Smith 10 received the document.

MR WOODWARD: That was all, your Worship. Thank you.

15 THE CORONER: Are there any questions arising from that question from Mr Woodward?

MR ARCHER: No, your Worship.

20 MR LAKATOS: No, your Worship.

MR PHILIP WALKER: No, your Worship.

MR WHYBROW: No, your Worship.

25

THE CORONER: You are free to go, Ms Keane.

**<THE WITNESS WITHDREW**

30 MR WOODWARD: I call Jillian Ferry.

**<JILLIAN MARIE FERRY SWORN**

**<EXAMINATION-IN-CHIEF BY MR WOODWARD**

35

MR WOODWARD: Q. Would you tell her Worship your full name please?

A. Jillian Marie Ferry.

40 Q. What is your professional address?

A. Number 6, Clucas Place in Bonython.

Q. Are you currently employed?

A. I'm currently on maternity leave.

45

Q. From where?

A. The Emergency Services Bureau.

Q. What was your position - until you took leave - at the ESB?

A. I was the administrative liaison officer for the bushfire emergency services branch.

5

Q. In very general terms, what duties did that involve you in?

A. In performing assistance for Peter Lucas-Smith, preparing financial reports on 10 different areas within our area, stationery, just general sort of office clerical duties.

Q. You were asked I believe by Mr Castle or Mr Lucas-Smith to assist with the process of 15 preparing minutes of planning meetings during the fires?

A. I think it may have been Peter Lucas-Smith on the morning of the 14th.

20 Q. That was on the 14th?

A. Yes.

Q. Did you have any involvement before then in the running of the fires or any other --

25 A. No. No.

Q. I will just ask you a little bit about the general background and the way you approached the taking of the minutes. Were you present when 30 Ms Keane gave her evidence about the process the two of you used for the preparing of the minutes?  
A. No. I've only been present today.

Q. I will endeavour to speed things up, summarise 35 what it was that she, as I understand it, said. The two of you both attend the meetings at the planning meeting and take notes?

A. Yes, that's correct.

40 Q. Both of you, as I understand it, as best you could - given that neither of you appear to be trained stenographers - would make notes of things people were saying at the meeting?

A. That's correct.

45

Q. As a general question, was your approach just to write down things that were spoken and then

interpret them or paraphrase them later on; is that how it worked?

A. Yes. We attempted to take down as much of what was said as we physically could. We then 5 attempted to transcribe them between us as quickly as we could after the meetings while we still had a fresh recollection of what was said.

Q. Does it follow from that that, so far as your 10 handwritten notes are concerned, was it your approach to just simply write down as quickly or as best you could the words that were spoken?

A. That's what I attempted to do, yes. I also may have abbreviated with my own - to --

15

Q. Shorthand?

A. Yes.

Q. And then the two of you would sit down at your 20 workstation to do the minutes; is that correct?

A. Yes.

Q. With your respective notes in front of you, you would then type up the minutes; is that right?

25 A. That's correct, yes.

Q. There was then a process by which they were checked by others; is that correct?

A. Correct. Yes.

30

Q. Perhaps you could tell us who; who did you send the draft typed version to?

A. Once we had a draft version, I recall making requests from the operations area, from the 35 planning area. Generally we were confident that we recorded correctly the information from logistics. I'm not sure if we went to logistics to have their information checked because, as I say, we generally could get down accurately what 40 they reported. And then once we had their input then I think that we may have taken them to Peter for a final perusal before they were distributed.

Q. If I can get the chronology. Once you 45 prepared a typed version, a copy was given to operations. Was that essentially Mr Graham?

A. Yes.

Q. And similarly Mr McRae?  
A. Yes.

5 Q. And occasionally Mr Ingram?  
A. Yes.

Q. They wrote comments on the drafts from time to time?  
A. Yes.

10 Q. Then gave those back to you?  
A. Yes.

15 Q. You incorporated those comments into another draft?  
A. Yes.

Q. And then that draft went to Mr Lucas-Smith?  
A. Correct. Yes.

20 Q. Did Mr Lucas-Smith also mark amendments, from your memory, on the minutes?  
A. He may have done so, yes.

25 Q. Do you have any recollection that he did from time to time?  
A. He may have from time to time.

30 Q. The copies that were amended in the way we have discussed, what happened to the ones that had the handwritten notes on them?  
A. The amendments?

35 Q. Yes.  
A. To my knowledge, they would have been submitted with our handwritten to AFP along with the taped transcript.

Q. You are not aware of any others --  
40 A. I am not aware that there were any that were not submitted.

45 Q. You referred to taped transcripts. Those didn't start until afterwards, I think it was the evening of the 18th; is that correct?  
A. To my knowledge they began on the 19th, yeah.

Q. There was no taping up until that time?  
A. That's correct.

5 Q. I'll just ask you now about some specific sets of minutes. Starting with the planning meeting of 4pm on 14 January 2003. If I could ask you to have a look at document [ESB.AFP.0110.0033]. While that is coming up, is that your handwriting?  
A. That's correct.

10 Q. Could I take you in that document to 0038, which is the second last page and about halfway down the page. I want to ask you if you can recall what was being said at the time you made 15 these notes; in other words, if you can flesh out the missing words that you appear to have left out from your memory. You will see there is a reference there:

20 "WIN TV Phil Cheney fire behaviour expert CSIRO."

Do you have a recollection of that discussion on 25 the afternoon of the 14th at the planning meeting about Mr Cheney giving an interview to WIN TV?

A. Apart from what my notes indicate, I don't have a specific recollection.

30 Q. You see you have written "fire behaviour expert CSIRO" and in brackets after that "(cons expert); is that an abbreviation for "considered"?  
A. That would be my abbreviation for "consultant".

35 Q. Consultant expert in Australia; does that make any sense?

A. I guess that's my shorthand for he's an expert consultant in Australia.

40 Q. Then it says:

"Any strong gusts from west bring fire into city".

45 I won't delay things by getting the minute brought up. If I could read to you the sentence from the actual typed minutes under the heading:

"Peter Lucas-Smith stated that Phil Cheney fire behaviour expert has conducted an interview with WIN TV".

5 I wanted to ask you about the words "has conducted" in the typed minute. Do you have a memory or can you assist by referring to your notes or those minutes as to what was being said by Mr Lucas-Smith was that the interview had  
10 already occurred or was to occur?

A. At this point in time I can't recall. If I may say, at the time that we constructed the typed version of the minutes from this, Kate and myself would have constructed that sentence from both of  
15 our notes and having a fresher recollection of what was said at the meeting. Today, I'm sorry, I don't recall.

Q. Just still referring to your notes you see the  
20 reference after "B of M W wind into city" - am I reading this correctly - "upset not forecasting W winds"?

A. That's what my note says.

25 Q. Do you have any recollection of either who said that - if you can't recall the individual, what point they were making about that issue?

A. Having gone through these notes myself last night, I have given that some consideration and I have tried to recall in what context that was said and what that means from my notes. I'm sorry, I don't recall in what context it was said, apart  
30 from what my notes say.

35 Q. You then have a note "MC - if fire not CTD"; would that be "contained"?

A. "Contained".

Q. Then "What wind changes risk the urban city".  
40 Do we take that as being something Mr Castle had asked; is that a fair interpretation?

A. Yes, where I have indicated MC for Mike Castle or DI, that would indicate the initials of the person speaking.

45 Q. The next note in your notes - if we look at Ms Keane's notes, what is in the margin is "ESB" -

is that how you read that?

A. That's not very good writing. That's what I would.

5 Q. It is then "source of REA"?

A. "Reasonable".

Q. "ADV" would that be "advice"?

A. Yes.

10

Q. "of threat to public"?

A. Yes, that's correct.

15

Q. Can you assist with what the sense of that sentence might have been?

A. I would say from that that ESB should consider what reasonable advice they should issue to the public.

20

Q. I think you have already answered this but I will just ask: do you recall a discussion about that, what was being discussed as to what should be said to the public?

25

A. I don't believe from that that specifics were discussed at that point. I believe it was just a broad statement.

30

Q. Can I just suggest another possible interpretation of that; you can either agree or disagree as you see fit. If follows after a reference to Mr Cheney intending to express a view in the public forum about what was going to happen. Then you have a note "ESB source of reasonable advice of threat to public". Is it possible that someone there is saying that the ESB - in other words, not Mr Cheney but rather the ESB - should be the source of advice to the public?

35

A. I would think that is a reasonable statement, yes.

40

Q. Do you want to perhaps make an assessment based on your own memory of what is there as to which of those two interpretations is the more likely?

A. Given the wording of my notes, I would say that perhaps the ESB should be the source of

advice to the public.

Q. Just finally on that, do you have a memory at all in the context of this discussion of there  
5 being a concern among those present at the meeting to respond or even counter what Mr Cheney was going to say or had said?

A. Do I - sorry?

10 Q. Do you have any recollection or do your notes assist you in understanding whether or not there was concern being expressed about the need to respond or counter what Mr Cheney was saying - apparently saying on television?

15 A. No. I don't recall there being any suggestion that his advice be downplayed or anything like that, no.

Q. The next set of minutes or notes I want to ask  
20 you about are those for the morning meeting on 15 January [ESB.AFP.0110.0166]. At 0171 of your notes, do you see a reference in the margin "MC" and then the words "positive spin"?

A. Yes, I do.

25

Q. Do you have any memory of the context in which apparently Mr Castle has - perhaps I should ask you this first. Do you recall Mr Castle using that expression "positive spin"?

30 A. Yes.

Q. Are you able to say the context in which he was suggesting or he used that term?

A. I believe that may have related to - on the  
35 previous page of my notes there is reference to Pryor's Hut being saved and arboretum. I believe that Mr Castle's comment relates to those areas being saved.

40 Q. So either from your memory or from the assistance of your notes what was he saying should be said about those things? How do you make that connection - or how did he make that connection, I'm sorry?

45 A. I think it may have been that because there was - I'm just not sure how to word it, I'm sorry. I believe that it was viewed that those were major

areas that were saved and it was a good thing to make the public aware that there was some positive - that the work that everybody was doing, there was a positive aspect to things as well.

5

Q. If we can go to the notes of the meeting that afternoon [ESB.AFP.0110.0154] at 0156 and the top of the page. I think if you were in court this morning and you may have been present when I asked 10 Ms Keane about this reference. In the typed minutes under the heading "planning" and "weather", the typed notes read:

15 "Mr McRae stated that 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 that we need to be ready as possible for these extraordinary conditions."

20

That section of your notes that I've taken you to at the top of that third page, is that your note of what was subsequently - what I have just read from the typed minutes?

25 A. Yes.

Q. You see the words there in your notes "worst fires of careers", which is a little different from what is recorded in the typed minutes but the 30 effect is the same. I am not suggesting there is any substantive difference. He has used the words "this is the worst fires of your careers", apparently. Is that your memory of it? Do you have any recollection of Mr McRae making these 35 remarks?

A. I remember him saying the 1:20, the 1:45 --

Q. Forecast?

A. Yes.

40

Q. Were you in court this morning when Ms Keane was giving evidence?

A. Yes, I was, yes.

45 Q. You might recall I asked her about a passage in Mr McRae's statement where he says it was at the morning meeting that day, which I think it was

in fact the afternoon meeting. At paragraph 102 he says he said words to the effect of:

5 "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."

10 Does that accord with your recollection of the sort of remarks he was making at the meeting?

A. Yes, it is.

15 Q. Do you recall any discussion that followed those predictions about what the effect of those kinds of conditions might be to the ability to control the fire and so on?

20 A. It's mostly the weather details that I recall. Specifically the hot gusty winds and speeds of the winds and things like that, which I am sorry doesn't answer your question - no, I don't.

25 Q. No recollection of what effect that might have on the fires and what the fires might do under those conditions?

A. That's correct. I don't. Not specifically.

30 Q. Just briefly if I can ask you about some of your notes of the meeting on the morning of the 16th which is [ESB.AFP.0110.0103]. The typed minutes contain what appears to be the details of the weather without any commentary on them, if you like; whereas your notes appear to contain what one assumes is an interpretation of various forecasts. I am looking at your notes you have got: "Plan. Ian - B of M. Sat bad. Monday V bad"?

A. Yes, I have got that.

40 Q. Do you recall Mr Mason - I assume that is the reference to Ian - giving that potted summary of what the effect of the weather was in addition to the actual detail?

A. To him actually saying "Saturday bad"?

45

Q. To that effect?

A. Yes, I believe that what he said was what was

written.

Q. Was there a discussion about - I see that Monday has got a V in front of it, presumably for  
5 "very --

A. For "very".

Q. -- what the difference between those two days was likely to be?

10 A. My recollection of what Ian said was mostly that - that Saturday was going to be bad; Monday was going to be very bad; and then he progressed with his report virtually straight away.

15 Q. Similarly if I can ask you about your notes of the afternoon meeting [ESB.AFP.0110.0097], again halfway down the page. There was no-one from the bureau at the afternoon meetings; is that correct?

A. The Bureau of Meteorology?

20 Q. Do you have a recollection one way or the other?

A. I'm not sure how I would have gotten these notes if there wasn't a representative there.

25 Q. Perhaps turning to your notes. On this occasion you have got "Saturday worse. Sunday-Friday". Is that a reference that Sunday will be like Friday?

30 A. It's possible that that's what that means.

Q. Can I perhaps suggest to you an interpretation, and let me know if you agree: Friday was the following day and no doubt that was part of the discussion, and the reference to "Saturday worse", is that a reference to Saturday being worse than that Friday?

A. Than Friday.

40 Q. Then you have "Sunday-Friday". Is that, as we have discussed, likely to be that Sunday would be like Friday?

A. Like Friday.

45 Q. And again Monday would be worse?

A. Would be worse.

Q. Do you have a memory at that stage by the afternoon of the 16th - it is not apparent from those minutes whether there was anything as between Saturday and Monday - do you have a memory  
5 of the discussion about the relative seriousness of those two days, the Saturday and the Monday?

A. No, I'm sorry.

Q. Were you present when I asked Ms Keane some  
10 questions - I took her to some notes of the planning meeting of the morning of Friday the 17th, other than your notes. There were some notes of Mr McRae and some notes of Ms Harvey, both of which indicated that on the Friday there  
15 was an indication from the bureau that Monday was no longer looking as bad as had originally been expected - at least the wind wasn't going to be as bad. Do you remember me taking Ms Keane to those notes?

20 A. Yes.

Q. Either based on your notes, if you have them - I don't actually have a copy in my folder --

A. Sorry, is this Friday morning?

25 Q. Friday morning at 9.30. Do you have a recollection or can you assist whether or not that is consistent with what was being said on the Friday morning meeting; namely, that the forecast for Saturday was still bad, in effect, but Monday was looking not quite as bad as originally feared?

30 A. In my notes of the 17th, the morning meeting of the 17th, I've noted "Monday - bad - long", which I believe Monday was forecast to be a bad day but that was a long way away at this stage in terms of current events on the weather forecast.

Q. Perhaps if I just take you to one of those sets of notes - Ms Harvey's note - which are [ESB.AFP.0024.0002] at 0007. Near the top of those you will see:

"Meteorology."

45 I should indicate that on the page before she has a heading "Friday am update - 17 January" then she has:

" "Today, Saturday bad. Maybe respite Sunday.  
Monday, bad, maybe not as bad as expected."

Do you see that?

5 A. Yes, I do.

Q. Do you have any recollection of that being the effect of what was being reported that morning; namely, that although previously Monday was  
10 looking as though it was going to be the worst day, things looked as though they might be a little better so far as Monday was concerned?  
A. That is possibly the case. This time on the Friday morning things were very blurred for me by  
15 that stage. That is possible.

Q. Finally for the Saturday, 18th January, the morning meeting at 9.30, perhaps if I could just take you first to the typed minutes  
20 [ESB.AFP.0010.0266] at 0267. Just over halfway down the page under the heading "planning considerations", do you see there:

25 "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."

30 Do you see that?

A. I can see that, yes, sir.

Q. If I can take you to your note where that issue is dealt with. That is [ESB.AFP.0010.0278]  
35 at 0280. About 7 or 8 lines down you will see:

"Potential run from McIntyre's, Weston Creek to Greenway."

40 Do you see that?

A. Yes, I do.

Q. At the start of that passage you have written the words "high levels of exposure"; do you agree  
45 with that?

A. Yes.

Q. How would you interpret - you appreciate the words "high levels of exposure" don't appear in the typed minutes. First, do you actually have a recollection of someone talking about high levels 5 of exposure to those areas?

A. I recall those suburbs being named but I don't know who it was that said them.

Q. Focusing on the words "high levels of 10 exposure", how would you interpret that remark relative to what follows?

A. That based on the potential run of the fire, Weston Creek and Greenway were the highest levels or the areas most likely to be impacted by them or 15 they were the highest areas of exposure.

Q. So we can read that, can we, more or less as it is written; namely, that someone is saying that there are high levels of exposure?

20 A. To Weston --

Q. To Weston Creek and Greenway - pardon me for interrupting.

A. Yes.

25

MR WOODWARD: Thank you very much. I have nothing further, your Worship.

THE CORONER: Yes, Mr Archer.

30

MR ARCHER: I have no questions, your Worship.

MR WHYBROW: I have no questions.

35 THE CORONER: Mr Walker.

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

40 MR PHILIP WALKER: Q. Ms Ferry, did you start the job you have been giving evidence about on 2 January 2003?

A. I commenced work with the Emergency Services Bureau on 6 January.

45 Q. 6 January?

A. 6 January.

Q. And to get some gauge of your recollection - I think you were asked questions on the document [ESB.AFP.0110.0033] at 0038. There was an item about two-thirds of the way down that page where 5 it says "ESB source of" - I think you said - "reasonable advice of threat to the public". I think your original suggestion was it might have meant that ESB considered what reasonable advice should be given to the public or some words to 10 that effect; do you recall that?

A. Yes, I do, sir.

Q. Another alternative was suggested to you that ESB should be the source of reasonable advice to 15 the public. I think you ultimately suggested it might have meant the latter; do you recall that part of the evidence?

A. Yes, sir.

20 Q. Please understand no criticism is intended of you in this. We are trying to gauge the strength of your memory. Do you really know what that note reflects as having been said?

A. I believe that it means that the ESB should be 25 the source of advice to the public.

Q. You said you believe. Do you have a memory of what was said?

A. Not specifically, no, sir.

30 Q. Insofar as you have offered a comment on that particular note, it is just your attempt now over a year later to put a construction on what has been written, is that right, as opposed to you actually remembering?

A. That's correct, yes.

Q. I just don't have a reference for the minutes of 18 January that the witness was last 40 cross-examined on. In relation to your comment about interpreting your words "high level of exposure" you were asked the question:

"Q. Focusing on the words "high level of exposure", how would you interpret that remark relative to what follows?"

Do you have any recollection of what actually was said?

A. I do recall the suburbs of Weston Creek and Greenway being spoken but I don't recall who said it.

Q. Or what was said about them?

A. That's correct.

10 Q. So again, when you made the comment you did, is it fair to say you are putting your best construction on what has been written rather than what you actually recollect as having been said?

A. That's correct.

15

MR PHILIP WALKER: I have no further questions, if it please the Court.

20 THE CORONER: Thank you Mr Walker. Yes, Mr Lakatos, do you have any questions?

MR LAKATOS: Yes, very briefly.

**<CROSS-EXAMINATION BY MR LAKATOS**

25

MR LAKATOS: Q. I am looking at your handwritten notes for the planning meeting of 18 January at 9.30am. You have been asked some specific questions about portions of it. I wonder if you would be good enough to turn those up. I don't have the official reference - it is [ESB.AFP.0010.0278] and the part that I am looking at is at page 0279. I just wonder if you could tell us what is written there. It is in fact the 30 second page of those notes, if you have got it in hard copy.

From two-thirds of the way down after you record what appear to be the weather forecasts for days 40 up until Friday, you have got a heading "Rick". Do you see that?

A. Yes.

45 Q. Or a side notation is better put. May we take it that refers to Mr McRae?

A. That's correct.

Q. May we take it that the material which follows thereunder comes from him, as best as you now recall?

A. That's correct. Yes.

5

Q. I just wonder if you could read it "today" would you perhaps read what you have written there so we understand what that is?

A. It is "today. Weather from - that would be  
10 10am - 1000 on fires start making run." It appears to be "E plus B forests".

Q. Do you have any idea what that is shorthand for?

A. In weather terms, my E was good for east. I don't know if that makes sense in this context.

THE CORONER: Q. "East to forests" perhaps? I don't know whether that makes sense.

20

MR LAKATOS: Is it possible - I can put this and this is simply one possibility - that the fires are in fact making a run to the east? I can't explain what the B means. In any event, can you do better in telling us what "E plus B forests" means? Perhaps we can come back to that.

A. Then "grasslands today may put fire out".

Q. "may put fire out" - yes, I see --

A. "in property protection mode" - PROP for property and PROT is protection.

Q. I may be challenging your memory. Do you take that to be one statement attributable to someone  
35 or is that two ideas that you have joined together?

A. I don't recall the conversation specifically. That may be two separate issues with the "grassland today may put fire out in property protection mode". I honestly couldn't say if that's one or two statements.

Q. And up to this point, does any of this jog your memory as to who might be making the  
45 statements and the precise terms of the statement that was made?

A. And who was making the statement?

Q. Who was making the statement?

A. Apart from my notes that indicate it was Rick McRae, I don't recall apart from that indication.

5 Q. I don't want to take too much time; it is just I have tried to understand these notes. They are a little difficult, with no disrespect to you. Following on "spot", what is that?

A. Is "spotting".

10

Q. Spot is your abbreviation --

A. "Spotting potential will be high".

Q. High or huge?

15 A. Oh, high. I believe that's "high". And then it is an LD or an L dot D which is long distance, "Long distance spotting occurring. Crews very aware. Watch outs read and implemented. Safety issues".

20

Q. Especially, is it?

A. Yes. I'm just looking at that following word. I can't read my own writing. I can't decipher the next word after "especially", then it goes on to 25 "personnel. North-west air flow this PM. Fires run south-east".

Q. Going back to the word you can't read, if I suggested, although I must say it doesn't seem to 30 make sense, "non-fire personnel"?

A. "Non-fire personnel".

Q. Does that ring a bell or not? In any event, if it doesn't, we can push on.

35 A. I can't recall that specifically. But it does look like what is written.

Q. "north-west air flow"?

A. "air flow this PM. Fires run south-east.

40 East south-east change occurs. Large parts of left flank problem. DESP" - is an abbreviation for desperately - "need information on progress of west change". It makes reference to Bureau of Meteorology.

45

Q. A suggestion has been put "wind change" instead of "west change"?

A. Possible.

Q. More likely I suppose, is it not?

5 A. Yes, that is possible. And the final line reads "danger period 2 hours after" then again it could be west or it could be wind change - more possibly it could be wind change.

Q. I'm sorry?

10 A. It could possibly be wind change.

Q. Once again, re-reading that notation, as cryptic as it is in some places, does that re-jog your memory of what was being said at this morning 15 planning meeting?

A. I'm sorry, no that stage.

Q. Finally, if you could take us through the next few lines on the following page. Is the word 20 "winds" - mine has a hole punch?

A. It has a punch hole through. That would make sense because I believe they are talking about wind speed at different levels. So it would be:

25 "Winds at 280 at 10,000 feet. 1,000 feet would be 270. None west winds flow. Left flank dangerous.

30 Wind varies head fire. South fires most active. West of Murrumbidgee River fire in Bullen Range. South suburbs - look at places under COMM threat" --

It mentions Williamsdale.

35

Q. What do you understand COMM to mean?

A. I believe that would be "community", my shortened version for community.

40 Q. Can I ask you to bear in mind that that portion of your note commenced with "STH" presumably southern "suburbs"?

A. Yes.

45 Q. Do we take that part of it to mean threat to southern suburbs or is that reading it incorrectly? Is there a different way to read

your note?

A. Sorry, do you refer to "south fires most active"?

5 Q. No. Read on to the middle of the next line  
"STH suburbs --  
A. "South suburbs".

10 Q. -- "look at places under community threat", I think you read it as. Do we take those ideas to be linked - "south suburbs and community threat" or not?

A. I couldn't say definitely, but it is possible that they are linked.

15 Q. My learned friend Mr Woodward took you to the "higher levels of exposure situation". Moving to the middle of that "more west" - do you see after "Greenway" - you have been asked about these so I won't press you further there. What does the remaining two or three lines of that quote record - or that note?

20 A. That reads "more W" more west. I believe that means that would impact on west Belconnen and 25 south Belconnen. William Hovell Drive. West from Tidbinbilla would result in southern parts and Tuggeranong being impacted.

30 Q. Can I ask you this: the "high levels of exposure", do we take that initial phrase to apply to only the first part of the note - namely "fire run from McIntyre's Weston Creek to Greenway" or do we take that note to apply to the other suburbs that you have just read onto the record?

35 A. I believe that applies to the entire paragraph; I would have read that.

40 Q. I think the remainder is relatively straightforward to read. Can I ask you as a general proposition: when you went back in the course of the days from the 14th to the 18th to reduce these handwritten notes, yours and 45 Ms Keane's, to written form, your memory was a little better to help you type up the typed version than it is today?

A. Absolutely.

MR LAKATOS: Thank you, your Worship. That is all I have.

THE CORONER: Any re-examination, Mr Woodward?

5

MR WOODWARD: One question.

**<RE-EXAMINATION BY MR WOODWARD**

10 MR WOODWARD: Q. On that very point, the high levels of exposure, I think it is clear from your initial answers to questions I asked about how you came to write those notes. But can we assume that those are there because someone has said at the 15 meeting "high levels of exposure" - that expression has been used by someone at the meeting?

A. I believe that to be correct.

20 Q. You wouldn't have written it down of your own initiative?

A. No.

25 MR WOODWARD: I have nothing further, your Worship.

THE CORONER: Thank you Ms Ferry. You are excused. You are free to go.

30 **<THE WITNESS WITHDREW**

MR WOODWARD: I see the time. The next witness is Mr Graham. If it is convenient, we will start him straight after lunch.

35

THE CORONER: We will start straight after lunch.

40 MR WOODWARD: I will also indicate, I think most parties are aware that the plan from here on that Mr Graham will be followed by Mr McRae and then Mr Ingram. At that point in one of the earlier lists it was proposed we would then call a group of witnesses who are relevant to the New South Wales side of things. What is now proposed is 45 that we will include in that group Mr Bartlett, Mr Neil Cooper and Mr Sayer - we have had a request from Mr Erskine and Mr Walker that we call

that group as a block because they are interested obviously in that group.

5 It is not entirely clear whether Bartlett and Cooper will come before or after. At this stage, after Mr Ingram it will be Sayer then Cooper then Bartlett, and then reverting to the original list which I think is Arthur, Crawford, Hunt. We may also at the end of that list include Mr Wade and 10 possibly Mr Winter. That should keep us going for a little while.

THE CORONER: That should, I am sure, Mr Woodward. Thank you. We will take the luncheon adjournment.

15 **LUNCHEON ADJOURNMENT** [12.56pm]

**RESUMED** [2.02pm]

20 MR WOODWARD: If your Worship pleases, we call Mr Anthony James Graham.

<ANTHONY JAMES GRAHAM SWORN

25 <EXAMINATION-IN-CHIEF BY MR WOODWARD

MR WOODWARD: Q. Your full name is Anthony James Graham?

A. That's correct.

30 Q. Mr Graham, you are the operations manager with the Emergency Services Bureau?

A. With the bushfire and emergency services section of the Emergency Services Bureau.

35 Q. What's your professional address?  
A. Number 123 Carruthers Street, Curtin.

40 Q. Mr Graham, you have provided a statement for the purposes of the inquest which is signed by you and dated 9 December 2003; is that so?

A. That's right, yes.

45 Q. I understand there are some items in that statement that you would like to correct or clarify; is that correct?

A. Yes, if I could. Since I have provided the

statement some more information has come to light which I think would add value, if I could.

Q. Certainly. If you could take us to those.

5 A. The first point is at paragraph 5. In there I state that I am currently employed as the operations manager and I have been in this position since July 1997. The date is correct. But when I first started in July 1997, my position  
10 title was manager.

Q. Was manager?

A. Manager. And that changed to operations manager, I think it was in the latter half of  
15 1999.

The next point is at paragraph 15. In this paragraph I state that I referred Dennis Gray to the Stockyard Spur track as a possible access route to the fire. On reflection, I am not sure that that is correct. I have tried to think about this conversation I may have had with Mr Gray and I can't recall it. So I'm not saying that it is not right; I just wouldn't be 100 per cent sure  
25 that it is.

In terms of putting this into some kind of time sequence, I think there is a paragraph missing. After paragraph 17 and before paragraph 18,  
30 looking at it from a time line point of view, at about 1940 hours on the 8th I had a discussion with Mr Peter Lucas-Smith regarding the Bendora fire and the need for overnight resourcing. I didn't include that in my statement originally.  
35

Q. That is something we will come to. That is something that is omitted from your statement?

THE CORONER: What time was that, Mr Graham?

40 A. About 1940, your Worship.

MR WOODWARD: Q. And?

A. On the same page, paragraph 19, I'm satisfied that the statement is correct. I just think it is  
45 not necessarily in the right position within my evidence here.

Q. In terms of the timing?

A. Yes. I think it would lead somebody to think that it was prior to a conversation I had with Odile Arman at 2120 hours; but in fact I think it 5 was after that. I would like the paragraph to stay but I think it really should have come after paragraph 21.

Q. Just on those two matters concerning your 10 discussion with Mr Lucas-Smith and the timing of your discussion about Ms Arman's concerns with Mr Lucas-Smith and Mr McRae, is there anything in particular that has assisted you to identify that 15 your statement needed some clarification in those areas?

A. I have heard a tape of the telephone conversation I had with Mr Lucas-Smith.

Q. When did you hear that?

A. I would be guessing - about mid last year. But I think when I was putting the statement together I overlooked the fact that I had heard that. It was since then that I did recall that.

Q. Is it something you have discussed between the 25 time you prepared your statement and now with either Mr Lucas-Smith?

A. No, it's not.

Q. Sorry, I interrupted you.

A. That's fine. When I say I had the discussion with Mr McRae, I'm almost certain that's right. But I couldn't categorically say he was privy to that discussion.

35

Q. We will come to that in due course.

A. The next point is at paragraph 40. In 40 paragraph 40, I state that Mr Graham Blinksel was appointed as the air operations officer for some period, and that is in fact true. On some of those days Tony Bartlett also acted as the air operations officer, and I neglected to put that in my statement originally.

45 At paragraph 72, I state that at about 1300 hours Tony Bartlett was appointed as a field incident controller. As I have gone through the

transcripts of our communications tapes, I realise that that was more about 1650 hours and not 1300 hours.

5 Q. What paragraph are you at?

A. Paragraph 72.

Q. You think that is closer to 1500 hours?

A. Closer to 1650 hours. Lastly, paragraph 171:

10 at this point I say:

"At about 1400 hours the rescue boat crew on Corin Dam reported a 'spotover' --

15 I now believe it is about 1530 hours. That once again, is on the basis of COMCEN transcripts that I think that happened.

20 Q. These are transcripts that you say in paragraph 3 of your statement that you didn't have certainly not all of those transcripts at the time you prepared your statement; is that correct?

A. That's correct.

25 Q. Have you since gone through those transcripts to check those sorts of items and try and make the times as accurate as you can?

A. That's right.

30 Q. Can we assume then that, so far as the other times that you have mentioned in your statement, they generally accord with radio transcripts; is that correct?

35 A. So far as I am aware. I am not aware that there are any others that I would like to amend at this point.

Q. Apart from the matters that you have referred to, Mr Graham, are you satisfied that your 40 statement is true and correct?

A. Yes, I believe that it is.

45 Q. I was given a few moments ago, Mr Graham, a document which is headed "curriculum vitae". Is that something you prepared recently for the purpose of the inquest?

A. It is something I prepared for the purpose of

the inquest. I prepared it, I would suggest, before Christmas last year. However, I have reviewed it over time since then.

5 Q. I see.

MR WOODWARD: Does your Worship have a copy of that document, the curriculum vitae?

10 THE CORONER: I don't appear to. If it is not in the brief?

MR WOODWARD: No, it is not. It was handed to me before we recommenced, your Worship.

15 Q. You deal with your current role and experience, Mr Graham, at paragraphs 5-7 of your statement. Perhaps if I can now by reference to your CV that you have provided go through in somewhat more detail about your experience. In 20 your statement you refer to having spent 21 years in the navy; is that correct?

A. That's correct.

25 Q. At paragraph 6 of your statement, which is document [ESB.AFP.0001.1307]. At 1308 in paragraph 6 you say:

30 "My initial firefighting experience was gained in the Royal Australian Navy whilst attached to the Fleet Air Arm. As an aviation qualified sailor one of my key responsibilities was that of firefighting and aircraft crash rescue. While I spent the 35 majority of my 21 years with the navy in catering, everybody had a role in firefighting, particularly at sea."

I take it your CV - at least it would appear for 40 the first page and a bit - provides in more detail, does it, the tasks that you undertook during that period connected with firefighting; am I reading that correctly?

A. That's right. That was the attempt of the CV.

45 Q. What you have done in that document is to pick out from your other experience those that appeared

to you to relate to firefighting experience; is that correct?

A. That's correct.

5 Q. Perhaps if you could, what was your actual position in the navy for that period of 21 years you refer to in paragraph 6?

A. Well, I held a variety of positions as I progressed through the ranks. Upon discharge, I  
10 was a warrant officer and had been for a bit over three and a half years. I started in January 1972 as a junior recruit and over 21 years progressed up to warrant officer rank.

15 Q. That is warrant officer; is it?

A. That's correct.

Q. The reference to "in catering", is that a reference to warrant officer role?

20 A. No. I transferred over to the catering corps much earlier than my promotion to warrant officer. In fact, it was in about 1974 or 1975 that I transferred over to that and remained within that for the duration of my career.

25 Q. Is it fair to say in that period to the extent you had a role in firefighting that was incidental to your main role in the catering corps?

A. Incidental except that the situation when  
30 somebody is at sea is they go onto a roster for what is called the standard sea firefighter party. That roster is normally on a one-in-three or one-in-four rotation basis. That is an ancillary duty to my core duties. So it could be every  
35 third or fourth day or thereabouts that I was rostered on as part of the firefighting team for initial response. Of course, on a ship at sea the responsibility of the firefighting is everybody's; it is not just those rostered on.

40 Q. Can you just give us a general idea - if I am being too general, say so - during that period of 21-odd years in terms of actual incidents that arose involving firefighting, how many, say, in an average year would there be?

A. Not many at all. I would suggest if it was two or three, I would be surprised. I don't think

it would be any more than that.

Q. I take it that these were all, to the extent that they occurred and presumably the training 5 that went with them, related to discrete structures and incidents that may occur on or in relation to a boat, ship?

A. No, not necessarily. Because the navy had its own self-contained firefighting crews at that time 10 in all of its shore establishments. I didn't spend all my 21 years at sea. I guess about half of my time was in shore establishments; the other half at sea.

15 We had a similar situation where we had a firefighting party for those who were rostered on for duty when we were in a shore establishment. That was structured certainly, but it was also for bush and grass fire, should they occur.

20 Q. The majority of it was structure related. There was occasional bush or grass fires near shore facilities, is that the position?

A. That's correct, yes.

25 Q. During that 21 years, how many bush or grass fires were you involved in?

A. Very, very few. I'm guessing because I am now going back over 30 years but I would suggest no 30 more than half a dozen throughout that 21 years.

Q. Focusing in particular on the bushfires, were any of those of any size or length?

A. No. No.

35 Q. During that 21 years had you obtained or been given any bush or grass fire - perhaps if I could generically call that wildfire - training or was your training more focused on structures?

40 A. While I was still in the navy I joined the ACT emergency services as a volunteer. Probably three or four years before I discharged I would think. And in that time received bushfire training using what was in place at that time, the ACT bushfire 45 module system, which allowed firefighting on a fire ground under supervision.

Q. That was outside your employment at that time?  
A. That's as a volunteer, yes, outside.

5 Q. I see in your CV you have got "February '89 completed ACT Bushfire Service firefighting modules 1 to 4"; is that what you are referring to?

A. That's what I am referring to.

10 Q. That was during 1989?

A. During 1989, yes.

Q. Was that shortly after you joined the ACT Bushfire Service?

15 A. The ACT Emergency Service is what I joined. I joined that in February of '89 and I suggest the fire training was probably in the latter half of the year. I would be guessing but I would suggest about September.

20

Q. You say in the following item in your CV that in January '94 that you attended the New South Wales bushfires as part of the ACT task force that was working out of the Terry Hills fire control centre. What was your role - perhaps I should ask you this first: was that in your capacity as a volunteer?

A. That's right.

30 Q. What role were you filling at that time?

A. I took our portable communications vehicle up - I was up there for two nights and three days. For the first day and into the evening, I was with the communications van. From some time late in 35 the evening, for about a 3- or 4-hour period, I was out in the fire line but more from an observation role than anything. Outside of that, it was purely being the communications link between the New South Wales Rural Fire Service and then the ACT Bushfire Service and fire brigade 40 units that were up there.

Q. Just continuing perhaps by reference to your CV, you talk about a considerable amount of 45 additional training that you have undertaken. Perhaps if we could run through those very quickly. You attended a five-day response

management training program. Was that a general response program or did it include bushfire or wildfire elements?

5 A. No. It was a general response program for those in any kind of emergency services organisation.

Q. As I understand it, when you say you were involved in the bushfire and emergency service 10 that involved what may be commonly known as, for example, in Victoria and New South Wales the State Emergency Services?

A. That's correct.

15 Q. Dealing with other types of emergencies - floods and so on?

A. That's correct.

20 Q. Just continuing to run down that list, you point out there that you commenced full-time work with the ESB as manager Bushfire and Emergency Services, which is the correction you made earlier, in July 1997?

A. That's correct.

25 Q. From that point on, you had a role as one of the duty co-ordinators or duty officers at the ESB; is that right?

A. That's right.

30 Q. You also mentioned the five-day air observer training program. Was that conducted by the Department of Natural Resources and Environment, now the Department of Sustainability and Environment in Victoria?

A. That's correct.

Q. That was a wildfire related air observer course?

40 A. Very much a fire related air observer course.

Q. You attended a 6-day aircraft officer training program, again by the DNRE?

A. That's right.

45 Q. In June 1999 you attended a two-day fire weather training course conducted by the Bureau of

Meteorology?

A. That's true.

5 Q. Finally in terms of training, you refer to a five-day emergency response management training program conducted on behalf of the New South Wales State Emergency Service?

A. State Emergency Management Committee.

10 Q. I am sorry. And again, was that a fire related program or --

A. No, that February 2002 was more the generic.

15 Q. Is it fair to say that, in your time since 1997 joining the ESB, your role has been more focused on general emergency response role rather than the bushfire role?

20 A. Oh, no. Not at all. It was very much a shared responsibility. In terms of putting a number to it, I would suggest that the Bushfire Service would respond - the emergency service would respond about one-tenth of the times the bushfire service response, and my role cut across both. So, no, it was more fire focused than 25 emergency service focused on the basis of the numbers of incidents.

Q. Just summarising the balance of the document, you've both been involved in and yourself conducted training in relation to AIIMS - ICS?

30 A. That's right. I became accredited as an instructor in AIIMS - ICS in 1994/95.

Q. Can we take it from that that you also had an accreditation in ICS roles?

35 A. That's right.

Q. Which ones?

40 A. When I did the program, it was a five-day generic program without specifying any particular role.

Q. You are aware, as I understand it, there are now accreditations for various roles within the 45 ICS structure which are also subdivided, if I can put it that way, based on the size of the incidents. So you might have someone accredited

as a level 3 incident controller; are you familiar with that?

5 A. I am familiar with the concept you are talking about. There has been some alignment by the Australasian Fire Authority Council with AIIMS - ICS and other training programs to two levels at an incident, that's right.

10 Q. Are you able to indicate - and if so which - which levels of accreditation you hold in relation to ICS operational roles?

A. The ACT Bushfire Service hasn't gone down the path of aligning all of its training to these roles.

15 Q. You are aware that there is a role, for instance, of accreditation as a level 3 incident controller under the AIIMS - ICS structure?

20 A. No, not under AIIMS. Some of the agencies, the fire agencies around Australia have done that, but it is certainly not a national approach at this stage - well not that I am aware of, anyway.

25 Q. I think you said before that in the ACT the ESB haven't gone down that track of having different levels of qualification within those operational roles.

30 A. No, not at this point. It's all related to units of competence, and the units of competence for the fire industry have only fairly recently been endorsed. It was either December or so last year or maybe the year before; so certainly within the last 18 months. What we are doing at the moment is doing that alignment so we can give 35 people training in units of competence, which will then transfer over to allow them to be incident controllers and other incident management team tasks at an incident.

40 Q. You deal most specifically with your experience towards the end of your document. You talk about your attendance at the Sydney bushfires where I think you said you spent the majority of your time in the communications vehicle in effect, apart from three or four hours on the fire line 45 but in an observer role; is that correct?

A. That's correct.

Q. You refer to the January '98 Dingi-Dingi Ridge fire where you were the deputy incident controller. Where were you based at that stage?

A. At Dingi-Dingi Ridge.

5

Q. At the fire line?

A. At the fire line. Rob Hunt from National Parks and Wildlife Service was incident controller and I went up to supported him.

10

Q. You refer to the December 1999 railway line, Canberra Avenue. What was that?

15

A. That was a fire along Canberra Avenue almost opposite HMAS Harman. It was about a 4- or 5-hectare fire that I think started just after dusk. It was very close to my home at the time. I went out there and there were Bushfire Service units and fire brigade units; and I was in charge of that fire - the fire crews of both services on that fire.

Q. Was that essentially a grass fire or was there --

25

A. Yes. Essentially a grass fire. There was certainly some trees but they were pretty sparse.

Q. March 2000, Gladstone Street, Fyshwick - what sort of fire was that?

30

A. Once again primarily a grass fire that was started by an abandoned car that somebody had torched, primarily grass, some bush and shrubs.

35

Q. January 2001, Mildura Range fire. You say there your role was air observation. Firstly, that was a bushfire, or what was it?

A. It started in grasslands. It got into the trees and burnt out about 130 hectares of which I'm guessing 30, 40 hectares might have been bush and trees; and the rest would have been grass.

40

Q. Was your role limited to air observation in relation --

A. That's right.

45

Q. And December 2001 you were an operations officer --

A. At Pialligo.

Q. Again, what sort of event was that?

A. That was a fire that started in some red wood - it's a pine tree, an American pine tree called red wood. It started there. It was on both sides of Pialligo Avenue. On one side burning a lot of grasslands and on the other side burning towards some fireworks bunkers; and that was in bushland grass.

10 Q. What sort of size?

A. Seven to 10 hectares, I would think.

Q. You say "I have also attended numerous minor and moderate fires both as part of the IMT and as 15 an observer". And you refer to a liaison officer role on a number of occasions?

A. That's right.

Q. Is that then a fair summary of - are there any 20 other particular experiences, fire related experiences, apart from what you have put in this CV?

A. I think what we have just discussed summarises my experience on a fire ground; but it doesn't 25 take into account my experience in Emergency Operations Centre fulfilling various roles in there.

Q. Just concentrating on the former for the 30 moment, your experience on the fire ground: I don't mean any disrespect by this, but as I understand it you have never been in a position where you have actually actively fought a fire in terms of holding a hose or a rake hoe?

A. That's right.

Q. In terms of your role in an operational role, you have referred to being a sector leader and operations officer, those are the Dingi-Dingi fire 40 and the fire at Gladstone Street, Fyshwick, and the Pialligo Avenue fire. Is that a fair summary? And Mildura Range, you said you were safety adviser there. That was not strictly an operational role; is that correct?

A. Well, it is part of the incident management team with a direct reporting responsibility to the incident controller. It was a position that I was

specifically appointed to.

Q. Is it fair to say, Mr Graham, in summary in respect to all of that experience that you have  
5 never yourself had an operational role at or near the fire ground in respect of any large wildfire?  
A. If you are terming as an operational role somebody holding onto a hose, then that is a fair statement but --

10

Q. I was going up a level. I am working on the basis that the fires that are referred to under the heading "experience", they are either largely grass fires or, if I can say so, relatively small  
15 events. Is that a fair summary of them?

A. The Dingi-Dingi Ridge fire was up in the Brindabella Ranges not too far away from where the McIntyre's Hut fire was. So that one aside, I think that's a fair statement or a fair summary.  
20 But the Dingi-Dingi Ridge fire was very much a bushfire.

Q. You have mentioned in your - further above you have done some officer level fire behaviour  
25 training. What training was that?

A. That was a training program that I coordinated for one or two of our volunteer brigades, going back a little while now. Getting them some advanced fire behaviour training.

30

Q. Did you conduct the training?

A. Some elements of it, but not solely.

Q. Have you yourself undertaken any training in fire behaviour - sorry I should say - other than no doubt what would have been included in the modules that you did?

A. Other than in the modules, no.

40 Q. I think it would be fair to say, wouldn't it, Mr Graham, that you have never been involved in an operational role or indeed as a firefighter in anything like the fires that occurred in January of 2003?

45 A. No, I have never been involved in anything of that size.

Q. Are you aware yourself, Mr Graham, of the level of experience of the other two deputy chief fire control officers, Mr Tony Bartlett - did you have a knowledge as at January 2003 of his  
5 firefighting experience?

A. I have some understanding. I wouldn't call it in-depth at all. I certainly understand that he has many years' experience.

10 Q. He and Mr Sayer, like yourself, were the three deputy chief fire control officers?

A. That's correct.

15 Q. In the case of Mr Sayer, what knowledge, if any, do you have of his bushfire experience?

A. I might be wrong here. I think he has got about 20 years' experience - or it may be a little bit more than that - in bush and grass  
20 firefighting in and around the ACT. But outside of that, I'm not sure what he has done.

Q. Would it be fair to say, Mr Graham, as at January 2003 to your knowledge each of Mr Bartlett and Mr Sayer had considerably more experience than you in bushfire fighting strategies and tactics?

A. Mr Bartlett and Mr Sayer, yes, I would suggest that is a true statement.

30 Q. I take it you would say Mr Lucas-Smith as well?

A. Indeed.

Q. I did want to ask you some questions about matters leading up to the fires and starting with  
35 the general question: we have been told in the inquest about the operation in the ACT of what is known as the Service Management Team operating out of Curtin. You are familiar with that; I take it?

A. Yes, I am.

40

Q. I think it is fair to summarise the evidence to say that the use or the establishment and operation of the SMT, as it is known, is a variation on a more typical or standard ICS structure; is that a fair comment?

A. No. I don't know that is something I would necessarily agree with. We still had incident

management teams and we had an incident controller; and each of the fires were allocated an incident controller and a number of people to make up their team. What we were doing back at 5 Curtin was we were providing a strategic overview. We were providing them with the additional resources that they might require.

I would suggest that is in keeping with practice 10 in other jurisdictions as well. For instance, in New South Wales, I would liken it to what they do at Rosehill.

Q. All right. Let us take that as an example. 15 For the purposes of the McIntyre's Hut fire, as you are aware there was a fully constituted incident management team working out of Queanbeyan; that's correct?

A. That's right.

20 Q. That was the incident management team with responsibility for, among other things, the McIntyre's Hut fire; is that something you are aware of?

25 A. That's how I believe it to be.

Q. When you talk about Rosehill, what you are saying is the New South Wales Rural Fire Service 30 headquarters effectively is there to assist the incident management team in relation to finding resources from other parts of the state and so on; is that correct?

A. That's correct.

35 Q. Is it your evidence that the SMT at Curtin operates in an equivalent way to that?

A. Well that's my belief. The fact that the 40 incident management team chose to work out of the Queanbeyan Yarrowlumla fire control centre equally they could have chosen to work from a forward control point closer to the fire, if that's what they deemed as being a suitable thing to do.

45 Q. I suggest to you there is one very significant difference; that is, that the incident management team, whether it worked out of Queanbeyan or at a forward control point, was a fully constituted

incident management team with an incident controller, an operations officer, a logistics officer and a planning officer with a fully constituted planning section; is that correct?

5 A. That's correct.

Q. With a situations unit?

A. In all likelihood, yeah.

10 Q. Its own media unit and so on?

A. Very possibly, yeah.

Q. It's the case, isn't it, that in the case of the ACT at best the incident management - I should put it this way, the incident controller in the field from time to time later in the incident may have been someone fulfilling a role not unlike an operations officer. But I would suggest to you, correct me if I am wrong, that at no stage did any 15  
20 of those incident controllers have their own - have a planning officer working under them?

A. I believe that that's true. There were certainly instances where people from the planning unit at the Emergency Operations Centre at Curtin 25 went into the field to provide guidance and support.

Q. They were reporting to Mr McRae, weren't they?

A. They were.

30

Q. Again, there was no-one fulfilling a logistics role out in the field; were they?

A. There were various logistics functions being performed. There would not have been, to my 35 knowledge, somebody appointed as a logistics officer to manage all of those functions.

Q. In reality what the incident controller in the field was having to do in order to ensure that 40 those other functions within the ICS structure were being fulfilled was to refer back to Curtin?

A. That's correct, yeah.

45 Q. And I suggest to you that that is quite a significant difference between what was operating, for example, at Queanbeyan and what was operating out in the field in respect to the ACT fires?

A. I guess you are right.

Q. Perhaps to take the analogy a bit further.  
The reality is that the SMT at Curtin was  
5 fulfilling a far more, if I can use the  
expression, hands-on role in relation to the fires  
than Rosehill would have been in respect to the  
fires in the McIntyre's Hut fire?

A. I don't know. I've never seen Rosehill  
10 operate. I've been to Rosehill before when they  
haven't had any fires going on; I've never seen  
how they operate.

Q. They were certainly fulfilling a much more  
15 hands-on role than one would normally expect  
significantly a co-ordinating area at a  
significant distance to be fulfilling as compared  
to what was happening in the ACT; would you agree  
with that or you are just not sure what they were  
20 doing?

A. Look, I wasn't involved with them.

Q. The role of the SMT, Mr McRae in his statement  
refers in paragraph 7 - I won't take you to it  
25 because it is a brief reference - he says:

"At that time - that is in January -  
management of bushfires in the ACT used the  
concept of a Service Management Team to  
30 co-ordinate overall activity and to provide  
centralised roles. The SMT is organised and  
run in the same way as an IMT. SMT roles and  
responsibilities, and their linkages to IMTs  
were clearly defined in standard operating  
35 procedures then current."

He then says:

40 "The SMT is housed in ESB headquarters, while  
IMTs work in the field."

That's the theory as I understand it; is that  
correct?

A. I don't know that any of our SOPs refer to --  
45

Q. Sorry to cut you off because I want to  
specifically come to the SOP issue. Ignoring that

part of it, is Mr McRae's summary a fair summary of the theory of the operation of the SMT?

A. I believe so.

5 Q. Turning directly to the reference to "clearly defined standard operating procedures", I should say to be fair to you, we are not aware of these standing operating procedures that we have seen containing anything that refers to the role of the  
10 SMT; is that correct?

A. I don't believe that the standard operating procedures refer to SMTs at all. I can't think of a single instance. We do have standard operating procedures that describe various SMT or various  
15 incident management roles, including things like planning officer. But there is a separate document that describes the SMT arrangements in the ACT which is not embedded in any SOP.

20 Q. I will get you to have a look at this document and let me know if this is the separate document you are referring to - [ESB.DPP.0001.0001]

A. Without seeing the whole document, that appears to be the document I am referring to.

25 Q. We understand this was a document provided relatively recently to us. What I might do, if I may, I have two copies of it, one of them has some highlighting on it. I will hand that to you so  
30 you have one that you can refer to.

A. I do have my own copy without your highlighting.

35 Q. Do you want to get that out because I do want to ask you some questions about it. The copy we have has written at the top "ACT BS - ACT Bushfire Service - paper distributed at 2002 pre-season training". Are you able to indicate when this document was first developed?

40 A. I think that reference is one year out. I think it was before the 2001 pre-season training and it was developed in about August 2001.

45 Q. Up to that time, August 2001, was there any other document of this kind that described the proposed role of the SMT within the ACT Bushfire Service and Emergency Service?

A. I don't believe there was. I can't recall any other document.

Q. Did you have any role of developing this  
5 document?

A. Not in its initial stages, but certainly in providing input and comment to it before it was finalised.

10 Q. Who provided it? Who prepared it initially?

A. Peter Lucas-Smith.

Q. Just going to some of the detail of the document, you have indicated already under  
15 paragraph 2 there you will see:

20 "The SMT establishes policy, and provides guidelines on priorities, objectives, and constraints to the incident controller, and manages the resources on behalf of the ACT Bushfire Service. The incident controller manages the incident they are assigned to with the resources allocated by the SMT. The importance of the SMT role becomes clear  
25 during multi incidents and/or multi jurisdictional incidents."

30 Does that, as far as you are concerned, set out in broad terms the difference between the role of the SMT on the one hand and the incident controller on the other?

A. I believe it does.

35 Q. There is a summary of the responsibilities of both the SMT and the incident controller on the following page, if I can perhaps get that brought up. The chart is headed "SMT responsibilities" and it states:

40 "Responsibilities of all incidents are divided between the SMT and the incident controller as follows:

45 ACT Bushfire Service policy, executive control, resource coordination, organisational management and incident support."

That is the SMT's responsibility. So can we take it from that, Mr Graham, that so far as identifying and allocating resources, that is a role that is exclusively a responsibility of the

5 SMT?

A. In the first instance, but not when we get to a change-over situation. What we would do when we go into a second shift at an incident is we will ask the incident controllers what resources they require for that second shift. Then we will co-ordinate those resources. We will arrange them for our various brigades, or depending on what the resource might be. It might be plants and equipment, for instance, so we will organise that 10 on their behalf.

15 Q. Is it your evidence that, up until the second shift, it is the responsibility of the SMT to decide what resources should be allocated; but after that you take guidance from the incident controller?

20 A. Well, certainly in the first instance the SMT will provide the resources. But even before shift change, if we are talking the first shift of an 25 incident and additional resources have been identified as being needed by the incident controller, then that is very common practice and we will organise that on their behalf.

30 Q. Taking that down to a practical level, if the incident controller wants a bulldozer, the way they arrange that is to contact someone, presumably either yourself or Mr Ingram or Mr Lucas-Smith at the SMT and say, "I need a 35 bulldozer". But they don't actually ring up and arrange it themselves; do they?

A. No, they don't.

Q. That happens throughout the firefight?

40 A. That's right.

Q. In a sense, they are not in a position to - if there are other demands and so on, that is something they have to live with. You tell them, 45 "We don't have one today" or "the only one we have got is elsewhere and they have to try to work with that"; is that the position?

A. That's the position, yes.

Q. Moving on to the next part of that chart:

5 "Incident objectives - responsibility is the incident controller (SMT must be consulted)."

Perhaps before I ask a bit more in detail about that: for her Worship's benefit, there is  
10 generally a distinction drawn in a firefighting context between strategies and tactics; is that correct?

A. Between objectives, strategies and tactics, that's right.

15

Q. Are you using "objectives" in a sense as being at the strategic level?

A. That's correct.

20 Q. If you could provide perhaps a working definition of the difference between objectives and strategies on the one hand and tactics on the other?

A. Sure. Very simple explanation - an objective is what we are going to do; strategy is how we are going to do it; and tactics are who are we going to do it with. That's at the very basic level.

30 Q. Perhaps we can give that some practical examples, say, in the context of the fires in January. An objective would that be something like, "We want to put in control lines along these particular roads" or is that getting into strategy?

35 A. No, that would be a strategy. The objective might be to keep the fire to the west of Mt Franklin Road. The strategy would be how we are going to do that; and that could be with the development of control lines using plant and equipment; and the tactics are who we are going to do with it.

40 Q. The tactics would be down the level of which vehicles we are going to put there, who is going to do the burn; and so on?

A. That's correct.

Q. According to the chart, so far as the broader objectives are concerned, that is something which the incident controller must consult the SMT about?

5 A. That's right.

Q. Moving down to strategies to achieve the objectives, that appears to be exclusively within the bailiwick of the incident controller in terms 10 of responsibility; is that correct?

A. We have always encouraged them, the incident controllers, to swing any ideas by the Service Management Team on what they might want to do.

15 Q. Does it go a little further than that, Mr Graham? Is it the case that from time to time the SMT might in fact itself suggest and perhaps even do more than suggest strategies?

A. In terms of suggestion, yes, that's true. In 20 terms of doing more than that, I'm not really sure what you are referring to.

Q. Well, direct a strategy, for instance, saying, "We want you to do this"?

25 A. It's possible that that might happen, but there's always negotiation. We wouldn't force upon the incident controller something that he felt or she felt wasn't achievable or --

30 Q. Was unsafe?

A. Unsafe or was just not a bright thing to do at all.

35 Q. Going back to the broad theory of ICS and its operation, it's the case, isn't it, that the strategies are generally determined by the planning unit in consultation with operations; is that correct?

A. That's the standard textbook way of doing 40 business.

Q. Well, it is a bit more than that, isn't it, Mr Graham? In order to come up with a strategy, you have got to be in a position to do some 45 predictions as to what the fire might do?

A. That's right.

Q. For that purpose, you need access to detailed maps, you need to understand not only the area in which you are actually working, but what is around you in terms of other fires and terrain and the like?

5 A. That's right.

Q. You also need to have a pretty good idea of what the weather is going to do?

10 A. Yes, that's right. Yes.

Q. Because of those three things, it is within the purview of planning - at least initially - to come up with a broad strategy. That's correct;

15 isn't it?

A. That's right.

Q. If you are an incident controller in the field without a planning unit, the reality is, is it not, that strategy has to come out of the planning

20 unit at Curtin?

A. You can have an incident controller in the field performing more than one function, that being incident control. You can in fact perform a

25 number of different functions.

Q. They don't have, may not have, indeed in this case - we will go to this in due course - adequate maps, if any maps. You can't expect an incident

30 controller in the field to do strategic planning, can you, without a map?

A. No, you couldn't. I'm not sure what you are referring to without - people not having maps.

35 Q. If that is the case, if an incident controller doesn't have an adequate map, they are going to find it very hard to do any work on strategies.

You would agree with that?

A. That's right. But in the ICS system there is

40 scope for people to develop maps and there is a specific mapping form that allows them to do that. Whilst they might not have a commercial quality map, to suggest they wouldn't have a map at all, I don't think that would be the case in most instances.

Q. All of that infrastructure to prepare those

maps and so on you have referred to is all at Curtin; isn't it?

5 A. No, if I am talking about an ICS mapping form, we are talking about an A4 form which has a grid over it and some maps symbols and allows people to draw in the roads and the trails and the sectors and the strategic lines that they might be considering at the time.

10 Q. That's not an easy thing to do if you don't have a reasonably good quality map to work from. You can't do that just by observing the area very conveniently, can you?

15 A. It's probably a little bit dependent on the size or the complexity of the incident. But it is very common practice - in fact it is almost standard - that our incident controllers in fact do draw a hand-drawn map when they submit their incident report. As a standard feature of that 20 incident report, it is accompanied by a hand-drawn map on an ICS form that has been produced for that purpose.

25 Q. Going to the fires of January 2003, Mr Graham, I suggest to you that the reality is that very few, if any, strategic decisions were being made by incident controllers in the field, so called. In fact most of the strategic decisions were being made out of the planning unit at Curtin in 30 consultation with yourself and other people in operations; is that the reality?

A. That's not the way I see it. I think a lot of the strategic decision-making was in fact being done out in the field.

35 Q. I might just ask you about some comments that Mr Bartlett has made - perhaps before I do that I should ask you this: perhaps taking Queanbeyan as an example, and no doubt there are many others, 40 the role that we have described - that is, the role of the planning unit and the incident controller, operations manager and logistics - would ordinarily be centralised in one place. that may be at a location somewhat remote from the 45 fire; is that correct?

A. That's very often the case. What might happen a little differently is the operations function

might be closer to the incident ground than the control, the planning and the logistics functions.

Q. That would be at a forward control point of  
5 some kind?

A. Yes.

Q. The reason why, generally speaking, you have, particularly in a large campaign type fire, the  
10 IMT located often somewhat remote from the fire is because they need access to photocopying machines, fax machines, telephones, those sorts of things; is that correct?

A. Oh, yeah, they certainly all contribute to  
15 incident management.

Q. The sort of role that needs to be fulfilled at those sort of fires is not easily carried out in the field, is it, that is particularly the  
20 planning role?

A. If we are talking the January scale of fire, no, it's not.

Q. It is the case that from time to time you  
25 establish a forward control point where you might have say a deputy operations officer or someone in an operational role; is that correct?

A. That's correct.

30 Q. That person would ordinarily - back at a more remote incident control centre or at a forward operations point - be directing operations in the field through division commanders?

A. That's right.

35 Q. Depending on the size of the fire?

A. That's correct.

Q. A division commander might have up to 5 sector  
40 commanders working to them; is that correct?

A. Up to 5 would be within our span of control.

45 Q. That would be, if I may put it that way, the typical campaign or large fire system or structure of control; is that correct?

A. That's correct.

Q. I will just ask you about Mr Bartlett's statement at paragraphs 116-119. Mr Bartlett discusses some issues concerning the operation of the SMT. His statement is [ESB.AFP.0001.1140].

5 The paragraphs that I want to take you to commence at 1171. Have you read Mr Bartlett's statement?

A. No, I haven't.

Q. If you go to the bottom of that page  
10 commencing at paragraph 116, Mr Bartlett says:

"I would like to make some comments about the implementation of the incident control system in the ACT based on the two days that I was involved as an incident controller on the Bendorra fire, which at the time was a fire of less than 1,000 hectares. One of my fundamental concerns is the way the AIIMS incident control system has been implemented here in the ACT, a concern raised by me in written form to ESB after the last fire in 2001."

Just pausing there, are you aware that Mr Bartlett had previously raised concerns about the operation of the AIIMS - ICS system in the ACT?

A. Certainly verbally I can recall him doing that on occasion. In terms of in a written form, I don't recall ever having seen anything; I may have.

Q. He says:

"In my view proper implementation of AIIMS - ICS facilitates an efficient organised approach to fire suppression operations."

I take it you agree with that basic premise?

A. Yep.

40

Q. He says:

"On the basis of my experience, for ICS to be effective there is a strong need to have a close link between planning and operational sections."

Do you agree with that?

A. I do.

Q. He says:

5

"The senior field person (usually the operations officer) must have involvement in incident management team meetings and in particular must have the capacity to contribute to the development of the incident action plan and its associated tactics and resourcing deployments. The planning section has to focus on the development of the incident action plan for the next shift as well the longer term strategy for controlling the fire. However, this is not the way" --

Perhaps I shall stop there. Do you agree with Mr Bartlett to that point?

20 A. Not entirely. If we look at the second line there where he talks about the development of the incident action plan and its associated tactics, well, we wouldn't be developing tactics in an incident action plan.

25

Q. You would say, would you, that the incident action plan is something that normally deals with strategies rather than tactics?

30 A. Objectives and strategies. The tactics are done by the divisional controller commander or the sector leader out in the field.

Q. If we substitute "associated strategies", would you agree with what he says there?

35 A. I could live with "strategies".

Q. The next sentence?

A. In terms of end resourcing deployments I don't think there was an instance where we didn't provide the resources for any shift that hadn't been requested by the incident controller of the previous shift.

45 Q. I'm not sure that is right but I will ask you about that in the appropriate chronological position. Finally it says:

"However, this is not the way in which the incident control system currently operates in the ACT."

5   What do you say to that?

A.   I think - I'm guessing here - he is referring to the fact that the operations officer in the field didn't come into the planning team meeting --

10

Q.   Incident controller in the field?

A.   Well, the person running the incident in the field didn't come into Curtin to those planning meetings. And that's true, they didn't.

15

Q.   I suggest to you, Mr Graham, that would make sense if the person was operating in fact at a divisional commander type level but, for an incident controller, that's not a satisfactory situation; is it?

20

A.   Ideally that would be involved in the development of the objectives and strategies.

THE CORONER: We will take the short adjournment.

25

**SHORT ADJOURNMENT**

[ 3.01pm ]

**RESUMED**

[ 3.12pm ]

30   MR WOODWARD: Q. Before I continue with Mr Bartlett's comments, Mr Graham, I have neglected to ask you a more general question about the SMT structure as appears in the document which we were talking about earlier. Were you involved 35 in any of the discussions or do you otherwise have an understanding of the rationale of what that structure was when it was first established; why was it felt necessary to have a structure that divided the roles in the way suggested in that 40 document?

A.   I guess it's largely a function of the size of the ACT; we're obviously a very small jurisdiction. As I mentioned before, I likened us to Rosehill and I still believe that that is true. 45 But we are also in a lot of ways like a fire control centre in any regional city or town around New South Wales as an example whereby the

functions that we provide are at the broader level, the policy direction level, and then they are also at this incident management level. This is why I think we needed to draw some analogy  
5 between what happens on the incident ground and what happens back at a fire control centre; and to differentiate between the two we chose the SMT, the service management team, role as a way to describe what is being done back at our fire  
10 control centre.

Q. In a case like this where the SMT, although obviously located remotely from the fires, to some extent because of the size of the ACT it's never  
15 going to be too far away from the actual fire area; is it?

A. That's right.

Q. What I don't follow in relation to that  
20 answer, Mr Graham, is in a case where you have got a small jurisdiction, why purport to replicate roles out in the field which can be quite adequately fulfilled back at headquarters at Curtin; in other words, why have a structure that  
25 requires, at least this theory, functional roles of planning officer, logistics, operations, incident controller out in the field when a relatively short distance away you have got all those roles being fulfilled by the most senior  
30 people available; what's the benefit of that?

A. In a single incident situation you are probably quite right. But when you have got a multi-incident situation and you have competing resources and competing priorities, I think it is  
35 fundamental to have a planning unit back at a coordination centre to provide an overview of everything that is happening around the territory.

Q. Again, the practical reality we faced in  
40 January, is it not the case that that was the only planning unit in terms of these three fires; in other words, there was no planning unit operating in the field?

A. No, there wasn't, not that I can recall.

45 Q. Just returning to Mr Bartlett's statement. At paragraph 117, he says:

5           "If a decision is made to adopt an indirect suppression strategy, it is critical that some good strategic planning is done. This planning needs to take account of the projected fire development over the next week; the forecast weather; the length of control line to be established, both in terms of bulldozer work and back-burning; the mechanism to be used to burn out the area  
10          within the control lines; the resources required to implement the components of the strategy; and the key milestones that need to be achieved day by day before the onset of the next period of extreme fire behaviour."

15         I appreciate that is a long sentence. Do you agree that is the sort of thing that planning needs to take into account particularly when you are dealing with an indirect suppression strategy?  
20         A. In relation to the January fires that we had, I would suggest that that is right. I don't know that that full suite of things would necessarily stand up for every event.

25         Q. Well, indeed, that is so, isn't it, Mr Graham, because in a smaller event, a small grass fire or a more localised event, the so-called incident controller can often be the captain of the fire truck that arrives at the scene; isn't that correct?

30         A. That's correct.

35         Q. They could deal with the fire and it can be put out before you get to anywhere like this kind of level of support?  
A. That's right.

40         Q. Here we are talking about what have been described in the evidence as "campaign fires". In that context, that is a fair comment by Mr Bartlett about what is necessary when you are planning particularly an indirect suppression strategy?

45         A. Yes, I think it is correct. Just something that struck me, where it says, "The resources required to implement the components of the strategy", just one point I picked out there, I

want to emphasise it is not a decision that is made at ESB Curtin without reference to those on the fire ground. So if Mr Bartlett is saying this is a situation that exists back at the Emergency  
5 Operations Centre, I agree it is, but only in conjunction with those on the incident ground.

Q. Can I suggest to you that what Mr Bartlett is focusing on in that paragraph is the need for  
10 forward planning, anticipating how things are going to happen into the future, perhaps even two or three days into the future in respect to a larger strategy or even longer. And that's something that, in terms of resourcing that kind  
15 of strategy when you are projecting two, three or four days out, it is not a matter, is it, of the person in the field saying, "Look, I need an extra remote area firefighting team here" or "I need another two tankers" or "I need another bulldozer," because that is dealing with the here  
20 and now; isn't it?

A. That's right.

Q. What the planning unit is dealing with and  
25 what is happening in reality back at Curtin is something that should be happening looking forward - it could be as many as four or five days?

A. That's right.

30 Q. What Mr Bartlett seems to say about that is this work - that is, that level of forward planning - cannot be done by people on the fire line as they are most likely to be focused on the  
35 multitude of operational issues that occur every day on a large fire suppression operation; would you agree with that?

A. I would agree. But I still believe that people on the incident ground have a say. They  
40 are the ones that might come into Emergency Operations Centre after their shift, for instance, and describe more fully what is happening on the incident ground so a clearer picture can be gained.

45 Q. I accept what you say that they don't need to be an incident controller to do that. They could

be in a role of a divisional commander or even a sector commander and say, "Look, I didn't have enough people on my sector."

A. That's right.

5

Q. He concludes that paragraph by saying:

10 "It has to be done by the planning section and then checked by the senior operations person before being agreed by the incident controller."

15 That's the theory, isn't it? The planning section does all the preparatory work; it is signed off in effect or checked by the operations person who is bringing an operational focus and saying, "That's achievable" or "no, that's not" and then ultimately it is acceded to, or not, by the incident controller.

20 A. That's right.

Q. He then deals with the circumstances he was faced with:

25 "When I was deployed to the Bendorra fire on 11th and 12th of January there was no incident action plan or strategic plan regarding the implementation of the indirect suppression strategy. In particular there  
30 was no assessment of whether the control lines could be established before they were threatened by the wildfire or of what level of resources would be needed to implement the establishment and consolidation of approximately 22 kilometres of control lines. The operational staff were preoccupied with dealing with the pressing problems of fire threatening the proposed western control lines on both days."

40

Do you agree with what Mr Bartlett is saying there about what he was faced with on the 11th and 12th?

A. On the 11th January, my recollection is that Mr Bartlett went out to the Bendorra fire somewhere around 9.30 or thereabouts in the morning with the instructions that he is to look at these containment lines and look at them from a

strategic point of view about where they most appropriately go. Once he was satisfied that he had those in place, then he is to take over from Brian Murphy and start implementing those  
5 strategies. He took over from Brian Murphy, I think, at about 1650 on the 11th. So my understanding is that he was there from reasonably early in the morning through to reasonably late in the afternoon doing that exact work.

10

Q. For the benefit of developing those longer-term strategies; is that what you are saying?

A. That's right.

15

Q. We may come back to that when we get more into the chronology. He then in the next paragraph says:

20

"The efficiency and quality of crew briefing and deployment on 12 January were severely hampered by the absence of an incident action plan and related briefing material. This information should be prepared by the  
25 planning section of the incident management team on the previous shift. It is not efficient to expect an incoming incident controller to arrive on the fire, establish the situation regarding the fire and the  
30 resources available and then to deploy the crews quickly. In my experience elsewhere the outgoing incident management team will manage the shift changeover and then hand over to the new incident management team."

35

Perhaps stepping back from what actually occurred on the 12th, would you agree that that is - at least in terms of theory - what is necessary; that is, an incident controller or someone in that  
40 position should be able to turn up at a fire with a clear idea of what the strategies are for the shift that they are about to take control of?

A. I would agree with that.

45

Q. Would you agree that that should be prepared by the planning section of the incident management team?

A. Situation dependent. If we are talking about a fire where it can be managed by the incident controller, then that is what would happen. What would happen at an incident ground is that an  
5 incident controller will start preparing an incident action plan as they are doing their business. Then when they do a handover, they would ordinarily hand over that incident action plan to the incoming incident controller. That  
10 plan that they inherit is then used as the basis for continuing their work. And they further develop that plan throughout the period of their shift.

15 Q. At least until about the 13th there was a forward control point established at Bulls Head - is that about --

A. I'm not sure. I might be corrected on this. I thought it was the 9th or the 10th. I may be  
20 corrected.

Q. In terms of facilities, it is not feasible, is it, for a person who arrives at a fire in a 4-wheel drive vehicle with possibly a pencil -  
25 possibly not - no planning unit, no-one in that role to actually sit down and prepare an incident action plan. You are not seriously suggesting that is something they should be doing?

A. No, I am not suggesting they should be doing  
30 that.

Q. The case of these fires, it is something that needed to come out of the planning unit at Curtin; didn't it?

35 A. That would assist.

Q. Are you aware that there are a number of witnesses who provided statements who say that their role was significantly hampered by the lack  
40 of being provided with incident action plans when they came on shift?

A. No, I wasn't aware of that.

45 Q. Have you had any personnel deferred or talk to you about the lack of incident action plan hampering the commencement of their shifts; has that come up since the fires?

A. I can't recall any specific comments. It may have come up in general conversation. I wouldn't suggest though that it was a frequent comment that I heard. The reason I say that is I just don't 5 recall it coming up.

Q. Just by way of example, Mr Rick Hayes, who was appointed the incident controller on the 17th of January, has provided a statement - document 10 [ESB.AFP.0108.0002] at paragraphs 87 to 91. This is the 17th of January:

"On the 17th of January 2003 I arrived at 15 Bulls Head at approximately 5.00am and awaited crew changeover. I was not advised on the night of the 16th of any details concerning what my tasks or objectives would be. I was waiting to be tasked.

20 While I was waiting in the car, sometime between 5 and 6 I received a call from Phil, (the COMCEN operator). He said words to the effect of 'You're the man today, Rick'. He was laughing. I couldn't believe that I was 25 apparently being appointed incident controller for the whole Bendora fire when I hadn't been there the day before and I had received no strategic or operational or planning information from anyone in relation 30 to the fire. I had no idea where the fire was up to or what was happening. I was advised by Phil that I was taking over from Dave Wassell, who is the deputy captain from Guises Creek. He was the incident controller 35 overnight apparently."

That is not a satisfactory situation; is it?

A. No, it doesn't appear to be a good situation.

40 Q. I can take you to similar references in statements by Odile Arman and Mr Geller who was the incident controller for Bendora on the day shift on 3 January who says - paragraph 29 of his statement - that he was not given an incident 45 action plan or other operational instruction. His instructions were verbal and he had to gather his own maps and resources from Curtin. Ms Arman says

something similar in paragraphs 100-104 of her statement.

5 It simply isn't realistic - is it, Mr Graham - to expect someone who turns up to the fire in those circumstances to be preparing incident action plans and thinking about what the implications of what they are doing might have to other fires for two or three days in advance of the work they are  
10 doing. The best they can do is get an indication if there is an overnight planning team as to what they have to do right in the here and now for the period of their shift; that's right, isn't it?

A. That's right. I would expect that anybody who  
15 was taking over in any capacity on the fire ground would receive a briefing from the person they are relieving about what the current situation was as they knew it and what the expectations were for that person throughout the period of their shift.

20 Q. They can't, can they, if they are arriving in the sort of circumstances that Mr Hayes described be expected to sit down and start writing up an incident action plan; that's not realistic, is it?

25 A. No. I would expect they would have the objectives and strategies in place. They would have an understanding of the units they had been allocated and they would start doing some of their tactical development.

30 Q. That all takes time, doesn't it, Mr Graham?  
A. Yes, it does.

35 Q. Wouldn't it make a lot more sense if all of that was prepared and provided to them so they turned up at the fire with all of that information in their heads without having to go around and ask people or find out from the previous incident controller what resources they are going to have,  
40 and so on?

A. Oh, yeah, there are certainly various ways for that to happen. Having an incident action plan for the period of their shift would certainly help.

45 Q. Are you aware that a number of witnesses who provided statements were also critical of the fact

that there was no overnight planning in relation to the firefight for the period up until the 18th of January; is that something you are aware of?

A. I may have heard something about that.

5

Q. In another part of his statement - paragraphs 85-89 - Mr Bartlett describes how he arrived on the morning of 12 January - perhaps I should bring this up. It is [ESB.AFP.0001.1140] at 1163.

10 Paragraph 85:

"... I radioed COMCEN to determine what resources they had allocated to the Bendorra fire that day."

15

He was told what was allocated. He says:

20

25

30

"Having received this information it took some time to sort out who the crew leaders were on each unit and to resolve some discrepancies about which vehicles were required to return to Canberra with departing night crews. This could only be determined by discussion with the crew leaders from the incoming and outgoing shift, which was rather time consuming. Some time later in the day Southern 11 also arrived at the fire. I also had four dozers ... I decided to appoint Rick Hayes as the operations officer and to assign the available resources into two sectors."

He describes how he allocated the resources. He then says:

35

40

45

"I then briefed the senior officers and incoming crew leaders about the objectives and deployments, as best I could with the information that Neil Cooper had provided. Unfortunately the failure to establish a forward control point impacted on crew deployment that morning, because there were delays and inefficiencies in determining deployments and providing crews with good information. In addition, several crews raised the issue of lack of maps throughout the whole fire event, which make crew briefings very difficult. As I had not given

5           a supply of maps all I could do was use my  
map to explain the current fire situation to  
crew leaders. I was also able to pass on a  
few spare photocopied maps that Hilton Taylor  
had provided to me the previous afternoon  
that showed the tracks and the fire boundary  
24 hours ago. Fortunately I kept my own map  
the whole time" --

10       He says at paragraph 89:

15           "I recall on that particular morning, I  
raised my concerns about the lack of  
operational planning and support for the  
operations staff at Bendora with Tony Graham,  
arguing that we needed a forward control  
point with some planning and logistical  
capability in order to record resource  
movements and to provide the incident  
20       controller with support for monitoring fire  
development and planning suppression tactics  
and overall objectives. He - that's a  
reference to you, Mr Graham - subsequently  
allocated some support staff to come to Bulls  
25       Head, but indicated that they would only be  
available to assist with crew changeovers and  
that the main planning function would  
continue to be undertaken in Curtin."

30       Do you recall that discussion with Mr Graham on  
the morning --

A.       No, I don't specifically recall that  
discussion.

35       Q.      Is it consistent with your approach with the  
way the fire had been managed that you would say  
to him, "The main planning function would continue  
to be undertaken in Curtin"?

A.       Yes, that would be consistent.

40       Q.      In fact the only planning function was in  
Curtin; wasn't it?

A.       That's correct.

45       Q.      What I want to suggest to you is that, in  
reality, although people in out in the field might  
have had the title "incident controller", in fact

because they had in particular no planning function supporting their role in the field with them and had to rely on Curtin for that - the reality is they were fulfilling a role that is at best equivalent to a division commander under the ICS structure; would you agree with that?

A. I could accept that, yes.

Q. And wouldn't it have been better and easier for those in those roles to have understood that that's in fact what they were doing rather than being given the title "incident controller"?

A. I think it's more about what they were required to do rather than the title that we gave them or that they accepted. The role of the senior person out there was to manage the crews and to put in place the necessary strategies and tactics --

Q. Sorry to interrupt you, but can I stop you there. When you say the necessary strategies and tactics to put them in place, are you saying they were also devising the strategies because, as I understood it, before we had drawn the distinction between strategies and tactics - the former being something that was done at a higher level?

A. That's right.

Q. Is it fair to say that the strategies were really being developed out of the SMT - and I understand you to say not without consultation with people in the field but nevertheless determined at IMT or SMT level - but obviously the tactics were being run out in the field; is that how it was working?

A. I think it is fair to say that the tactics were done at the field in all instances. I can't think of a single instance where that wasn't the case. In terms of the strategies, I would suggest it was probably a fairly equal mix of who was devising what. And certainly as the incident was escalating, the development of strategies were being done more in the field than back in Curtin.

Q. The development of strategies?

A. That's right.

Q. Those would have been at best the strategies to deal with what might have confronted the people in the field for their shift. There was very little being done in the field to take things

5 beyond the next shift; was there?

A. No. I guess that's right. Probably the exception would be the day that Tony Bartlett went up - I think it was the 11th - and he had five or six hours, whatever the time frame was, to look a

10 bit at the longer term.

Q. The one effect that it did have, I suggest, Mr Graham, in relation to what was happening was that the people in the field who I think you have

15 agreed for all practical purposes were fulfilling the role more akin to that of a division commander because of the lack of planning support in the field. They were still to some extent being given the responsibility of an incident controller; do

20 you understand the distinction I am drawing? In the sense that they were given a level of decision-making responsibility from time to time beyond their capacity to fulfil that role because of a lack of planning support?

25 A. I'm not sure that that's right. The reason I say that is I'm struggling to think of any times when that was brought to our attention throughout the incident that the lack of a planning person was impacting on the control of the incident at

30 the fire grounds.

Q. There are many references in the witness statements. What you are saying though is that is not something that was brought to your attention

35 or you were conscious of having been brought to your attention very often during the firefight?

A. That's what I am saying. I don't remember that being brought to my attention.

40 Q. I take it you would understand the position of someone in the role of incident controller perhaps being concerned about the fact that they seemed to have responsibility in terms of the sorts of decisions they were being asked to make in the

45 field but not having the direct support of a planning unit or the other things that would normally be there to support the role of an

incident controller?

A. If they felt that the lack of a planning unit was impacting on their incident control capacity, then I would be concerned.

5

Q. The difficulty for them is that, because they were described as incident controller under the ICS, they were in a technical sense ultimately the person responsible if anything went wrong; weren't they?

A. I think in accordance with the legislation, the ultimate responsibility rests with the Chief Fire Control Officer. In terms of the single incidents, yes, that's right.

15

Q. So you could forgive someone in that position being uncomfortable of the fact that, as they understood the incident control system, they were the one that were ultimately going to be criticised if something went wrong; yet they didn't have the planning and other support that would normally be available to an incident controller?

20  
25

A. There wasn't planning support provided at the incident ground with the exception of some briefings.

30

Q. It made that role, I suggest to you, quite difficult for those in the field given the technical responsibility that they had if things went wrong?

A. It may, yes.

35

Q. Have you had an opportunity since the fires to review whether the SMT operated adequately - or should be reviewed for the reasons we have discussed?

40  
45

A. Very much so. In fact, I chair a group that is looking at how ICS is implemented in the ACT. It is a group that I have been chairing now for maybe 6 or 8 months. We haven't yet come to any resolution, and the reason for that is that the Australasian Fire Authorities Council is just about to issue a new manual on the operating system of AIIMS. We need to just make sure that we don't put in place something now that, when this manual is going to be promulgated which I

think is quite literally a matter of only weeks, we don't have to undo something. So this review group continues to meet and look at how ICS should be implemented.

5

We are certainly agreed that we will use AIIMS - ICS as it is intended to be used throughout Australia throughout the emergency service organisations. We are not going to be deviating  
10 from it.

Q. Does that mean in a practical sense in future events, at least of this scale, there won't be a division made between an SMT and sub-units or  
15 sub-IMTs contemplated under that document?

A. Without pre-empting what we might come up with, I think the term SMT might not continue to exist and a complete review of all the roles and the functions of everything at Emergency  
20 Operations Centre at a headquarters like Curtin and those managing in the field will all be under some scrutiny.

Q. What I would like to do now, Mr Graham, is turn to the period leading up to the fires in January 2003. I would like to ask you about some documents relating in particular to the weather conditions leading up to that time and also generally the approach, at least in theory, of the  
30 ESB to firefighting.

You are a member of the Land Managers Fire Liaison Group; is that correct - have I got that name right?

A. The Bushfire Service is a member of the Land Managers Fire Liaison Group. That group now goes by a different name. The service is a member, and I most often went along to the meetings - not in every instance. As an individual I wasn't a member of the group but, as the organisation that I worked for, I was.  
40

Q. Could I ask you to have a look at this document [AUS.AFP.0040.0110] at page 111 - I beg your pardon we will start with the first page. These are minutes of the Land Managers Fire Liaison Group as of 15 August 2002. They show you  
45

as being present?

A. They do.

5 Q. I wanted to ask you about a specific reference over at the top of the second page where there is a section "agency reports" and you will see there "prescribed period". That is the prescribed period in respect of fire danger; is that correct?  
A. That's right.

10

Q. It says:

"Prescribed period may start 1 October.  
Looking at a protracted fire season -normal  
15 fire season runs for 120 days but looking at 180 this fire season. Already have grass fires occurring."

That is in August of 2002. It says:

20

"El Nino is here and it is already worse than that in 1997 and could be worse than 1994. This has dire consequences if it is linked with a particularly windy summer."

25

Is that a report that Mr Lucas-Smith gave at the meeting; do you recall?

A. I don't recall Mr Lucas-Smith was at that meeting. When you showed the people who attended before, I didn't look for his name.

Q. Yourself and Mr Lucas-Smith are apparently the only representatives of ESB there.

A. Okay. I don't remember who made this report 35 in particular; it could have been either of us; we may have both contributed to the report. The way the minutes are written up, it is not differentiated between who made the comments. But at the Land Managers Fire Liaison Group meetings, 40 it would certainly be either or both of us that would talk, give our agency report.

Q. I take it then that, particularly if you were the person speaking, that was certainly something 45 you were aware of at that time in August 2002 of the volatility of the season?

A. That's right. I didn't notice if Rick McRae

was a member of - at that --

Q. He is not included in the list.

A. What would be normal practice is that, if Rick  
5 McRae is not attending the Land Managers Fire  
Liaison Group Meeting, then either Peter  
Lucas-Smith or myself would get from him his  
weather outlook so that we could share that with  
the land managers. Whilst either Peter or myself  
10 may have spoken those words; they may have come  
from Rick. But the outlook that is there I would  
suggest is accurate.

Q. It was something you were aware of in  
15 August 2002?

A. I would think so, yes.

Q. Indeed, there were some fires, were there not,  
early in the season - that is in about  
20 November 2002 - in which you had direct  
involvement on the O'Connor Ridge; is that  
correct?

A. There was.

25 Q. I will just ask you about this document  
[ESB.GSO.0005.0306]. This is an article that  
appeared in the 'Canberra Times' on Tuesday,  
November 5, 2002. It refers to extra volunteers  
being trained:

30                 "As crews spent last night monitoring the  
fire at Namadgi National Park, the ACT  
Bushfire Service warned residents to be  
particularly vigilant, given the prospects of  
35 a hot summer and dry conditions."

Moving a bit further down to the middle of the  
column:

40                 "ACT bushfires services operations manager  
Tony Graham said the fire at Namadgi was the  
first major breakout of the bushfire season,  
and had burnt 12ha since Sunday afternoon.  
The cause was not yet known."

45 Were you just speaking in your capacity as a  
spokesperson there or did you have some direct

involvement in that fire?

A. I wasn't on the fire ground but I would have been at ESB at the time.

5 Q. In your role as operations manager?

A. That's correct.

Q. It goes on to say:

10 "Mr Graham said that the fire meant an early start to the bushfire season and extra volunteers and senior officers were in early training for summer, although conditions were already volatile, with vegetation extra dry  
15 for this time of the year and 60 per cent of the grasses cured.

Mr Graham said these conditions were normally seen about five weeks later in the year."

20  
Do you recall expressing those views at that time?  
A. No, not particularly, but they were the views that I would have expressed to any of the media I would have been in contact with at about that  
25 time.

Q. When you are reported as saying "in five weeks time", that takes us into the middle of January; is that right?

30 A. I don't remember the date of this article.

Q. Sorry, it is November 5, 2002.

A. So we are probably talking middle of December.

35 Q. Yes. Finally you are said to have said:

"He urged residents whose houses backed on to grass and bushland areas to clear the vegetation near their properties.

40 Mr Graham said it was important to prevent fires from getting a hold, and residents should contact emergency services immediately if they saw any smoke."

45 Can we take it from that, at least at that stage, if not generally, you were very conscious of the

need to prevent fires from getting a hold?  
A. That's right.

Q. Indeed, it is the policy of the ESB, perhaps  
5 not a formal policy, but certainly its approach  
historically to attack fires aggressively; isn't  
it?

A. That's right.

10 Q. That was particularly important given the  
extreme volatility of this season?

A. That's right.

15 Q. Did you have an understanding in the period  
leading up to January that a fire that took hold  
in any remote part of the ACT, or indeed any part  
of the ACT, was going to be difficult to control  
given the conditions of that year?

20 A. Potentially. I mean it would be very  
dependent on where it in fact started and things  
like the aspect and slope and the like it may have  
been on. Potentially that is correct, yes.

25 Q. Were you involved in what is known as the  
Namadgi burn scenario exercise towards the end of  
2002? Not ring any bells?

30 A. I'm not sure. The thing is there was a  
scenario that was at about that time that I think  
was part of our pre-season workshop. If that is  
the one you are referring to, then I would have  
been involved in that.

Q. I might ask you to have a look at that  
35 document [DUS.AFP.0001.0601]. As I understand it,  
this is a document that sets out the background  
and the aims and objectives of the scenario. So  
it appears to be a document prepared in advance of  
the scenario exercise and sets out the scenario.  
If I could take you to page 603, the third page of  
40 the document. Am I right so far about this - this  
is the scenario that the exercise was directed at?  
A. I think so, yes.

Q. It says:

45

"It is January 2003. We are in an El Nino  
year.

5           The ACT has just experienced the driest winter/spring and early summer on record. By November the Byram-Keetch drought index was 132, the highest recorded for so early in the fire season. The ACT is experiencing its worst drought on record, with November temperatures averaging 6.4 degrees" --

10          Then there is a reference to the surface litter fuels and areas of Namadgi having been closed to visitors due to the hot, dry conditions. Those conditions, although perhaps a little more extreme, were not unlike the conditions what you were facing in January that year; is that correct?

15          A. I don't remember things like what the Byram-Keetch index was.

Q. I don't think it was that high; but it was in a very high range; you would agree?

20          A. Yes.

Q. What about "worst drought on record"?

25          A. I don't know if that's the case. There could well have been worse; I just don't know. I don't have that kind of detail.

Q. "No significant rainfall since September 2002", that would certainly be the case; wouldn't it?

30          A. That would be the case, yes.

Q. I think you said you were involved in the exercise itself. Were you involved in preparing in any way in relation to the outcomes of the scenario - developing the outcomes?

35          A. I recall that Rick McRae was largely responsible for putting this exercise together and I assisted him in running the exercise on the day.

40          Q. Would you have a look at [AUS.AFP.0035.0019]. There are a couple of documents that seem to set out the outcomes. This is just one of them. Just after setting out the purposes, the very next paragraph reads:

45

"One of the outcomes of the workshop was that, in any fire situation in the Cotter

catchment, the ESB would attack the fire aggressively."

5 You would agree that was one of the outcomes of that scenario exercise?

A. I don't specifically remember that comment being made but I would accept that that would be standard practice.

10 Q. So you say that was the appropriate approach even before this exercise was performed?

A. As a matter of course, we will say we will fight fires aggressively.

15 Q. Presumably that has certainly been reinforced by this exercise?

A. I believe so.

Q. That's something you were aware of as at  
20 January 2003?

A. What, the need to fight fires aggressively?

Q. As a general matter and as the fact that it had been reinforced by this workshop?

25 A. Yes.

Q. I think Mr Lucas-Smith in his evidence, just dealing with the question I asked you before, at pages 786 to 7 of the transcript when asked about these conditions - I can't find the reference at the moment, Mr Graham. I might return to that later.

I think you agreed earlier with the general  
35 proposition that, given the conditions you were facing in January, a fire started by a lightning strike or indeed any other way during that sort of weather condition was going to be difficult to imagine, particularly one in a remote area; do you agree with that as a general proposition?

A. I would agree that it potentially might be difficult to manage. But going back to the point I was trying to make a little bit earlier, it's a bit situation dependent on the location of the fire. But as a general principle, I agree with that.

Q. Just one final question dealing with the pre-season. Mr Lucas-Smith has told us in evidence about various different degrees of readiness and the appropriate responses and what's done depending on whether it is an orange or red or so on. Just dealing specifically with the issue of heavy plant bulldozers and graders, are you aware as to whether anything over and above the standard readiness arrangements were in place before January 2003 to deal with the extreme - or in recognition of the extreme conditions that were prevailing at that time?

A. No, I don't recall what we had done in terms of plant in preparation for that season.

15

Q. So we can assume, can we, that whatever was done was consistent with just the standard level of readiness and there was nothing extra or in addition done to prepare?

A. I don't think that we had contracted or in any way obligated anybody to provide us with any plant. But I do believe that David Ingram had made contact with several providers of plant around the territory to determine their availability if required.

Q. In terms of not only arranging contracts but also just the physical locating of dozers in and around areas where these sorts of problems might arise, was there anything, as far as you are aware, done to make a rapid response by say first attack dozer or indeed any heavy plant - anything special done in recognition of the conditions of that time?

A. To be sure, I'd have to look at an MOU we had in place for that season with the Department of Urban Services, and I can't be sure now because it had different MOUs over the years and I might mix one up with another. I think we had an arrangement in place whereby any plants they had working in their estate for whatever purposes would be available to us for firefighting purposes, if required. I am fairly certain that is in that MOU.

45

Q. You would understand, would you not, the value, particularly in a fire starting in a remote

area, of having heavy plant available at the earliest opportunity?

A. Yes, I do.

5 MR WOODWARD: I was about to start moving on to the events of the 8th. If that is a convenient time?

THE CORONER: That is a convenient time to  
10 adjourn. We will adjourn until tomorrow morning at 10 o'clock.

**MATTER ADJOURNED AT 4PM UNTIL WEDNESDAY,  
24 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 28

Wednesday, 24 March 2004

<ANTHONY JAMES GRAHAM, RESWORN

5 <EXAMINATION-IN-CHIEF BY MR WOODWARD CONTINUING

MR WOODWARD: Q. Mr Graham, just before I move on to the specific events commencing on 8 January, I might ask you some general questions about the way  
10 certain procedures were approached. So far as yourself was concerned that morning, you were the duty officer on - I am not sure what the expression is - the nominated --  
A. I was the rostered officer duty for that day,  
15 that's right.

Q. Ordinarily in that role, if an emergency of some kind occurs, you slot into the position of operations manager in respect of that emergency;  
20 is that how it normally works?

A. Certainly for an event of the magnitude that we had - no, I might just clarify this a little. If it is a relatively minor incident then the duty co-ordinator, whoever that might be, will manage  
25 that incident by him or herself without any external assistance. When they need external assistance, then they will call for it from somebody else.

30 So if I wasn't the duty co-ordinator and somebody else was, they would in fact from a Service Management Team point of view fulfil the roles of operations and incident control and planning and logistics. When we get to a major event when a  
35 full Service Management Team is established, I would ordinarily fill the operations officer role.

Q. Is there some protocol in relation to the way you would move into that operational role or is  
40 that something that tends to happen?

A. There is no document which describes as we scale up what are the trigger points as such. But the Service Management Team document that we had a look at yesterday describes my role as filling  
45 operations officer role when that Service Management Team is established.

Q. Ordinarily under formal ICS it is the incident controller of that would generally appoint people to operational positions. Is it the case that, although there is no formal appointment, you automatically move into that position. The incident controller in this case, Mr Lucas-Smith, would be in a position to in effect overrule that ordinary operation?

A. Yes, if Mr Lucas-Smith wanted somebody else to fill the operations officer role as an alternate or instead of myself, he would certainly do that.

Q. Is that the same position with the other primary operational roles planning and logistics, they ordinarily would be filled by Mr McRae and Mr Ingram respectively but Mr Lucas-Smith was in a position, if he chose to do so, to put other people into those roles?

A. That's correct.

Q. Getting down to the next level in relation to people fulfilling roles as incident controller in the field, how is that determined?

A. We've got a standard operating procedure which describes the different readiness levels. They equate to the fire danger of the day. The different readiness levels which units will stand up. We have a memorandum of understanding about the number of officers that will stand up when the readiness level is set in the afternoon for the following day and then is confirmed in the morning.

When that readiness level is confirmed, the officers that are available for immediate response, they radio in to our communications centre and let them know they are available and let them know where their location is. So if we need them to respond we know immediately who we can respond in the first instance, and then obviously if we need people to respond past that then we can go through other arrangements to get additional people.

Q. In a more direct sense, who is it that actually identifies the individuals? I appreciate you use call signs, a call sign will relate to an

individual. Who is it who says, "I am going to send Odile Arman Parks 1 to Bendora". How is that decision made?

A. The land managers are those who decide who the duty officers will be for the day. Depending on the readiness level will depend on which officer is responded. If it is a yellow readiness level or above, the communications centre operator will make the initial response without reference to the duty co-ordinator. If it is below yellow readiness - and yellow is at the high mark on the scale, it goes up to extreme - if it is below yellow readiness then contact is made with the duty co-ordinator who will determine who should go in the first instance.

Q. On 8 January, it was an orange readiness day; is that correct?

A. That's correct.

Q. What are the procedures in place to deal with allocating officers under that readiness level?

A. The communications centre operator will make that call in the first instance.

Q. Presumably there is more than one person out there who is standing up and in a position to fulfil the role, say, as incident controller in an event. How do they select between those who are available?

A. It would be nearest and appropriate. So if there is an event nearby where an officer is standing by, then they will be the person who is responded immediately.

Q. That could be, as I understand it, someone either from ACT Parks or from Forests?

A. That's correct - or it could also be a member of our volunteer brigades if we had an officer standing up.

Q. Assuming all other things being equal, say not a significant issue so far as distance is concerned and you have other officers, is there any reason why you might, for instance, choose someone from Parks over someone from Forests or someone from a volunteer brigade over either or

both of those?

5 A. Our preference is if we know the fire is on land managed by one of the particular land management agencies, so if the information we are getting is enough to satisfy ourselves that that is the case, then our preference is we will send an officer from the agency whose land is being affected. We wouldn't do that though to the detriment of a delayed response.

10

So if there was a fire on Parks and conservation land but the closest officer available was either a volunteer or a member or an officer from ACT Forests, then they would certainly go.

15

Q. Obviously a volunteer being a volunteer, there are no direct financial implications in relation to choosing a response from a volunteer. Perhaps including the volunteers, is there any difference 20 in the financial implications; that is, the cost to ESB of a particular choice as between those options?

A. Categorically not. We don't factor that into our thinking at all as to who we would send to 25 fires.

Q. I appreciate you say it is not a factor that you take into account. To complete the question, is there in fact a different cost consequence to 30 ESB in choosing one over the other?

A. The arrangements have now changed. The arrangements in place at that time were that ACT Forests were paid for incident response. So if we had ACT Forests crews at a fire outside standard 35 hours then their people would get paid and we would be responsible for making good that payment. That wasn't the same case with Parks and Conservation.

40 Q. With volunteers, I assume --

A. No, no payment system existed.

Q. It was only ACT Forests that had a direct consequence if they were chosen to respond?

45 A. That was correct. That was the case as at January, but it is no longer the case.

Q. What is the position now?

A. There is no reimbursement by Bushfire Service to ACT Forests any more. Different funding arrangements that the government has brought in place now is the reason behind that.

Q. That's the reason behind the change?

A. That's correct.

10 Q. Dealing with the events of the 8th, as I understand what you are saying, the decision to send in particular Odile Arman as the incident controller first responding to the Bendora fire, you say that was a decision made effectively by  
15 COMCEN based on those arrangements you have described; is that right?

A. I don't recall with too much clarity, but Odile Arman wasn't the first parks officer selected. In fact Brett McNamara, he's with parks service, he was selected in the first instance. He advised us that he was down the southern end of Namadgi National Park and he had a delayed response time if he was going to go to that fire. It was two or three minutes later that Odile got  
25 the call that she should respond.

I don't know that this is entirely accurate but I believe that I probably made that call rather than the COMCEN operator.

30 Q. In any case, when that occurs it is presumably something you would be aware of relatively quickly in a circumstance like this as the duty co-ordinator, in a personal sense, which  
35 individuals are going out to the fire; is that something you would be aware of reasonably quickly?

A. That's right. If we are not in the communications centre or nearby at the time when  
40 the decision is made, then the COMCEN operator will contact us in every instance by telephone and let us know what is occurring.

45 Q. When you get that information from the COMCEN officer about who is going out there, do you have any understanding yourself personally of the level of experience and training of the people that are

physically going to be out there?

5 A. Probably for some people I would have a fair understanding, given that I have been working with these people now for seven and a half years or thereabouts and over time you get to know what people have done and what experiences that they have had. I don't have anything in any kind of formal way which says person X has done this and person Y has done something else.

10

Q. So to the extent that you don't have personal knowledge, is it the case that you rely on the fact that the land managers presumably in conjunction with ESB are aware that that person 15 has been appointed to a particular level within their organisation and is, for instance, accredited as an incident controller; is that how it works?

A. On the basis that the land manager has 20 nominated somebody to be a brigade officer, we will accept that they have got the necessary skills and background to fulfil that role. Then the Bushfire Council is obligated to endorse all nominations; so name by name they go before 25 Bushfire Council to seek that endorsement.

Q. When you say they are obligated, do you mean 30 that it is just a rubber-stamping exercise or they have to be satisfied that the person in addition to being appointed say as a captain within their own area also has the necessary accreditations?

A. I've never observed the process that the 35 Bushfire Council undertakes when they receive the names. I don't know whether or not they delve into any detail about particular individuals.

Q. Do you have an understanding about the level 40 of ICS qualifications of someone who is appointed to a position, I think you said of captain of a brigade within, for example, ACT Parks?

A. I would need to have a look at a training database to find out the ICS qualifications of the people. But I would work on the basis that they 45 all received some ICS training.

45

Q. So what you go on is their rank within the organisation not on any information - that is, you

5 go on an assumption that they have been appointed to that rank and therefore capable of fulfilling that role. There is no process for actually confirming that they have got any particular level

5 of accreditation under ICS?

A. There is no process that I personally apply to that, no.

10 Q. In relation to again the general question, in a case where, as was the case here - and we will come to this of course - there was an issue of overnight deployment, did the arrangements differ at all as to how that is determined in terms of people responding; how people are selected who

15 might be involved in overnight deployment to fire event?

A. We are talking crews or we are still talking officers?

20 Q. Officers perhaps.

A. I guess the answer is much the same. Before anybody undertakes any task, we want them to be coming through a criteria: (1) that they need to be trained for the function they are going to do; (2) they need to be equipped; and (3) they need to be at the appropriate fitness standard to allow them to do that.

30 Q. Is it the case that you satisfy yourself about those three things simply based on the position, the hierarchy that that person has within their own organisation; is that how it works?

A. That's correct. We work that if somebody has been asked to respond to an incident, they meet

35 that criteria. The obligation is upon them to advise us whether or not they are able to perform the function that we have asked them to do.

40 Q. In relation to the issue of overnight incident management teams or service management teams, what's the procedure in relation to arranging to have IMT positions filled overnight at Curtin?

A. I don't know that there is anything written as such but, as a general principle, if we have got

45 crews in the field overnight then particularly if there is a number of crews we will have someone in Curtin overnight available to assist and guide and

do whatever the crews in the field might need. That person that we have at Curtin would ordinarily be somebody who is an officer within our system or may have been an officer in the past 5 but have chosen not to be an officer any more or they are somebody that we have the confidence in that they can fulfil the task.

As long as they are in there at night and the duty 10 coordinator isn't there, the duty co-ordinator is still contactable. So if there are ever any issues that are outside anybody's expertise or understanding to answer, then they can call the duty co-ordinator to seek advice.

15 Q. In the case where there is simply one person there overnight, are they also described as the duty co-ordinator for that night shift; is that how it works?

20 A. That is not the way I would describe them. The duty co-ordinator arrangements that we have in place would still remain. The duty co-ordinator would still be contactable by that person in at Curtin, if required.

25 Q. Does that person have a title for the position they are fulfilling overnight; how would you describe that?

30 A. I would describe it as fulfilling the Service Management Team functions on behalf of the Service Management Team.

Q. That's a bit of a misnomer there. You can't really refer to an individual as a team; so is it 35 as you say that they are there to fulfil whatever functions they can?

A. I guess it just depends a little bit on how you look at it. If you look at incident management teams and we look at ICS, there are 40 four key roles and then underneath those key roles there are various units. If you look at logistics for instance, it has eight units, and within each of those eight units there are a number of different functions to be performed.

45 I would suggest that all of those people are fulfilling a role within an Incident Management

Team or a Service Management Team. On that basis I would suggest that the comms operators are a part of the Service Management Team, albeit not in a decision-making role but nevertheless a part of 5 the team; as is the duty co-ordinator who may not be present in the operations centre at the time but certainly is part of the team insofar as they are contactable and provide guidance and advice if required.

10

Q. Mr Lucas-Smith was asked some questions about overnight incident management teams. Perhaps while I am looking it up, Mr Graham, you refer to the fact that the SMT has four primary functional 15 roles which are incident controller, operations, planning and logistics?

A. That's right.

Q. It is not realistic, is it, I would suggest, 20 for a person on their own assisted by some radio operators to fulfil all of those roles during a night-time - during an evening, is it - during the night?

A. That's the system that we have actually 25 employed on a number of occasions with success without any detriment at all, I would suggest, to the firefighting activities on the ground.

Q. But isn't it the case that people in that role 30 are essentially fulfilling an operational role, aren't they; that's what they are doing?

A. I would suggest that's their key focus. Just as an example, if there was a requirement for some logistic support out in the field throughout the 35 period of duty, then they are the person who would also organise that.

Q. What about planning?

A. Well, similarly, if there was a planning 40 function that needed to be undertaken, they are the person who is there to do that.

Q. What I am suggesting to you is they may, in a theoretical sense, be the person there to do it 45 but it is just not realistic to expect them to fulfil a planning function and do the sorts of things that a planning team needs - that sometimes

three or four people in a planning team need to do?

5 A. I would agree it would be difficult, depending on the activity on the fire ground. But very often throughout the night the activity is somewhat quieter and therefore the heightened activity in the communications centre isn't there either.

10 Q. Mr Lucas-Smith said at page 957 - when he was asked about this, he seemed to be uncertain as to how many people were in the IMT overnight. It was suggested to him that Mr Jamison was effectively the only person there. He responded at line 8:

15 A. I don't know. I certainly don't recall. There was certainly radio operators and stuff like that.

20 "Q. But they were not part of the Incident Management Team, were they?

A. No, they certainly weren't."

He seemed to take the view at least that it  
25 wouldn't be appropriate to describe radio operators as part of an Incident Management Team. I mean, they are not fulfilling a functional role; are they?

30 A. Communications is the provision of communications equipment and message taking, and dispatching is a function of ICS. I guess it just depends on how you look at it, whether everybody involved in the incident management regardless of their role is a part of the Incident Management  
35 Team or do you just focus on those key areas.

Q. Certainly if you focus on the key areas - that is planning, logistics, operations - they may be a component within one of those areas. You say they  
40 may be asked to get on the radio and arrange some additional logistical support, but they are not fulfilling one of those upper level functional roles; are they?

A. No, certainly not.

45 Q. In fact it is the case, isn't it, that certainly during this event up to and including

18 January it was really not possible and indeed did not occur that anyone was fulfilling a functional role - the planning role overnight.

There was no overnight planning done; was there?

5 A. I'm not sure about the 17th. I would agree with your statement up until the 17th and I would need to refer to records to confirm the 17th. But I certainly believe up until the 16th that's true.

10 Q. Mr McNamara in his statement [ESB.AFP.0103.0052] at paragraph 78 says on the 16th at least he was tasked as the overnight operations manager:

15 "I was to be tasked as the overnight operations manager."

So you wouldn't agree that that was strictly the role that he was fulfilling; is that what you say 20 about that?

A. I would suggest that he wouldn't have been operations manager. He may have been referring to the operations officer. The operations manager is a functional title that I wear in my normal 25 business. Operations officer would be more correct. In the absence of anybody fulfilling the incident control role, he would have the responsibility for all decision-making throughout the evening.

30 Q. To be an operations officer in the way you describe it is to be distinguished from the planning officer and the logistics officer; isn't it?

35 A. That's true. But back to my comment before, if there was a logistics function to be performed, then he is the one who would be performing that.

Q. What he says about the night of the 16th is:

40 "Calling it an operations manager is probably an overstatement of the responsibilities I was actually intended to fulfil overnight. Tony Graham instructed me that I was expected 45 to record the reports of radio communications overnight and provide him with an update the next morning regarding the progress overnight

of the on-the-ground operations. This was intended to provide some sort of link between the outgoing team and the incoming team. It was not, however, intended to provide complete and comprehensive service in terms of the incident management or planning and logistics on an overnight basis, one person could not perform all those duties."

10 Do you agree with his remarks?

A. I accept that I may have given him those instructions in terms of the recording of information. That would be the kind of thing that I would ordinarily do. If he didn't expect that 15 he would be performing a logistics function, I think that I would have expected that he would. If a request from the field came in throughout the period of his duty, I would expect that he would fulfil that request.

20

Q. What about planning?

A. I'm talking probably more primarily logistics than planning.

25 Q. You say you are not clear on the Friday night the 17th, but you would agree that, for every other night during that period up to the 17th, there was no planning function completed overnight. That's right; isn't it?

30 A. I would agree there was no planning officer appointed overnight. That could very well have been the case for the 17th. I'm just not sure.

35 Q. I referred you to some references yesterday about the lack of overnight planning meant - perhaps if I put it another way around. If there is an overnight planning unit they are in a position to formulate incident action plans and to develop up-to-date maps and so on and have those 40 on the fire ground ready to go as soon as the first shift arrives for that morning. That's right; isn't it?

A. That's right.

45 Q. Conversely, if you don't have an overnight planning team, all of those things have to be done in the morning and you are not in the ideal

position where you are hitting the ground running;  
are you?

A. That's right.

5 Q. That was a difficulty during the period from  
the 8th to the 18th, I would suggest to you, where  
teams were turning up and having to basically -  
they would get a briefing perhaps if there was an  
overnight incident controller but there would be  
10 some time taken up with teams being tasked, maps  
being gathered from somewhere and so on, and that  
slowed things down?

A. Often the overnight incident controller would  
come into Curtin for a briefing from myself at  
15 about 1630 hours. Once they received that  
briefing, they would then go out on to the  
incident ground for their handover and then  
perform the overnight incident controller role.  
That was the opportunity for them to get whatever  
20 information in terms of planning and maps that  
they needed.

Now I didn't certainly specifically hand over any  
of those to them. Whether or not the planning  
25 section did provide that information, I'm not  
sure.

Q. Certainly, ideally you would agree it is not  
really the role of the people being tasked out  
30 into the field to go around hunting for that kind  
of information. It should be there available to  
them as part of their briefing process, shouldn't  
it?

A. It certainly should be available to them, I  
35 would agree with that.

Q. Mr Hilton Taylor, who you are aware was  
actively involved in the planning unit throughout  
the firefight - his statement is  
40 [ESB.AFP.0108.0076]. I will put some things that  
he said to you and ask you to comment on them. At  
0079 at the bottom of the page he is describing  
generally his role having been appointed to the  
situation unit. He says:

45

"Although I knew the function of the  
situation unit, it was unclear to me how

information was disseminated from the unit and I couldn't follow how the incident control system was functioning around me.  
5 For example, there was an incident controller in the field, with one IC for each fire, but it appeared there was also an incident controller back at ESB which made it up clear to me who we were working and reporting to. It was also not clear to me how or whether  
10 information that we provided to the planning officer, Mr McRae, and through him to the SMT, was getting through to the incident controllers in the field."

15 Q. Are you aware how the information that was being developed in the situation unit was getting out to the incident controllers in the field?

A. No, I'm not. Other than the briefing that I would have given the incident controllers prior to them going out to the field, I'm not aware that the planning section or the situation unit within the planning section provided any other briefing that might have given this information.  
20

25 Q. We spoke yesterday about how important it is when you are fulfilling particularly a formal incident controller role to have input from planning so you know not so much about "this is what has happened overnight", for example, and "this is what I want you to carry on with"; but you have someone there telling you that if you don't succeed with this particular task then this is what is going to occur and tomorrow this will mean something else. So it is that forward  
30 looking that is lacking from that process; isn't it?  
35

A. That's right.

Q. He talks in paragraph 19 about some of the  
40 formal structures associated with ICS. In paragraph 20 he says:

"Another thing that confused me was the relationship between each Incident Management Team and the Service Management Team. Information flowed out of what should have been Incident Management Team meetings, but  
45

were in fact Service Management Team meetings. The boundaries were often blurry with some of the SMT meetings becoming very large with senior personnel and politicians.

5

On 8 and 9 January, and for some period after that, I think, difficulties arose because there was no overnight planning, and so no incident action plans were in place for the day shifts in the field which started work at 6am. The incident controllers in the field in charge of these crews had to work it out that morning from what they could see and what was reported to them from ESB. I think this created some real delays in getting things under way each morning on those days."

10

15

I think that was the point we were discussing before. Do you agree that was a problem at least in the early days?

A. It wasn't possible to have an incident action plan on the 8th, which is what I am suggesting Mr Taylor is recommending there.

20

25

Q. I think clearly on the 8th everyone understands that there is a lot of knowledge that needs to be gathered and it is very difficult to create an incident action plan certainly until perhaps overnight. But he seems to be saying on

30

the 8th and the 9th and for some period after that there were difficulties because of no overnight planning.

A.

In some instances an incident action plan will be verbal. They are not always a written

35

document. Certainly as an incident escalates there will be a written document, but in the early stages that is not always the case.

Q.

40 Do you agree that it does assist the process particularly of briefing and handover to have a written incident action plan available to particularly the people coming on shift?

A. Yes, I do agree with that.

45

Q. And so to the extent that that wasn't happening say on and after the 9th, that's a deficiency in the structures that were in place.

Would you agree with that?

A. Yes, I would.

Q. I should just double check this with you:

5 Mr Lucas-Smith at I think page 959 of the transcript says it was the operations officer, I assume by that he meant you, that was responsible for co-ordinating. He says at line 10 on page 959 in the transcript:

10

"It was really the operations officer as co-ordinator of that and that was really a handover of that operation role responsibility."

15

I think what he is saying is it is the role of the outgoing operations officer to brief the incoming night operations officer/duty co-ordinator; you would agree with that?

20

A. Just to be sure I understand what you are saying, when I was finishing for the day and somebody was coming into the SMT to be there overnight I would give that briefing. Is that your question?

25

Q. That's what he seems to be saying?

A. Yes, I would agree with that.

30

Q. What about the broader question, Mr Graham, of whose responsibility is it to decide that, "Look we do need some additional personnel overnight to do some overnight planning" or something of that kind; whose responsibility is that?

35

A. I would suggest that it is a team responsibility. The Service Management Team would determine what their requirements were for overnight resourcing, with the incident controller having the ultimate say in the make-up of that team in terms of numbers and maybe even people.

40

Q. Was that to your knowledge or recollection - I am talking about the overnight SMT not overnight deployment to the fires at this point - discussed at any time between the 8th and 18th of January?

45

A. Yes, it was. My recollection is that it was discussed on the 9th whether or not there was a need, and then again on the 10th. It was because

of that discussion on the 10th we agreed to have people in there overnight which coincided with when we were going to have large numbers of people in the field overnight.

5

Q. That was effectively - up until at least the 16th - Mr Jamison overnight; is that right?

A. Not him personally but to ensure that there was somebody of his skills in overnight.

10

Q. But was there any discussion about having additional personnel, for example, someone in a discrete planning function overnight?

15

A. I don't believe so. I certainly don't remember any discussion about that.

Q. Were you aware on a day-to-day basis who was actually in the SMT at Curtin, I suppose to use --

20

A. I would know throughout the day who would be coming in that evening to fulfil that role.

25

Q. You would have known throughout the period that there was no-one other than that person - that is in the period up until the 17th - and the radio operators you described in at Curtin overnight?

A. That's right, yes.

30

Q. Is that something you would expect Mr Lucas-Smith to know as well?

A. I would expect he would know that.

35

Q. He was unclear about whether there was anyone else in - having said that the radio operators at least in his view didn't constitute part of the overnight Service Management Team, he said at line 20 on page 959 he suspected that. It was put to him:

40

"Q. You have no idea one way or the other whether it was a team of people or whether it was one person?

"A. I certainly suspect it was more than one person.

45

"Q. Putting aside the radio operators?

"A. That is my point. I don't know who the

others were."

He seemed quite unclear as to whether or not there was someone, putting aside the radio operators,  
5 apart from the one operations officer. Did that surprise you?

MR LAKATOS: I object to that question. This witness is giving his evidence as to what he  
10 understood. He has been taken to what Mr Lucas-Smith has said. Now he is being asked to comment on what somebody else said as to what he thought or did or knew. In my submission, his impressions of someone else's evidence on this  
15 point is really not helpful. It is objectionable.

THE CORONER: It is not a matter for objection,  
Mr Lakatos. If Mr Graham is comfortable in  
commenting on it, he can comment on it.  
20

MR LAKATOS: May it please your Worship.

MR WOODWARD: Q. It is something that you would expect the incident controller to be aware of,  
25 wouldn't you, that is who is op staff overnight - not the individual but certainly the roles?

A. Yes. I believe that the incident controller should know that.

30 Q. Mr Lucas-Smith at page 961 was asked:

"Q. Why wouldn't there have been a planning section overnight?

35 "A. I could only assume it is a resourcing issue."

That is at line 15. Do you have any explanation as to why there was no planning section or an individual in a planning role overnight?

40 A. No, I don't have any explanation. I'm not sure that, if you asked Mr McRae the same question, whether or not he might in fact say that there was somebody there in that planning section overnight. I don't know that that is the case. I  
45 certainly know from an operations point of view that we had somebody in the operations room. But, I'm just not 100 per cent sure what Mr McRae may

have set up in the planning cell, which is remote from the operations centre.

Q. We can ask him about that. If a decision had  
5 been made that there should be someone in a planning role overnight, would it have been possible to find someone to fulfil that role?  
A. I believe so. We've put a lot of people through planning training over the last couple of  
10 years. I would expect that at least one of those would have been available.

Q. I accept we are in the hypothetical but just as a general question: you think Mr McRae may have  
15 made some arrangements. Where would you have expected that the impetus, if I can put it that way, for the appointment of a planning unit, even if it were only one person overnight, should have come from? Where do you say that should have come  
20 from?

A. Look, it could be various levels. It could be a recognition that the crews out in the field weren't getting the planning support that they needed. It could be a recognition from Mr McRae  
25 himself, who is a very experienced planning officer, that there was a need for that 24-hour presence. It could have been the incident controller Mr Lucas-Smith, or indeed anybody else who was involved in the incident may well have  
30 recognised that need. So I don't think it would rest with one individual.

Q. Did you have a sense - you refer to crews in the field weren't getting the planning support  
35 they needed, can you recall being aware at any point between 8 and 18 January as to whether people were communicating a problem along those lines?

A. I'm not aware that happened. Certainly  
40 nothing comes to mind immediately about that.

Q. So far as you can recall nothing was brought to your attention?

A. Not that I can recall at this moment, no.

45 Q. If it had been, you would have acted on it; wouldn't you?

A. If it had been, I would have spoken I think in the first instance to Mr McRae about this.

5 Q. On the 8th of January, Mr Graham, you were, as I think you have already said, the duty co-ordinator. You say in your statement at paragraph 8 that you were in a meeting with Mr Lucas-Smith when he was advised by COMCEN that there were a number of lightning strikes reported  
10 by the fire towers?

A. I actually say I was advised by COMCEN about these fires, not by Mr Lucas-Smith.

15 Q. I am sorry, you were advised by COMCEN. You say:

20 "While at a meeting with Peter Lucas-Smith and others, I was advised by COMCEN at about 1520hrs that a number of lightning strikes had been reported by our fire towers."

Your first knowledge of the lightning strikes was at 3.20 in the afternoon?

25 A. That's an approximate. I don't have a precise time but I would suggest it was fairly close to that time.

30 Q. And ordinarily that is something that you in your role as the duty co-ordinator for the day would be told almost before anybody else once the fire towers were reporting in to COMCEN that that was occurring; is that right?

A. That's right.

35 Q. You would expect to be notified within minutes of the fire towers actually reporting?

A. That's right.

40 Q. There was then, as I think you describe in paragraph 9, some discussion and follow-up on the information you were receiving from COMCEN, who in turn were getting sightings from fire towers; is that right?

A. That's right.

45 Q. Within a relatively short period of time, you say in paragraph 13:

5                   " At 1603 hours the COMCEN operator, following my instructions, deployed the nearest and most appropriate units, being the Forests Brigade units, Forests 7 (Cliff Stevens), 15 and 25 --

15 is a light unit; is that correct?

A. No, 15 is a heavy tankers.

10 Q. And 25 is the light unit?

A. That's correct.

Q. You say:

15                  "A short time later, I also responded Gungahlin 20."

And that's another light unit?

20 A. That's right.

Q. And Parks 12 and 22. And that's again a light unit and a tanker?

A. That's right.

25

Q. And a little later on the captain of parks brigade, Odile Arman, as the field incident controller. So by 4.30 that afternoon you had responded or caused to be responded two tankers; three light units; Mr Stevens, who was in a vehicle by himself; and Ms Arman, who was similarly in a vehicle by herself; is that correct?

30                  A. I think those times are about right. I think it is important to note that 'Firebird 7', a contracted helicopter, had also responded at that time and indeed had a dual role - one for observation and secondly for water bombing.

40                  Q. I appreciate that at that time, Mr Graham, you were no doubt thinking about immediate issues such as the appropriate units and numbers to be deployed to the fires because you were also deploying to the other fires. But I would like, 45 if I could, to get a sense from you as to what you were starting to think at that stage about what these fires or what these reports might mean and

whether you were starting to give some thought to slightly longer-term planning at that point?

A. The issue we are facing at that time was that we knew there had been a large number of lightning strikes throughout the Brindabella Ranges and in nearby New South Wales. I guess one of our key concerns was whether or not we were going to get more smoke sightings over and above those that we knew were already in place. So that was one of our key focuses at that point.

Q. Thinking about the fires you actually knew about at that stage - and I appreciate the knowledge was not detailed at all, you just knew about the smoke sightings - you knew about the extreme season that you were facing at that stage and you had had problems in that November with the fire, indicating to you how volatile the conditions were; is that correct?

A. That's right.

Q. You knew, didn't you, at that time that the fires were in a remote part of the ACT and may be difficult to get access to. Did you have that sense?

A. Certainly remote as in some distance from urban Canberra. That was without any doubt. But we didn't know exactly where they were, whether or not they were alongside a major fire trail or a minor fire trail or in fact some distance from any of those.

Q. If, as one would expect, the smoke sightings were a developing fire that was an assumption I assume you made at that stage?

A. That's correct, yes.

Q. Under the conditions they were going to develop relatively quickly, weren't they? The right of spread under those with the drought factors and so on was going to be a reasonably high rate of spread at that stage?

A. That was certainly likely. But I don't know that you would categorically say that. There was certainly - if the fires, for instance, had have been ignited in wet gully lines then they may not have travelled very far or very fast. Generally

speaking, I think you are right.

Q. Certainly you wouldn't be assuming the best, would you? You would at that stage be assuming  
5 that you were going to have a bit of a problem on your hands; that's the way you would approach it?

A. I don't necessarily know we would be assuming that there would be a problem. We would know that we had some fires we had to deal with and whether  
10 or not they panned out to be a problem is something that I don't know we were giving any consideration to at that immediate time.

Q. Well, with those factors that you agreed you would have had in your mind, what sort of longer-term thinking were you giving to the fires at that stage? Were you thinking about what was going to be necessary the following day?

A. No. You are still talking about, I assume,  
20 the 1630 time frame or thereabouts?

Q. Let's say over the next hour or so.

A. No. I think what we were more wanting was to get crews onto the incident ground so we could get  
25 some situation reports. We were getting some from the helicopter but they are a little bit limited by visibility and tree height and the like and can't always be entirely accurate. It is necessary to get some ground proofing done by the  
30 responding ground crews, so we have a more accurate picture of what is happening.

Q. You say in paragraph 18 that you were receiving reports, that is taking the Bendora fire  
35 for the moment, on an initial reconnaissance and assessment of the Bendora fire. You refer to that in paragraph 18. I think Mr Ingram in his statement, I will go to it if it assists - I think his assessment which was he radioed in at about  
40 1655 that the Bendora fire was about 100 square metres with a flame height of about 1 to 2 metres; is that consistent with your recollection? Is that something you were aware of at about 1700 on the 8th? You have got the radio transcripts  
45 there, have you, Mr Graham?

A. These aren't the entire transcripts. These are what I have extracted which I thought might be

relevant for the inquiry.

Q. By all means refer to those.

A. I don't have anything at about 1700. It may  
5 have been that I have just missed it in the comms  
transcripts.

Q. I will just check precisely what Mr Ingram  
does say. In his statement at paragraph 7, he  
10 says he took off at 1540 hours on 'Firebird 7'.  
He was instructed to do that by you; wasn't he?  
He was sent there by you.

A. That's correct.

15 Q. He went first to Stockyard Spur fire. I will  
bring it up on the screen. His statement is  
[ESB.AFP.0111.0291]. At 0292 he talks about being  
tasked to go on 'Firebird 7'. Incidentally, is  
there any particular reason you chose Mr Ingram  
20 for that task?

A. He's a qualified air observer. We don't have  
many qualified air observers. What I wanted was  
somebody who was qualified and experienced rather  
than just experienced to go and have a look from  
25 this first instance.

Q. Paragraph 9 - we are focusing on the Bendorra  
fire - he says:

30 "We then flew north to the second fire (now  
known as the Bendorra fire) again flying  
directly over the top of the fire's location,  
giving a reference of 643786 at 1602. Again  
this information was conveyed to me by the  
35 pilot - that is the grid reference - and  
transmitted to ESB. The Bendorra fire at this  
time was described as being about 100 metres  
down from a ridgeline and burning mainly on  
the ground and not yet up into the tree  
40 canopy."

He suggested that water bombing would be required  
before the previous one:

45 "However, at 1605 we were then instructed by  
the duty commander (Tony Graham) to commence  
water-bombing operations on the Stockyard

Spur fire."

Does that accord with your recollection?

5 A. I don't remember the comment that Mr Ingram is saying that he made there that the fire would require water bombing before the previous one.

Q. He then describes going back over the Stockyard Fire in paragraph 10. In the last three 10 lines of that paragraph, he says:

15 "... reported at 1646hrs that it was now 70 square metres in circumference with flame height now of one to one-and-a-half metres. It was burning in a hollow and moving very slowly up the hill, being Stockyard Spur itself."

Paragraph 11:

20 Q. "We then returned to the Bendorra fire and at 1655 we reported that this fire was about 100 square metres with flame height about one to two metres and burning very slowly uphill 25 at that stage."

You say you haven't found the transcript reference in the radio transcripts?

30 A. It is certainly not something I extracted from the transcripts and put into my notes. It could well be there. Maybe I just overlooked that.

Q. Do you recall having a recollection at about 35 that time - 4.30/5 o'clock - that Bendorra fire was of that kind of dimension, about a hectare?

A. If it is 100 square metres, it is much less. A hectare is 10,000 square metres, so we are talking very small. I recall that the fire at about that time was fairly small in size but I 40 don't recall its particular size.

Q. At that stage you say you weren't - because you needed more information - thinking much beyond the immediate response; is that correct?

45 A. That's right. We were really keen to get the crews on the ground to do an accurate assessment of what they were facing so we could then

determine what additional response might be needed.

5 Q. I want to put to you a comment that Mr Sayer made in his statement at paragraphs 17 and 21. His statement is [ESB.AFP.0111.0262]. At paragraph 11 of his statement which is 0264 he has described how he heard over the radio the smoke sightings. He says at paragraph 11:

10 "I arrived at the Athllon Drive depot within about half to three-quarters of an hour of hearing the reports of the smoke reports from the fire towers. When I arrived, other Parks  
15 officers were reviewing the situation of the fires. I remember discussing the issues with Mr Wells and Mr Peter Galvin. I believe Vivien Raffaele was also present. I said to the others that I was concerned about the  
20 location of the fires and their remoteness. I said that if we don't get on to them quickly, they would become a fairly big problem for us. I also expressed my concern that we had several fires at once and that  
25 this would mean having to spread our resources carefully in order to catch fires early."

He goes on in paragraph 12:

30 "I said to Mr Wells and Mr Galvin that I thought heavy machinery, and in particular bulldozers, should be responded immediately to put effective containment lines around the  
35 fire. Although I expressed this opinion to Mr Wells and Mr Galvin, none of us had any responsibility for taking action in response to any of the fires. It was something I discussed with them."

40 Were those thoughts occurring to you at about that time, let's say 4.30/5 o'clock on the afternoon of the 8th?

45 A. No, I don't believe they were. I think if we discussed them at all on the 8th, it would have been very late in the evening. I don't think that we did. When I say "we", I'm talking about the

Service Management Team.

Q. Yourself, Mr Lucas-Smith, Mr McRae?

A. That's right. The absence of Dave Ingram on  
5 the 8th because he was with the helicopter. But I  
think it was probably more a discussion we had on  
the 9th for the need for plant rather than on the  
8th --

10 Q. Why is that, Mr Graham? I think you agreed  
with me yesterday that you understood the  
importance of particularly getting first attack  
dozers into remote areas as quickly as possible.  
Why was it that it wasn't until the 9th that any  
15 thought was being given to the likelihood that  
heavy plant was going to be an essential  
firefighting tool with these remote fires?

A. We needed to know where the fires were. If  
the fires were burning alongside a track and  
20 burning uphill towards a track, they could have  
been contained immediately.

Q. Is that right? How familiar were you with the  
state of the fire trails in those areas in the  
25 Namadgi?

A. Depending on which ones we are talking about -  
with some of them very familiar; with some of them  
less so.

30 Q. There would be a fairly good chance, wouldn't  
there, Mr Graham, that if a fire starts in that  
area it may be near a fire trail but it is not  
going to have a fire trail all the way around it,  
is it?

35 A. That would be unlikely.

Q. So it is likely that at some point there is  
going to be a need to get a clear middle earth  
break put up on at least three sides, I suggest to  
40 you. That is something that is likely to be  
necessary pretty quickly.

A. A middle earth break along some portion of the  
fire, I would agree. Whether it is three sides,  
more or less - I don't know.

45 Q. Being generally familiar with that type of  
country, that is something that can be done by a

hand line team but it is not easy work; is it?  
A. Generally speaking it is not. There are certainly parts of it where it wouldn't be too difficult but, as a general comment, it is fairly steep country.

Q. It is the case, isn't it, that even with a trail nearby that was going to need some work - some widening perhaps or some trees removed?

10 A. We are talking Bendorra?

Q. Yes.

A. The road from the Bendorra arboretum down to Warks Road - I think it is in fact still a continuation of Warks Road - I was under the impression at that time that that road was still trafficable and was in good condition. I have since learned that it wasn't.

20 Q. I appreciate that you obviously can't send a dozer out somewhere where you don't know where it is going. But isn't it the case that you could on that evening have been speaking to people like Mr Bartlett or Mr Cooper at ACT Forests and saying to them, "Look, we don't quite know where these fires are yet but, as soon as we find out, there is a chance we might want to get a dozer onto it quickly. What have you got available?" Couldn't you have done that?

25 30 A. Yes, we could have done that.

Q. Why didn't you?

A. I just don't think it was considered at the time.

35 Q. It is your recollection, is it, that there was no discussion at all of the possibility of requiring heavy plant in the near-term that night?  
A. As I said before, there could well have been a discussion late on the 8th. I'm more inclined to suggest it was on the 9th. But I couldn't be categorically sure of that.

40 Q. Mr Neil Cooper in his statement [ESB.AFP.0110.1112] at 1117 where having dealt with some general issues to do with the January fires, halfway down the page says he heard about

the reports of smoke sights. He said:

5 "After I departed MacArthur house and crossing the Commonwealth Avenue Bridge I could see at least three separate smoke plumes to the west of Canberra. They were very obvious - large and thick and it was at this stage that I became very concerned. I recall at this stage driving with some  
10 urgency to the Stromlo depot, as I felt certain that we had to get some plans in place."

15 Over the page at paragraph 18 he says in the last sentence:

20 "I had already started making arrangements (preliminary crew arrangements for overnight, RAFT teams, over time et cetera) with our staff because we could see that the fires were building rapidly, especially in the McIntyre's Hut area, and it was going to require overnight shifts."

25 He says in paragraph 19 after referring to the pine plantations:

30 "At the time, we were experiencing benign weather conditions. We were under a south-easterly air stream. However, we were also aware that weather patterns come in roughly five-day cycles where benign conditions are followed up by strong northwesterly winds."

35 Pausing there, was that something you were aware of at the time - the cyclical nature of the weather at that time of the year?

A. I didn't realise it was as precise as what  
40 Mr Cooper is stating.

Q. I think to be fair to Mr Cooper, he is not saying that is precisely how it works - and, indeed, we know it doesn't. That's often the  
45 assumption that is made, is it not, by firefighters during the summer months that that is the sort of cycle that you can expect?

A. I don't know that it is something I have given any consideration to - the type of time frame that we might be dealing with. Certainly I know that in the summer months generally the winds will come from west, north-west - certainly that general vicinity - for a larger part of the summer. So if they are at some point to the south or south-east, then they will swing around.

10 Q. Did you have a sense at all of that being something of a relatively typical cycle and that that happened every five to seven days on average?  
A. No, I wouldn't think that I have ever given that any consideration.

15 Q. It was something that you were aware of?  
A. That's right.

Q. He says at the bottom of the page - we will obviously come back to this - he was working on the assumption that there would be overnight firefighting. He says:

"About a month earlier I had strongly complained to the Bushfire Service coordinator (either Tony Graham or David Ingram) when a similar decision was made to pull crews out of a fire in Namadgi National Park and return them the next morning on a day that had been forecast as a total fire ban day. A decision to remove crews from a fire ground overnight is fraught with danger as this is the time that safe attack can be undertaken when conditions are not as extreme. To leave a fire unattended overnight and send crews in the following day loses the opportunity to hit the fire fast and hard when it is only small in size and conditions are more conducive to active firefighting and fire line construction. I discussed the resourcing of the Bendorra and McIntyre's Hut fires with Tony Bartlett and we both became quite alarmed at the apparent lack of urgency in resourcing the fire."

45 Do you recall having a discussion with Mr Cooper earlier in the year or the previous year about his

concern about pulling crews off overnight?

A. No, I don't remember that particular incident that he is talking about at all.

5 Q. He says it was either yourself or it may have been Mr Ingram; you don't recall it?

A. No, I don't recall it at all; no.

10 Q. What was your thinking at that time, namely at about 4.30/5 o'clock, Mr Graham, about resourcing the fires overnight?

A. I don't think it was something that I had a fixed view on at that point because we were still looking at getting a situation report back from

15 Mrs Arman.

Q. Did you have a view as to perhaps not the circumstances without knowing the details of those fires did you have a general view as to whether that was something that would, all things being equal, be desirable?

A. Certainly I hold the view that, if possible, overnight firefighting is a good thing to be doing if the conditions allow that to happen.

25

Q. What sort of conditions do you say would allow that to happen?

A. Primarily from a safety aspect if we're satisfied that the crews are going to be safe by staying there overnight and they can achieve their goal by staying there, then it is a good thing to be doing.

35 Q. You say in paragraph 16 of your statement that:

40 "Throughout the afternoon 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' and objectives and strategies for each the

45 fires in the ACT."

Taking each of those - perhaps I should ask you

this first: about how many times were you meeting? You talked about throughout the afternoon the SMT met. I take it they weren't formal meetings. They were just conversations you were having with Mr McRae and Mr Lucas-Smith; is that right?

5 A. That's right.

Q. They happened a number of times during the course of the afternoon and evening; is that  
10 right?

A. Probably continuous - yes.

Q. Except at the time when Mr Lucas-Smith and Mr McRae went to Queanbeyan?

15 A. That's right.

Q. Now, you say:

20 "You met to discuss the current situation and to consider a range of issues including the need for overnight deployment" --

Just stopping there. What, as best as you can recall, were the substance of your discussions on  
25 that topic?

A. I believe it was about whether or not we need to be preparing crews for an overnight deployment. Whether or not the crews that have been up in the first instance should stay overnight and manage  
30 the fire.

Q. I need to be a little bit careful about this, Mr Graham. You started that answer with the words "I believe". Is that your memory of what was  
35 being discussed?

A. I don't remember the specific conversations that we would have had on that afternoon.

Q. No, I appreciate that. But subject to the  
40 words "I believe", is it your memory that the substance of the discussions you were having were whether you needed to get extra crews organised to take over from those that are up there, and so on; was that the substance of it?

45 A. Or alternatively the crews that are already up there remaining overnight. I would suggest that was the basis of the discussion.

Q. Did you have a discussion about the broader issue of whether it was something that you would be keen to see happen if it were possible?

5 A. I don't think that anybody put forward a strong view one way or the other at that time, because we were still working off limited information from the field.

10 Q. I suppose what I am wondering, Mr Graham, you know how volatile the conditions are, you know you have got not substantial but certainly fires that aren't going to be put out in 10 minutes. They are fires that are going to expand and continue to expand during the evening and overnight, you are 15 aware of that, if unattended?

A. There would be some growth. But whether or not it was large or small --

20 Q. Did you ask Mr McRae about that, your planning officer? Did you say to him at any point, "Look, Rick - I am sure you didn't call him Mr McRae - what is this fire going to do overnight? What can we expect in terms of spread?"

25 A. I can't specifically recall asking words to that effect. I would think that I did. But whether or not I did, I just don't remember.

Q. Do you recall having any view at the time as to what was likely to happen overnight? You 30 certainly weren't expecting the fires to extinguish overnight; were you?

A. No, certainly not.

35 Q. So what was in your mind that night about what you could expect if unattended fire growth overnight?

A. I think any fires overnight, we weren't expecting any - when I say "we" - sorry, I wasn't expecting any large growth in those fires and that 40 they would probably be kept within the containment lines which were the formed tracks that were there at the time.

45 Q. You didn't know at the time whether they were anywhere near the tracks; did you?

A. At some point we did when we got a grid reference from --

Q. You are saying that it was after that that you were hopeful - when you say "stay within the formed lines" there was really only one, wasn't there, effectively that was Warks or Wombat Road?

5 A. Warks Road - I would suggest the fire had an uphill run towards Warks Road. That would form the containment line for the head of the fire.

Q. Is that right? I thought the fire was uphill  
10 from Warks Road and continuing to move uphill further.

A. No, that's not my understanding. My understanding is that the fire was uphill from Wombat Road heading up towards --

15 Q. All right. There is some confusion about the roads --

A. There was a lot of confusion about that.

20 Q. So you are saying that night you saw Warks Road as a containment line?

A. That's right. I didn't know that particular part of Warks Road. I knew other bits of Warks Road. And my understanding looking at a map was  
25 that it was a cleared fire trail.

Q. That is the head of the fire. And you had Wombat Road as the base of the fire?

30 A. Wombat Road is the base. If you look at it from the point of the origin, so from the heel of the fire, over on the right-hand flank Wombat Road and Warks Road actually join up into a bit of a triangle. That would have formed the right-hand flank of that fire.

35 Q. Was it in your mind that night that the fire wouldn't threaten at least those lines overnight?  
A. That's correct.

40 Q. Perhaps I should finish the topic on overnight deployment. If you talked about the possibility of bringing crews in to replace the ones that had been first sent out there or whether they would stay in overnight, what was the substance of that discussion?

A. I don't know that there was any resolution reached. The thinking was there were enough crews

out there in the first instance and whether or not they should remain or be replaced. I think it was the distance of withdrawing crews and getting other crews out there just made that not necessarily a viable option.

5 Q. If those crews are out there had been out all day and I think were there from around 6.30/7 o'clock that night, is it possible that a  
10 decision had been made to leave crews in overnight and that they could have been replaced some time later that evening or during the night?

A. That's possible. It is certainly not desirable. We try to avoid wherever possible  
15 changing crews over after dark. Primarily from a safety issue, people don't get a chance to do an appreciation of a fire - trip hazards and falling hazards and the like. Whilst it is not completely out of the picture, it is certainly would not be  
20 standard practice to change crews at night-time.

Q. They could operate from an established trail, couldn't they, overnight?

A. That's right.

25 Q. I asked you quite a specific question about whether you spoke to Mr McRae about the spread of the Bendora fire overnight, was there any broader discussion between the three of you - Mr McRae,  
30 Mr Lucas-Smith and yourself - about where these fires might go if things didn't go well at that time?

A. I don't think there was. I certainly don't remember anything along those lines.

35 Q. So there was no what some people might call risk assessment at that stage of trying to determine, "Well, if we don't get this fire controlled within this time frame it is going to threaten these assets and it might cross that fire trail and we might lose that containment line"?

A. I don't recall something specific along those lines. There may have been some discussion but not that I can remember now.

45 Q. We spoke about Mr Ingram's report about the size of the fire. About that 5/6 o'clock time

frame, did you have an understanding about how big the Bendora fire was in your mind?

A. At about 6pm?

5 Q. Yes.

A. I believe it was less than 500 metres.

Q. 500 metres square?

A. 500 square metres. I believe it was less than 10 that, based on at that time the only intelligence we had received about the size of the fire was from the aircraft from 'Firebird 7'. We hadn't had any crews on the ground at that point.

15 Q. I want to ask you about some telephone conversations you had in the early evening of the 8th. It might be convenient if we took the break now so we can set that up, your Worship.

20 THE CORONER: We will take the morning adjournment.

**SHORT ADJOURNMENT**

[11.20am]

25 **RESUMED**

[11.40am]

MR WOODWARD: Q. Mr Graham, I want to ask you about a telephone conversation we recently obtained a recording of. I think it is probably easier all around if we worked from the transcript of it. I will play it to you because we were not able to identify who the person is you are speaking to. It is a conversation that took place on 8/1 at 7.03pm. My guess is you were speaking to Mr Bruce Arthur or someone at New South Wales, Queanbeyan. Do you recall having a discussion with him? It is not in a radio transcript?  
A. It is possible that I did or, if not him, maybe with his deputy Jim Lomas. I do not have 40 any record of that conversation.

Q. What I will do is bring up the document on the screen, [DPP.DPP.0006.0096]. I will start playing it. If you can recognise the voice on the other end of the phone, we can stop the recording and work from the transcript.

(Recording of the conversation played in court)

A. I think that's Bruce Arthur.

5 Q. We might play it through. Do you recall that conversation? You think it was with Mr Arthur; is that right?

A. That's correct, yes.

10 Q. It is obviously, as you expect, the last page that I wanted to ask you about particularly.

Perhaps I should ask you first: he refers to the three of us getting together. I assume by that he means yourself, Julie Crawford and Mr Arthur.

15 That is where he says on the first page of the transcript about halfway down "She's going to ring you guys now, yeah, and talk about the three of us getting together"?

A. Yeah, that would be my view too.

20 Q. Did that happen or was that overtaken by Mr Lucas-Smith going to --

A. That's right. No, the three of us didn't meet at all on that day.

25 Q. Over to the last page where Mr Arthur at the top of the page says:

"Excellent.

30 Speaker: So it's only this mongrel thing now."

Is he referring to the McIntyre's Hut fire?

35 A. I would only assume so, yes.

Q. You ask him:

"And all your resources are back in town?"

40 He says apart from three trucks at Foxvale. He then says:

45 Speaker: ... you guys don't envisage doing much tonight, I guess?

Tony: I don't think so, no.

Speaker: I mean, until we know what this thing's doing, you can't put people in that country today.

5 Tony: No, no exactly."

Your agreement with him in relation to that sentiment, were you focusing there on what he was dealing with - namely, the McIntyre's Hut fire -  
10 or were you reflecting on all the fires in the area?

A. No, I would suggest I was reflecting on all the fires. I think it is important to note at that point we are talking about at 1700 hours or  
15 close enough we hadn't yet had crews on the ground.

Q. Is that 1700 - that is 1900?

A. Sorry, it is 1900.

20 Q. It says 7.03pm?  
A. Sorry, I thought 1703.

Q. Assuming that is correct, you had that  
25 conversation at 7 o'clock at night and you have got crews there and you had the reconnaissance from 'Firebird 7' and Mr Ingram. So were you agreeing with his sentiment in relation to McIntyre's or the whole fire event?

30 A. I would suggest the whole fire event. But in all honesty, I can't remember the specific thoughts that were going through my mind at the time.

35 Q. It suggests, doesn't it, that at least at that stage this was before you had any detailed report from Odile Arman, is that correct, about the fires?

A. That's correct.

40 Q. You had a bias - perhaps that is not a fair word but I think you know what I mean - against sending crews overnight to that area?

45 A. No, I wouldn't agree with that. I don't think I had made up my mind one way or the other as to whether or not we were going to send more crews, keep crews there overnight or whatever the

situation was going to be.

Q. Is it your evidence that you were still concerned to hear from Odile Arman as to her situation report on the fire before you had a view one way or the other?

A. I'm sorry, I was still concerned to hear from her?

10 Q. To get a situation report from Odile Arman before you had a view one way or the other on that issue?

A. That's right. I was certainly waiting on Odile Arman's situation report before any decisions were to be made.

Q. Is it your evidence that, until that time, you didn't have a preference one way or the other as to what should occur?

20 A. I think I still had an open mind on what we might do. I may have had a leaning one way or the other. I just don't recall now.

25 Q. The words you have used, if you are referring to the entire fire event, would suggest a leaning against overnight firefighting; wouldn't you agree? He said:

30 "Speaker: You guys don't envisage doing much tonight, I guess?

Tony: I don't think so, no".

A. I would suggest that I hadn't made up my mind when I made that response. I was still open to various scenarios.

40 Q. It takes us a little off the track, Mr Graham, but because it falls next in the chronology I will just ask you briefly about a telephone conversation you had shortly after with Mr David Prince. The transcript is [DPP.DPP.0006.0101] about halfway down the page. It is a relatively short conversation with him. Do you recall that discussion at 1746 with Mr Prince?

A. No, I don't.

Q. Perhaps if we go to the top first so you can put it in context. This is a transcript of a telephone conversation. We have identified the speakers as yourself and Mr Prince on 8 January at 5 1746. Do you accept that appears to be what it is.

A. Yes, I do.

Q. After some introductory exchanges Mr Prince 10 has obviously noticed I think you say it is the McIntyre's Hut fire and you say to him "in fact it's not ours. It's in New South Wales". In that large paragraph you say:

15 "Yeah, it's around that area. We might end up with it, but at the moment it's not our --

Then you go on to talk about the little ones which 20 you describe as 70 square metres and 100 square metres. Would that be respectively Stockyard and Bendora fires you are referring to there? 70 metres being a reference to Stockyard and 100 being a reference to Bendora?

A. That's the way it appears to me, yes.

25

Q. Then you say:

"But the other one, which is the New South 30 Wales one, may cause us grief tomorrow or the next day."

What was your thinking at that time about the threat posed by the McIntyre's fire?

A. I don't know that I was suggesting when I said 35 "it was going to cause us grief", I don't think I was suggesting it might impact on the ACT at that time. What I was suggesting is that it was a fire which might be a difficult fire to contain. That was on the basis I know to a point the country, 40 the origin of that fire was in very steep rugged with very little access.

Q. As I understand the content of the discussion, you were talking about whether the fires are in 45 the ACT or in New South Wales. That's the context leading up to that paragraph, isn't it? Do you want to go back up to it to see?

A. Yes, please.

Q. You say, "It's not ours." His response is, "It's New South Wales, is it?" You say, "Yes, it 5 is." So you are there talking about where it is geographically located, aren't you?

A. That's right.

Q. Your next remark is "well, we might end up 10 with it". Aren't you there saying it might end up in the ACT; isn't that what you are saying there?

A. No, I wouldn't suggest that. I can see why it might appear like that. I think it would be far too premature within an hour or an hour and a half 15 of the fire starting to suggest that it might end up in the ACT. As we know about 10 days later.

Q. Did you discuss that with anybody on the night 20 of the 8th about its potential to come into the ACT - I am choosing my words carefully; I am talking about the ACT, not Canberra.

A. Not that I can recall.

Q. Did you have any view that night about whether 25 there was a possibility that it may come into the ACT, across the border?

A. No, I don't believe I did have a view.

Q. I suggest to you, Mr Graham, that's just not 30 consistent with what you have been saying to Mr Prince. I suggest to you saying "We might end up with it" that what you are saying is it may end up crossing the border; that's the effect of that, isn't it?

A. Look I don't know what kind of comment I can 35 make in relation to this. I don't believe I was suggesting that the McIntyre's fire would impact on the ACT at the time of this conversation.

40 Q. Were you aware that on that night Mr Lucas-Smith identified the McIntyre's Hut fire as his greatest concern; was he talking in those terms to you?

A. I don't remember those specific words.

45 Q. Do you recall him, or anyone else for that matter, talking about the possibility of that fire

impacting on the Uriarra pine plantation that night - sorry, not the fire impacting that night but somebody talking about it that night?

A. I understand what you mean. It is very  
5 difficult now to say whether or not the discussions about that happened on the 8th or the 9th or in fact what day, what time it took place. There was certainly at moments throughout the fire event discussions about the possible fire impact  
10 on to Uriarra, but I can't say now whether or not that discussion took place on the 8th or 9th.

Q. Was it something you were conscious in your mind - I take it the answer to this is "no" based  
15 on what you were saying - that it could impact under a north-westerly wind which you said is common at that time in year, that it could impact on the Uriarra pines?

A. Was I conscious on the night of the 8th that  
20 it might?

Q. Yes.

A. I don't know that I gave it that much thought. At that time we had our fires at Stockyard and  
25 Bendora and Gingera. We had fires at Mt Morgan as well. As well as some around the city around Tharwa and smoke sightings at Dunlop. I think my focus was much more on those fires on the first night than they were on the McIntyre's fire.

30 Q. You don't have a memory of looking at a map perhaps or having a discussion with Mr McRae about what the McIntyre's fire might do and how it might impact upon the ACT?

35 A. No, I don't recall that on the night of the 8th.

Q. Returning to the events of Bendora, Ms Arman in her statement - I think the radio transcripts  
40 bear this out - says she arrived at the fire ground at 1850 that night?

A. I don't have that information.

45 Q. You are certainly now aware, are you, that within a relatively short time of arriving she decided to do circumnavigate the fire in effect; are you aware of that?

A. That's right.

Q. While she was doing that - I think you have referred to this in your statement, when you 5 provided some amendments to your statement when you began giving evidence - you had a telephone conversation with Mr Lucas-Smith; is that correct?  
A. That's correct.

10 Q. I think you called him?  
A. That's right.

Q. What prompted you to call him at that time?  
A. I suggest it was to keep him into the loop 15 about what was happening.

Q. At that stage had your position changed from the time of your discussion with Mr Arthur; in other words, did you still have an entirely open 20 mind about whether or not crews should be at Bendora overnight?

A. I believe I had an open mind.

Q. Can I ask that [DPP.DPP.0003.0207] be brought 25 up. This is a transcript of your telephone conversation with Mr Lucas-Smith. Incidentally, when did you first become aware that there was a transcript of that telephone conversation? I think you said yesterday some time in about June, 30 but you overlooked it. Is that the position?

A. That's right. I can't remember exactly. It was certainly some time around the middle of last year.

35 Q. It was before you prepared your statement?  
A. It was.

Q. What were the circumstances in which you obtained or became aware of there being a record 40 of that conversation?

A. I believe I got it from the investigations team that was based at Curtin at the time.

45 Q. They provided you with what, a transcript of it, a tape-recording or what?  
A. The tape-recording, not the written text.

Q. What did you do with it, do you recall, when you were first provided with it?

A. Other than listening to it, I don't know that I did anything, which is probably why I overlooked it.

Q. Did you give a copy - I think it came as a wave file; did it?

A. That's right.

10

Q. Did you give a copy of that to Mr Lucas-Smith?

A. I don't believe so.

Q. Is there any reason for that?

15

A. No. I mean, when I say "I don't believe so", I guess that means that I may have. But I just don't think I considered it at the time as being necessary.

20

Q. Now you prepared your statement - signed your statement in early December of last year; is that right?

A. That's right.

25

Q. At that time were you aware that the question of the decision to withdraw crews, particularly from Bendorra, was a matter of some controversy in this inquest?

30

A. Oh, I don't think so. I don't believe that's the case.

Q. Were you aware that Mr Cheney had given evidence to the inquest in October of last year critical of that decision?

35

A. No, I was aware that Mr Cheney had given evidence. I hadn't read any of the evidence.

40

Q. No-one had told you that there was some criticism being directed at the decision to withdraw crews from Bendorra?

A. Not that I'm aware of. Maybe they did. I just don't remember.

45

Q. It is something you would remember, isn't it, because --

A. I would think I would.

Q. It was a decision in which you had a very direct involvement?

A. That's right.

5 Q. You don't recall anyone raising that with you?

A. No, I can't.

10 Q. In any event, when you came to sign your statement, is the position that you had overlooked the fact that you had a recording of that telephone conversation with Mr Lucas-Smith?

A. That's right.

15 Q. The recording is timed at 1942, so a little before 18 minutes to 8 on the night of the 8th. It confirms that you called Mr Lucas-Smith and that you told him that it's approximately 500 square metres burning very slowly. That was presumably your knowledge of it at the time?

20 A. That's right.

Q. You make a reference to Odile:

25 "We've just spoken to Parks Forest 15. They're going to grab Odile. She's in the scrub at the moment."

30 Did you understand she was not just in the scrub but actually checking out - doing a reconnaissance of the fire?

A. That's my understanding of where she was.

Q. At that stage you knew she was undertaking that task; that's correct?

35 A. That's correct.

Q. But you didn't yet have a report from her as to what she had seen?

A. I don't believe I had at that time, no.

40 Q. This was, I suggest to you, the crucial piece of information that you were waiting for before starting to firm up in your thinking at least about whether crews should be left overnight; that's correct?

A. Oh, that's right.

Q. Mr Lucas-Smith asks you:

"Okay, so, ah, what are they going to be able to do anything tonight, do you think?

5

I think the sense of that is he is asking you whether you thought they were going to be able to do anything tonight. Do you agree with that?

A. I'd agree with that.

10

Q. Your response is:

"Um, I would be very doubtful that they could."

15

Then you start talking about the crews the following day?

A. That's right.

20

Q. That suggests, doesn't it, that you have a strong - you are beginning to develop a view that it is very unlikely that you would have crews in there overnight; doesn't it?

25

A. Yes. It would appear that I was starting to develop that view.

Q. You hadn't yet spoken to Ms Arman. What factors had caused you to start to think that way?

30

A. I think we knew at that time, we had a better idea of the location of the fire. We knew there were crews on it. We knew there had been some falling timber.

Q. How did you know about the falling timber?

35

A. I believe it was by that time that that had been a situation report that had come back.

Q. From?

A. I don't know. Can I look through the notes?

40

Q. Yes, please do. Our record suggests, if it assists, that Ms Arman didn't radio in her situation report until a little after 8 o'clock.

45

A. No, in fact, I can't find in my notes any reference to falling timber prior to that.

Q. It would appear at least, based on certainly

what we have seen and your own review of the relevant transcripts, that you really had no additional information other than what you said you had at the time you spoke to Mr Arthur about 5 the situation out there at Bendorra?

A. I had received at this point a situation report from 'Firebird 7' at 1927 hours, which I think confirmed what we knew where the advice was that the fire was staying fairly well down on the 10 ground. Seems to be about 3 or 4 metres in from the fire edge and that 'Firebird 7' was unable to see the crews because of the amount of smoke.

Q. That wasn't enough, was it, to start thinking 15 about making decisions about whether or not crews should stay in overnight?

A. There had been no decisions made at 1930 hours.

20 Q. But at 1942 I suggest to you are indicating in your response to Mr Lucas-Smith that it is in your mind it would be very doubtful that there should be crews in overnight?

A. Yes, that's right.

25 Q. That would suggest, wouldn't it, that you at least had a preference for withdrawing crews?

A. No. I don't believe that's the case. I believe I was going to keep a very open mind on it 30 until I had heard back from Odile Arman.

Q. That's just not what it says though, is it? It says, "I would be very doubtful that they could". Then Mr Lucas-Smith responds, "So we 35 would be looking at crews back tomorrow?" Then you are already talking about plans for the next day.

A. That may be the case at that point in time. But I think as the evening progresses, there is no 40 way I led Odile Arman or anybody else into giving any kind of view of whether crews should remain overnight.

45 Q. That is certainly true. You would certainly want to hear from her. What I want to suggest to you by that time before you had received a situation report you had already started to firm

up in your own mind a decision that it was not appropriate to leave the crews in. That's what that conversation would suggest?

5 A. I think it shows there was a leaning that way.  
I don't think it shows that a decision had been made at that point.

Q. I accept that there was no final decision being made. There was certainly a leaning that  
10 way, wasn't there, on your part?

A. That's correct.

Q. We can read the transcript ourselves, I suppose. I will ask you: did you have any sense  
15 from Mr Lucas-Smith that he had a view one way or the other at that time about that issue?

A. No --

MR PHILIP WALKER: There have been a number of  
20 questions along this line, "Do you have a sense". The witness should be asked what was said or what was done rather than whether he, by some process of water divining, has reached some sense about something. I would ask my friend to phrase his  
25 questions in that manner and not in this business of asking "do you have a sense".

MR WOODWARD: That is fair enough, your Worship.

30 Q. Did Mr Lucas-Smith say anything to you that suggested, either during that conversation or at any time before you heard from Ms Arman at about 8 o'clock, that suggested that he had a leaning on that issue?

35 A. No, I don't believe he did make any reference to that either way.

Q. When you concluded your conversation with  
40 Mr Lucas-Smith, what in your mind was your belief as to his attitude to that issue, you having raised it with him and discussed it during that telephone conversation? Was there a thought in your mind that Peter's in favour of this or he is against it? How did you feel that conversation  
45 concluded?

A. I don't believe that he would have been opposed at that time to having crews withdraw, if

that had been the view of the incident controller at the time.

5 Q. I think you would agree as at that point at least, so far as your conversation with Mr Lucas-Smith was concerned and up until you heard from Ms Arman - sorry up until the point at which that conversation occurred, apart from the observation from 'Firebird 7' which you referred  
10 to, you really had no information one way or the other that assisted a decision as to whether or not it was appropriate to leave crews in overnight?

A. That's right.

15 Q. Ms Arman radioed in at, it would appear, one minute past 8. Probably the best way to deal with this is she has in her statement set out the substance of the discussion. When she radioed in  
20 at a minute past 8, were you actually in COMCEN at the time? Were you hearing what she was saying?  
A. My recollection is that I was in COMCEN at the time.

25 Q. Her statement is [ESB.AFP.0111.0001] at 0009. At paragraph 46 she says "At around 2000 hours" - the radio transcript would suggest it was 2001:07 that she provided her situation report. She in her statement set it out in these terms, "Okay  
30 this fires doing about 100 metres from Warks Road"--

I think it has subsequently been established that should have been a reference to Wombat Road; is  
35 that something that you are aware of?

A. I believe she probably meant Wombat Road but I didn't know that anyone else had given any consideration to that

40 Q. She continues:

"... uphill it's drawing into itself, it's not moving very fast, we can access the eastern side of it from Warks Road with  
45 tankers and light units but we will need rake hoe lines around the top section and water bombing on the top section as well the fuel

loads fairly heavy from wet sclerophyll forest."

I should ask you: you were actually hearing her  
5 give that report; is that the position?

A. I think I was in the room at the time.

Q. She makes the point that she didn't mention  
10 the actual dimensions of the fire in her situation report. Was that something you were conscious of at the time?

A. No. I don't think so.

Q. In paragraph 49 she says she then called back  
15 to COMCEN and asked - this appears from the radio transcript to be a minute or so later:

20 "Could you ask the duty coordinator what he'd like us to do given that it's going to be dark soon, not really sure whether we should be sending a rake hoe team in."

She says the COMCEN operator replied:

25 "Parks 1 I understand that teams will be removed from location this evening and returned tomorrow but I will check with the Duty Coordinator to confirm that."

30 Do you agree that's the substance of the exchange at about 1 or 2 minutes past 8 on the 8th?

A. I agree that's the way Odile Arman has recorded it. Whether or not that conversation took place, I'm not sure.

35 Q. The transcript of the radio log that we have suggests that she has recorded it accurately. Do you have a recollection of her asking for advice about that?

40 MR PHILIP WALKER: Before that question is answered, if my friend is actually going to go to the details of this conversation, isn't it simply a more efficient way of pulling up the transcript  
45 rather than asking this witness whether he remembers whether what has been recorded in a statement is accurate or not? If we had the

transcript, surely we could do it by just going to the transcript.

5 THE CORONER: That is one way, I suppose. It is quite appropriate for Mr Woodward to ask whether or not Mr Graham remembers this conversation. If there is any dispute about it, the transcript is available. I am sure there is no concern about the accuracy of the transcript.

10

MR WOODWARD: I was conscious also that Mr Graham has himself obtained extracts from the transcript. The transcript runs to four or five folders like that.

15

THE CORONER: That is the difficulty, Mr Walker.

20 MR WOODWARD: The only reason I am not doing it is I have not discussed it with the Court operator whether we can do this and whether we can find the needle in the hay stack of paper. I am working from a copy of the transcript.

25 THE CORONER: That is an issue that can be sorted when we have the transcript and we have Ms Arman's version of it.

30 MR PHILIP WALKER: I wasn't suggesting that my friend's question was inadmissible. Merely if it could be done that way, it could be more efficient.

35

THE CORONER: I understand that. But there are some technical difficulties with that, Mr Walker.

40 MR WOODWARD: I will read it to you. My friend says surely it is more efficient. I don't think it is because of the size of the document and the way it is on the system. It is on the system as the whole of the 8th of January as a single document. The pages are not numbered. I am just assuming, perhaps wrongly, it would be very hard for the Court operator to bring up this short passage.

45

Q. Have you got the passage in front of you from your own --

A. No. What I did when I extracted the bits was I extracted those which I thought were of particular relevance. As you made the point, there are about five volumes and it is very  
5 difficult to get everything.

Q. I will read to you the passage I am now asking you about. It is from the transcript itself. It is 8 January obviously. The recording is shown as  
10 at 2006:08. The one I am reading from is on the VHF2 channel. It is also made complicated by the fact that, when a signal was sent out from COMCEN it was recorded on several channels so it is duplicated many times through the transcript. It  
15 reads as follows:

"Parks 1 receiving" --

Sorry, I am reading the wrong one. This one is at  
20 2001:50 and it is recorded on VHF2 it says:

"Yeah, received your sit rep. Any further information for me Parks 1?"

25 The response is:

"No. Could you, um, ask the duty co-ordinator what he would like us to do, um, given that it is going to be dark soon, um,  
30 not really sure whether we should be sending a rake hoe team in."

The next entry is:

35 "Parks 1 I understand a team will be removed from location this evening and returned tomorrow, but I will check with the duty co-ordinator to confirm that. I will wait for you to get back to me. Park 1 out."  
40

Do you recall that conversation or being part of that conversation or hearing that occur?

A. No, I don't recall specifically hearing that.

45 Q. Firstly, do you recall in a general sense Odile Arman asking for advice about whether or not she should stay in overnight?

A. Yeah, I think I do remember that.

Q. Did you participate in any way in providing the response that she got?

5 A. The response she received at 2006 hours, certainly I did.

Q. What about the earlier one though - "I understand teams will be removed from this  
10 location this evening"?

A. That's a comment made by the COMCEN operator, I am assuming, not a comment by myself.

Q. Can you assist at all as to how the COMCEN  
15 operator would have had that understanding?

A. Well, no. I mean he or she may have overheard discussions that I was involved in - maybe overheard the telephone conversation I had with Mr Lucas-Smith at 1942. But I don't know.

20 Q. Do you recall where you were physically located when you had that conversation with Mr Lucas-Smith because that was on the phone wasn't it?

25 A. It was on the phone. I believe I was in COMCEN at the time.

Q. Do you recall, apart from that conversation with Mr Lucas-Smith, having any discussion in the  
30 hearing or in the COMCEN room that may have otherwise led to that understanding? Were there any other things said by you to the COMCEN operators about leaving crews in overnight?

A. Not that I can remember.

35 Q. You said you were involved in the 2006 transmission. That is dealt with at paragraph 51 of Ms Arman's statement. Do you have a record of this exchange incidentally?

40 A. The 2006, yes, I do. Mind you, it may not be a direct quote what I have got. I may have put my own abbreviated version in.

Q. I will read it out. It appears to be on VHF4  
45 and 2 at 2006 and a few seconds:

"COMCEN to Parks 1. Parks 1 receiving.

5 Yeah, Parks 1. Compliments of the duty coordinator are: do you intend remaining or leaving crews on location overnight? If not, crews will be going in first thing in the morning. And could you give us an estimate on how many crews you would be required for that - it looks like incident -

10 I'll get back to you. Give me a few minutes to work that out. Parks 1 out."

We seem to have that on the screen. Did you give an instruction to the radio operator about sending that message to Ms Arman?

15 A. That's correct.

Q. What was that instruction?

A. To send that message as has been sent.

20 Q. So you asking her did she intend remaining or leaving crews on location overnight?

A. That's correct.

25 Q. The message actually runs into "If not, crews will be going first thing in the morning and you could give us an estimate on how many crews would be required for that incident." Is that right?

A. Yes, that's right.

30 Q. Did you have an expectation at that point when you asked that message to be sent as to what your response would be?

A. No, I don't believe so. I believe it was an open question without any leading from myself.

35 Q. Well you have talked about immediately, the message you have asked be "If not, the crews would be going in first thing in the morning and could you give us an estimate on how many crews 40 would be required". That part of the transmission certainly seems to assume that she is going to say they are pulling out and you want to know what is going to be necessary for the next day, doesn't it?

45 MR WHYBROW: I object to that. If this is an inquiry, I don't think it is appropriate, in my

submission, that those sort of words be put into the mouth of the witness. The words are there; he can be asked if he intended certain things. But to say, "It means this, does it not," in my 5 submission is not going to be very helpful to your Worship unless there is particular answers which are supposed or presumed to be given. Putting words into the witness's mouth on such crucial issues like this does not help your inquiry one 10 iota.

THE CORONER: What do you say, Mr Woodward?

MR WOODWARD: I was quite careful to ask it first 15 as an open question and give him an opportunity to express a view, I would submit, in view particularly of the conversations that occurred and particularly the conversation with Mr Lucas-Smith, testing the witness's evidence on 20 that point. In my submission, it is of assistance to your Worship for that to occur on such a crucial issue.

THE CORONER: I will allow the question.

25 MR WOODWARD: Q. You were expecting her to say no, weren't you, Mr Graham?

MR WHYBROW: How can he put that?

30 THE CORONER: It is a question.

MR WHYBROW: With respect, that is not a question. That is putting what was in this witness's mind. 35 Unless there is some information that we don't have that is in fact what was in this witness's mind, the question is:

40 "You were expecting her to say no, weren't you, Mr Graham."

I am not aware of any material, and I appreciate I haven't had a chance to go through it, that 45 Mr Graham has anything at that point which entitles counsel assisting to put as a positive proposition that his own mind was "You were expecting her to say no, weren't you"?

THE CORONER: I will allow the question,  
Mr Whybrow.

5 MR WOODWARD: Q. That's what you were expecting,  
weren't you?

A. I still don't believe I had formed a solid  
view either way.

Q. You certainly had a leaning, didn't you,  
10 Mr Graham?

A. I may have had a leaning.

Q. And based on that leaning you combined the  
question with a further request that she provide  
15 you with information that was only relevant if the  
decision was made to withdraw. That's right;  
isn't it?

20 A. That's right. Regardless of the decision to  
stay or to go, there would have been a requirement  
for crews to come over the following day to either  
relieve the crews that had stayed overnight or to  
take over from the crews that were going to leave  
that night. So the requirement to determine the  
numbers of resources the following day always  
25 existed.

Q. Indeed, although you prefaced - or at least  
the radio operator on your instruction has  
prefaced - the request about crews the following  
30 day with the words "if not, crews will be going in  
first thing in the morning and could you give us  
an estimate"; do you see that?

A. I can see that. I guess without actually  
hearing the conversation, I'm not sure whether  
35 there was a stop or a question mark after the word  
"located overnight" and a pause to allow some kind  
of response. I just don't know that.

Q. Maybe over the luncheon adjournment we might  
40 see if we can bring up the audio of that. You see  
Ms Arman has said in her evidence in her statement  
that she was confused about precisely whose  
decision it was as to whether or not the crews  
should be staying in overnight; are you aware of  
45 that?

A. Yes, I am.

Q. In her taped record of conversation at question 235 and 236, she is asked there about on the evening of the 8th in relation to that conversation, that is where she has asked for advice:

"Q. Who did you feel had the responsibility for making that decision?  
A. I felt I did. But I also felt that I wanted it confirmed by ESB partly because of what I just said that it was a bit of a grey area. So I wanted to know that they were happy with what we were going to do."

She is asked:

"Q. Were you influenced in any way by the reply from the COMCEN operator when he said or she said, Parks 1 I understand that teams will be removed from the location?

"A. I was a little influenced by that. I don't know if they were referring to the Stockyard fire."

She is confused about that:

"A. It did throw me a bit because they gave me the impression that they would, you know, that they were going to have some involvement in the decision-making."

Can you appreciate that Ms Arman, when you go through those transmissions, may have been a little bit confused as to whether she was making that decision entirely in isolation or whether she felt that that was a decision that seemed to have your support or the support of the SMT?

A. I really believe that's a question better posed to Ms Arman. I mean I'm not sure.

Q. I accept that it is certainly a question that needs to be asked of her. If she answers it to the effect, as she had at least given that suggestion in those responses, that she felt that it was a decision that was in effect being endorsed by the SMT and in particular by you in your capacity as the duty coordinator, that she

5 was entitled or at least it was a decision that you were supportive of - I haven't put that quite right - it was one that you - I will use your words - had a leaning toward. That would be fair, would it not, for her saying she was influenced by that?

A. I believe that she had given her view on overnight firefighting requirements that were then subsequently endorsed by myself.

10

Q. Even before then, even before she was actually asked to form a view, I suggest that, as she has suggested, she was under some confusion about the position and felt it was a decision that she was being encouraged to take; that is, a decision to withdraw.

A. I'm not sure that that is in fact - is that what she said?

20

Q. She didn't use those words. But if that's the effect of what she is saying, I suggest to you, and if she were to say that would you think that was fair for her to say she felt that it was a decision that she was being encouraged to make?

25

A. I don't believe there was any suggestion on my own behalf that she actually withdraw.

30

Q. There is the suggestion, I accept that you say you weren't part of that earlier conversation where there is a reference to when she asked for the advice she is told, "I understand that teams will be removed from this location". So that is the first thing that she is told a little earlier - a few minutes before. She is then asked to form her own view about it. Then in the context of that specific question, I suggest to you there is an emphasis in that question that you put to her via the operator that would suggest that it was something at least that you would not have discouraged at that point?

40

A. In between the 2001 situation report from Parks 1 and the 2006 question from COMCEN to Parks 1 about her requirement to stay overnight or her intentions to stay overnight, there was a message at 2003 that came from Parks 1, and it was a message that went out from Parks 1, to portable, which in essence is a message from someone in a

5 tanker to someone out on the ground with a portable radio. That message was to keep an eye on trees. Now, From that I believe there is a sense that there may be some falling limbs, even though that is not explicitly said. That may well have contributed to Odile Arman deciding that maybe it wasn't worth while staying overnight.

10 Q. Did you hear that exchange overnight?

A. Look I don't know. I have certainly read it since when I read the COMCEN transcripts. I assume I was in COMCEN at the time but I can't remember now.

15 Q. Do you think it may have influenced you in the way you approached the issue that night?

A. Look, it could well have done that too. Bearing in mind the safety of firefighters is foremost in our thinking.

20 Q. I am not sure I got a direct answer to my question. If, as it appears to be suggested by Ms Arman if she were to say that she was confused about precisely how that decision was to be made and was influenced by the way in which the questions were put to her in the earlier comment, that would be fair; wouldn't it?

25 A. Look, if she has a confusion about who makes the decision, I can't answer that. If she felt influenced by some of the previous transmissions, then, yes, that's what happened for her.

30 Q. I want to put a broader proposition to you, Mr Graham. That is, you recall the discussion we had yesterday about the difficulties suffered by the incident controllers in the field in terms of the lack of any planning and how the result of that is often that they are focusing on the here and now rather than thinking ahead a day or two as to what the implications of their decisions might be. Do you recall that discussion?

A. Yes, I do.

40 Q. I want to suggest to you that, in the circumstances on this night, it was unfair to put the onus alone on Ms Arman to make a decision about what could be quite an important matter and,

as things turned out, a very important matter in circumstances where she had no access to detailed weather forecasts, it would appear, for the next few days. She had very little, it would seem,  
5 idea of what was outside the immediate fire area that she was dealing with in terms of where the next control lines might be, what was over the next rise, what assets might be impacted - she had none of that kind of information. So she was  
10 making a decision based on, as I put to you yesterday, the here and now, wasn't she; that is what she was seeing right there?  
A. It's not like she didn't know the area. I think she was fairly familiar with the area. So  
15 in terms of assets and the like, she probably did have some understanding of those things.

Q. Do you think that she would have had a sufficient grasp of weather forecasts for the next  
20 couple of days and potential control lines to be able to make a decision of that kind; that is, to make a significant operational decision to withdraw on the first night?

A. She may well have had access to weather forecasts for the next three days as given by our COMCEN at 1545 daily. I'm not sure whether or not she listened to those weather forecasts on that day and whether or not she acknowledged them. She may well have had some understanding of the  
30 weather conditions she was going to face.

Q. It is the fact, at Curtin and in particular in the planning unit, without being too much influenced by what is happening around you, that  
35 you can sit down with a map, an indication of the fire trails, the weather, you can do a bit of modelling to work out what the fire spread overnight might be. Those are important things to take into account when you make that sort of  
40 decision, aren't they?

A. That kind of work can be done at Curtin by the planning unit very well.

Q. And couldn't be done by her, I suggest?  
45 A. Probably not to the same degree because she wouldn't have access to, for instance, the technology and maybe the staff, the people to

assist her in doing that kind of work that is available back at Curtin.

5 Q. In particular, she wouldn't be in a position, would she, to undertake an estimate of what the fire spread for instance overnight might be?

A. She could probably use some rudimentary tools to do that but nothing too precise at that time.

10 Q. So in those circumstances, her focus is going to be not on the implications of her decision the next day or the day after that; they are simply looking at the position - her own personal position and that of the crew that is under her.  
15 That's right; isn't it?

A. I think that probably you would need to ask her whether or not she was thinking of what the consequences may have been if the fire had been left overnight. I would assume that she was thinking of those things and had taken those into account when she had thought that maybe it is best not to leave crews overnight.

25 Q. Did she say anything to you later on that night that would suggest that she did take those factors into account?

A. Not that I can recall.

30 Q. I suggest to you it would be quite unfair in the circumstances she was in that night to expect her to be thinking out beyond the next - that shift that she was being asked about?

A. With the exception of maybe what increase in fire size we get overnight, I would agree with  
35 that comment.

Q. So, if we get to that point, isn't it the case then that it is not fair to expect her to make that decision; that is, whether to leave crews in overnight in isolation effectively? That's what happened, isn't it? I should ask that in two parts. I suggest to you it is not fair for her to be put in the position where she is forced to make that decision in isolation?

45 A. My understanding was that she felt it was a joint decision of both herself and ESB.

Q. What was ESB's role in the decision to withdraw?

A. It was to endorse her view that that was the best thing to do.

5

Q. But it was already too late by the time that occurred, wasn't it, Mr Graham?

A. Too late for what?

10 Q. To do anything about the decision. I mean she came back on the radio, as we will see in a moment, saying she felt it was appropriate to withdraw and that's what then happened.

15 A. It's really a hypothetical because the other alternate didn't pan out. Sorry, I will say that to amplify. The alternate of her staying there just didn't happen.

20 Q. She made her decision and reported that to you - do you have a time for her --

A. 2014. On VHF channel 2.

Q. Is that 2014:44?

A. I don't have the seconds.

25

Q. Perhaps if we could bring that up. It is the next page from the one we were on earlier. Do you see the passage there at the bottom:

30 "COMCEN COMCEN this is Parks 1. Parks 1 Go ahead."

Is that what you are referring to?

35 A. That's right. And the bit that follows that particularly.

Q. Were you listening when she radioed in at that time?

A. I believe I was listening at that time.

40

Q. She says:

45 "An update on what is required for tomorrow. Um there's not too much that we can do this evening. We'll need at least two rake hoe teams first thing in the morning to work on the southern and northern sides of the fire

and, if it's possible, we also require at least one heavy tanker.

Received and understood COMCEN clear."

5

Then a little further on:

"Parks 1. Compliments duty coordinator.  
Thanks for your attendance at this incident.  
10 You may return to your area and crews will be returning in the morning."

At that stage, it is the case that you have got virtually no information from her as to why she  
15 had reached the view that she had that there was not much that they could do that evening?

A. No, I didn't question her on that.

Q. So to what extent - you said earlier that ESB  
20 endorsed her decision or participated - perhaps I am putting words into your mouth. Do you say ESB participated in her decision at all?

A. I would suggest that ESB supported her decision.

25

Q. They just accepted it; didn't they?

A. That's right.

Q. You played no role whatsoever in providing advice or debating with her the relevant issues or hearing from her what her concerns were, did you?  
30 A. No, I didn't.

Q. So in fact she made that decision entirely without input from ESB other than its acceptance of that decision; that's right?

A. That's right.

Q. When you had a discussion, which we will come to, later on that evening with her by telephone, the decision had effectively been made and implemented; hadn't it?

A. At what time are you talking, I'm sorry? When we had that discussion at 2118 hours?

45

Q. That's right.

A. That's right.

Q. Although perhaps theoretically it could have been undone at that point, it was effectively --  
A. Probably not.

5 Q. So that by that stage - at least that was the extent of it, wasn't it, the consideration of night-time crews at Bendorra was that conversation "I don't think we can do any more tonight"?  
A. At 2019 hours Odile advised that she was  
10 releasing the crews from Bendorra.

Q. So there was really no discussion at all as to whether or not her decision was based on appropriate considerations. You relied entirely  
15 on what she told you?

A. That's right.

Q. Was that appropriate, Mr Graham?  
A. I have enormous confidence in Odile Arman in  
20 making these decisions. I've observed her over a number of years in the incident control role and found her to be very sound, including extensively throughout the 2001 fires where she was incident controller on the Bruce Ridge or O'Connor Ridge  
25 fire. I have the utmost confidence in her. When that was her view, I was prepared to support her.

Q. Was the reason or part of the reason for your support of that decision - or at least I suggest it is perhaps going a bit far to say you supported it. You simply accepted it; didn't you?  
A. I accepted it.

Q. Were you at all influenced in your - you have  
35 talked about your confidence in her in the role she was fulfilling. Were there any other factors that influenced your decision not to press her further about the reasons for the withdrawal?

A. No. I don't believe so. I mentioned earlier  
40 the fact that there was some falling limbs. So that was known. It was a remote area. With no immediate assistance available from any external agencies, I am saying - medical or whatever might be required.

45 Q. You had a leaning towards that decision anyway, didn't you, you said earlier?

A. I think I did say that earlier.

Q. That's right, isn't it?

A. That's right.

5

Q. I will ask you again, it is putting a person in Odile Arman's position in a very awkward position to make a decision that could have and, as it turns out, did have significant implications 10 in relation to the later development of this fire for her to make that decision without any input at all from planning, in particular, about what the implications of that decision might be beyond the next 8 or 9 hours?

15 A. As it turned out, it was a significant decision that she had to make at the time.

Q. It is putting her in an awkward position to ask her to make that decision in the absence of 20 any kind of planning information about what the implications of that decision might be; isn't it? A. I'm not sure that, even if we had have had a planning team in place, they would have predicted the outcomes of the Bendora fire.

25

Q. All she is focusing on, I suggest to you, is the factors that you later talked about that afternoon; namely, the issues about the fact that her crew had been standing up since that morning 30 and were tired. That was one of the factors that she discussed with you later; is that right?

A. I believe so, yes.

Q. Concerned about the difficulty of the terrain, 35 that was another factor?

A. That's right.

Q. It was all those issues that were immediate issues for her in relation to the decision she had 40 been asked to make?

A. Yes.

Q. She wasn't in a position, was she, realistically to be looking beyond that?

45 A. Beyond that towards what?

Q. Towards the implications - she was looking at,

"Well if we stay here, these things may occur. There may be some safety issues," and so on. She was simply not in a position to say to herself, "Well, if we don't stay here what the effect of that is going to be"?

5 A. I referred earlier on that I think - I am only summarising here, she is the one who would answer this - she would have thought about what the impact of withdrawing the crews would have been on  
10 that fire.

Q. She would have, to the extent that she did, done so without any assistance at all from anything approaching a planning unit?

15 A. That's correct.

Q. That is giving her quite a significant responsibility?

A. It is.

20 Q. If you had been in her position, knowing what you know now about at least what was facing her that night, would you have done something different to what she did?

25 A. I think that, yes, we all would have done things different if we had been given the opportunity.

30 Q. I appreciate that you say - maybe I didn't ask the question carefully enough. If you can ignore perhaps what happened on the 18th for the moment and just put yourself in the position that she was in on the night of the 8th, knowing what she knew about her surroundings, do you think you would have come to a different view than her about the need for overnight deployment?

35 A. That's very difficult for me to answer, because I wasn't out there. The only information I had about what was happening out on the fire ground is the information recorded in either the COMMS transcripts or any record of conversation through telephone. Obviously those out on the incident ground have a lot more information. They have the sense of what is going on in the immediate and they can describe to me over the radio, just as a for instance, "We have steep terrain," but I don't know how steep that is

unless I'm actually out on the incident ground with them.

5 So it's just difficult for me to say whether or not I would have come to the same conclusions or decisions that Odile did, because I didn't have all of the factors that she had to take into account.

10 THE CORONER: Q. Did you, Mr Graham, on that night find out the size of that fire? Ms Arman didn't in her first communication with COMCEN give an estimate of the size of the fire. Did you ever ask her? Did you ever know the size of that fire  
15 at that night?

A. At about 1930 I think it was, your Worship, I received a message from Forests 15 I believe it was, and I can check, that the fire was about 500 square metres. There had been varying reports 20 from the aircraft about the size of the fire. But to put it between 500-750 metres was fairly consistent.

Q. So you knew that at about what? What time did  
25 you know that?

A. I think it was about 1930 hours that Forest 15 advised it was about 500 square metres.

Q. That was before Ms Arman reported it in?  
30 A. That's right. She reported in at about 2001, I believe.

MR WOODWARD: Q. Mr Lucas-Smith was asked some questions about the decision. He certainly  
35 agreed - page 834 of the transcript - he was asked some questions about the conditions of a fire overnight and he agreed it would have been cool.  
At line 20:

40 "Q. The intensity of the fire would have diminished as darkness fell and the temperature dropped?  
"A. Yes."

45 He was asked about falling trees:

"Q. Where would falling trees come from ...?

5            "A. I don't know. It could be a number of different things. I don't know whether falling branches were referring to 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 branches will fall."

10          I might have to come back to this after lunch, because my note also suggests that the pages on the copy I am working from here are not the ones I had when I prepared the summary. Maybe I will return to that after the luncheon adjournment.

15          Going back to the detail of the discussion - Ms Arman asked for two RAFT crews; is that correct?

A.          That's correct.

20          Q.          How large is a RAFT crew?  
A.          About five people. It can be a little more - when I say a little more, between four and six. About five - four or six would be normal.

25          Q.          That is consistent with the span of control under ICS that you would normally have around five?

A.          Around five to a team.

30          Q.          She was asking for two RAFT teams, and I think her words were "at least one tanker"; is that correct?  
A.          I don't know if "at least" was there. But  
35          certainly two RAFT crews and one tanker is what I remember.

Q.          In the transcript it says:

40          "... not much more that we can do this evening. We will need at least two rake hoe teams first thing in the morning to work on the southern and northern sides. We also require at least one heavy tanker"

45          Do you accept that's what she asked for that night?

A. I accept that.

Q. How many people would normally be on a heavy tanker?

5 A. As a minimum three but anything up to six. I mean they will take either six or seven, depending on the tanker that goes out.

10 Q. In terms of numbers of personnel for the next day that would suggest, wouldn't it, five or six times two? So that would be 10 to 12 comprising two RAFT teams and a tanker with up to 5 people on it. So anywhere from 14 or 15 to 17 or 18 personnel?

15 A. That's right.

Q. Were you surprised from what you knew about the fire - do you recall having any view at all at that point about whether that was enough?

20 A. No. I, on any view, accepted the requirements that Odile had asked for the following day.

25 Q. The crews that were actually sent the following morning were significantly less than that; weren't they, Mr Graham?

A. I don't believe so.

30 Q. Mr Rick Hayes in his statement says that he was given for the whole of the 9th of January - this is paragraph 19 of Mr Hayes' statement - [ESB.AFP.0108.0002] at 0005:

"When I arrived at the appointed meeting place --

35 You agree Mr Hayes was the incident controller in the field for Bendora on the 9th?

A. Yes, I do.

40 Q. It goes on:

45 ".... on 9 January 2003 (sometime shortly after 6am) I met the other units - there were five people between the two crews. The light unit was Rivers 21 and was crewed by Simon Corbell and Tony Hill. The tanker, which was Guises Creek 10, and was crewed by Chris

Berry, Tim (can't remember his last name) and I can't remember the name of the other crew member."

5 Do you agree that's what he was sent for the morning of the 9th?

A. No, I don't.

Q. What do you say --

10 A. I think what he has missed is the fact that the Rivers Command Unit also went out. At 0553 on VHF1 you will see that the Rivers Command Unit on 9 January responded with the Rivers 21 vehicle. That is an additional vehicle, and that has a five  
15 person capacity.

Q. The Rivers 21 vehicle, he says, had two people in it?

20 A. I'm suggesting - I'm not suggesting, I'm saying there was another vehicle that went out as well as Rivers 21.

Q. He had his own vehicle?

25 A. I understand that. There was an additional vehicle and that is called Rivers Command. And at 0553 and Rivers 21, I think that was the time they actually left their station for that fire.

Q. How could Mr Hayes have got that wrong,  
30 Mr Graham?

A. I really don't know. It might be something you need to ask him.

35 Q. We certainly will. He is quite clear there were only five people between the two crews that he was allocated. Do you know who was in the rivers command vehicle you refer to?

A. I don't have that information, no.

40 Q. The Guises Creek heavy tanker had only three personnel on it; do you agree with that?

A. I don't know anything to the contrary.

45 Q. Even on that version you are not suggesting, are you, that the rivers command vehicle could have accommodated two RAFT teams?

A. Oh, no. I said earlier on that it is a

five-person vehicle.

Q. You see because Mr Hayes at paragraph 41, 0011, having said on a number of occasions that he 5 only had five people he said at paragraph 42:

10 "I later had a conversation with Odile Arman, who had been the incident controller at Bendorra on the evening of 8 January. She told me words to the effect of 'I ordered two rake hoe crews for the 9th January 2003'. Those were never supplied."

15 What are you basing your belief on, Mr Graham, when you got those two rake hoe teams?

A. I'm basing that on the two COMCEN transcripts VHF1 at 0553 on the morning of the 9th, where it shows that both the Rivers Command and Rivers 21 were responding to that fire.

20 Q. You don't know who was in them?  
A. No, I don't.

25 Q. How many personnel can Rivers 21 carry?  
A. Three.

Q. And you say Rivers Command can carry five?  
A. That's correct.

30 Q. Is it possible it was just Mr Hayes in Rivers command, or are you saying his was a different vehicle again?  
A. His was a different vehicle again.

35 Q. Are you able to assist to explain why Mr Hayes says he only had five people with him all day? It's not likely to be something he got wrong, is it?

40 MR PHILIP WALKER: That question is not something anybody apart from Mr Hayes surely can answer.

THE CORONER: That is probably a fair comment, I would think, Mr Woodward.

45 MR WOODWARD: I am giving the witness the opportunity. He has based his view on a call out

transmission.

Q. You had conversations during the course of the day with Mr Hayes; is that correct?

5 A. That's right.

Q. Do you recall discussing with him resourcing issues?

A. I know that - between himself and myself, no,  
10 I don't. I do know that at 1017 he had a conversation with Odile Arman about resourcing. That's in the COMCEN tapes.

Q. Do you have a note of that?

15 A. Yes I do. VHF2 at 1017.

Q. Can you read that?

A. What it says is - you must remember these are my words, they are not a direct quote:

20 "Parks 6 - Rick Hayes - advices Parks 1 - which is Odile Arman - that the fire had burnt to the road in numerous places. And where it crossed over the track a rake hoe line had been put in to contain the fire.  
25 Parks 1 asked if the resources she requested were adequate. Parks 6 replied he could probably do with another tanker and that he will think about it further."

30 Q. Do you have a note anywhere whether he did made that request?

A. No. I don't. I will have a quick skim. Nothing comes to mind on that.

35 MR WHYBROW: Page 28 of the relevant transcript.

THE CORONER: Page 28 of which?

40 MR WHYBROW: [ESB.DPP.0003.0001]

THE CORONER: Which transcript though?

45 MR WHYBROW: This appears to be the transcript of the communications on the morning of the 9th of January, 1017. It is a 48-page document. It looks like it is page 28 of that.

THE WITNESS: I can't find anything else in my notes to suggest he actually requested that additional tanker.

5 MR WOODWARD: Q. I will ask this final question before the luncheon adjournment. If it turned out that Mr Hayes only had five personnel with him that day, that would have been insufficient, wouldn't it?

10 A. Yes, it would.

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

15 THE CORONER: Yes, thank you.

**LUNCHEON ADJOURNMENT**

[1.02pm]

**RESUMED**

[2.01pm]

20 MR WOODWARD: I apologise for fumbling about a bit, but on this occasion I had an excuse. It appears that the pages of the transcript in the volume I have are three pages out. I have now 25 located the ones I was looking for. I will come back to that issue.

30 Q. Mr Graham, perhaps before I do that I should ask you this on a somewhat relevant issue: earlier in the day do you recall Mr Tony Bartlett turning up at ESB a little after 4, at about 4.20 on the afternoon of the 8th?

A. Yes, I do.

35 Q. He describes in paragraph 29 of his statement, which is [ESB.AFP.0001.1140]:

40 "Being a Deputy Chief Fire Control Officer, I went straight into the operations room to inquire as to what I could do. I was worried about the McIntyre's Hut fire and the potential threat it posed to our forest resources at Uriarra and Pierce's Creek. I met Tony Graham and Peter Lucas-Smith and was 45 advised there was no role for me at the present time as they were still trying to confirm the number of fires and their

specific locations."

Did you participate in a discussion with Mr Bartlett to that effect?

5 A. I don't remember that specific discussion with Mr Bartlett, no.

Q. Do you have any recollection of discussing what role he might play at that time when he came 10 in?

A. No, I don't.

Q. You say you recall him coming in. Did you talk to him?

15 A. I can only assume I did. I mean, it was a busy period. I can only assume I did and probably gave him an update of the situation as we knew it at that time.

20 Q. Well he says he was told - he doesn't identify whether it was by yourself or Mr Lucas-Smith - that there was no role for him at present time as they were trying to identify the number of fires and their specific locations, is your position 25 that you don't recall that happening or you say it didn't happen?

A. No, I agree it could have happened.

Q. He goes on to say:

30 "I indicated from what I had seen on my way over to ESB that there was a need to deploy additional resources as quickly as possible."

35 Do you remember him saying something to that effect?

A. No, not specifically.

40 Q. He says that you informed him that until you had received confirmation from the on-the-ground incident controllers about resource requirements you were not willing to deploy additional resources to the fires. What do you say about that?

45 A. That may well have been a part of the discussion. I honestly don't recall it. But at the time we weren't sure how many fires we were

faced with in the ACT and whether or not following the lightning storm that went through it could have been some previously unreported fires pop up.

5 Q. That would make the need for resources even greater, wouldn't it, if there were some additional fires?

A. Absolutely, it does make the need for those resources greater, which is why we would need to see what we had and not deploy everything we had to one or the other.

10 Q. Mr Bartlett would be someone whom you could contact in order to arrange heavy plant; is that right?

A. He would be.

Q. In fact he would be the person you would contact; is that right?

20 A. Not necessarily. He, as the head of the ACT Forests organisation, would certainly have access to heavy plant. But I would suggest some of his staff would probably have a better understanding of where they were at any one time. If it was 25 here and now and I had to contact somebody in Forests about plant, it wouldn't be him in the first instance.

30 Q. Well, in circumstances where he was actually there with you at a time when you were no doubt thinking about the way in which these fires were going to be handled, did you raise with him or think to raise with him the likelihood of the need for heavy plant quickly?

35 A. I certainly don't remember any conversation with him about that specifically.

Q. The transcript I wanted to ask you about earlier in relation to Mr Lucas-Smith begins at 40 page 825. He is being asked about the decision to withdraw crews. He was asked at line 12/13:

"Q. Well, let me ask you the question again: did you agree with the withdrawal?

45 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.

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

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

10 He is then asked a bit more about that. He is then asked about the telephone conversation. This is in his evidence before the transcript became available. At page 835 he is asked about  
15 paragraph 26 of his statement he was asked whether he was effectively condoning the decision to withdraw. He agrees that he was in that paragraph. It is put to him:

20 "Q. That is not really a state of mind, is it?

"A. No. As I said, with people more experienced in highland firefighting under those sort of conditions, they might have  
25 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."

30 I asked you, Mr Graham, earlier, whether putting yourself in Ms Arman's position you would have done something different. I think your answer was you are not sure; is that fair?

A. I'm not sure because I didn't have the  
35 information that Odile Arman had at the time when she was making her call. I had limited information, so it's just impossible for me to say.

40 Q. Mr Lucas-Smith in that first part of that transcript I read to you at page 825 seems to be indicating - he says at line 14 and 15:

45 "Once I heard the information from the discussions that had taken place between yourself - Tony Graham - and Odile Arman, I thought that there probably should have been

a little bit more in-depth consideration."

He is there referring to the discussion you had later that evening. Do you think that is a fair  
5 comment, Mr Graham, that there should have been a bit more in-depth consideration of that issue?

A. Yes, I agree with that.

Q. Because the reality, as we discussed earlier,  
10 is the case that the only - if I can put it this way - discussion is Odile Arman's remark: "There is not too much that we can do this evening", and that's it; is that right? You having asked her that or directed that she be asked that question  
15 about whether she was staying overnight "and, if not, tell me what resources you need", her response at 2014 is "An update on what's required for tomorrow". So she at that point has gone to the second part of the question straight away; namely, "what do you want for tomorrow" and then "there's not too much that we can do this evening". And then she tells you what resources are necessary for the following day.

A. That's right. So the way I read that is that  
25 the beginning of her response relates to the second part of the original question. The second part of her response goes back to the first part of the question and then she carries on with the second part.

30

Q. It is the case, isn't it, that you don't at any stage at that point - or at any stage before the actual withdrawal occurs - discuss with her the factors that she took into account, what her  
35 concerns were; that's right?

A. No, not specifically, I didn't.

Q. Was there or had there been at any time up until the 8th of January any consideration being given at meetings or perhaps fire debriefs about the issue of overnight firefighting as a general issue that you can recall?  
40

A. I don't think so. Certainly nothing comes readily to mind.

45

Q. Was there a view that you were aware of, either your own view or anyone else at ESB that

you are aware of, that generally speaking it was undesirable to have overnight firefighting?

A. No, I don't believe that was a view held by anybody at ESB.

5

Q. I read to you earlier extracts from the statements of people like Mr Sayer and Mr Cooper the fact that, on them hearing about the smoke sightings and starting to get information about 10 the nature of the fires that were being faced up there, they were making arrangements in anticipation that forest crews or others might be required to go in and work overnight. That's right; isn't it?

15 A. That's right.

Q. What I am trying to understand, and indeed Mr Sayer talked about getting dozers into place as quickly as possible. You will recall I read that 20 part of his statement to you?

A. Yes, that's right.

Q. What I am trying to get an understanding of, Mr Graham, is why the same thoughts weren't 25 occurring to you; why you weren't thinking about the importance of hitting these fires quickly, which was something which was well known to be important?

A. At the time, as I was explaining earlier, 30 there were several fires around the ACT that we were dealing with. We had two aircraft in the air. There was a fair bit going on. We were in discussions with Yarrowlumla fire control or the staff from there about what was happening in 35 McIntyre's and in other places in nearby New South Wales. I guess it was just the number of activities going on at that time that not everything was considered fully.

40 Q. You had quite a substantial number of personnel out at Bendora, didn't you, that night - In fact, more than ended up getting out there the following day; there were two tankers, two light units?

45 A. Three light units and two aircraft on the first day; that's correct.

Q. They weren't going to go anywhere else that night; were they?

A. In relation to another fire?

5 Q. Yes.

A. No, they weren't.

Q. You at that stage, as far as you knew, were dealing with only three fires in the ACT. That's 10 correct; isn't it?

A. The three we were certainly aware of, yes.

Q. I think you agree and in fact it is dealt with 15 in your statement that at that stage Mr Dennis Gray had already been recalled from Stockyard Spur; that's correct?

A. At about 1915, I think the time was.

Q. Mr Lucas-Smith, I think your statement 20 indicates, had indicated that he should return?

A. That's my memory of it too.

Q. I think at that point you knew about the Gingera fire. There was some confusion about 25 which side of the border it was on. There was certainly knowledge of that fire at the time?

A. That's right.

Q. There weren't any others in the ACT?

30 A. Oh, yes. We had the eight fires down around Tharwa and we also had the smoke sighting back of Dunlop to consider.

Q. I understood you to be saying you were 35 concerned to hold back resources at least initially because of the possibility of additional fires arising from the lightning strikes?

A. That's correct.

40 Q. As I understand it, you correct me if I am wrong, those other fires you referred to weren't fires associated with the lightning strikes; is that right?

A. The Tharwa and the Dunlop, no, they weren't.

45

Q. So far as things were known, you had the three fires in the Brindabella ranges to deal with in

effect?

A. The three that were inside the ACT at that time, that's right.

5 Q. You had a reasonably substantial contingent out at Bendorra being the fire that was clearly the most accessible?

A. That's right.

10 Q. The decision to withdraw those crews was made, as I think you have agreed, in a way that was inadequate; namely, based simply on the statement from Odile without any input from you or anyone else "There's not much we can do this evening"; is  
15 that right?

A. Yes, I believe we could have done better in that respect.

20 Q. Are you aware that there are a number of people, including people at the fire that night - and I indicate Mr Stevens - who believe the crews should have stayed and continued to fight that fire and were willing to do so?

25 A. I haven't had a discussion with Mr Stevens about that at all.

Q. I am not saying you were aware of that that night, but have you since become aware of that?

30 A. No - well, when I say "no", not from him personally. I have heard anecdotally through others that that may have been a view.

Q. I would like to suggest to you that the way in which decision was handled that night, given that  
35 other people such as Mr Bartlett, Mr Cooper and Mr Sayer are recognising how serious potentially this was, was negligent?

A. I wouldn't describe it that way.

40 Q. I think you would agree it was inadequately dealt with?

A. I believe it could have been dealt with better.

45 Q. I think you said before when I asked you, you made a remark in effect it was a joint decision between Odile Arman and the ESB; is that the

position?

A. I believe that's what I said, yes.

Q. Can we take it then that the inadequacy you  
5 would say is something for which there should be  
joint responsibility taken by both Ms Arman and  
the ESB; is that how you put it?

A. I believe that we in ESB could have taken  
greater consideration of the information we were  
10 getting back from Odile about overnight resourcing  
and possibly could have questioned her further.

Q. You then in that answer say that it is ESB  
that should really carry the responsibility for  
15 not properly testing the decision that she made?

A. What I'm saying is --

MR LAKATOS: I object to the question. He has  
answered his part of it. He is now being asked to  
20 pass judgment or at least to portion blame on to  
the incident controller. In my submission, that  
is neither helpful nor fair. He has accepted what  
is his part of the responsibility. With respect,  
25 to ask him as it were, as my friend has been  
doing, to pass judgment on someone else is quite  
inappropriate. Your Worship will make whatever  
finding is appropriate on that issue based on the  
evidence. That this man, who is a witness, is  
30 called upon to make that comment is unfair on him  
and unfair on Ms Arman.

MR WOODWARD: I understood Mr Graham to be saying  
that the area where they fell down was in the  
failure of the ESB to properly test her decision.  
35 That's what I understood him to be saying. What I  
was actually putting to him was not asking him to  
cast blame on the incident controller; indeed, I  
was suggesting quite the reverse.

40 THE CORONER: That's what I understood,  
Mr Lakatos.

MR WOODWARD: I was asking him on behalf of ESB  
and, in my submission, in his position he is  
45 entitled to comment on this question to indicate  
whether or not he believes ESB carries --

THE CORONER: Yes. It is not casting any blame on --

5 MR LAKATOS: I must say I rather stood up perhaps too late. There were a couple of questions before where that was the direction in which he was going. That was my concern.

10 THE CORONER: Thank you.

MR WOODWARD: Q. Perhaps I better ask that again. In view of the fact as I understand it you have said that the deficiency on that evening was in the failure to properly test Ms Arman's decision, 15 do you accept therefore that it is the ESB, and the SMT I suppose in particular, that carries the responsibility for that decision to withdraw on that night?

20 MR PHILIP WALKER: I object to that, because it is not an accurate statement of what the witness said. The witness said he believes he could have done better. At various times it has been described as a "deficiency" or a "falling down". 25 Perhaps if the man is going to be questioned on what he said, it might be put to him as he said it rather than it constantly elevated - or perhaps constantly made worse, let me be more precise - by the way the question is being framed.

30 THE CORONER: It is not unfair, Mr Walker, to put that question.

35 MR WOODWARD: Q. I will put the last part of the proposition to you again, Mr Graham: do you accept that the ESB, and by that I should indicate it was the SMT that had the role that night, carries the responsibility for the decision to withdraw from the Bendora fire?

40 A. I think it is a joint decision. I think if the incident controller out at the incident ground feels strongly enough that the need to withdraw is paramount, then that decision must be supported. I believe that ESB and the Service Management Team 45 within ESB could probably have questioned in some greater detail - or in some detail the reason behind the decision to withdraw.

Q. You have characterised it as a joint decision. Does that mean that, if the decision was a wrong decision, the responsibility for that error lies jointly with the SMT and the incident controller?

5

MR LAKATOS: That's where I object, your Worship. That's where I came in earlier on.

10 THE CORONER: That's quite an appropriate question, Mr Lakatos.

MR LAKATOS: With respect, in my submission --

THE CORONER: This is the crux, is it not?

15

MR LAKATOS: Your Worship may overrule me, with respect, but may I say this: it goes back to the same thing. If he is asked (a) it is a joint decision, are you responsible for your part of it, 20 that is fair. But, with respect, anything further than that or any indication further than that is not appropriate.

25 THE CORONER: That is all Mr Graham is being asked, as I understand it. This is a very important issue. The question here is: who was ultimately responsible for making this decision? And that is a question that I certainly want answered.

30

MR LAKATOS: With respect, this witness has answered that. He said "jointly" and that's his position. There can be a debate about that.

35 THE CORONER: I don't understand that that is exactly what Mr Graham has said, because he does change the evidence that he has been giving. At one stage he said it is his responsibility and then he said it is a joint responsibility - the 40 decision-making was joint. But whose responsibility is it? And that's what is being asked now. That is the question that leads from the question of the decision-making.

45 I accept that that is your position, Mr Graham, that the decision-making was a joint decision, that it was joint. Now we are at another aspect

of this and that is: who was ultimately responsible for that decision? If Mr Graham says it is a joint responsibility, so be it. That is simply the question that he is being asked.

5

MR LAKATOS: As your Worship pleases.

MR WOODWARD: I am indebted. He had said it was a joint decision.

10

Q. I was simply asking the next stage: if it is a wrong decision, is the responsibility for that wrong decision a joint responsibility between the SMT and the incident controller; is that how you see it?

A. I am not sure how the decision could be described as a wrong decision. I take it you are posing a hypothetical rather than --

20

Q. What I am doing is selecting your own characterisation of it. You indicated - I no longer have it on the screen - you accept that not enough was done to test - I think the way you put it was to the effect of to test the decision that Odile Arman made, apparently articulated in that short passage from the radio transcript, more could have been done to have examined her reasoning and tested whether or not she had taken into account proper considerations. I think that was the effect of your evidence.

25

MR LAKATOS: May I say, I object only in this regard - I am not suggesting my friend is not stating accurately, because it is difficult to follow it. But if as your Worship has said it is an important matter, and it is, then in fairness to the witness what precisely he said on that issue should be put rather than be summarised back to him.

30

THE CORONER: I think that is a fair comment.

40

MR WOODWARD: Perhaps the better way to do it is to ask it again and give him an opportunity to answer it again, because I don't have enough hands to get back into the transcript.

Q. Mr Graham, I think you said earlier or you commented earlier that more could have been done in relation to the decision to withdraw. Perhaps I will let you in your own words articulate what 5 you say about that.

A. I think that there would have been - there was opportunity to question further the decision or the view that Odile Arman had come to. I also think that, as I said earlier, if the incident 10 controller believes categorically that there is a need to withdraw crews, then I would support that 100 per cent.

THE CORONER: Q. I think you also agreed, 15 Mr Graham, there should have been more in-depth consideration. You agreed with that proposition.

A. Yes, your Worship.

Q. Of the decision by who?  
20 A. Of the decision of Odile Arman.

Q. Yes.

A. I believe there was opportunity to question further the reasoning behind that decision.

25 MR WOODWARD: Q. You wouldn't suggest, would you, Mr Graham, that her response was a categorical statement that she didn't think it was appropriate to stay in overnight; it is not, is it?

30 A. No. I wouldn't consider it to be a categorical statement, no.

Q. The way it was put almost invites some discussion, doesn't it?  
35 A. The way it was put - are you talking now by the COMCEN operator to Odile Arman?

Q. No. One has to, I think, take that into account in considering her response. Her 40 response, having regard to the way in which it was put to her was "There's not too much we can do this evening." That's a long way short of the categorical statement that she doesn't think it is appropriate; isn't it?

45 A. Yes. Yes, it is short of a categorical statement.

Q. In those circumstances as I understand it, you are acknowledging that the failure - and I think I should put this directly to you - at that point in time you were the one dealing with the issue, the  
5 failure by you at that point to properly test her decision-making process and to better understand her reasoning was a failure by you and/or the SMT?  
A. I believe that there was opportunity for further questioning to understand better the  
10 reason behind her decision.

Q. The failure to take that opportunity was a deficiency in the way the matter was handled?  
A. That's right.

15 Q. Who do you say should have taken that opportunity?

A. I believe I should have.

20 Q. Do you say anyone else should have been involved in that process?

A. At that point I was the only person in the Service Management Team in one of the key roles in the operations centre, so there was nobody else  
25 for me to refer that decision to at that time.

Q. Could you have telephoned or otherwise contacted Mr Lucas-Smith at that point?

A. Yes, I could.

30 Q. Did you try to do that?

A. No, I didn't.

Q. We are at the point now, I think, Mr Graham,  
35 where I can ask the question again: you have agreed - I will try to get the words right - that the failure to take the opportunity was a deficiency in the way the matter was handled. As I understand it, you are taking responsibility for  
40 that deficiency; is that correct?

A. What I agreed with was there was scope to question further the reason behind the decision, and the person that should have put that questioning to Odile Arman was myself.

45 Q. Yes. That's essentially repeating. And your failure to do that was a deficiency, wasn't it?

A. Yes, I suppose it could be viewed that way.

Q. Is it fair to say that your deficiency that  
5 you have accepted in conjunction with the decision  
by the incident controller on the fire - those two  
factors contributed to what was a failure on the  
part of those at that point running the process to  
properly manage the fire?

A. No. I don't think so. I think that the fire  
10 was managed well both at the incident ground and  
back at the Emergency Operations Centre. I'm not  
saying that there wasn't scope for improvement - I  
will accept that there was - but I think with the  
15 raft of activity going on at the time that it was  
properly managed.

Q. It was a failure in the decision-making  
process; wasn't it?

A. In the endorsement of the decision-making, I  
20 would accept that it could have been done better.

Q. That amounts to the same thing, doesn't it; it  
is a failure in the decision-making process?

A. Well, I will say I believe it could be done  
25 better. Whether or not it was failure are words  
others may use.

Q. To the extent you could have done better - can  
I ask you this: when you are using the term "you"  
30 there, are you referring to just yourself or  
yourself and Ms Arman?

A. No, I was referring to myself when I made that  
comment.

35 Q. I will put this to you as well, Mr Graham: the  
failure by you to recognise - I think you said  
earlier today that you didn't recognise, among  
other things, a threat from the McIntyre's Hut  
fire to the Uriarra pine plantations; is that a  
40 fair summary of what you said before?

A. Yeah, I believe I said words to that effect.

45 Q. At that stage you had not done anything to  
make arrangements to ensure that there were dozers  
available first thing in the morning to deal with,  
to the extent necessary, putting in fire trails  
around these remote fires?

A. Are you talking now about the McIntyre's Hut fire or the impact of that?

Q. The three fires for which you were  
5 responsible.

A. Not on the evening of the 8th, no.

Q. You didn't recognise at that time a need to do  
that?

10 A. That's right.

Q. You have not done anything, apart from  
standing up the relevant crews to put in place  
arrangements for the possibility of overnight  
15 deployment, you have not looked at the possibility  
of deploying additional crews or finding out from  
Forests whether they, for example, could deploy  
additional crews during the night?

A. On the night of the 8th?

20

Q. Yes.

A. No.

Q. I suggest to you, Mr Graham, one of the  
25 reasons that you had not recognised those needs or  
taken those steps was because you simply did not  
appreciate the level of threat that these fires  
posed to the ACT at that time on the 8th?

A. That's right. I don't believe on the 8th that  
30 it was recognised what would happen on the 18th.

Q. No, no, no - let me be clear: I have referred  
you to evidence of Mr Sayer and Mr Cooper who were  
taking, it would seem to the extent that they  
35 could, within their authority in certainly talking  
about what needed to be done in relation to an  
aggressive attack on these fires - you recall I  
read you that evidence?

A. I do.

40

Q. And they recognised that that night?

A. Well, that's what appears, yes.

Q. I suggest to you that you didn't recognise  
45 that same level of concern at that point?

A. No, that's right.

Q. I suggest to you that is simply because you at that point did not have the degree of experience necessary to make those sorts of determinations --

5 MR LAKATOS: I object to that question. He is being asked the reason why he didn't do something, with respect. That's a judgment for others to make, and no doubt your Worship will. It is a submission and not a question properly put to the  
10 person.

THE CORONER: I would be interested in Mr Graham's opinion and his comment on that question.

15 MR LAKATOS: Thank you.

MR WOODWARD: Your Worship, can I just make a general remark because of the nature of some objections that have been made.

20 In putting propositions to a witness - and this is true for the entire inquest - in my submission, it is very important where it is recognised where there is a possibility, and it need be no more than that, of an inference being drawn about a  
25 witness - for example, in this area in the area of experience - and it is possible, and I am not suggesting for a moment any more than that, that your Worship may find that that was a contributing factor. As a matter of fairness, these  
30 propositions must be put to the witness.

35 THE CORONER: They do. What I will just remind counsel is the next time that any counsel is minded to object, I am going to ask you on what basis you are objecting, because you all have a very specific brief in relation to who you do or do not represent. I just want to mention that and ask you to be mindful of that.

40 Mr Graham has chosen to come and give evidence without any representation, and so be it. I am not going to allow - I have so far been patient with this - people just jumping up and objecting  
45 on some basis that perhaps they feel they might be protecting the interests of Mr Graham.

I am here to protect the interests of Mr Graham. If I feel that Mr Woodward, or indeed any counsel assisting me, is asking questions of any witness which are unfair or improper or insulting or  
5 degrading or otherwise totally inappropriate, then I will take account of that. That is not to say that I want to curtail counsels' involvement in the case, but I just want you all to be mindful of exactly who you do and do not represent. Thank  
10 you, Mr Woodward.

MR WOODWARD: Q. I have now lost the question off the screen. What I was putting to you, and particularly drawing a contrast with say Mr Sayer  
15 whom you acknowledged was a very experienced bushfire fighter?

A. That's correct.

Q. And Mr Bartlett, although you didn't have detailed knowledge of his experience, is someone who I think you understood to have considerable bushfire fighting experience including in remote areas; is that something you were aware of?

A. Considerable bushfire fighting experience - I  
25 am not sure where it was gained.

Q. Perhaps I should ask you: Mr Cooper, did you understand him to be a person who had considerable bushfire fighting experience?

A. I believe he's a firefighter of some experience. I don't have much background as to that experience.

Q. What I am suggesting to you, Mr Graham, is the reason why you didn't have the same degree of concern and were not recognising the need to be starting to throw as much resources as possible at these fires at that point is simply because you did not have that sort of experience. You did not  
35 see the potential from these fires.

A. I certainly don't have the experience of Mr Bartlett, Cooper or Sayer, and I do recognise that. I don't recall Mr Bartlett, Cooper or Sayer sharing with me specifically their concerns on the  
45 night and giving me the benefit of their experience.

Q. Did you ask for it?  
A. No, I didn't.

5 Q. Mr Bartlett says he offered it and was sent away. I understand you say you don't recall that, but that's his position.

A. I don't know that he was sent away. I believe he went over to Queanbeyan to discuss the McIntyre's Hut fire further that evening, and  
10 Mr Cooper went with him. So at least two of those three were involved until I believe about 2130 hours.

15 Q. You have accepted that Mr Sayer, Mr Bartlett and Mr Cooper had I think considerably more experience in bushfire fighting than you did at that time?

A. I do accept that.

20 Q. What I am suggesting to you is the reason that they were recognising risks and concerns that you weren't recognising was because of that additional experience; do you accept that?

A. Yes, I do.

25 Q. I suggest to you that the converse is that you were not sufficiently experienced in relation to bushfire behaviour and bushfire fighting at that time to be in the position you were in making the sorts of decisions you were being called on to make that night?

A. The position I was in on that night was the position I had held at that time for five and a half, six years or something. I had been involved  
35 in an Emergency Operations Centre as the operations officer and indeed as the incident controller at times on numerous fires leading up to the 8th of January. I don't believe that there was ever any question about whether or not I had the experience to be fulfilling that role.

One of the roles I was fulfilling were those of an incident management team member. That's something that I had been trained for some years prior.

45 Q. Certainly I accept what you say, Mr Graham. But it may be important to perhaps distinguish

between the various roles you were fulfilling that night, and no doubt to the extent that you were in COMCEN assisting with the direction of resources and so on, that was something that you had

5 experience in; do you agree with that?

A. Yes, I do.

Q. The area that I'm concentrating on though is to the extent that you were having an involvement  
10 in strategic and tactical decisions about these fires and in particular an involvement where one would ordinarily be needing to take into account the potential that these fires held if not adequately resourced was an area where your  
15 experience was deficient?

A. I don't believe that it was recognised that the Bendora fire - sorry, I believe it was recognised that the Bendora fire wouldn't grow too much overnight. We were expecting milder  
20 conditions and in all likelihood if the tracks that had been marked on a map were of the quality that I assumed that they were, then the fire would remain within those tracks overnight and would not have grown to the extent that they did.

25

Q. You knew that the conditions at the time were very volatile. There had been a drought - we have been through all this before - you knew about all that?

30

A. That's right.

Q. Mr Sayer, Mr Cooper and Mr Bartlett also knew about those matters, and it was that coupled with the fact that they knew these fires were in remote  
35 areas, I suggest, that caused them to be very concerned about these fires and the difficulties that would arise in containing them. What I am suggesting to you is that your experience was deficient in terms of being able to recognise the  
40 potential that these fires held if not contained quickly?

A. Efforts were made to contain the fires; crews were responded; multiple aircraft were responded in an attempt to contain these fires.

45

Q. And then withdrawn?

A. That's right.

Q. Other people have said, and we can assume will say, that the decision to withdraw crews particularly from Bendora was a bad decision and that it should have been recognised that night  
5 that the Bendora fire and the other fires had the potential to become, from the following morning, very difficult to contain. What I am suggesting to you and I will suggest it again is that your experience was not sufficient for you to recognise  
10 those matters.

A. I knew that we were in drought conditions. I knew the dangers posed up in the mountains in night-time firefighting were very real and that we needed to be conscious of the safety of our  
15 firefighters. They were doing direct attack, which is fighting the fire off the road and trail network, which puts them potentially in a fairly dangerous position.

20 So I guess that was a part of my personal consideration when Odile Arman suggested that crews wouldn't stay overnight.

Q. I'm not sure that you have dealt with the  
25 question. What I am focusing on in particular is the potential that these fires held having started in remote areas - three fires in the ACT having started in remote areas - at a time in the conditions that you have described. What I am  
30 suggesting to you is, in that broad sense, you were not sufficiently experienced to identify that night what risks these fires posed if, for example, not attacked aggressively and immediately.

35 A. I believe I recognised the risks that they posed to the firefighters on the fire ground.

Q. But I am not asking about the risk to the firefighters - and I am sorry I should have made  
40 that clear - I am asking about the potential for these fires to become very difficult to contain on the following days.

A. I recognise that they had the potential to be difficult to contain.

45

Q. If you recognised that potential and I take it you also were aware that the first night can be,

it is usually night when the fire behaviour is at its most easiest - the time when the fire is the most easiest to control; isn't it?

A. Generally speaking, yes.

5

Q. To lose that opportunity was a significant - it was a very significant decision; would you agree with that?

A. Yes, I do.

10

Q. What I am suggesting to you is that one of the reasons why you were not more actively testing Odile Arman and ensuring that the decision was a properly formulated decision was because you didn't have the experience to recognise what these fires could do if that opportunity was lost?

15

A. I believe that, at that time when the fires started, I had some considerable experience in the role that I was fulfilling at the time, being an operations officer in our terminology in our Service Management Team. It was experience that I had gained through what would probably number in the hundreds of fire events over my time there.

25

Q. You need to understand fires, don't you, Mr Graham, to be able to make those judgments? I suggest you need to be able to understand how bushfires work.

A. That's right.

30

Q. I would suggest to you that you didn't have a sufficient understanding at that point of that.

A.

I don't know whether I can answer that. You are talking about whether or not I felt I had enough experience. I was confident that I had the capacity to do the job.

40

Q. In your statement you make the comment in paragraph 18 in relation to the broad issue of night-time firefighting:

45

"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. When this happens crews are generally not presented with the immediate danger of

falling timber, and avenues of retreat are more accessible."

5 From where did you obtain the view that night-time operations are usually conducted once strategies have changed from direct attack to indirect attack?

A. I don't know where I first heard that or first thought that, but the point I was trying to make 10 in that statement was that it is a safer business to be in to be fighting fires at night off a fire trail rather than out amongst the wood in the forests.

15 Q. Well, that may be, but is it in fact your view that night-time operations are usually conducted once the strategies have changed from direct attack to indirect attack?

A. It's dependent on the location of the fires 20 and the fuel that is being burnt. Because if we are talking, for instance, about a grasslands fire then it may be a very viable proposition to be fighting that fire at night.

25 Q. The fact is that, on the first night of a fire, there would almost by definition be direct attack if a decision was made to conduct night-time firefighting on the first night; by definition almost you would be conducting direct 30 attack, wouldn't you, at least in part?

A. That's right.

Q. It is simply not correct to say that night-time firefighting is usually conducted when 35 decisions are made to move from direct to indirect attack?

A. I stand by that statement.

40 Q. Mr Lucas-Smith was asked about that at page 831 of the transcript. He was read that passage from your statement at about line 30. It was put to him this question:

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

"A. Not generally, no."

So he doesn't agree:

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

10 So I suggest to you, Mr Graham, it is simply not correct to say that night-time operations are usually conducted once the strategies have changed from direct attack to indirect attack?

A. I'm not sure that I want to change my  
15 statement. I believe that I want to stand by that.

Q. I think the other part of Mr Lucas-Smith's evidence that I should refer you to relevant to  
20 that decision that night is at page 862 at line 15. Recalling the evidence he had already given about his concern about the decision that night, it was put to him:

25 "Q. If the decision the night before had been different, that difficulty - I think he is referring to difficulties with access - wouldn't necessarily be being encountered on the ninth, would it?

30 "A. If we made the decision we direct attack on the night of the 8th, at first light on the morning of the 9th we would have had heavy plant in there opening up those trails and doing what we could to limit the growth  
35 of that fire."

Is that something you were aware of - not  
Mr Lucas-Smith's view, but did you have in your mind on the night of the 8th that, if you had had  
40 direct attack, it would have been possible to get dozers in there first thing in the morning and open up the trails and do what you could to limit the growth of the fire?

A. My understanding is that it was direct attack  
45 being done. It was being done in a couple of ways (1) by the water bombing aircraft and (2) by the ground crews.

Q. Mr Graham, you know I am asking you about direct attack overnight. That's what that is referring to. Do you understand that?

A. Maybe I misunderstood what you were saying.

5 Can I have your question again please?

Q. Perhaps I should read you the passage again:

10 "Q. If the decision the night before had been different - he is referring to the decision to withdraw; so in other words if the decision had been made to leave crews in overnight - that difficulty wouldn't necessarily be encountered on the 9th, would it?

15 A. If we made the decision we direct attack on the night of the 8th, at first light on the morning of the 9th we would have had heavy plant in there opening up those trails 20 and doing what we could to limit the growth of that fire."

So what I am asking you is, on the night of the 8th, were you conscious of the fact that if you 25 had had people in there overnight, then the decision such as getting dozers in there could have been implemented much more quickly; is that something you were considering?

30 A. It was not something that I personally was considering. I don't think it was something that I had had a discussion with Mr Lucas-Smith about.

Q. Mr Lucas-Smith is a person who has considerably more fire experience than you; is 35 that correct?

A. That's correct.

Q. Do you recall him saying anything to you on the night of the 9th, admittedly after the 40 decision had been made, when you were discussing it with him which suggested he disagreed with the decision? What did he say? Did he say anything to that effect to you?

A. Not that I can remember. I don't recall --

45

Q. Sorry.

A. I was going to amplify. I don't recall any

discussion about - sorry, any criticism of the decision to withdraw the crews at the Bendora fire.

5 Q. Did he express, to your recollection, any reservations about that decision?

A. Not that I can remember.

10 Q. Would it be fair to suggest that, given his experience, if he had those reservations he might have said something to you that night?

15 MR PHILIP WALKER: Your Worship, now that does concern my client. The speculation that has to go on "would it be fair that given his experience if he had reservations he would have" - I mean really, how can anybody base a rational submission on an answer to a question like that? It is hypothesis and speculation and hypothesis and speculation.

20 THE CORONER: Which part are you objecting to?

MR PHILIP WALKER: The question was:

25 "Would it be fair to suggest that, given his experience, if he had those reservations he might have said something to you that night?"

30 The gentleman is asked to make an estimate of his experience. He is then asked to make an assumption about what he had done if he had reservations and then to determine whether he might have said something. I suppose he might and he might not have.

35 MR WOODWARD: I will withdraw the question.

THE CORONER: Mr Graham has already said he doesn't recall any criticism by Mr Lucas-Smith of that decision that night.

40 MR WOODWARD: Q. You say in your statement at paragraph 19, just concluding on this issue, Mr Graham:

"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."

5

I think we now have the chronology a little better settled. You had the phone conversation with Mr Lucas-Smith while he was apparently en route or at Queanbeyan?

10 A. I believe he was en route at the time.

Q. Yes. Actually he was unsure about that, I think. He wasn't sure whether he was en route or whether he had already arrived.

15 A. The basis that I believe it is en route - and it won't stand up to too much scrutiny maybe - is that he left Curtin at about 1930. We know the phone call was at 1942, 12 minutes later, and the fact is it would take about 22 minutes to drive  
20 from Curtin to Yarrawumla Shire.

Q. Do you recall being conscious that he was on a hands-free telephone in the car?

A. No, I wouldn't know.

25

Q. I wasn't suggesting he was doing anything illegal but really to ask whether Mr McRae was in the car with him; is that your understanding?

A. That's my understanding, but I really don't know that.

30 Q. So going back to that chronology, is it the case that after they returned to Curtin from Queanbeyan you then had a further discussion; is that correct?

A. I think there were two discussions. There was the 1942 discussion by telephone, and then I think it was on their return some time after 2130 or maybe a little bit after that that there was  
40 another discussion.

Q. As best you can, you have referred to it relatively briefly in your statement: firstly, was the discussion between yourself, Mr Lucas-Smith and Mr McRae; is that the position?

A. That's right.

Q. Was Mr Ingram there by that time?

A. No, I don't think he came back to Emergency Services Bureau after his flight. I don't think he did. I'm not sure.

5

Q. As best you can, I appreciate you won't be able to do it word for word, can you indicate the substance of the discussion you had with Mr Lucas-Smith and Mr McRae?

10 A. Not with any clarity. I believe I spoke about the fires that we had - being the Stockyard fire and the Bendora fire. It was, I think, after the telephone call I had had with Odile Arman just before 20 past 9 the discussion with Lucas-Smith  
15 and McRae was in relation to that discussion I had with Odile Arman. But I don't remember now the substance of that discussion too much.

Q. So far as that part was concerned, is your  
20 memory that you related to them what you had discussed with Ms Arman later on that evening?

A. I believe that that's the case.

Q. I think you've said you don't recall  
25 Mr Lucas-Smith expressing any reservations or criticising the decision. Do you recall Mr McRae saying anything about that decision?

A. No, I don't.

30 Q. Was there any discussion that night about resourcing for the morning?

A. Not that I can remember. There may well have been a discussion about the resourcing for the McIntyre's fire, because I think we had agreed to resource that. By that time the resourcing I'd already discussed with Odile Arman and had put in place the measures that were needed to do. Whether or not I was asked at the time what resources were going to the various fires in the ACT, I just  
40 don't know.

Q. Can we take it from that then equally do you recall any discussion or anyone expressing the view about whether what was requested was adequate or excessive?

A. No. I don't recall that at all.

Q. Was there any discussion about where additional resources might be sourced during the course of the following day other than the ones that had already been - I withdraw that.

5

Was there any discussion about whether or not there might be a need to increase the level of resourcing as the day progressed?

A. I don't believe so.

10

Q. I asked you some questions before lunch, we had got on to the morning of the 9th. I put to you some extracts from Mr Hayes' statement in relation to the resources sent to Bendora. If I 15 can add one little thing in relation to that. He provided a taped record of conversation in addition to his statement which is document [DPP.DPP.0004.0029] at page 12 of that document - it appears there may be an error in the 20 transcription but the sense of it is clear. At question 101 he was asking about what options he had in relation to controlling Bendora fire. His response was:

25

"Very few, 'cause I knew there were numerous other fires burning in a close proximity to me, so as I found out later on - the word there is "tilby" it may be two I'm not sure - rake hoe crews got pinched and were sent somewhere else. I only had very minimal staff that day, two, a tanker and a light unit, very minimal staff. So I thought what I've got is what I've got to use and that's all I've got. There's no use whingeing about 30 35 it, 'cause I'm not gonna get any more, 'cause there was numerous fires burning elsewhere."

Are you able to assist at all, Mr Graham? Is it possible that a rake hoe crew that may have been assigned to Mr Hayes was used elsewhere or sent elsewhere? Do you have any knowledge of that?

A. No, I don't believe that any crews were taken off Mr Hayes; I don't believe any crews inadvertently went to the wrong fire.

45

Q. And you are not otherwise able to - you have referred to the reference in the radio transcript

to I think it was rivers --  
A. Rivers Command.

Q. -- responding to Bendorra. Is that what the --  
5 A. Yes. They are not my words. That is, right  
at 1553 Rivers Command and Rivers 10 were heading  
to the Bendorra fire.

Q. At least if Mr Hayes is correct it appears  
10 that Rivers Command didn't get there, because he  
had only the two units according to his evidence.  
Are you able to assist at all as to why that  
happened, if that happened?

A. I don't know whether or not it did happen. My  
15 understanding up until this moment was that it did  
happen. I have never heard anything to the  
contrary.

MR WOODWARD: Is it appropriate to take a short  
20 adjournment?

THE CORONER: We will take a short adjournment.

**SHORT ADJOURNMENT** [ 3.01pm ]  
25 **RESUMED** [ 3.10pm ]

MR WOODWARD: I was reminded yesterday by  
Mr McArthur and forgot to do it this morning, and  
30 that is to tender Mr Graham's CV.

THE CORONER: I have a note here myself. I forgot  
to remind you this morning whether you wanted to  
do that, Mr Woodward.

35 MR WOODWARD: If I could tender Mr Graham's  
curriculum vitae.

THE CORONER: Mr Graham's curriculum vitae will  
40 become exhibit 0036.

**<EXHIBIT #36 - MR GRAHAM'S CURRICULUM VITAE  
ADMITTED WITHOUT OBJECTION**

45 MR WOODWARD: Q. Paragraph 23 of your statement  
is where you deal with the withdrawal from  
stockyard. You say that you spoke to Peter

Lucas-Smith about what Dennis Gray and his crew should do:

5 "Peter and I agreed that Dennis Gray and his crews should not continue to the fire ..."

This advice was relayed to Dennis Gray by COMCEN at 1915. Was there any discussion between yourself and Mr Lucas-Smith about that decision  
10 before that instruction was given to Mr Gray?

A. Look, I couldn't categorically say now. I believe there would have been and the decision would have been based on the fact that it was a remote area they had to walk into. They couldn't  
15 drive into it. It was not too long before dusk and they were somewhere between one and a half and 2km. They weren't walking on any formed track or trail. What it would have meant is by the time they reached that fire ground it would have been  
20 probably after nightfall.

Q. That would have been part of the problem, wasn't it, he was having difficulty locating any track in there and by that stage was still unsure  
25 of precisely how to get in; is that correct?

A. That's correct.

Q. In relation to Gingera that is dealt with in paragraph 25 of your statement where you say:  
30

"The SMT (less David Ingram) discussed the Gingera fire and agreed not to put crews into this area to try and round up that fire."

35 Again, can you elaborate on that at all as to what matters were discussed?

A. Only in a general sense, and that is that this fire is a further distance out than what the Stockyard yard fire was, so the travel time to  
40 that fire would have been much greater. It was a relatively small fire based on the information that we had received on several occasions from 'Firebird 7'. And I think it was a decision that by not resourcing it what were the implications,  
45 and it was thought that they would be minimal.

Q. Was there an understanding at the time as to

what access was like to Gingera, to the fire? You talked about the distance but, having got there, how far was it from the nearest track?

5 A. I don't think I've got anything with me that describes that distance. I may have in a general nature, but it doesn't come to my mind. I would have to go through my note.

10 Q. Do you remember the question of getting access to the fire from the nearest trail being an issue that was discussed that night?

A. Amongst the Service Management Team?

Q. Yes.

15 A. No, I don't remember that specifically being discussed.

Q. So the main consideration, if I can summarise what you said before, was the sheer distance to 20 the fire area; is that correct?

A. It was some distance. It was a reasonably small fire and between two flights that 'Firebird 7' undertook - I don't remember now the time stamp; I do have it here - in that time the fire 25 had only grown 5 metres. It wasn't a fire that was moving very quickly. I believe that was the reason behind the decision not to resource it.

30 Q. Apart from the meetings and discussions you have described, were you aware whether either Mr Lucas-Smith or Mr McRae at that night on the 8th did any kind of broader risk assessment or assessment of where these fires might travel under certain scenarios?

35 A. Overnight?

Q. Yes.

A. Where they might travel overnight?

40 Q. Where they might travel in the foreseeable future; was there any modelling done that night that you know of?

A. Not that I know of.

45 Q. Was there any other what might be described as a risk assessment done of what the combination of the fires might mean over the following few days?

A. Was there any modelling done over the following few days or what the fire might do?

5 Q. What I am asking is: I am using the term "risk assessment" for want of a better one, was any risk assessment done that night on the 8th about the medium to longer-term possible potential of these fires?

A. Not that I'm aware of.

10

Q. You returned to ESB that morning at 0600 hours on the 9th?

A. That's right.

15

Q. And made contact through COMCEN to Mr Hayes requesting a situation report from him and requesting an estimated time of arrival from Mr McNamara; is that correct?

A. That's right.

20

Q. That was at about 0645 that did you that? I am reading from paragraph 28 of your statement.

A. I believe that's right, yes.

25

Q. At about 0630 Mr Ingram again undertook a reconnaissance flight; is that correct?

A. That's correct. I have got him leaving at 0637.

30

Q. Were you hearing his reports as they were coming in about the various fires?

A. I believe so.

35

Q. At the risk of oversimplification and going from Mr Ingram's statement, it appears that by about 0700 he has provided a situation report that the Bendora fire is about 750 square metres. I think that is dealt with in paragraph 35 of his statement. He provided that information at 0654; 40 is that your recollection?

A. That's right.

Q. Stockyard was 500 square metres and Gingera about 300 square metres?

45

A. That's the way I've got it too.

Q. Did any of that information come as a surprise

to you, Mr Graham, about the extent to which the fires had apparently grown overnight?

A. No, I don't think so.

5 Q. You had had a report the night before that the Bendora fire was only 100 square metres, hadn't you?

A. No, about 500.

10 Q. 500, I'm sorry. What about Gingera?

A. Gingera, I've got at 1920 hours it had increased in size by 5 square metres. I think the previous report to that I think put it at 25. So that was in fact about 30 square metres at 1920

15 the previous evening.

Q. At 720 the following morning you are being told it is 300 square metres?

A. That's right.

20

Q. That is a pretty significant growth overnight; would you agree?

A. Yes.

25 Q. Did that surprise you?

A. I can't remember now whether or not I was surprised by that.

30 Q. At that time or at any time during that morning, did a concern develop in your mind about the adequacy of the resources that had been requested the night before for those various fires?

35 A. No. If I go back to the Bendora fire at 1019, there was a conversation between Odile Arman and Rick Hayes regarding the requirement for another tanker. The comment was that he could probably do - he being Rick Hayes - with another tanker and he would think about it further. I can't find any record of him requesting any additional --

40 Q. He seemed to be under the impression from his taped record of conversation that I took you to a little while ago that, because of the number of fires in the area, he really didn't have many options; he had to work with what he had. Do you recall actually discussing with him or asking him

yourself whether he needed more resources or whether you could do anything more to assist him?

A. No, I don't recall asking whether or not he needed any additional resources. There were discussions about plant for that fire.

Q. When were those discussions?

A. I've got at 1329 there were discussions.

10 Q. That was about Bendorra?

A. That's right.

Q. Are you referring to a radio transcript?

A. Yes, I am.

15 Q. What is the timing of that?

A. 1329 on the 9th on VHF channel 2.

Q. What is the substance of that transcript?

20 A. Once again I have probably paraphrased it.

Park 6 was asked, "If we brought a dozer in would that help with a containment line?" His response to that was "That would be great". As I say, I paraphrased that.

25 Q. Was that a conversation you took part in?

A. I believe so, yes.

Q. What did you then do to arrange that

30 bulldozer?

A. I believe I asked Dave Ingram in the logistics section to arrange for that to be brought in.

Q. Was that the first time that day that you were conscious of or dealt with the need to deploy heavy plant to the fires - any of the fires?

A. I don't have any recollection of dealing with it before then but I could well have. I don't have anything to support that though.

40 Q. Do you recall at any point that morning --

A. I'm sorry - just now as I am reading my notes, I have a note to myself that says at about 1030 hours the Service Management Team met to discuss the use of heavy plant equipment. My comment - once again a comment to myself - was that the Service Management Team agreed that plant and

heavy equipment was needed to support firefighting operations in the Brindabella Ranges. I don't have any documentation to support that.

5 Q. That's just based on your memory that note, is it?

A. That's right. Which is why I say in my notes to myself it was at about 10.30. I think I am remembering it as being some time in the middle of  
10 the morning.

Q. What was done, as best as you can recall, to address that need?

A. I believe Mr Ingram went and attempted to  
15 source some machinery.

Q. I want to ask you about a couple of passages in Mr Bartlett's statement [ESB.AFP.0001.1140]. At paragraph 33 on 1149 he says:

20 "On Thursday morning, I first went to my office before then heading back into ESB to get an update on the fires to find out what role I would be given. Again I was advised by Peter Lucas-Smith that there was no requirement for my services. I offered the services of some of my staff to support the planning unit and Mr Lucas-Smith indicated that he would like two staff for these roles.  
25 I indicated that I would arrange for Hilton Taylor and Felicity Grant to make contact with Rick McRae about their involvement in the planning unit. I also advised the duty coordinator."  
30

35 Would that be you, Mr Graham, that he is referring to?

A. Probably not. It could well be that his report is not entirely accurate. The reason I say probably not is that, with the duty co-ordinator roster, we did week about one week on and one week off. We usually changed at 8 o'clock in the morning on the Thursday. Our duty period started on the Thursday. Given we are now talking  
40 Thursday morning and given that I was the duty co-ordinator the day before, I would have handed over that role to David Ingram at 8 o'clock on  
45

Thursday morning. So I'm not sure whether Mr Bartlett had a phone call with whoever was the duty coordinator - a discussion the previous day with myself or with Dave Ingram on that day. I just don't know.

Q. We can ask Mr Bartlett about that. He says:

"I also advised the duty coordinator that we could source bulldozers if required and that we had also made this offer through Neil Cooper to the New South Wales incident management team. At that point I knew that all of the ACT Forests firefighting crews were on standby but that none had been deployed. I then queried the expected requirement for those crews and was told that they were to remain on standby and that there was no immediate tasking."

Is that consistent with your recollection at that time, that is at 9 in the morning of the 9th presumably the beginning of the morning, that no ACT Forests crews had been deployed?

A. I believe that's a true statement for deployment within the ACT. But I don't recall whether or not any had been deployed into McIntyre's fire at that time.

Q. Were you aware at the time that there were Forests crews on standby and available?

A. Well, it would normally be the case in the summer time that they were on standby and available.

Q. Is there any reason why they weren't being deployed at that time?

A. Well, we had crews deployed to the incidents that we had. There was no indication I don't believe in the morning that those crews weren't coping with the situation that they had in hand. So there was no requirement.

Q. Did you offer more crews to any of the incident controllers out there on the fire ground? Did you indicate to them, "Look, if you are having trouble, we can give you some more crews"?

A. At various points throughout the fire, yes, I did. But whether or not it was on that Thursday morning, I don't believe so.

5 Q. He continues:

"Surprised at this response, I returned to my office and we discussed the various possibilities with some of my senior 10 managers. I decided if I was not going to be used as an incident controller I would concentrate my efforts on what could be done in relation to the McIntyre's fire 15 considering the threat that it posed to the plantations."

Can you recall either discussing with 20 Mr Lucas-Smith or yourself thinking that it would be useful to have someone of Mr Bartlett's experience involved either at the SMT level or as an incident controller out in the field at this early stage?

A. I don't believe that we discussed that specifically. We always had the view that we had 25 somebody of Mr Bartlett's experience available to us and, when we had an incident that required his assistance, then we would use him for that.

Q. Didn't you think at that time or did you think 30 at that time on the morning of the 9th that you had an incident that could use his assistance?

A. We had competent, capable officers out on the incident ground that by all accounts were managing the incident that we had at that time.

35

Q. What about at the SMT?

A. Well, the SMT, I believe, was performing well. There wasn't at that time any need for his assistance.

40

Q. Incidentally I should ask - he refers to Mr Lucas-Smith, did you have any dealings with him that morning that you can recall?

A. Not that I can recall. I may well have.

45

Q. He then continues in the next paragraph:

5           "We decided if we were not going to be actively deployed by the ESB in relation to the firefighting effort in the national park, we could start work around our own plantation areas to improve the protection from any fire approaching from an adjacent native forest.

10          We then organised a large D9 bulldozer (which had been conducting site preparations operations for ACT Forests) to start brushing up tracks and widening the breaks around the edge of the Uriarra plantation, because that was where the immediate threat from the McIntyre's fire was directed."

15         Are you aware of the decision that Mr Bartlett made to deploy that D9 dozer to those tracks near the Uriarra plantation?

A.         No. I certainly wasn't, not initially. It was brought to my attention some time later.

20         Q.       I suggest that one interpretation of Mr Bartlett's statement is that was really only done because no-one else was asking for it. Is that something you were aware of; that is, the D9 bulldozer was available generally to the ESB but wasn't being asked for?

25         A.       No, I wasn't aware that they specifically had that piece of plant available. We had an agreement whereby any plant that they have got available for forestry operations becomes available to the Bushfire Service in times of bushfire operations. That agreement was in place at that time.

35         Q.       A D9 is probably the biggest dozer that is generally available for that type of work; isn't it?

A.         I believe so.

40         Q.       So it would be a very useful piece of equipment for the purposes of clearing tracks and creating fire trails?

A.         That's correct.

45         Q.       Were you part of any discussion with Mr Ingram or Mr Lucas-Smith or anyone at ESB where a discussion was held about getting hold of that

dozer and using it to assist the firefighting effort going on in the ACT?

5 A. I don't know about that particular dozer. I believe I was a part of a discussion with the other members of the Service Management Team when we were talking about plant in general and tasking Mr Ingram with finding some plant.

10 Q. You are not able to add anything, are you, in relation to why Mr Ingram didn't say "Could we have the D9," or something to that effect; are you able to assist with that?

A. No, I'm not.

15 Q. You referred earlier to Mr Hayes being offered a dozer and saying it would be great if he could have one. Do you know when that was provided?

20 A. I don't recall a dozer being available that day for Mr Hayes. I think that at some point during the afternoon it started making its way towards Bulls Head. I don't think it was used for the first time until the morning of the 10th.

Q. Where did that dozer come from, do you know?

25 A. I'm not sure that I do know. I will just have a look. No, I don't have anything in my notes to say where that dozer came from.

30 Q. Does it surprise you that it apparently was going to take the day to get it - a day? In other words, it wasn't going to be available until the following day.

35 A. The issue isn't necessarily the availability of a dozer but maybe the availability of a float to move the dozer to where it needs to go. If there is not a float with the dozer, then one has to be sourced to put the dozer on it. The reason being that the dozers just don't travel very well for long distances.

40 Q. Isn't though that something that should have been in place before - indeed before the fire season let alone earlier - and discussed at least on the 8th. Under an orange readiness, wouldn't it be appropriate or isn't it required to have that floating capacity available at short notice?

A. I don't recall now with enough clarity what is

in the MOU about that whether or not that is a required. I think it might be under the current MOU. That is a new one superseding the one we had in place last year. I just don't know now what 5 that requirement was.

Q. I should just check. The dozer you are referring to, was that made available under the MOU or did it come from ACT Forests - or somewhere 10 else?

A. That's my understanding. I am not categorically sure of that. I think that's where it came from.

15 Q. Do you recall having discussions with anyone else about dozers on the 9th and in particular with Mr McNamara who was at the Stockyard Fire?

A. I will have to have a look at that. I know there was a discussion about opening up the old 20 Stockyard Spur trail. I think Mr McNamara was suggesting hand crews would be used for that. I don't think there was --

Q. Opening up a trail?

25 A. Opening up the Stockyard Spur trail.

Q. Using hand crews for that?

A. That's right. As I say, I think they need to check to be sure.

30 Q. Can that be right, Mr Graham? How long was that trail? It was a couple of kilometres; wasn't it?

A. Yes. It was trafficable to a point.

35 Q. You wouldn't use a hand crew to actually construct a trail into a fire; would you?

A. It depends how the trail was closed over. If it was being closed over by a number of logs, for 40 instance, maybe it just needs a chainsaw crew to remove the logs.

Q. Mr McNamara in his statement at paragraph 41 which is [ESB.AFP.0103.0052] at 0063. Perhaps I 45 should commence at 62. He is there talking about having conducted his reconnaissance on the 9th. At paragraph 40 at the bottom of that page he

says:

5            "I reported my observations and strategy directly to Tony Graham by satellite phone. He was the operations manager at ESB."

The part I wanted to ask you about is further down in that paragraph. He says:

10          "Given the limited resources I had at my disposal, the difficult terrain vegetation and available fuel, I indicated to Tony Graham that we would have major difficulty in establishing a containment line around the 15 entire perimeter of the Stockyard Fire and requested additional crews and helicopter support. In my opinion we required additional RAFT crews with remote area firefighting resources. I recall Tony 20 indicating that they had multiple fires in the area and that he would get back to me with a response. He instructed me to do our best."

25          Do you have a record or recollection of that, Mr Graham?

A.          No, I don't have any recollection of that particular discussion. I certainly had some discussions with Mr McNamara throughout the day 30 about what he and his crews were facing.

Q.          If he was having that conversation with you on a satellite phone, where would you be at the other end? You would be on a phone in COMCEN, would 35 you?

A.          Most likely unless I ducked out for any other reason. I spent the majority of my time in COMCEN.

40          Q.          He then adds in the next paragraph:

45          "During the various conversations I had with Tony Graham I remember discussing with him the use of heavy plant. I recall that Tony asked me what the access availability was for having a dozer get to the fire, perhaps along the Stockyard Fire trail. I remember

indicating to him that I thought the access would be very good and that a dozer would be able to make progress along the Stockyard Fire trail and get right to the fire."

5

Do you recall that conversation?

A. I believe that that's right.

Q. Do you recall what was done to respond to that request or either of those requests from Mr McNamara for additional RAFT crews and/or a dozer?

A. I don't recall a conversation with him about additional RAFT crews. With a dozer, we didn't get a dozer to that fire on that night.

Q. Do you know why?

A. I think on the 9th, I don't know that we had a dozer working at all. I think it first started on the 10th. The first one that started on the Bendorra fire.

Q. That is the explanation as to why it was taking that time, in effect almost 24 hours to get a dozer floated to those areas. Is that something we need to speak to Mr Ingram about?

A. That would be better. He would in all likelihood have a better recollection than myself.

Q. Do you recall having discussions during that day with say Mr Cooper at ACT Forests or Mr Bartlett about needing to get dozers in quickly?

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

35

Q. Would it have been appropriate for you to have done that?

A. Look, it could well have been. We agreed on the need for plant. Mr Ingram had been tasked with sourcing that plant.

Q. You left it up to him, did you?

A. That's right.

45 Q. Were you concerned that you weren't able to respond with that plant more quickly?

A. I would have liked to have responded more

quickly, yes.

Q. You were receiving situation reports about the progress of the various fires during the day on 5 the 9th; is that correct?

A. That's correct.

Q. What, in a broad sense, were you hearing about 10 the success or otherwise of the attempts to contain the fires at that point?

A. As I go through this - it might take a little time as I scan the document. Is that okay?

Q. That is fine, by all means, if it assists at 15 all. I am more interested in a general impression as to what you were hearing about, any difficulties or lack of success that was occurring?

A. We spoke earlier about the situation report 20 that I got from Rick Hayes at 7 o'clock. The next piece of information I have from Mr Hayes was that the fire had crossed the fire trail. I don't believe he named that fire trail. He is going to contain the bit on the left-hand side so he can 25 use the road as a boundary and then attack the northern front. A little while later he asked if we could get some additional water bombing aircraft and we did that.

30 At 8.49 on the morning of the 9th, Mr Hayes was advised that there would be no water bombing on the Bendora fire for an hour. He replied, "That's fine, comms. It's pretty quiet here at the moment and I've got other things to do so. When they're 35 coming please let me know." That is at 10 to 9 in the morning.

At 8.59 Mr McNamara advised comms on VHF channel 4 40 that they had arrived at the Stockyard fire and he thinks it's pretty right to report that they will get around it.

Q. But he later came back to you and said he was having some difficulties, and that was what led to 45 the discussion?

A. Sure. I am going through this in a time sequence.

Q. I don't mean any disrespect, but if you are going to read those we can find those so we don't take up time in the hearing. I might just ask you the general question: as the day developed, did 5 you have a view or an understanding as to how successful the various attempts were being to contain the fires?

A. The Stockyard Fire, at some time around 13 or 10 1400, Mr McNamara and his crews withdrew from that fire ground.

Q. Why did they do that?

A. A couple of reasons, one was fatigue of his crews and, secondly - I would have to look for the 15 reference - I think he felt that they weren't being as successful as what they originally thought they would be.

Q. When you heard that information, what did you 20 do to deal with firstly the fatigue and lack of success?

A. In terms of fatigue, it was to withdraw his crews to allow them to have some rest time so that they could then do what they needed to do. In 25 terms of - what's the other part about suppression?

Q. They were your words; he was not having as much success as he thought he might.

A. We had aircraft, primarily the SouthCare one but at times 'Firebird 7' I believe, water bombing that fire ground in an attempt to slow down the spread of fire.

35 Q. Was that a signal to you, Mr Graham, that he needed not only replacement resources but additional resources out there at that fire?

A. I think it was at about that time that we realised that we had to take some longer-term 40 approaches to the management of the Stockyard Fire. So we had Mr McNamara and his crews withdraw from that fire ground and set in place a team to start looking at the management of that fire as a separate event.

45 Q. Were similar things happening at Bendora in broad terms; namely, particularly during the

afternoon crews having increasing difficulty, having any impact on containment? Was that your memory?

5 A. Well, I mean there are comments like from Rivers 21, which is one of our light tankers, to Mr Hayes that things were pretty quiet and it looks like the fire is starting to burn down the track --

10 Q. What time was that one?

A. That is at 1424. We are talking mid-afternoon. Burn down the track and as long as the wind stays as it is, it is not too much worry at the moment.

15

Q. Were you getting any reports directly from Mr Hayes that you can recall indicating how the firefight was going at Bendora?

20 A. We got some progress reports about the activities that they were undertaking, including where they were putting their rake hoe trails and the like in.

25 Q. I don't want to get too much out of the chronology but perhaps I should ask you: Mr McRae undertook a reconnaissance flight during the morning of the 9th over all of the fires, including some of the New South Wales fires; do you remember that?

30 A. I do.

Q. Do you recall him reporting to you what he had observed?

35 A. Not specifically. I believe that that discussion would have taken place. I don't remember the words spoken.

40 Q. I will get a document brought up on the screen [ESB.AFP.0110.0761]. We understand Mr Graham that this document is a screen dump of some notes that Mr McRae made during his reconnaissance flight. He returned to Curtin and then transcribed his notes onto the ESB web page. This is his transcription. He says, in effect, at paragraphs 45 40 to 42 of his statement that he returned from his reconnaissance at approximately 11am and reported increasing fire growth and he gave copies

of his notes - either these notes or handwritten notes - to yourself, Mr Lucas-Smith and Mr Ingram. Do you recall that?

5 A. No, not particularly, but that is certainly the kind of thing that he would do.

Q. So do you have any recollection of reading his notes when they were given to you that morning?

10 A. If I was given the notes by Mr McRae, I certainly would have read them.

Q. Perhaps asking first about the Bendora fire, which is the first of the set of notes there, he describes the size of the fire as 20 hectares and 15 growing. As you have probably gathered, I am not too good with my calculations of hectares and square metrage. Am I right to say that is a significantly larger fire than 750 square metres?

A. Very much so.

20

Q. Do you recall being surprised at an assessment by Mr McRae that morning that you had a 20-hectare fire?

25 A. I don't recall if I was surprised. I don't think that the size of the fire is surprising.

Q. It suggests that either the 'Firebird 7' assessment earlier that morning was a little bit on the small side or, alternatively, there has 30 been a significant rate of spread in that relatively short period between Mr Ingram's reconnaissance flight and that of Mr McRae?

A. That's right. That's what it suggests.

35 Q. Do you recall having an understanding during the morning or let's say at midday that the Bendora fire was a 20-hectare fire?

A. No, I don't particularly recall that.

40 Q. Can I suggest to you that, if that situation is correct, the crews sent to that fire - that is, even on your understanding at that time, the Rivers 21 command vehicle and the heavy tanker were going to have an awful lot of trouble 45 containing a fire of that size; weren't they?

A. Well, if we were to assume that Mr McRae was probably taking these estimations at about 1000 to

maybe 1030 hours, allowing time to return to Curtin and put this stuff on the machine, that is the same kind of time frame that Mr Hayes was considering the need for another tanker. It is 5 certainly not in the foremost of his mind. He didn't immediately request that extra tanker.

Q. Mr Hayes is again dealing with the here and now, isn't he? He is down there assessing what is 10 in front of him in terms of what he can see from the trails where he could get access to the fire. Mr McRae has flown over the top of the fire - you would agree he is an experienced air observer?  
A. Not qualified as an air observer, but he is 15 experienced, yes.

Q. And certainly someone who is familiar with fire behaviour and planning generally?  
A. That's right.

20 Q. So you would have no reason to think that his assessment was inaccurate?  
A. No, I have no reason to suggest that.

25 Q. In those circumstances, I suggest that a 20-hectare fire is going to be beyond the capacity of the crews that were out there that morning?  
A. That wasn't necessarily the assessment that the crews were making back.

30 Q. That may well be right, Mr Graham. What I am suggesting to you is they weren't in the position, it would appear at least, because no-one had told them, "You are on the trail but I am telling you this fire is a 20-hectare fire" - it appears 35 no-one was telling them that. In contrast, at least Mr McRae had that knowledge and information. You would be in a position knowing that, wouldn't you, to make an assessment of the adequacy of the resources on the fire ground?

40 A. That's true. Also I go back, keeping in mind the views of the incident controller, the people on the ground, the people who are there who can see and hear and have a better understanding of 45 what is happening at that incident than what I have got back at the control centre.

Q. I suggest to you that is just not right, Mr Graham. The people on the ground, particularly Mr Hayes on his own in a vehicle and a few other crews working from a couple of control lines, are  
5 not in a position of someone who has done a fly over the fire and has a bird's eye view of exactly where this fire is and what is going on, all its aspects; the person who has done that is in a much better position to assess the totality of the  
10 fire; aren't they?

A. Generally speaking, yes.

Q. Isn't it the case that, if planning is providing support to operations, someone should  
15 have been telling if not yourself then certainly Mr Hayes, if he is the one who has responsibility for making these decisions, "Look, you may not realise this but you are actually dealing with a 20-hectare fire"; isn't that right?

20 A. That's right.

Q. In circumstances where he is not being given that information and he is doing his best with what he can physically see on the ground, isn't it  
25 a part of the SMT to be saying to him, "Look, we have done this reconnaissance, this fire is 20 hectares. You are going to need more people out there"?

A. We should be alerting him to the size of the fire and discussing issues about that with him.  
30

Q. Did that happen, to your knowledge?

A. Not that I know of, no.

35 Q. I think you have agreed that it should have happened. Who should have got that information back to him?

A. Well that should have come through the communications centre, either probably Mr McRae or  
40 myself - maybe Mr Lucas-Smith.

Q. I suggest to you that is a reasonably good example of where the role of the incident controller in the field without that kind of planning support - those sorts of situations can arise if that planning support isn't being actively provided to someone in the field who is  
45

called an incident controller?

A. The planning support back at the control centre was there to support Mr Hayes and his crew at the Bendorra fire.

5

Q. The difficulty, Mr Graham is, as I understand what you are saying to me, it is really Mr Hayes who needed to tell you; it was his responsibility to tell you that he needed more crews out there.

10 That's what you are saying, isn't it?

A. That's right.

15 Q. It appears from your study of the radio transcripts that he did that, although he mentioned the possibility of an extra tanker, it is not clear whether or not he actually asked for that. So it appears that he didn't come back to you and ask for additional crews?

A. That's the way it appears.

20

Q. Yet people in the SMT are armed with information that would suggest that has underestimated the extent of the job he had in front of him?

25 A. That's possibly right.

30 Q. That means, doesn't it, that there is a gap in the system in ensuring that the person who is said to have the responsibility to make these decisions isn't given all the information that is available in order to make that decision?

A. Yes, they should be given all the information available.

35 Q. Again, it suggests really the role he was fulfilling was much more akin to that of a division commander dealing with a discrete part of a fire that he was sent to and really didn't have the capacity to make those broader decisions that an incident controller would usually make? He just doesn't have the necessary information to fulfil that role adequately?

40 A. I'm not sure what information you are referring to.

45

Q. I am referring to the fact that he is dealing with a fire that has a total area of 20 hectares.

He can't make decisions about what resources he really should have with him if he doesn't have that information. He doesn't understand the extent of the job ahead of him?

5 A. That's right. I don't know whether or not that information was relayed to him in any way.

Q. Was anyone who may have been armed with that information independently making judgments and  
10 overseeing, in effect, the activities of someone like Mr Hayes to make sure that, to the extent he was missing bits of information, someone else was there to double-check and make sure that decisions were made by them - for example, yourself?

15 A. That's the role of the Service Management Team as a team to support those in the field with information, resources and what they need to do their job.

20 Q. The fact is with a fire of that size and knowing what crews are out there, that fire for the whole of that day was severely underresourced; wasn't it?

A. It would appear that there wasn't enough  
25 resources for a 20-hectare fire. However, I don't know that Mr Hayes raised any concerns. I understand your point that he may not have had a total appreciation for what he was facing; nevertheless, we do rely on information from the  
30 ground.

Q. But you can't rely on that exclusively, particularly when you have other information?

A. No, I'm not suggesting that we did rely on  
35 that exclusively.

Q. Further down in that document you will see McIntyre's Hut fire, and under that Mr McRae has identified as a threat from that fire "ACT, especially pines, private property and power lines". By that time of the morning, mid to late morning on the 9th, did you have an appreciation that the McIntyre's Hut fire was posing a threat to the ACT?

45 A. No. I, in all likelihood have seen this document and received it on the morning of the 9th. If Mr McRae said he passed it around to me,

then I will accept that. I probably didn't study the McIntyre's Hut fire information too closely because I was more concerned by what we had in the ACT and allowing New South Wales to look after the fire that was in their patch.

Q. So even by midday on the 9th, it hadn't surfaced in your mind that the McIntyre's fire was a threat to the ACT in particular to the pine  
10 plantations?

A. No, I don't believe I considered that.

Q. I should just ask you if this is consistent with the information that you had or believed you  
15 had during the morning of the 9th that the Gingera fire is shown there as being a fire of 2 hectares and growing.

A. Yes.

20 Q. Is that consistent with what you understood to be the position?

A. That's the way I understood it is.

Q. Over the page, the Stockyard Spur fire is  
25 shown as being 8 hectares and growing?

A. On the morning of the 9th, still.

Q. That is certainly Mr McRae's assessment of it during his reconnaissance flight. He appears to  
30 have typed up his notes of that at 11am; so let's say at about 11am.

A. Yes, I would accept that 8 hectares would be in the ballpark.

35 Q. You knew, didn't you, that there were no fire trails in effect providing pre-existing containment lines for that fire; that's correct?

A. I knew that the access trail along Stockyard Spur was closed to traffic. I don't know that  
40 particular part of Namadgi National Park.

Q. As far as you knew, Mr McNamara was out there with 12 personnel endeavouring to put a middle earth break using hand tools all the way around  
45 that fire?

A. That's right.

Q. Is that ever possible if it is 8 hectares?  
That's never going to happen, is it?

A. Mr McNamara was confident. Earlier that day he expressed that confidence.

5

Q. Did you contact him at any stage and question that conclusion by him as to whether he could get around an 8-hectare fire?

A. Not that I can recall.

10

Q. Perhaps I should ask you the general question in relation to the McIntyre's Hut fire: was there a point during the ensuing days where it did start to increase in your mind or was your focus pretty 15 much exclusively on the three fires in the ACT?

A. My operational focus was on the ACT fires. But I reported at our planning meetings what the activity was at the McIntyre's Hut fire so there was some understanding of what was happening 20 across the border. In fact I reported on the Mt Morgan fire and maybe others. I can't recall at this moment.

Q. Where were you getting the information from 25 for the purposes of those reports?

A. The liaison officer that we had assigned to the fire control centre at Queanbeyan.

Q. That was Mr Neil Cooper initially?

30 A. Initially, yes. The first two days was Cooper.

Q. Do you recall any discussions with Mr Cooper about concerns he held in relation to the 35 strategic decisions that were being made in relation to the McIntyre's Hut fire?

A. No, I don't. I don't know that he raised those with me.

40 MR WOODWARD: I see the time, your Worship. If that is convenient?

THE CORONER: We will adjourn for the day and resume tomorrow morning at 10 o'clock.

45

**MATTER ADJOURNED AT 4.05PM UNTIL THURSDAY  
25 MARCH 2004.**

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE  
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 29

Thursday, 25 March 2004

(Adjourned until 2pm)

**LUNCHEON ADJOURNMENT**

5   **RESUMED**

[2.00pm]

THE CORONER: Mr Johnson, I understand you have an application.

10   MR JOHNSON: It is not an application. I would seek to put some submissions to your Worship firstly in relation to some observations your Worship made yesterday. At page 2724 of the transcript - it is really to seek some  
15   clarification for the assistance of those who are appearing before you - at a point in the transcript, if it is necessary for those to follow if it could be brought up, page 2724 line 35, your Worship said:

20                 "What I will just remind counsel is the next time that any counsel is minded to object, I am going to ask you on what basis you are objecting, because you all have a very  
25   specific brief in relation to who you do or do not represent. I just want to mention that and ask you to be mindful of that."

30   You mention Mr Graham's position and you continued at 2725 to make some observations about the protection of the witness.

At that time I am conscious it wasn't a ruling, it wasn't a situation where there had been argument  
35   and a ruling was sought. But certainly it would be of assistance in the interest that I represent to seek some clarification of that.

In seeking that, if I can put these submissions to  
40   the Court: as is apparent and has been stated on more than one occasion, leave was granted for myself and the legal team appearing with me to appear for the legal entity the Australian Capital Territory. During the course of legal argument on  
45   19 February 2004, page 1186, line 21, your Worship may remember this.

It was a Thursday of the first week when your Worship raised some questions with me in relation to Mr Lucas-Smith's position. I submitted we are acting for the Australian Capital Territory, which 5 is a legal entity. I said:

"There are employees of the territory who will give evidence, and we will seek to defend the interests of those individual 10 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."

15 There has been some movement since that time. There was separate representation for Mr Lucas-Smith and Mr Castle. But the general statement that, in representing and appearing for 20 the interests of the Australian Capital Territory, we had in mind that employees or officers of the territory we would seek to defend their interests as they came forward, because in a sense the ACT of course is a legal entity. It acts through its 25 officers and its employees.

To the extent that officers of the territory may be giving evidence and they are under attack, then I would submit that the territory itself has an 30 interest, if there was a question asked to which it was considered it was appropriate to object to that question: firstly because it was an officer of the territory who was being questioned; and secondly because the territory may be criticised 35 or may have an interest because of what the particular witness may say. Therefore, the territory has an interest clearly in fair and appropriate questioning of individual territory officers.

40 Of course at a time earlier in the inquiry when Mr Castle was in the witness box and before he was separately represented, I did from time to time make a number of objections, some of which were 45 upheld, some were not. That of course was essentially acting on the basis that Mr Castle was an officer of the territory. He was in the

witness box; he didn't have his own legal representative. I was taking those objections having regard to the interest that I represented.

5     The comment made yesterday when Mr Graham was in the box, he of course was an officer of the territory at that time with no separate legal representation - an issue which I will come back to in due course, because I think your Worship has  
10    been informed of something in that respect - insofar as his position yesterday was concerned, he was an officer of the territory being questioned. If there were questions which were being asked which a submission was sought to be  
15    made that it was either unfair or confusing or in some way objectionable, in my submission certainly the interests of those granted leave to appear for the Australian Capital Territory would have effectively standing to take that objection. It  
20    is the interests of the territory which are affected as well as the individual witness.

I also raise in that context that, insofar as your Worship indicated that you were here to protect  
25    the interests of the witnesses, they are of course all witnesses of the Court, of the inquiry. Objections of that sort may assist your Worship to give that protection from time to time. As your Worship has upheld a number of objections from  
30    time to time, it would seem that it does serve that purpose.

I put these submissions now essentially, as I said at the beginning, to seek some clarification that  
35    from time to time, as happens in an inquiry of this sort, if the view is formed that the question may be objectionable, then that issue is raised for the Court. It is then for the Court to make a ruling, as your Worship does. But the ability to  
40    take those objections, in my submission, certainly for the interest for which I appear, the Australian Capital Territory, is really part and parcel of a grant of leave when the witness who is in the witness box at the time is an officer of  
45    the territory.

I make those submissions partly to add to what was

5 said yesterday and perhaps to seek from your Worship an indication as to your Worship's understanding of that position. I do that at this stage, because it is perhaps best for those in the Court now and for future witnesses to have some understanding of your Worship's view and ruling in respect to the taking of objections. I put those submissions at this time.

10 There is another issue which deals with current and future witnesses. I can refer to that now or it may be that others may want to put submissions on this issue as well. I am in the Court's hands as to whether I raise the other issue now or that 15 is dealt with after your Worship has heard submissions dealing with this objection question as a totality.

20 THE CORONER: We might do it one at a time, I think, Mr Johnson.

25 MR JOHNSON: That is all I want to put at this stage, your Worship, thank you. It is very much to try and seek some clarification and assistance for the benefit of those presently granted leave to appear and for future witnesses as well.

30 THE CORONER: I understand what you are saying, Mr Johnson, thank you.

I will just wait and see if other counsel wish to be heard. Mr Archer.

35 MR ARCHER: Could I rise to express, I suppose, similar sentiments. The appearance originally announced by those representing the Commissioner last year was that the appearance was on behalf of the Commissioner rather than witnesses who may be called from the Australian Federal Police. To 40 that extent I suppose, the comments made by your Worship yesterday raised similar issues for me as counsel for the Commissioner of Police. Though I don't recall making any objection up until now, perhaps I have --

45

THE CORONER: You have.

MR ARCHER: Perhaps as witnesses from the AFP get into the witness box, the number of objections I may wish to take will increase, but the time will come when the issues that Mr Johnson has raised  
5 very squarely will concern the interest that I represent, your Worship. To that extent I suppose I would join with Mr Johnson just to seek clarification of the position you put yesterday.

10 THE CORONER: Mr Archer, thank you. Mr Walker, do you wish to be heard?

MR PHILIP WALKER: Yes, if it please the Court.

15 Your Worship, I rise on the same matter but from a somewhat different perspective. The difficulty I face with the ruling as your Worship expressed it yesterday in representing Mr Lucas-Smith is that I apprehend it could be the position of counsel  
20 assisting this inquiry that Mr Lucas-Smith might be the subject of criticism, not perhaps because of things that he did or said himself but in a wider context because he has some supervisory responsibilities for other employees.

25 There were a number of questions which I could take your Worship to - unless you particularly want me to, I don't intend doing so immediately - which raised, for example, Mr Graham's experience  
30 yesterday. There were some further questions suggesting that Mr Lucas-Smith was somebody who had more experience than Mr Graham; then a series of questions asking whether Mr Lucas-Smith said anything to Mr Graham as a result of what he did  
35 or whether there was any challenge broadly to what Mr Graham had done in relation to dispatching crews to Bendora.

It does seem to me it might well be open to  
40 counsel assisting to say that Mr Lucas-Smith might be the subject of some comment by your Worship because of the actions of his employees in some suggested failure on his part to take action in relation to those matters.

45 As a consequence, I am in a position where, when it is suggested that an employee might have done

better, I do not know that it won't be suggested  
that in some way there was a failing on  
Mr Lucas-Smith's part because he either put the  
wrong employee in the wrong position or he didn't  
5 take corrective action or he didn't check on what  
the employee had done. That's the position that I  
face, that he has something of a derived  
responsibility or it might be said he might have a  
derived responsibility for the actions of his  
10 subordinates.

It would be different if there was some sort of  
undertaking from counsel assisting that  
Mr Lucas-Smith would not be the subject of any  
15 adverse comment or criticism for anything other  
than those actions in which he was directly and  
personally responsible in undertaking. I don't  
know whether any such undertaking would be likely  
to be forthcoming, hence the position I face.  
20

Obviously the situation is made more difficult in  
an inquiry such as this, because there are no  
pleadings. Until certain evidence comes out  
before your Worship, I don't necessarily know what  
25 it might be that could be said that might affect  
Mr Lucas-Smith's interests. That's why I rose a  
couple of times in relation to questions asked of  
Mr Graham, the import of which seemed to be to  
suggest that he had done the wrong thing, because  
30 it seemed to me that the impact of what was  
suggested was a failing on Mr Graham's part might  
ultimately be visited on Mr Lucas-Smith.

That is the problem of which I consider myself  
35 presented with in light of the comments your  
Worship made. We would also seek some  
clarification as to what my position is in respect  
of those matters.

40 THE CORONER: Mr Walker, thank you.

Mr Whybrow, do you have any comments?

MR WHYBROW: In relation to your Worship's  
45 comments yesterday, obviously in relation to a  
witness like Mr Graham, it is somewhat  
understandable that your Worship may have some

concerns as to how, as an operational person, objections by me on behalf of Mr Castle may be within the ambit of the leave which was granted to appear on behalf of Mr Castle, especially since he  
5 was asked or he indicated on over about 30 times that he was not an operational person, that would be the end of it.

However, Mr Castle was then on a number of occasions closely questioned by counsel assisting, notwithstanding his non-operational role as to issues surrounding these very issues. Indeed a number of questions about his involvement and knowledge of actions on 8 and 9 January, including 15 going on a helicopter reconnaissance flight on the morning of the 9th.

In that circumstance I adopt Mr Walker's submissions. I accept in relation to Mr Graham at least Mr Castle's potential for being the subject of criticism as a result of anything Mr Graham says may be somewhat more limited. But given the way that counsel assisting closely questioned Mr Castle on every aspect of what occurred whether 25 it was an operational matter or not, again unless there is some indication by counsel assisting that Mr Castle would not be the subject of any adverse criticism as a result of things, for example, Mr Graham did because he was in effect the head of Emergency Services Bureau, I would be happy to 30 take a non-participatory role in relation to questions and answers put to such witnesses.

But where those questions are asked and the answers may be the basis on which an adverse comment could be made against Mr Castle, in my submission, it is not a matter of me attempting to protect Mr Graham, and that is certainly not an appropriate reason to object, it is a matter of 40 acting in the interests of my client.

Again, in the circumstances where there has been a very, very wide ranging and close examination of my client as to every aspect almost from 8 January 45 to the 18th, answers given to questions asked of almost any witness who has something to do with the Emergency Services Bureau have, unless I am

advised to the contrary, some potential to be the subject of a basis of making some criticism of my client.

5 It is in those circumstances I would indicate that it is appropriate from time to time I am entitled to make objections to questions counsel assisting, or indeed any counsel, have put to witnesses which could adversely affect the interests of Mr Castle.  
10 As I indicate, it is not a matter of trying to protect the particular witness. They are my submissions.

THE CORONER: Thank you, Mr Whybrow. Do you wish  
15 to be heard, Mr Woodward?

MR WOODWARD: Just briefly, your Worship. There seem to be two issues. If I can take the second one first, which is the question of the basis upon  
20 which in particular Mr Whybrow and Mr Walker might raise an objection.

It seems to me there doesn't really appear to be an issue, if I may say, over that matter. Your  
25 Worship's comment, as I understood it, was quite clear. Your Worship said no more than alerting counsel to the fact that you were concerned to ensure that objections were taken in the interests of the client for whom the relevant counsel acted  
30 and you may ask counsel to indicate how that interest was affected by the particular answer in order to explain the nature of the objection.

It has been submitted that the objections that  
35 were taken did affect the interest of the individual clients, and certainly there can be no difficulty with that. It is entirely appropriate that objection be taken in that interest. I understood your Worship to be saying no more than that. So far as that issue is concerned, it seems to me, in my submission, that there is really no issue other than your Worship's now had explained to your Worship why it is that Mr Whybrow and  
40 Mr Walker respectively thought it was appropriate to take the objections they did - which is really all your Worship is asking for, as I understand it.

So far as the position of Mr Johnson is concerned, can I indicate that it may be appropriate, given what we understand is about to occur in terms of a break, for us to perhaps give that some further  
5 consideration, perhaps even discuss the matter.  
Part of the difficulty may have arisen because of the slightly ambivalent way in which the position of the employees of the ACT have been approached. Your Worship will recall that in June, when I  
10 think Mr Bayliss appeared, the indication was given there would be an appearance for the ACT government and there would be a right to appear sought in respect of individual witnesses, "but we can't do that now because we don't have a witness  
15 list" - which was entirely reasonable.

THE CORONER: And agencies, I recall. So it was the government as an entity, individual employees and agencies.

20 MR WOODWARD: That position seemed to firm up, if I may put it that way, later on. I can't recall the precise date when Mr Johnson first appeared and indicated his appearance was on behalf of the ACT government. At that point there was no reference to the status of individual employees. Mr Johnson has rightly pointed out, the comment he made to your Worship at page 1186 in relation to the employees where he said:

30           "There are employees of the territory who will give evidence and we will seek to defend the interests of those individual witnesses as they come forward."

35 It may be a matter of semantics, but in my submission the issue might be clarified if, given the relevant section, section 42 of the Act provides as it does; namely, under section 42 you  
40 may grant leave to a person who has been summonsed to give evidence in relation to an inquest or inquiry or who in the opinion of the coroner has a sufficient interest. So it seems a person who is giving evidence clearly has a right to request an appearance, regardless of whether or not they may otherwise have an interest.

The matter may be clarified if in respect of witnesses who aren't otherwise independently represented as their time comes an indication is given, "Yes, we do want to protect the interests 5 of this particular witness in addition to our broader brief."

That seems to be the effect of what Mr Johnson said on 19 February. It may be clarified in those 10 circumstances. But subject to that, can I indicate that Mr Johnson has made quite a lengthy submission in relation to that issue. And if we may be given the opportunity, given the delay that is likely to now occur, to consider that and 15 perhaps make a more detailed response when the matter resumes, having had a chance to consider the transcript of what he has had to say. If your Worship please.

20 THE CORONER: Thank you, Mr Woodward. I will deal with the comments made by Mr Walker and Mr Whybrow first.

It is not my intention at all to prevent 25 objections that either of you gentlemen may take in relation to any witness where it does relate to the interests of your clients. That is quite proper.

30 Having said that, I would remind you all that this is an inquest. It is a coronial proceeding; it is not an adversarial proceeding. My view is that this is more akin to an inquisitorial proceeding, not an adversarial proceeding. Unless there is a 35 very compelling reason why evidence should be excluded, that evidence should be allowed to flow, and to flow freely. I say that to all of you and I want you all to keep that in mind. It is not an adversarial proceeding. It is not appropriate for 40 counsel to be constantly objecting on points and preventing the evidence that should otherwise come from a witness to come from that witness.

45 Mr Archer, your issue is not dissimilar to the issue that Mr Johnson raises. I myself cannot see how you can represent the commissioner but not individual witnesses who may be called by the

police. That is a matter for you, Mr Archer; that is a matter for the commissioner and that is a matter for the AFP. You either represent the commissioner and the commissioner only; you either 5 represent the AFP or you represent individual police officers as they are called to give evidence. It is a matter for you.

Likewise, that applies to you too, Mr Johnson. 10 From the start of these proceedings, I could never envisage a situation how the ACT Government Solicitor could stand up and say, "I represent the ACT government as an entity, all the employees of the ACT government and all the agencies of the ACT 15 government," because there was always a potential for conflict.

Again, it is a matter for you, Mr Johnson, as to who you do and do not represent. If you wish to 20 represent only the ACT government as an entity, whatever that may mean, then so be it.

If you wish to indicate to me that you now represent the interests of this particular 25 witness, who is an employee of the ACT government, then, as Mr Woodward suggested, I would appreciate that information before that witness does give evidence, because it is difficult for me to work out who exactly you do and do not represent.

30 But you cannot represent the interests of everybody because it is clear now that there is a conflict. This is an issue that I raised from the start. It is an issue that I know counsel 35 assisting has been raising from the start, from the very first mention of this coronial - the very first direction hearing of this.

I will read words - I don't know whether I said 40 this on a transcript; I was trying to locate the transcript for the 16th - I will come to that later.

45 What I would appreciate, Mr Johnson, if you would indicate if ACT government employees are not going to have individual representation - and I understand that some, certainly Mr Castle and

Mr Lucas-Smith do - if the other ACT government employees are not, then I would appreciate an indication from you as to whether or not you do or do not represent those employees.

5

I am sure that they would also appreciate that indication as to whether or not there is somebody in this room who does or does not represent their interests.

10

MR JOHNSON: I will certainly give some thought to that. Could I make some submissions on that now?

15

THE CORONER: It is not a matter for me. It is a matter for counsel. It is a matter for all of you to decide how far you can go and how far you do represent the interests of that particular witness. You know the brief and you know the potential conflicts that exist --

20

MR JOHNSON: I understand that.

THE CORONER: -- amongst the evidence that is to be called in this proceeding.

25

MR JOHNSON: Conflicts of interest and representation involve the question firstly as to whether there is a client/lawyer relationship between several people. Conflicts can only arise if there are such.

THE CORONER: True.

35

MR JOHNSON: There is one client, the Australian Capital Territory, a legal entity, the same as the Commonwealth of Australia or the state of New South Wales. It is not in fact the ACT government; it is the Australian Capital Territory. Now that legal entity acts through individuals. As I said at page 1186, and as Mr Woodward correctly acknowledges, there are employees of the territory who will give evidence. We will seek to defend the interests of those individual witnesses as they come forward. If 40 there are areas of conflict, and of significant conflict, then obviously we will have to give consideration as to whether that poses a

difficulty.

The territory acts through individuals. From time to time it has been said, and correctly said, that  
5 there may not be a direct lawyer/client relationship between the ACT's lawyers and an individual witness. That is not determinative nor controlling because the interests of the ACT involve protecting the interests of its officers  
10 until such time as a point may arise where there is a separate representation scenario.

It may be that the ACT will still seek to protect the interests of individual officers even if they  
15 are separately represented, because the interests may coincide to an extent. This is not a black and white situation, your Worship; it is one where I would submit that the submissions I put before, and indeed the question I raised with respect to  
20 yesterday, calls for some indication.

If the position is that I am not going to be allowed to object to protect the interests of ACT officers unless there is a lawyer/client  
25 relationship between myself and the witness, that in itself may cause some difficulties. If there is to be such a fetter, then individual future witnesses may need to know that. It was essentially because of that that I rose to seek  
30 some assistance. I understand Mr Woodward and Mr Lasry want to consider what is being said. I ask them to consider what I am saying now as well.

The interests of the ACT are not some illusory or  
35 notional thing here. This fire was fought by a large number of people, employed, volunteers, who were doing in many ways very many things. Many of them are going to be called before this inquiry. Many of them, seeing the lengthy history of this  
40 inquiry to date, some of them see witness in the box for quite some time. Most of them are very unfamiliar with witness boxes. So they look forward to that. They seek some understanding of what lies ahead. Counsel assisting can seek to  
45 give such assistance in that regard. We seek, as the lawyers for the Australian Capital Territory, to do the same.

At the end of the day if the question is it is only if there is a lawyer/client relationship with each witness that we are able to give a measure of protection of the witness, then that may affect 5 the question of what happens with further witnesses, of whom there are many. I understand counsel assisting wish to think about this issue.

The fundamental submission I would put, it is 10 based on my own experience, I have appeared for area health services, an inquest in New South Wales where a number of doctors and nurses may work, and I seek to protect the interests of those witness who are employees of area health service. 15 I appear for the Rural Fire Service in New South Wales. I appear for the New South Wales fire brigades. And I seek to represent the interests of individual firefighters who are under that umbrella. I am not required to - nor have I in my 20 own experience in inquests in New South Wales, been expected to - indicate there is a lawyer/client relationship with each individual witness independently of the lawyer/client relationship with the primary client because those 25 persons are doing the work of the primary client and to protect the primary client involves the protection of those persons subject to certain variations that may arise which may give rise to conflict and such.

30 I am putting these further submissions, I suppose, partly because of things that have been put by your Worship but partly because if this issue is to be considered by counsel assisting as well, and 35 we of course are happy to talk to them about this and other matters, then this may be appropriate to be the subject of some discussion.

It perhaps goes to the heart of what lies ahead in 40 this inquiry from a representation point of view. If the position is that I cannot take objections or there will be some fetter unless I have a lawyer/client relationship with perhaps 50 or 60 people, the very types of conflict that your 45 Worship has identified will come potentially to the fore. That then creates the problem.

Perhaps in putting these further submissions I am not inviting any ruling or judgment because I think counsel assisting have essentially reserved their position further to think about it. But to 5 assist in the process of thinking about what is quite an intricate issue in this inquiry, I would feel that it is appropriate that those further submissions be taken into account.

10 THE CORONER: We will do that, Mr Johnson, take the matter on board.

15 Is there another issue, Mr Johnson? I understand there is another application that you would seek to make.

MR JOHNSON: Having regard to a number of things which occurred yesterday, Mr Graham has indicated that it is his desire to make an application to 20 have his own legal representation. There is no lawyer present at this stage to make that application.

Implicit in that would be an application that he 25 be stood down until such representation is available. I have also been instructed that the next two witnesses, Mr McRae and Mr Ingram, wish to make a similar application for legal representation. I raised this with counsel 30 assisting this morning at 10 o'clock. I understand there has been some consideration since as to what could be done from here as to witnesses.

35 It is appropriate that I bring it to your attention. Mr Graham is in court and I think can confirm what I have just said as being his position. That is the second matter which I wish to raise with your Worship.

40 THE CORONER: Is that right, Mr Graham, you want to seek your own representation and have someone represent you?

45 MR GRAHAM: Yes, I do.

MR LASRY: Your Worship, we were advised this

morning. The delays of course today have been to try to deal with the situation, because the consequence inevitably is that time will be lost while lawyers are instructed on behalf of  
5 Mr Graham, Mr McRae and Mr Ingram. It is unfortunate that this situation has occurred again.

We would submit that it would be appropriate, as  
10 it were, for as far as can be seen this to be the last occasion on which such a situation arises. As your Worship observed, we have been concerned about the potential of this, certainly since  
15 counsel has been involved in this case. As your Worship has observed, have in effect been able to see it coming to some extent.

In our submission, the time has been reached and we will endeavour to facilitate a solution of this where those who feel that they are in the position that Mr Graham, Mr McRae and Mr Ingram say they are now in should get on and deal with the situation. In our submission after the time that is going to be lost in relation to this matter has  
25 been lost, this situation as much as is foreseeable should be sought to be avoided from now on.

The practical consequence of this is that we are,  
30 I think, unable to produce other evidence which we can occupy the Court with until Monday week. We have made inquiries of the witnesses to be called from New South Wales and it appears for a variety of reasons, which include the availability of  
35 their counsel who have already been involved in this matter, that they can't attend next week and it seems undesirable to us to perhaps call one or two witnesses, sit for a day and then adjourn again.

40 We would propose that at this stage, assuming that your Worship was inclined to grant the time required, that the matter be adjourned until Monday week. We then resume Mr Graham's evidence  
45 followed by Mr McRae and Mr Ingram in those three days before Easter and three days or so after Easter, assuming the evidence will occupy most of

that time.

- Putting aside Mr Graham, Mr McRae is obviously a witness of some time. In the first full week  
5 after Easter and for the foreseeable future thereafter that your Worship sit five days a week rather than four in an effort to make up that time that it appears we must inevitably lose next week.
- 10 Our position is in the circumstances we don't oppose the application. It seems appropriate that Mr Graham have the representation he seeks, and likewise with Mr McRae and Mr Ingram. It is regrettable that it has taken until now to happen.  
15 We don't oppose it, and obviously practically time has to be made available for counsel to be properly instructed in order to represent the interests of those witnesses.
- 20 THE CORONER: Thank you, Mr Lasry. I agree with your comments, Mr Lasry, that it is appropriate if Mr Graham wishes that he does seek representation and if counsel does come before me, I would be minded to grant leave for that counsel to  
25 represent Mr Graham.

I am concerned and I am rather displeased that again the progress of this inquiry has to be disrupted due to something which from the start -  
30 this is what I was going to say before - has been, at least to me and certainly to counsel assisting me very blatantly obvious, and that is the need for some witnesses who were to be called and who are to be called before this inquiry to be  
35 represented and to be separately represented.

I was attempting in the lunch hour to see the transcript of the directions hearing that we had on the 16th of June. I was not able to get that  
40 transcript. I have notes of what I suspect I said to counsel on that occasion. I think I probably - and I know I did - express my concern for counsel wishing to seek leave - this is counsel representing the Australian Government - to appear  
45 for the government, the employees and the agencies. I expressed a concern then that I saw a real potential for a conflict of interest. I went

on to say, if my notes are correct, that if that did prove to be the case, that is the conflict of interest case, then I put counsel on notice, put you on notice, that I would not be too well  
5 disposed to grant adjournments for arrangements to be made for those affected to seek separate representation. And that if proceedings were to be adjourned for those reasons, then a delay would occur.

10 This is exactly what is happening now. The delay is because a brief - it is a large brief - has to be provided, as it has been to Mr Whybrow and to Mr Walker who came into the proceedings some few  
15 weeks ago. It has to be provided for counsel. The situation I said then would disrupt proceedings, as it indeed has. It has disrupted these proceedings now. It exacerbates delays and the costs associated and the ultimate end date for  
20 completing this. It was highly undesirable for that to occur, particularly in my view as I expressed then and as I express now, given the question of conflict was a real question. At the very start of this inquiry it was a real question;  
25 it is a real question today.

What I say today is I will grant the adjournment for Mr Graham to seek representation, because that is the appropriate course to follow in this case.  
30 But I also wish to say that if there is anybody else there, particularly that you know, Mr Johnson, or anybody else in your team knows of from the ACT government or an employee of the ACT government or an employee of an agency of the ACT  
35 government or anything associated with the ACT government or indeed any other witness out there who believes for some reason or another that that person needs to seek or would be benefited by or just wishes to have separate representation, then they will have one week, and one week only, to arrange that.

40 After that week, I will not be kindly disposed to adjourning these proceedings yet again and causing yet another delay and yet exacerbating the costs of this inquiry by having to adjourn to allow those persons time to be represented.

So I say, if anybody wishes - anybody else apart from Mr McRae, Mr Ingram and Mr Graham - to seek separate representation or wish to seek leave to be represented when their turn comes to give  
5 evidence to this inquiry, they have one week and one week only to arrange that.

So on this basis if we can't proceed next week then we will adjourn. We will resume at  
10 10 o'clock on 5 April and we will sit on Monday, Tuesday, Wednesday, 5, 6 and 7 April; adjourn for the Easter break and resume on Wednesday 14; sit on Wednesday, Thursday, Friday 14, 15 and 16 April. Then in an effort to try and make up  
15 some of the time that we have lost because of the week's adjournment and lost because of today, we will sit for the next few weeks at least, but certainly the week starting the 19th of April we will sit from the Monday to the Friday. I propose  
20 to sit from Monday to Friday for the subsequent weeks, unless there are compelling reasons for me not to do so.

MR LASRY: If your Worship pleases.  
25

MR PHILIP WALKER: Your Worship, before you adjourn, in responding to what I raised on behalf of Mr Lucas-Smith, your Worship raised the question about counsel endeavouring to in some way shut out evidence in an adversarial sense. Your Worship, it might expedite the conduct of the matter and, for that matter, ameliorate the problem we have just been discussing about objections if I indicated the nature of the  
30 objections I took yesterday and will take in  
35 subsequent occasions.

I have reviewed the transcript following your Worship's comments and I do not understand there  
40 to have been one single objection I took yesterday which was designed to shut out evidence. They were in fact objections to the form of questions asked by counsel assisting which - albeit they may not ultimately persuade your Worship to make an  
45 adverse comment about my client - I am also conscious that it is not uncommon for what was thought to be the punchy parts of this inquiry to

be repeated to the widespread disadvantage of people in the inquiry in the local media.

5 A number of the questions I objected to yesterday included one where somebody was asked whether that person had a sense that Mr Lucas-Smith had a view one way or other about a particular thing. Your Worship ruled that objection as being fair enough.

10 Next I rose I actually asked --

THE CORONER: Mr Walker, I am not here to review the objections that you took. If you took what I said personally then so be it. I still repeat 15 what I said before. This is not an adversarial proceeding. I wasn't necessarily mindful of every objection that you took yesterday when I addressed my comments. I made the objection so that all persons here present, and counsel in particular, 20 be mindful of the fact that this is an inquiry. Rules of evidence do not apply.

Unless there is a compelling reason for some 25 evidence to be excluded - and the only real reason I can see is relevance, if it is not relevant it won't come before me - unless there is some very compelling evidence I am not going to be very well disposed to uphold objections in an effort to prevent witnesses from answering questions that I 30 regard - this is by all of you, including questions of counsel in cross-examination - are fair and proper and appropriate for counsel to ask.

35 Don't distress yourself about the objections that you did or did not make and my ruling on those objections. That's all I want to say to you about that Mr Walker. Thank you. We will adjourn now until Monday the 5th of April 2004 at 10am.

40

**MATTER ADJOURNED AT 3PM UNTIL MONDAY,  
5 APRIL 2004.**

45