

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 40

Friday, 23 April 2004

[10.02am]

MR LASRY: Your Worship, just before we start with
the next witness, can I just say something about
5 the future witness list. I have asked my learned
friends if they were given a copy of a list.

At the end of last week, we started to re-examine
the witness list with a view to completing the
10 evidence by the end of June or sooner. We have
basically divided the witness list into those
witnesses who will be called to give evidence
because we think it is necessary that they should
be; and other witnesses who on the list are marked
15 with the designation "MA", who are witnesses that
we think on the material don't require to be
called over and above their statements or any
other material that they might have provided. So
"MA" is intended to stand for "make available".

20 The procedure we intend to adopt is that, unless
any of our learned friends at the Bar table want
any of the witnesses who are marked "MA" called,
we won't call them. Their statements or other
25 material in the brief will go in as though they
had been called. That is the intention.

For example, in the first case at the bottom of
the first page, the witness referred to there
30 Mr Olaf Moon. I think in his case he has made an
interview with the police, a transcript of which
has been provided. We do not see the need to call
him to give evidence, and we won't unless we are
given notice that someone else amongst the
35 represented parties want him called so they can
ask him questions.

This process will require the represented parties
to read some distance ahead so they can give us
40 notice as to who amongst the MA category they
might want to ask questions of. Assuming that
that works satisfactorily, we are reasonably
confident we can complete the evidence between now
and the end of June.

45 I emphasise it is important to note that we are
not suggesting that the witnesses not called do

not have their material considered as part of the witness. We intend that the evidence be basically treated by your Worship is as though the witness had been called and sworn as to the truth of the statement. We think there are time savings to be made in circumstances where we don't think there is anything further to be led from them apart from what is in their statement. That is the plan.

If I might just mention the New South Wales witnesses for example, because we need some indication of that fairly quickly: on page 3 it is proposed to call the witnesses Crawford, Arthur and Cooper, but we would not call the remainder of the New South Wales witnesses unless we are informed that it is necessary for us to do so.

I think in the case at least of Mr Crossweller, Wade and Winter, we would need to know that fairly promptly.

THE CORONER: Sooner rather than later perhaps.

MR LASRY: Ideally today if possible, but otherwise as soon as possible.

THE CORONER: When is it intended to call the New South Wales witnesses?

MR LASRY: The week after next. I think the arrangement we have with the New South Wales witnesses and their legal representatives is that we will commence their evidence on Monday, the 3rd of May. Whilst originally it was thought that that evidence might take a week or more, I would be surprised if it took anything like that.

THE CORONER: It is important if these other New South Wales witnesses are required by any of the parties, then they let you know as soon as possible so arrangements can be made for that.

MR LASRY: Yes. Your Worship, the general philosophy behind this is that we have now been here for two months and heard a great deal of evidence. I would have thought by now the issues and the general nature of the material is as clear

as it can be. We think it is important now to
accelerate the process if we can and get through
the rest of the evidence as quickly as we can,
making sure that relevant or important evidence is
5 not missed along the way. We think this is a
process that will make that more efficient.

10 THE CORONER: Thank you, Mr Lasry. Does anybody
wish to be heard on what Mr Lasry has said?

MR WHYBROW: Just on the sooner rather than the
later. Earlier in the week, I received a document
that indicated the answers on at least the sooner
rather than later issue should be by 1 o'clock
15 today. Is there any chance that that might be
perhaps first thing by Tuesday morning, to give us
a chance to get on top of this? There are a
number of witnesses that I would not like to say
"yes" and then have them turn into a "no" or the
20 other way around if the answer that I give can be
a final one from my perspective.

THE CORONER: Is it possible that you perhaps
concentrate on the New South Wales witnesses and
25 give some indication as to whether or not you want
those witnesses called?

MR WHYBROW: Absolutely. What I am saying, I have
also got to concentrate on the proceedings today
30 and I am not going to be in a position to give
that answer by 1 o'clock as was previously
required. I was asking if perhaps I could give
that indication by first thing Tuesday morning.

35 MR LASRY: It is not for me to lay down the rule.
I am just asking my learned friend to do it as
quickly as he can. That is all. I would be
surprised if today's two witnesses took us much
beyond lunch time, if not earlier.

40 I might also say in relation to the witnesses who
are being called, it is also important to bear in
mind that they have all made statements and in
many cases they have had quite extensive
45 interviews with the police. In those
circumstances, we do not propose to do other than
treat that evidence as before you and refer to

parts of it that we think may need some clarification or highlighting.

5 So the rate at which we dispose of witnesses will pick up quickly. My learned friend will probably have this afternoon at least to think about it.

10 MR PIKE: I should say - I am speaking just for myself and probably for Mr Craddock too - given the fact we have come in in the circumstances that we have, I certainly couldn't give any indication prior to Tuesday of next week. Having said that, I would be surprised if I would be requesting anyone, but it is just physically impossible to do
15 it.

MR WATTS: I would be in the same position as my learned friend there.

20 The other matter was it may be my incompetence in not being able to search the material, but I can't find amongst material I have been given any statements by the three witnesses who are to be called - Crawford, Arthur or Hunt.
25

THE CORONER: They are certainly part of the brief. I am sure it is not your incompetence. Some assistance will be given to you to find the statements.
30

MR LASRY: I should say my learned friend shouldn't be concerned about his incompetence at all. Indeed, I suspect there is no incompetence. The relevant material is in the New South Wales coronial brief. There are no statements made by
35 those witnesses to the ACT investigators. In the case of Mr Arthur, I think the only typed document that is available is the section 44 report in relation to the McIntyre's Hut fire. And the
40 primary source of information from those witnesses is from the evidence they gave at the New South Wales coronial.

THE CORONER: That is where I recall seeing it. I
45 didn't realise it wasn't in the brief. That will be provided to you, Mr Watts.

MR WATTS: Thank you.

MR McCARTHY: On behalf of the territory, the
question of which witnesses would be required or
5 not involves much wider ranging questions to be
asked. I can certainly indicate to the Court that
I will be liaising with Mr Johnson and with
various persons from whom we take instructions
regarding which witnesses will be required or
10 which we require. I certainly will endeavour to
respond to counsel or the DPP on Tuesday as to
which we require. I just can't offer any
guarantees in time-frames although I will do my
very best.

15

THE CORONER: Thank you. I think that is required
of everyone.

MR ARCHER: Your Worship, in relation to my
20 client, the Australian Federal Police, although my
friend indicated the issues are out there, in
relation to the Australian Federal Police they
fall in a slightly different category. It is the
intention of counsel assisting to call Mr Murray
25 next Friday, and I am told this morning a couple
of other police. That will as it were flush the
issues out.

I have responded to a prior request from those who
30 instruct my friend in relation to the New South
Wales witnesses. In relation to Mr Crossweller and
Winter, I have indicated a point of view in
relation to those. But my position will be
affected somewhat by the questions that are asked
35 of Mr Murray in particular next Friday. I did
indicate that I did not want to inconvenience them
to the extent of bringing them down but would be
content to ask them some questions over the phone.
But whether or not I require them at all will be
40 dependent on the way the cross-examination of
Mr Murray goes next Friday.

So I have indicated a position in relation to
those witnesses. I don't require them in
45 Canberra. But I may --

THE CORONER: You may need the opportunity --

MR ARCHER: -- to ask them a few questions.

THE CORONER: We might have to consider that and deal with that, if it eventuates.

5

MR ARCHER: I do not want to inconvenience them greatly. The number of questions I want to ask are limited. It can be done over the phone.

10 THE CORONER: We can make some arrangements. We will make a phone available if that is to proceed.

I would ask you all to do the best you can and notify counsel assisting of the information when you have it.

15

MR LASRY: Would you call Mr Sayer, please.

<ARTHUR COLIN SAYER, SWORN

20

<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Sayer, is your full name Arthur Colin Sayer?

25 A. That's correct.

Q. Are you a district works officer with the Environment ACT, Parks and Conservation?

A. That's correct.

30

Q. Mr Sayer, in relation to this matter, have you made a statement on 19 September of last year which is [ESB.AFP.0111.0262], a document of some 18 or so pages?

35 A. Yes, that is correct.

Q. Have you also taken part in a taped recorded record of conversation with members of the Australian Federal Police assisting the investigation of this matter on the 20th of November of last year, which is [DPP.DPP.0004.0033]?

40

A. That's correct.

45 Q. You have been provided with a copy of that record of conversation?

A. I have.

Q. Have you had a chance to read both your statement and the record of conversation?

A. I have been through it quite a number of times, thanks.

5

Q. As to both of those documents, are the contents of them true and correct?

A. To the best of my knowledge, yes.

10 Q. Are there any amendments you want to make to them, particularly your statement?

A. No amendments at all.

15 Q. Mr Sayer, as I understand it from your statement, your firefighting experience is something of the order of 37 years by my calculations. Does that sound about right to you?

20 A. Probably - extensive fire experience over the last 24 years as a government employee, but it also goes back into my rural days as a child growing up on the farm.

Q. And joining a volunteer brigade at quite a young age, I think; is that right?

25 A. Yes.

Q. All of that has been in the Tidbinbilla Valley. You have lived there pretty much all your life?

30 A. Lived in the Tidbinbilla Valley from the age of 9 until the age of 17 and since then in the Canberra region.

35 Q. The history involved you moving up through the ranks. I think you became captain in the Parks and Conservation brigade and then later became a group officer representing ACT Parks attached to the Emergency Services Bureau; is that right?

40 A. That's correct, yes.

Q. For the fire season of 1995-1996, you became a Deputy Chief Fire Control Officer which position you held until July of last year; is that right?

45 A. That's correct.

Q. At the time that you were appointed to that position of Deputy Chief Fire Control Officer, was

Mr Lucas-Smith the Chief Fire Control Officer?

A. That's correct, yes.

5 Q. Were the other deputy chief fire control officers Mr Bartlett and Mr Graham?

A. When I became Deputy Chief Fire Control Officer, it would have been Ian McArthur from ACT Forests and Tony Bartlett was some time after that.

10

Q. That is a position you no longer hold, Mr Sayer, you resigned from that position; am I right about that?

A. That's correct.

15

Q. In your record of conversation you touch on the reasons why you did that. Am I right in saying generally the fires of January 2003 were a difficult time for you as far as the firefighting response that you were involved with was concerned.

20

A. Yes, that was some of it, yes.

Q. In answer to question 47 as to why you chose to step down from the position of Deputy Chief Fire Control Officer, at page 6, you said:

25

"I just don't think that I was actually utilised properly in this present fire season. I used to be a duty co-ordinator and that was, you know, the first point of contact for any incidents in the ACT and you know you responded to the right units, to the fire. When ESB expanded their organisation I sort of lost that role. So I was - you know over the years a lot of things have actually happened. I also used to fly quite a lot of time in helicopters, and using the helicopters as a platform to run the fire because you get an overall bird's eye view of where the fire is and whatever. Again, there ESB sort of expanded and trained people up and it was another role that sort of slipped by and it was a role that you sort of lost. I lost a lot of input into fires with not being able to go out there and have a look at them and actually observe stuff from the air.

30

35

40

45

Lack of consultation with the fires. I suppose a lot of is you actually don't get to go to too many fires because you're starting to use your captains, deputy captains and group officers to sort of build them up. So if you are trying to train them up, then you tend to drop off and lose your skills."

Just pausing there, that passage seems to be describing, as you say at the outset of it, a lack of proper utilisation of your abilities and experience; is that right?

A. That's correct, yes.

Q. Can you be a little bit more specific about the particular areas where you felt that you were being underutilising in these fires?

A. Being an experienced firefighter for many years in the ACT, I just thought that I was really underutilised with my management skills, my people skills, my knowledge and actual on-the-ground experience throughout the ACT.

Q. Did you discuss that with anyone?

A. It had been discussed between different DCFCOs and with the CFCOs over the years, yes, in general meetings.

Q. Let me be a bit more specific: after these fires were over, did you raise with anyone the issue that you felt your experience hadn't been properly utilised?

A. I would certainly say that I raised it with my management in Environment ACT.

Q. Did you take it up with Mr Lucas-Smith?

A. No, I haven't taken it up with Mr Lucas-Smith.

Q. When you resigned in July, did you provide him or the other deputy chief fire control officers with any reasons as to why you were doing it?

A. Yes. I had spoken to Tony Bartlett. I had spoken to group officers as well within the organisation, and it was a formal written resignation.

Q. Then you go on to refer to in that answer to

personal reasons which you didn't want to go into. I won't ask you particularly about it except insofar as it might arise from subsequent questioning.

5

Going to the chronology of the fires themselves, as your statement points out, on 8 January you were at the depot at Athllon Drive; is that the correct pronunciation?

10 A. Athllon Drive. Yes.

Q. Your statement indicates in some detail about the fact that the fires had started. In paragraph 11, Mr Sayer, you say that you had a
15 discussion with Mr Wells, Mr Galvin and possibly also Vivien Raffaele about the fires. In the last part of paragraph 11 you say:

20 "I said to the others that I was concerned about the location of the fires and their remoteness. I said that if we do not get on to them quickly, they would become a fairly big problem for us. I also expressed my
25 concern that we had several fires at once and this would mean having to spread our resources carefully in order to catch the fires early."

30 Firstly dealing with the location of the fires and their remoteness, what was the concern that you particularly felt at the stage that you realised they were burning?

A. The concerns were the remoteness of them - how long it actually takes to get crews, machinery or
35 whatever you are going to put in there to them actual fires. I thought the urgency of if we got to them very quickly that we may have been able to maintain them in a very small situation.

40 Q. When you expressed concern about them becoming a fairly big problem for us, what sort of fairly big problem did you have in mind?

A. Fairly big problem would have been quite a large fire in the water catchment area and
45 possibly impacting on farm lands within the ACT.

Q. As far as the reference that you make there to

spreading resources carefully in order to catch the fires early, what kind of organisation or planning did you have in mind for that?

5 A. Spreading the resources was thinking of what we would have actually in Parks and Conservation and how we would manage to do a campaign fire with the staff that we had.

10 Q. A campaign fire is a fire that lasts beyond one day shift, doesn't it, or beyond one day?

A. One day into a week.

15 Q. Was it obvious to you on the 8th of January that these fires would become campaign fires?

15 A. I had very grave concerns that they would, yes.

20 Q. I think in your interview in particular at question 63 - if you have it in front of you, to go to that - and in that area you describe the equipment that was available to your organisation as at 8 January. You make the point that you don't have heavy equipment but it is hired through private contractors; is that correct?

25 A. Yes. We no longer have heavy equipment within the Parks and Conservation organisation.

30 Q. But there were two what you describe there as heavy bulldozers that could have been floated. They were on hire, I think as you describe them; is that right?

A. As far as I am aware, they were on hire to ACT Forests at that stage.

35 Q. Were you on the 8th of January already thinking about the importance of the use of heavy equipment on the fire?

40 A. I certainly was. I made reference to that to my immediate Parks and Conservation manager and to Peter Galvin who was a reserve manager.

Q. What would you like to have seen occur as a first response on 8 January in relation to the use of heavy equipment?

45 A. Certainly the organisation of the heavy equipment. I know it takes some time to organise that but, as a matter of urgency, I think we

should have had them organised and ready to be either floated late that afternoon or into the early morning the following day.

5 Q. As at 8 January, is it right to say that you were the Deputy Chief Fire Control Officer on duty as it were - I think "in the workplace" is the way you describe it in paragraph 14 of your statement?

10 A. Yes. I was the rostered duty DCFCO. As you are aware, I still have to do my Parks duties and current job.

15 Q. Your statement - we will come to this in a moment - seems to carry with it the suggestion that you were surprised that you weren't contacted and you had a conversation the following day with Mr Lucas-Smith about the fact that you weren't contacted?

20 A. I did, yes.

25 Q. But before we come to that, is there any kind of protocol that would require you to be contacted on 8 January once it was obvious that fires were burning that needed to be responded to by ESB?

30 A. We have a set roster. It is a case of looking at the roster and picking the person who is actually on duty.

35 Q. That was you?

40 A. That was myself, yes. I don't know whether it was overlooked, but that's the normal point of contact that you are either phoned or paged to attend.

45 Q. As you understand the way it is organised, who would make that decision?

A. Usually the duty co-ordinator.

50 Q. Who on the 8th of January --

55 A. I wouldn't know.

60 Q. -- you don't know. Did you have a satisfactory relationship with the senior members of ESB as at 8 January?

65 A. I probably had a reasonably good working relationship, yes.

Q. And with Mr Lucas-Smith in particular?

A. Yes. I would say we had a working relationship, yes.

5 Q. On the 9th of January, you did receive a call to go into ESB from Mr Galvin and you went straight in there. Perhaps just before I come to that, wouldn't it have been appropriate for you on the 8th to ring in to ESB and find out whether
10 there was anything you could do to assist?

A. No. As I say, I had my own work to do within the organisation. It's to be worked off the roster as they see fit.

15 Q. You were the duty Deputy Chief Fire Control Officer?

A. That's correct, yes.

Q. No doubt on the 8th you were working, as it were, with an ear to the telephone in case it rang and you were asked to go and do something?

A. Yes. During my role as the DCFCO, I actually carried the phone at all times and had a pager system so was quite contactable.

25

Q. You didn't think it was appropriate for you to ring in to them and say, "Look I am available. I am aware the fires are burning. Is there anything that I could do?"

30 A. No. The rosters should have shown that I was available.

Q. In all events, on the 9th of January you went in there after lunch and, as you have said in paragraph 17 of your statement, you went in there angry that you hadn't been contacted and expressed your displeasure, as a result of which, as you describe it, Mr Lucas-Smith effectively said to you that if that was your attitude then you should
40 leave there and then; and you did so.

A. I did.

Q. I take it that was a fairly unpleasant conversation?

45 A. Yes. I couldn't work in the environment with the words that were spoken. It was better to leave it alone and move off.

Q. What was said, Mr Sayer, when you walked in what did you say?

A. I walked in. Put my bag down and pardon my language --

5

THE CORONER: We have heard it all before, Mr Sayer, I am sure.

THE WITNESS: I said to them, "Thank you very much" - no, actually I said, "You'd be a fine bunch of pricks. Thank you very much for the lack of consultation and input into these early stages of the fire".

15 MR LASRY: Q. Who was present when you said that?

A. There were numerous people in the room: Peter Galvin, Mr Tony Corrigan, Tony Graham and numerous operators and personnel.

20 Q. Was that the extent of what you said?

A. That was the extent of what I said.

Q. What happened then?

25 A. Mr Lucas-Smith then said to me, "If that was my attitude I may as well leave." I picked my bag up and left the control room.

Q. Mr Lucas-Smith was asked some questions about this incident as well. I wonder if we could have transcript at page 1221, please. Mr Lucas-Smith at page 1220 had a section of your statement read to him and then he was asked:

35 "Q. Do you remember that exchange?

"A. Yes, I do.

"Q. Do you agree with his description of it and it happened as he described it?

40 "A. Yes. Not necessarily in that sort of context.

"Q. What was the context?

45 "A. I don't know what else - I've not read Mr Sayer's statement - what else he goes through, but Mr Sayer came back to me later on and apologised and told me that he was under a fair bit of stress on that particular

day and probably overreacted to my comments.

5 "Q. I cannot tell you frankly whether an apology is referred to or not. But how long after this conversation was that apology tendered to you?

10 "A. Almost the next day, I think. I immediately assigned Mr Sayer to the incident control for the Stockyard fire."

Do you agree on the following day, Mr Sayer, you went back and apologised for what you had said on the 9th of January?

15 A. I don't remember apologising. I remember saying to Mr Lucas-Smith at that stage that I had blown up. Very rare for me to do that. He was actually talking to me. I said, "Look, we've got a job to do. Let's get together and get it done".

20 Q. That was the end of it?

A. That was the end of it. I then proceeded to do my duties that were requested of me.

25 Q. Was there any further discussion about the lack of consultation with you about which you were complaining? Did you have any further discussion with Mr Lucas-Smith or anyone else during that week as to why it was you hadn't been rung on the 8th, as you thought you should have been?

30 A. No, there was no further advancement on that.

Q. On the 10th of January, the following day, you were at ESB as requested and getting in there at about 10 past 12. You were asked to map the extent and location of the Stockyard Spur and Gingera fires; is that right?

A. That's correct.

40 Q. Later in the afternoon with Mr Nick Lhuede, you went out and looked at those fires. You describe that in paragraphs 19-22. In dealing with your assessment, I refer you to your answer to question 98 in the interview. The question you were asked at question 98 was:

45

"Q. Yeah. And I think you may have already touched on this but do you think that on the

10th for the Stockyard and Gingera fires that resources responded to that task were sufficient?

5 "A. Oh no, definitely - definitely not sufficient. It was the bare minimum units there. I actually can't remember what units were there. I think possibly one tanker and two light units I think it was that was actually there."

10

Is that still your opinion about what occurred?

A. Yes, that is still my opinion. We could have hit it harder.

15 Q. Could have hit it harder?

A. Yes.

Q. How would that have occurred given the remoteness and difficulty of access to those
20 fires. How would you have hit it harder?

A. To hit it harder responded probably a lot more rake hoe or vehicles to them fires. Certainly the rake hoe side of it, I thought, could have been up for the two most remote fires.

25

Q. I think you say in the course of your statement in relation to the Stockyard fire, particularly at the time you went there, that it was burning very quietly. You describe stepping
30 over the fire line and walking back into the burnt area?

A. That's correct.

Q. You also say - to put this in some context in view of what you just said - the fire front was too big for rake hoe teams and what they needed was some heavy machinery. Do you see there the answer to question 112 about being asked about not having anyone on site at the time at Stockyard
40 fire. You say:

45 "A. Well the fire was at a size where if you'd task rake hoe crews to it, they'd have done no good anyway. The fire perimeter was certainly too large for that sort of containment. It required machinery, dozers with tanker or unit water squirting vessels

back up, and they were just not available at that stage. If something is not being attacked, it has got to grow bigger. We - well I was certainly resigned to the fact that we wouldn't contain that fire."

5 A. Yes.

Q. In relation to the need to respond quickly with rake hoe teams, are you referring to both the Gingera and Stockyard fire?

10 A. Absolutely, yes.

Q. But once it had got to a particular size where that wasn't going to be effective --

15 A. We would have required the heavy machinery to be pretty well on their way to them, yes.

Q. I just want to briefly show you a map which is at [ESB.AFP.0110.0307]. We need to go to the second page of the document, please. I know it is difficult looking at it on the screen, Mr Sayer, do you recognise that document?

A. No, not really. It is very scratchy.

25 Q. This is a document that I think carries with it on the earlier page - 615 or 1815 hours on 10 January, and it seems to have your name on the bottom of it. Perhaps I will show you this document and the attached map. Have a look at that the document and tell me if you recognise it.

30 A. It is possibly a map that Nick Lhuede and myself put together. Certainly not my writing on there. I'm not that neat a writer.

35 Q. Do you recognise the detail of the document as to what it reflects and when it is likely to have been created?

40 A. No. It would have been one that probably Nick Lhuede and I did in the field. We did flame heights, rate of spread downhill. It's probably as much as I can say.

45 Q. Looking at that map though, does it seem to you to reflect the situation as you understood it on the 10th of January? Is it consistent with being done at about that time - in relation to the Stockyard Spur fire that's what it is depicting?

A. In relation to Stockyard Spur, yes, I would say it does.

Q. It does?

5 A. Yes.

Q. On the following day, 11th of January, as you have described, you became the incident controller for the Gingera and Stockyard fires. As you point
10 out, there were no crews tasked to those fires; is that right?

A. That's correct.

Q. Was there anyone else in the Incident
15 Management Team for those fires apart from you?

A. Yes, there was. I worked in the planning section with quite a number of people, some from ACT Forests, some from New South Wales at that stage.

20

Q. As at 11th - I think that is the first time you were designated as an incident controller on the 11th of January. Am I right about that?

A. Oh, yes.

25

Q. What is the nature of the relationship between an incident controller such as yourself in that position and the Service Management Team back at Curtin; how does that work?

30 A. The Service Management Team, it is relatively new to me. I would probably taken them just as an Incident Management Team back there. I had to feed back to them information that I had gathered in the field. We had to work on the plans for the
35 forward progress of the fire and the management of the fire.

Q. Where was the planning being done? Was it being done in the field or at Curtin?

40 A. Information gathered in the field to the best that we could and then finalised at ESB Curtin.

Q. Who would do that?

45 A. Myself, Rick McRae, who was the head of the planning and, as I say, numerous ACT Forests workers. I think Hilton Taylor actually worked on that with me, Nick Lhuede from Environment ACT.

Q. So as to the planning that goes on in the field, it is being done by a number of people who are in the field and who are accumulating information and, as I understand your evidence,
5 assembling that information with a view to formulating a plan for the future approach to the fire; is that right?

A. Yes.

10 Q. What role does the planning section at Curtin play in formulating that plan?

A. It formulates projection of where the fire was going, keeping ahead of the fire with the forward projections and the actual mapping of it.

15

Q. As far as the incident controller for the Gingera and Stockyard fires were concerned, were you the incident controller; or was the incident controller back at Curtin the incident controller;
20 or was there some level of confusion about that?

A. There was probably a level of confusion. I myself took on the role as incident controller, being that incident controller working out of Curtin planning for your own fire and stuff. So
25 you sort of cover across the planning, the operations side of it and the incident controller side of it.

Q. When it came to making decisions about strategies and tactics or strategies and objectives, who was making those decisions as far as you could see?
30

A. Certainly myself in conjunction with the key people within the planning team.

35

Q. So was it a joint effort to make those sorts of decisions or did someone ultimately have to make a choice?

A. It's a key effort on that. But I suppose myself as the incident controller had to do the stamp of approval, quite possibly with the approval of Mr Lucas-Smith.
40

Q. For example, in this particular case in relation to Gingera and Stockyard, as I understand the material in your statement and the record of conversation, there were no resources really
45

applied to those fires as at 11 January; that's right?

5 A. That's correct. There may have been a tanker or a light unit sent there just for reconnaissance, but no active firefighting was taking place.

10 Q. As you say in paragraph 24 of your statement, Mr Graham had informed you that Bendora was the priority effort. That's not your words particularly, but that's what I understand.

A. Yes.

15 Q. In apportioning resources to the fires that were burning, the people at Curtin had taken the view that Bendora had priority over Stockyard and Gingera?

A. That's correct, yes.

20 Q. Therefore, you were requested to plan long-range containment lines with significant back-burning operation?

A. That's correct, yes.

25 Q. Because any kind of direct attack seemed to be out of the question?

A. At that stage direct attack would have failed every time.

30 Q. As the incident controller, what part were you playing in the decisions that led to that approach to the fire actually being decided upon?

35 A. The role that I was playing was actually setting the objectives and the long-range outcomes of the fires, setting the strategies for where we were going to put dozer lines in to form containment lines. That played a big part in it.

40 Q. But the overall approach to the fire and the decisions about applying resources to the fire was something that was not within your jurisdiction to make a decision about. That was a matter for Curtin to decide obviously?

45 A. That was Curtin. That was out of my control with the resources, except for the heavy plant and machinery.

Q. Am I right in saying from 11 January onwards, that was the basic approach to these two fires: containment lines needed to be planned and constructed; and the response to these two fires was to be a significant back-burning operation; is that right?

A. That's correct, yes.

Q. On 12 January you spent some considerable time at ESB mapping the fires, as you say in paragraph 26.

A. Yes. Quite a lot of time preparing.

Q. That's both planning and mapping; is that right?

A. Planning and mapping - looking at the strategic places where we were actually going to put the dozer lines in.

Q. The idea was, as I think expressed to you by Mr Lucas-Smith, that the back-burning was such that you would need assistance from New South Wales to do it; is that also correct?

A. Yes. Mr Lucas-Smith said that we would have a strike force from New South Wales to complement the units that we were also using from the ACT.

Q. Was there a problem with, as it were, lack of progress in relation to this approach to these two fires around the 13th and 14th of January?

A. Lack of approach. Lack of approach I suppose --

Q. Lack of progress.

A. Lack of progress was probably not that we could do anything about it because they were at the size where direct attack couldn't be done. But I think the progress that we were making with looking at the strategic areas that we were going to put trails in, and that takes time.

Q. Mr Lhuede - I wonder if I could ask for his statement to be brought up at [ESB.AFP.0001.1231] and in particular at 1234. While that is coming up, Mr Lhuede in his statement, he has not yet given evidence, but he said he was at ESB on 14 January in the early morning of that day and

had a discussion with you. Sorry, that is not the page it should say paragraph 55 on the page. It clearly doesn't so I will put the summary as I understand it.

5

He said he had a conversation with you about progress which had been made in implementing the incident action plan overnight, that is the night of the 13th. According to him, you and he both expressed some concern about the lack of progress. I wonder whether there was a problem, whether it was either in the construction of the containment lines or the progress of the arrangements with a view to this back-burn that was slowing down or is he wrong about that?

10
15
20
A. I think it would have been around the first day of putting in the trails we had a few hiccups in resourcing the dozers. One had to go down and write the dozer roll down in Bendora. A few people were reluctant to release dozers from their area. So that sort of held us up to getting the bulk equipment on site.

25
Again some distance for them to walk. They couldn't be floated to the site in preparation. That was probably the way that we were discussing.

MR PIKE: I am not sure if my learned friend needs it but it is [DPP.DPP.0007.0432]. That is the one on the system.

30
MR LASRY: Some documents do seem to have more than one number. I never quite understood how that has happened. I won't go back to it unless my learned friend thinks I haven't fairly summarised the paragraph.

40
45
Q. Mr Sayer, on the 15th of January early in the morning, as you describe in paragraphs 34 and 35 you were at a debriefing at Bulls Head at the staging area. You go on to describe the fact that you made a note of the fact that the wind was coming from the south-east which was for the time of year unusual. You also make the point that you were concerned that, if the wind changed to the north-west and high temperatures occurred, then these fires were going to - I think you said -

take off but these fires were going to be difficult to control.

5 A. They would have been difficult to control because we had a large perimeter of fire heading to the west. Had the wind changed around and I had dozers and operators back down on the eastern side of the fires where we were trying to put containment lines in, it would have been a major concern for a north-westerly to come through
10 because it would have put everything at threat and probably overridden our attempts to put containment lines around.

15 Q. In your record of conversation you are asked about this at question 164. The question says:

20 "Q. Going on to the 15th and paragraph 35, you state on the 15th, 'I had real fears that if the normal north-westerly wind resumed and that temperatures and wind speeds rose the fires would take off in a way which we would not be able to hold.'

You said in answer to that:

25 "A. Yeah, being reasonably experienced in the terrain and stuff in the area, under the north-westerly winds it would push them towards Canberra. And that even though you've got your containment lines in, you
30 still had some fire distance off your trails because you are looking at long-range stuff. Under a north-westerly it can pick up and do a major run and breach your containment lines and then we would be in serious trouble then
35 yeah.

"Q. Did anyone else that you spoke to share those sorts of fears?

40 "A. Um, yeah, I don't remember the people that were there when I was talking about that, but there was a group of us. It was probably the people that were going on to do this work for me by trying to do it -
45 implement it on the ground, and like I'm pretty certain that I expressed on numerous occasions that there were to be extremely -
able to be extremely careful because of - if

a wind change came in."

Obviously the part of your answer there that I am interested in is the view that you apparently held
5 at the time of the wind change would produce a situation where the fires were pushed towards Canberra. As at 15 January, was an effect on Canberra itself something within your contemplation?

10 A. Certainly not the impact that we saw hit Canberra.

Q. Not the impact we saw?

15 A. I certainly saw the impact of it going into open farmland at that stage certainly with a wind change.

Q. What about the suburbs themselves, as at the 15th, did you consider there was any risk to the
20 suburbs themselves of any kind of --

A. No, no, I didn't.

Q. You weren't thinking about that?

25 A. No.

Q. The back-burn or the burn that was to be done I think was actually to be done on the 16th; am I right about that?

30 A. That's correct, yes. On the evening of the 16th.

Q. It was to be started late that afternoon and the idea was to burn right through the night; is that correct?

35 A. That's correct. I must point out there too that I had something like 14 kilometres of back-burn to do, and the best that people were getting in back-burnings in other areas was something like 3 kilometres. So I had a major
40 task ahead of me to try and complete that.

Q. You describe the intention of the back-burn in paragraph 37, a few lines down from the top you say:

45

"In broad terms the intention was to put a back-burn running east off Mt Franklin near

Leura Gap down to the junction with Cotter
Hut Road, then up Cotter Hut Road to the
turn-off to Lickhole Trail, with that trail
being treated as the eastern side containment
5 line through to the back waters of the Corin
Dam."

Is that right?

10 A. That's correct yes.

Q. You say:

15 "The dam itself would then form a continuance
of the containment line further north with
the fire burn out right up to the Corin Dam
wall. To the west of Leura Gap, we had
constructed a containment line from Leura Gap
across to the Goodradigbee River along the
Leura Gap trail. The intention was that the
20 New South Wales task force would conduct a
back-burn off that trail heading north to
meet the Stockyard Spur fire and contain the
fire with the Goodradigbee River on the west
and the various containment lines described
25 in the previous paragraph to the east, south
and north."

A. Yeah. That back-burn in conjunction with New
South Wales from Leura Gap was to go in place as
we were doing our own back-burn on the Franklin
30 Cotter Road, Lickhole.

Q. You were informed, I think, at about 4 o'clock
on the afternoon of the 16th that the New South
Wales task force that was to be involved in this
35 and on which this really depended - didn't it,
Mr Sayer - that they won't be available?

A. It certainly did. Mr Lucas-Smith advised me
late in the afternoon around 4pm before I actually
left Curtin to go up there that New South Wales
40 could no longer resource the Leura Gap Fire Trail.
So that left me to hold the candle and carry on
the best that I could to get this back-burn in.

Q. Well, your feeling about it was in view of the
45 lack of resources, particularly in view of the
fact that the New South Wales task force wasn't
going to be available, there was a real problem

about this back-burn; wasn't there?

A. There was a problem about this back-burn. As you can imagine, the fire had already burnt pretty well down into the Goodradigbee River. We were
5 starting off on a very small portion of it from Franklin Road down to Lickhole. Without the Leura Gap burn going in, we had major implications there because the fire on a wind shift would have
10 brought it back around outside our control burn that we were going to conduct on the 16th.

Q. Did you tell the people at Curtin, whether Mr Lucas-Smith or anyone else for that matter, that there were now problems with conducting this
15 back-burn?

A. No. I think in our planning before it, we had a fairly low probability of success of even getting our own burn in nevertheless, without New South Wales doing their Leura Gap in conjunction
20 with ours.

Q. If we could have [ESB.AFP.0006.0252], please. What should be coming up, Mr Sayer, is an options analysis. The document seems to set out three
25 options. I suspect, although you can tell us this, that the proposed back-burn that you have been describing was option 1. The document itself rates the probability of success of that back-burn at about 30 per cent. Am I right about that?

30 A. That's correct. That's certainly what I went out of planning section with. That was conveyed to Mr Lucas-Smith as well. But with nothing else to do, I was directed to go ahead and do the best I could on that one.

35

Q. We will come back to that in a minute. In option 1, the strategies are basically set out there as you have described them; is that correct?

A. Yes.

40

Q. This document "at 1600 on the 16th", so we are talking about the situation at 4 o'clock on the afternoon of the 16th?

A. Yes. That was the final document handed to me
45 out at planning that I also had input into.

Q. So when you say "out of planning" do you mean

out of planning at Curtin?

A. Yes, yes.

Q. The issues for option 1:

5

"Strong north north-westerly predicted for Saturday. Sunday and Monday, threatening eastern and southern containment along Lickhole, Mt Franklin and Leura Gap.

10

Significant risk of existing fire to the west of the range taking run to the south through Leura Gap. Time available for BB - obviously back-burning - operations may limit depth of burn. Probability of success - 30 per cent."

15

Then the critical issues are identified as:

"Potential break-out of containment lines from spotting under north-westerly conditions. Expect high intensity fires with uphill burn from Lickhole Creek. Burning from Leura Gap west to Goodradigbee River. Urgent to restrict south run of existing fire east of the Brindabella Range."

25

Is that right?

A. Yes.

Q. Bearing in mind, as you say, you were given a direction to do the best you could, notwithstanding those issues, who gave you that direction?

30

A. I think the final direction was Mr Lucas-Smith. This was all run by him. And --

35

Q. Was it personally to you? Was it something you discussed with him or do you assume that because someone from COMCEN gave you a direction?

40

A. No. No, it was discussed with planning. It was also done with the operations officer as well.

Q. Did you want to go ahead with the back-burn yourself? Did you express a view that you should go ahead and take the risks that are set out in this document?

45

A. I was quite willing to take the risks on that one to try and do it. But certainly I had grave

concerns once New South Wales could not maintain their burn down the Leura.

Q. What were the risks of doing nothing?

5 A. The risks of doing nothing would have been on the wind change as in the plan that the actual south-western side of Stockyard Spur as we know it, but it would have been the south-western side of Gingera - yeah, Gingera would have actually
10 burnt around the outside of our containment lines through the Cotter Hut area and probably created a bigger concern than the back-burn.

Q. You agree with the direction you were given to
15 go ahead?

A. Oh, absolutely.

Q. Is it right, although you agree with it, it is made the more dangerous by the lack of resources, primarily the lack of the New South Wales task
20 force?

A. I will straighten that out. It was probably was not lack of resources that I actually had under my control; it was lack of resources that
25 New South Wales could supply to do the Leura Gap burn.

Q. The back-burn did go ahead?

A. No. The back-burn didn't go ahead.
30

Q. That was in part because all sorts of problems arose on the 16th?

A. Absolutely. You can plan everything to the hilt, and we ended up with a tanker rolled off an
35 old wooden bridge and no-one injured.

Q. That meant that some units which had crossed the bridge were trapped or would have been trapped?

40 A. That's correct. They were actually in front of the rolled unit in a wet gully line. There was no way of getting them out without major work from an earthmoving machine to put a crossing in to them.

45

Q. Another problem was, as I understand it, there were a couple of heavy dozers at the Cotter Hut.

Am I right in this, that you wanted them to be used as part of this back-burning containment operation?

5 A. Absolutely. They were there. They were only supplied dozers. They were stood down at that time for no further use. But available if required if we lost the fire through containment line.

10 Q. Were the operators with them?

A. The operators were there.

Q. Were their keys in the ignition?

15 A. The keys definitely were not in the ignition.

Q. Where were the keys?

A. They were back in town in Queanbeyan in a motel which hampered my rescue operation of the tanker.

20

Q. Does that mean that the dozers had been taken out there and placed at the Cotter Hut?

25 A. They were actually removed back from the Leura trail, and that was the staging area for them after they completed the work that they had done.

Q. How did it happen that the operators of the dozers were present, but the keys to the ignition were back at the Queanbeyan motel?

30 A. They weren't actually dozer operators. They what were we call dozer chasers. But they were skilled and had been able to drive dozers. They were actually on a heavy water tanker that was supplied by the army. So we asked them could they
35 contact anyone who could drive and they responded and said "Yes, we can drive dozers". That's the way we were going to utilise them.

THE CORONER: Q. Did hot wiring fail?

40 A. Hot wiring failed. We thought we'd throw a spark out into the bush the way they were going about it, and create another fire.

MR LASRY: Q. To clear that road, it took some
45 number of hours until 5 o'clock the next morning?

A. Certainly did. By the time the two operators went back to town, woke their superior officer and

got the keys out of his vehicle, it was some time before they got back and then walked the dozer some probably 10K down the road.

5 Q. That was essentially the end of your involvement, except for the fact that on the 17th of January having gone home I think to sleep, you became aware of the fact that the fires had grown quite dramatically and became involved again; is that right?
10

A. Yes, Became involved again. Probably self-responded, but with notification with COMCEN that I had self-responded to a situation.

15 Q. On the 18th of January you were also at home at about 6am. By that point, as you say in paragraph 53 and following, you were now concerned about some property protection tasks for your own property; is that right?

20 A. That's correct, yes.

Q. Also you were assisting various other people to protect their properties and make sure that people were safe during the course of the day?

25 A. That's correct, yes.

Q. And then as you say in paragraph 55 you went back to the Tidbinbilla Nature Reserve and, as the day developed, you were involved effectively in property protection and ensuring that people including your own family were safe until quite late that night; is that right?
30

A. That's correct.

35 Q. Just describe, if you would, Mr Sayer, for us the incident that occurred while you were in the vehicle with your brother when the fire actually hit on the 18th.

A. Okay. Early in the morning I reported a spot fire that was to the north of my place, Gibraltar View at probably out to 500 metres west of Miowera property. It was on Michael Shanahan's property, Tidbinbilla. I reported that after observing what was happening in the Tidbinbilla Fauna Reserve. I immediately started driving around to that. I hadn't heard any radio conversation about anything being responded to that fire. On the way
40
45

proceeding to that, Parks 10 had called me up and wanted to know the access into that fire.

I know the people very well on that unit. They
5 knew where my property gate was. They waited
there until I came along. I took them through my
property down across Paddy's River and around
quite a number of large erosion mounds, which if
10 you don't know your way you have got to drive many
kilometres to get around them and took them to
that spot fire. My wife, brother, brother-in-laws
and that were actually on that fire. They had my
backhoe there. They actually put a break around
15 it, my brother being an experienced backhoe
operator. They were continuing to mop up. By the
time we got there, we took the mop-up operation
with Parks 10.

My family returned, except for my brother who was
20 continuing to help us with the mop-up because he
pushed earth in and had to spread it back out so
we could wet it down and contain the fire
properly.

He then left the backhoe parked in the back of
25 that fire, which was probably a hectare in size,
and I noticed to the west of us that we had
another spot fire, probably 800 metres to the west
of us. We proceeded to that. Arrived on that
30 one, and it was burning quite well. But once you
got to that one, you could see numerous spot fires
coming. So we filled up at the dam that was close
by and headed back. Had a 20-minute drive back
out of where we were. At that stage the fire was
35 probably 1700 metres or a bit better away from us.

My brother got out, opened the gate. The tanker
was behind us. By the time the tanker got through
the gate, my brother was partway back into the car
40 and the fire was already over the top of us. It
had travelled some distance in quite a very short
time. Probably --

Q. In a minute or two?

45 A. Less than a minute. We proceeded to drive
through my place to go to a weatherboard cottage
that definitely needed protection. It was the

property at Paddy's River. We got caught up in a burnt-over situation not too far from my cattle yards. We took refuge in the vehicles on the eastern leeward side of the little knoll and got
5 hammered fairly severely with heat. I was out in front of the tanker. The tanker was probably within 12 inches of my rear end. You could not see that tanker.

10 The winds were quite dramatic. At one stage lifting us up quite well in the vehicle, having to grab hold of the handle and the steering wheel, and looking down at my brother who was saying "We
15 are going to die". And I said in my statement quite politely that we weren't, but there was a bit more colourful sort of language that was used.

Q. Had the wind actually lifted the vehicle off the ground?

20 A. It had actually lifted the vehicle probably 2-foot to 800 - nearly a metre off - probably in the stage of rolling. I got a sight of the bullbar of the tanker that was right up my rear. Drove forward and took shelter alongside them.
25 But that tanker was also getting lifted fairly well - rocking fairly well.

Q. Had you ever seen anything like that before?

30 A. Never seen anything like that before in my life.

MR LASRY: Thank you, Mr Sayer. I have nothing further.

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

SHORT ADJOURNMENT [11.15am]

40 **RESUMED** [11.35am]

MR LASRY: I know I said I finished, I hadn't quite.

45 Q. Mr Sayer, I just have two other matters to ask you. One point of clarification: The assessment made of the burn that was to take place on the

evening of the 16th of January as having a low probability of success and, indeed, in this options analysis to which I earlier referred you the probability of success was 30 per cent. First

5 of all, was that figure based on the presence or the absence of the New South Wales task force?

A. That was probably the presence of the - sorry, on the absence.

10 Q. On the absence?

A. Oh, no, I will rephrase that. It would have been on the presence because it was produced before we realised that we weren't going to get that resource.

15

Q. I was going to ask you about that. The general objective at the top of the document - I will have it brought up if you need to - had four dot points "keep fires west of the Cotter River" - perhaps this is a much too general objective, but it does refer to working in co-operation with New South Wales agencies.

20

In any event, your recollection is that that 30 per cent figure as a chance of success or probability of success is fixed on the basis that New South Wales would not take part; is that right?

25

A. Yes.

30

Q. What difference would the New South Wales task force presence have made to the assessment of the probability of success?

A. It would have tied in the whole containment lines to the south of the fire and probably gave us a better chance of it outflanking us to the south. That was probably the full thought on that.

35

40 Q. Perhaps more generally in relation to your own resources: even with the New South Wales task force taking part, from your point of view were you adequately resourced for the part that you had in the back-burn that you had to do?

45 A. We were certainly adequately resourced. Being a reasonably narrow road, too many resources would have cluttered it. You had to make it a one-way

road for the back-burn. Yes, I think I was resourced enough to complete the 14Ks of back-burn, which was the major task that we had to do.

5

Q. But you thought you had enough resource to do that?

A. Yes.

10 Q. The other matter I wanted to ask you about was this: you know that area pretty well and had been travelling or moving around that area on and off over a number of years?

A. Yes.

15

Q. It is a wilderness area, isn't it, both Stockyard and Mt Gingera are in a wilderness area?

A. I wouldn't be certain on Stockyard. Gingera, yes.

20

Q. Does that mean effectively there are very few, if any, usable trails out there for firefighting purposes?

25 A. There is a strategic network of trails, but that's as far as probably I would want to comment. They were passable trails. As for further - yeah, that's --

30 Q. Do you have a view on first of all whether the number of trails in that area are sufficient; and, secondly, whether they are sufficiently or properly maintained so as to be useful in the event of a fire like this?

35 A. Sufficient to actually get you in there - yes, I would say sufficient. From the firefighting perspective, there is probably lack of east-west trails which give you the better containment lines. Most of the trails through there are south-north.

40

Q. Why is east-west preferable?

A. It gives you a better chance of containing fires that are coming. You can work to an edge of the fire.

45

Q. So would it be desirable for there to be more of those particular trails in that area?

A. I think in the future certainly we could look at upgrading, but that's to be negotiated between probably Environment ACT; New South Wales, because it travels through New South Wales; and in
5 conjunction with ESB.

Q. I am sorry, I may have already asked you this but, so far as maintenance of what was there was concerned so that it was able to be used
10 effectively in a fire, was the maintenance sufficient as far as you could see as at January of 2003?

A. I'm not quite sure on the maintenance of the Mt Franklin Road. I have been involved across the
15 parks systems with maintenance of fire trails over the last quite few years.

MR LASRY: Thank you, Mr Sayer. Thank you,
20 your Worship.

THE CORONER: Mr McCarthy, do you have any questions?

MR McCARTHY: I do have a few but as I understand
25 it --

THE CORONER: Mr Pike, do you have any questions?

MR PIKE: I have one question.
30

<CROSS-EXAMINATION BY MR PIKE

MR PIKE: Q. Mr Sayer, you have said in your evidence as it appears at paragraph 17 of your
35 statement in relation to the attendance by you at ESB on 9 January and you expressed displeasure at that meeting and Mr Lucas-Smith had something to you and you left. After that, did you receive a telephone call from Tony Graham asking you to come
40 back?

A. Yes, I did. That was approximately 10 to 15 minutes after, yes.

MR PIKE: Yes, thank you.
45

<CROSS-EXAMINATION BY MR McCARTHY

MR McCARTHY: Q. You were asked various questions about the back-burn that was proposed to occur on the night of the 16th of January. You gave evidence about the fact that, despite the loss of
5 the New South Wales resources, you decided nevertheless to go ahead with the back-burn in consultation with ESB; is that right?

A. That's correct, yes.

10 Q. You agreed with that course?

A. Yes.

Q. Despite the prospects of that back-burn being successful, despite the loss of New South Wales
15 resources, you decided to go ahead because in the circumstances that you were facing there was no practical alternative but to do so; is that right?

A. That's correct. Yes.

20 Q. Also towards the end of your evidence before the break, you were taken to the fire that raced across the grasslands and went across the top of your vehicle; do you recall that?

A. Yes.

25

Q. You spoke about the fact that the fire came across in one to two minutes before crossing your vehicle. How far do you recall it travelled in that one to two minutes?

30 A. I would say probably 1.7 kilometres. It was some distance off us at that stage.

Q. You also mentioned at the beginning that you have been involved in fighting fires for some 37
35 years now; is that right?

A. Yes.

Q. In all of that time, had you ever seen a fire travel that fast?

40 A. I have never experienced that in my entire firefighting career.

MR McCARTHY: Thank you, your Worship.

45 THE CORONER: Q. I think you estimated it at about 150 kilometres an hour at one stage.

A. I think the winds at that stage probably,

yeah.

THE CORONER: Mr Whybrow, do you have any questions?

5

MR WHYBROW: No, thank you.

THE CORONER: Mr Walker.

10 MR PHILIP WALKER: Just a couple of questions.

<CROSS-EXAMINATION BY MR PHILIP WALKER

MR PHILIP WALKER: Q. I am just trying to get a
15 gauge of how far bulldozers had to be walked to
get to the Stockyard Fire. Can you give us some
indication of the distances after they defloated?
A. Yes. After they defloated, which was some 5
to 6Ks in from Bulls Head, to get to Mt Ginini you
20 are looking at about a 22-kilometre walk. To
Stockyard, are you probably looking around
28 kilometres for a heavy dozer to walk. A very
slow rate.

25 Q. That is from the defloating point -
28 kilometres?

A. Yes.

Q. How long are we looking at for that sort of
30 task to be undertaken?

A. Depending on the size of the machine, anything
up to probably five hours.

Q. Which machines move faster and which are the
35 slower?

A. Probably the triangle tracted machines travel
faster, the flat tracks are a lot slower, and it
depends on probably the horsepower. I think we
had D6s, D7s.

40

Q. After five hours after the defloating point?

A. Absolutely.

Q. Did some dozers walk further than that?

45 A. Certainly some dozers did walk further.
Anything that came off the Bendora fire itself, I
don't know where they were located on the Bendora

fire. They certainly would have had to walk the whole distance.

Q. What length of time are we looking at?

5 A. You could probably put an extra hour to two hours on the walk from Bendora fire to Stockyard, to Gingera.

Q. I think it has been said a couple of times
10 that owners don't like walking their machines for a lengthy period because it can do them some damage.

A. That's correct. Walking a dozer over that
15 sort of distance impacts fairly heavily on the rollers and bearings and can quite easily crush them.

Q. Did any such danger occur, do you know?

A. I think there was one dozer that had crushed
20 rollers and it continued to work. They did minor maintenance on it to keep it operational for that period.

Q. The New South Wales resources for this
25 back-burning, do you actually know where those resources went or why they were not available to you?

A. From a conversation, if I remember, I think
30 that they were resourced or tasked back to McIntyre's but I may stand corrected on that.

Q. You are not sure, but that's what you --

A. I'm not positive on it, no.

Q. I take it that would then be a New South Wales
35 decision rather than an ACT decision?

A. Oh, absolutely, yes. And I would presume that
40 that would be a decision between Mr Lucas-Smith - the liaison at that time with New South Wales.

Q. One other thing: up towards the end of your
statement you talk about some rural lessees having
an understanding that there were going to be two
45 units per residence in the rural area. That ratio is frankly not a realistic ratio of units to residences in the rural area; is it?

A. Just thinking about it, it may have been

before the immediate threat to the rural area of the Tidbinbilla Valley when the first fire came out on the night of the 17th. But to sustain that throughout the whole program is probably
5 unrealistic, yes.

Q. The final thing: you talk in paragraph 70 about some units not stopping when property protection was the order of the day. Do you know
10 whether they were New South Wales or ACT units?
A. I couldn't tell you at this stage whether they were ACT or New South Wales units. I know they were only 500 metres away from a house, either side of them, and they were sitting on the road
15 with red and blue lights going. At the time we actually needed them for property protection, then they proceeded to drive away.

Q. I take it you got no knowledge as to whether
20 they were in fact tasked to anything else at the time?
A. I have no knowledge at all, no radio messages or whatever to say.

25 MR PHILIP WALKER: Nothing further. Thank you, your Worship.

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

30 MR WATTS: Just very briefly.

<CROSS-EXAMINATION BY MR WATTS

MR WATTS: Q. In paragraph 12 of your statement
35 you say something to Mr Wells and Mr Galvin. Could you turn to that?

A. Yes.

Q. Do I take it from your experience your view is
40 that, the sooner such containment lines are put in place, the better?

A. Absolutely, yes.

Q. If dozers are available, the sooner they are
45 deployed the better?

A. Certainly. The sooner - yeah, they are deployed, it just means your forward planning is

happening and you are getting them to respond to the task that they are required for.

5 Q. As at the time you had this conversation, were you aware of the availability of dozers?

A. I wasn't aware at that stage of availability. I knew that there was two actually hired within the ACT Forests areas. I did not know the location of where they were.

10

Q. A D9 dozer is a fairly large one?

A. Yes.

15 Q. And a D9 would be a good piece of heavy machinery to send out to put in containment lines; would you agree with that?

A. Yes.

20 MR WATTS: Thank you, your Worship.

THE CORONER: Yes, Mr Lasry, any re-examination?

25 MR LASRY: Not re-examination. One point of clarification, if I might.

<RE-EXAMINATION BY MR LASRY

30 MR LASRY: Q. If I can come back to the proposed burn, Mr Sayer. In the document that I showed you which set out the strategies and the containment line - [ESB.AFP.0006.0252] - the northern containment line is there described as a new trail from Cotter River - is it Cotter River?

35 A. Yes.

Q. Cotter River to Mt Franklin under construction. I think that should be from the Cotter River to Mt Franklin trail under construction; is that right?

40 A. Yes, that is correct.

45 Q. What distance of containment line --
A. No, sorry, I take it back on that one. It was from Mt Franklin Chalet to Cotter River. We were going to run one down a strategic - I can't think of what it is - hillside and try and marry it up below the Cotter Dam - the Corin Dam, sorry.

Q. How much progress was made for construction of that containment line?

5 A. They had gone as far as they could. I think they had fallen short by about a kilometre and a half. It became too steep, and the operators didn't want to progress with that one.

Q. What is the total distance, the total length of that containment line approximately?

10 A. You have probably got me there, approximately 6 kilometres.

MR LASRY: Thank you, your Worship. Thank you, Mr Sayer.

15

THE CORONER: Q. Just to clarify the back-burning as well: I thought you said that the 30 per cent success rate was with the New South Wales task force because of the time that this document was prepared.

20

A. No. That would have been prepared --

Q. After that?

A. --yeah after that.

25

Q. So the 30 per cent was after New South Wales had disappeared off the scene?

A. 30 per cent was set before.

30

Q. Before?

A. --we knew that --

Q. Were not going to be with you?

A. Yes.

35

Q. So the 30 per cent success rate included the New South Wales people doing the Leura Gap part?

A. Yes.

40

THE CORONER: You are excused, Mr Sayer. Thank you very much for your evidence. You are free to leave, if you wish.

<THE WITNESS WITHDREW

45

MR LASRY: I call Brian Phillip Murphy, please.

<BRIAN PHILLIP MURPHY, AFFIRMED

<EXAMINATION-IN-CHIEF BY MR LASRY

5 MR LASRY: Q. Mr Murphy, is your full name Brian
Phillip Murphy?

A. That's correct.

10 Q. Is the correct description of your occupation
fire and lakes manager?

A. That's correct.

15 Q. Are you employed by the Department of Urban
Services at 141 Canberra Avenue, Fyshwick?

A. That is also correct.

20 Q. In one way or another, Mr Murphy, have you
been with that department for some number of years
I think since 1978?

A. That is also correct.

25 Q. You also made a statement in relation to the
matters being investigated in this inquest dated
4 December of 2003 which your Worship is
[DUS.AFP.0002.0001]. Indeed, I think as you said
later to police, that was a statement that was
compiled with the assistance of the ACT government
solicitor; is that right?

30 A. That is also correct.

35 Q. Have you had the opportunity, Mr Murphy, to
read through that statement and satisfy yourself
that what is in it is true and correct?

A. I read it fairly well straight after we did
that statement and I have only breezed it through
it since that day.

40 Q. Apart from a couple of matters which I think
you raised in your interview with the police, is
that statement otherwise true and correct?

A. I believe so.

45 Q. Did you have an interview with the police, it
is described as a taped record of conversation, on
10 December last year?

A. That would be correct.

Q. Have you been provided with a transcript of that conversation?

A. I have.

5 Q. Have you had a chance to read through that and satisfy yourself that the answers that you gave are also true and correct?

A. It is a bit garbled but pretty much in the same lines.

10

Q. That is [DPP.DPP.004.0031]. Mr Murphy, I think your assessment of your own firefighting experience is something of the order of 20 years or more; is that correct?

15 A. That would be correct.

Q. Your involvement is with what is described as the headquarters brigade, is that correct, as part of the Bushfire Service?

20 A. Correct.

Q. Your particular role is as bushfire coordinator with city parks; is that right?

A. Cityscape Services.

25

Q. Cityscape Services, I am sorry. In your statement and in your record of conversation with the police, you set out the details of your experience. You also describe, in the course of your interview with the police, training which as I understand it you have been involved in putting together in relation to the AIIMS-ICS system?

30

A. That is correct.

35 Q. Does that also include training in the particular role of the Service Management Team?

A. It is all a component of the AIIMS system.

40 Q. Am I right in saying that the AIIMS system is an Australian-wide system?

A. That is correct.

Q. What is peculiar about the ACT AIIMS system is it also provides for a Service Management Team?

45 A. The ACT has adopted a Service Management Team, that is correct.

Q. Am I right in saying that doesn't seem to apply in other states of Australia or are you unaware?

5 A. No. It is based on the AIIMS system and it is modified within the ACT to suit the ACT since it is only such a small region.

Q. Just on the general philosophy of it, what is the idea, as you understand it, for the purpose of training people in this system; what is the fundamental idea or philosophy of having a Service Management Team; why is there one here?

A. Because of the size of the region itself.

15 Q. Why does that make a difference?

A. It is the belief as a service that we are not large enough geographically to actually warrant having all the forward command posts and so forth all over the ACT where it can be coordinated from the ESB.

Q. What does that arrangement mean for the relationship, for example, between an incident controller in the field and the person in charge in the Curtin office, who is the effectively the incident controller in the Service Management Team?

25 A. The Service Management Team incident controller is the overall coordinator of any given incident and has overriding powers of the incident controller in the field.

Q. In question 39 - if you have these documents and want to refer to them, Mr Murphy, by all means do so - in your conversation with the police, you were asked this question:

40 "Q. ... good time to ask now is who is overall in charge on the fire ground? Is it the incident controller in the field or is it the incident controller part of the Service Management Team?

45 "A. Is there any button to say 'good question'? Sorry, because there's recorders running, um, by rights it should be the incident controller on the ground."

Now putting aside the fact that you thought it was a good question, your answer creates the impression that there might be some contention about that. Is there in fact to your observation
5 within the running of incident management teams in the field and the Service Management Team at Curtin any dispute, uncertainty or anything else about who is actually running a fire?

A. No. The person on the ground would be running
10 all the tactics, operational procedures and using Service Management Team for the support. I was fairly nervous when I was doing the police interview. That's probably why right the way through there is all sorts of funny little
15 remarks.

Q. That's all right, Mr Murphy. It adds a certain colour to the entire document.

A. It does.
20

Q. But in making, for example, ultimate decisions in relation to the withdrawal of a team, say, overnight, a decision whether or not to leave firefighting crews at a fire overnight, is that to
25 your understanding a choice to be made by the incident controller in the field or the incident controller as part of the Service Management Team?

A. It would be a joint decision.

Q. You said a bit earlier that the incident controller at the Service Management Team had an overriding authority. I took you to be saying that, in the end, that person could, if they
30 thought it was appropriate, override a decision of the incident controller in the field; is that
35 right?

A. That would be correct.

Q. Have you known that to happen from time to
40 time?

A. Peter Lucas-Smith is fairly strong in his opinions, and we abide by his experience.

Q. In the appropriate circumstances, at least to
45 Mr Lucas-Smith's mind, if it was necessary to override the decision of the incident controller, you have not observed any reluctance at least on

his part to do so?

A. No - just adding to that that the headquarters team is a fairly strong team and works fairly well together within the whole organisation of the
5 Service Management Team and the Incident Management Team.

Q. Mr Murphy, in the course of your statement - I won't go through it again in detail - you set out
10 the role you had in the fires. Summarising some of the points that you make, on the 8th of January you in fact got in touch with ESB to let them know that you were available, as you point out in
15 paragraph 15 of your statement.

Then on the 9th of January you were in fact at ESB and you were assisting, as you say in paragraph 16, in the operations section. In particular you say in paragraph 16 that you
20 assisted Tony Graham in the operations section for the rest of the day with the standing up of appliances and fire tower arrangements, particularly identifying on the resource board what resources were there at different times and
25 stand-up locations. You were there, it would seem, until 20 to 11 that night; is that correct?

A. That would be about right. Yes.

Q. In the course of your interview I think
30 dealing with the resources that were available particularly for the Bendora fire at that day, you were asked a number of questions at around question 124 about the resources that were assigned to the Bendora fire on 10 January. You
35 were asked a question in the end directly in question 127:

"Q. Were the resources assigned on the
40 afternoon of the 10th adequate for the containment of the fire?

"A. No."

"Q. What about the strategies that were being
45 employed on the afternoon of the 10th?

"A. Well, they were opening up trails and attempting to wrap up the spotover that actually happened down at Wombat Road so they

were attempting to do that."

5 You go on to discuss that. What, as you saw it, was the problem with the resources on the 10th of January? Was it that they weren't available to be deployed to the Bendora fire or was it simply that they didn't exist?

10 A. The resources were on the ground and the weather conditions that were starting to escalate in fire terms. I arrived there at approximately 1400, somewhere around there, I don't know. I can't recall off the top of my head. While I was in the Emergency Services Bureau supporting Tony Graham, at that stage we could see the fire was
15 starting to move fairly well. That's why the upgrading of the incident. That's why I was actually dispatched to go out there to support with more resources.

20 I believe Odile Arman Parks 1 had already requested further resources that morning. That was a part of the component that we were actually sending out there. That is why I went out there. The resources that were on the ground for the size
25 of the fire that was growing rapidly with the spotover, the equipment there, we required more equipment to actually start opening trails, et cetera. So it was an operational call that we needed more resources there at that stage. It was
30 too late in that day to actually start supplying more resources on the fire ground that time in the afternoon.

35 Q. To your observation, was the need for the additional resources that you are referring to something that was foreseeable earlier on the day of 10 January or even on the previous evening, the 9th of January?

40 A. I know nothing about the 9th. I wasn't there on the 9th. On the 10th before I went out there and after the request from Parks 1, I believe - I don't believe, I know that Tony Graham and Peter Lucas-Smith were talking about how they were going to actually resource and what they were going to
45 resource it with it.

That's where my name came up. I was actually

approached before I left there from Peter Lucas-Smith to go out there and start attacking the fire aggressively, and start putting things in place to see if we could contain it within some
5 sort of boundaries.

Q. I take it for you to be stating as a fact that the resources at that stage were not adequate. I don't get the impression from your evidence so far
10 that you are actually making that as a criticism; it is simply a statement of the fact as at the 10th of January.

A. That is correct. When I arrived out there, there wasn't enough resources to actually put out
15 the size of the fire it was at that stage.

Q. You were also, as your statement indicates, out there on the 11th January at Bendora. You refer in the course of your statement to the maps
20 that you took with you or that you were provided with and describing being out at the fire ground at 5.30am. I think you later amended that to 5.50 in paragraph 26. Then in paragraph 27 you said:

25 "The maps that I took with me were poor. They were only broad-scale photocopy maps with the names of some roads missing. Some names were handwritten and some of the roads were non-existent, being only trails. I
30 issued some of these maps to the sector leaders. The 1:25,000 map I had was my original. Many roads marked on the maps were overgrown and not clearly identifiable on the ground, so we had to cut tracks into those
35 areas."

Where did those maps that you are talking about there actually come from; who actually provided with you those?

40 A. When I was first deployed on the Friday afternoon, I would have gone into the planning section and tried to acquire some mapping. That's where I would have got it from, somewhere in the planning section. Who gave them to me, I can't
45 recall.

Q. Do you know why the maps were in the condition

that they were in with the faults in them that you describe in that paragraph of your statement?

A. No.

5 Q. Is there some process in the off-season as it were, in the lead up to a fire season, where maps are expected to be upgraded or improved so they are useful on a fire ground in a situation like this?

10 A. There was a system in place that all their managers were looking at upgrading the maps for their lands. There is a fuel management plan which has maps in there. It doesn't have all the trails and so forth on them. There was a variety
15 of maps around. But that's not what I received on the day. That's not what I acquired on the day.

Q. Obviously that is not satisfactory.

20 A. Unsatisfactory as an incident controller going into the field, yes. That is a flaw that the system has identified.

Q. The other thing that you refer to in relation to that particular trip out to the Bendora fire
25 was you say in paragraph 28:

30 "I split up some crews and sent them into different sectors although we couldn't use all the crews to do what needed to be done. For example, we had too many rake hoe crews and not enough water carrying firefighting appliances. I sent some crew into sectors to monitor the fire."

35 Is that simply a problem that often occurs; you never really know what you need more than something else until you get out there and actually confront the situation?

40 A. That would be correct. Those resources would have been discussed and ordered through myself and probably Tony Graham on the evening. I actually went back to the bureau on the end of my shift on the 10th, Friday night, and we were then discussing further what sources were required and
45 we could put in place to try and contain it for the next day, and circumstances obviously changed overnight and once again moved forward.

Q. Are the resources that you are there describing in paragraph 28 of your statement resources which would have been determined by the Service Management Team. Would they have decided what resources were sent out?

A. There would have been discussions between the Service Management Team and myself.

Q. Do you recall whether in fact there was such a discussion?

A. Yes, there was many discussions between Tony Graham and myself during the afternoon and the evening of the 10th.

Q. One problem we had with that and we've learned since then is that we were using our work mobile phones which weren't recorded, so we can't come up with the memory joggers to assist us in where we were going.

Q. You were using work mobile phones?

A. That's correct.

Q. So everybody was on mobile phones?

A. Not everybody, a fair majority. We were using the radio network to actually co-ordinate between our resources on the ground and sectors and so forth. But it was just mobile phone for that link back to ESB.

Q. I will just ask you to have a look at this document, Mr Murphy [ESB.AFP.0003.0461]. I have a spare copy of it so I am happy to give you a copy as well.

A. It doesn't show much that is visible.

Q. That is an incident control system structural chart for 11 January, 9.40am. Is the handwriting yours or someone else's?

A. No, someone else's.

Q. Do you know whose?

A. No, there is no signature on it.

Q. It is not handwriting that you recognise?

A. No. It is probably something that was created back within the bureau on probably one of my

discussions with either Tony Graham or one of his assistants.

5 Q. You are shown as at that stage as the incident controller for the Bendora fire. You are also shown as the planning officer.

A. That's correct. I would have been the logistics officer at that time as well.

10 Q. Mr Refshauge is shown as the logistics officer.

A. The reason he would be shown there as the logistics officer because he was my penciller and he would have been assisting in everything I do.

15

Q. Just describe what a penciller's job is?

A. To assist me with radio messages, to take notes of where we are going and what is happening and just general assistant to help.

20

It is very busy on the fire ground no matter what part are you actually in. There are a million things to think about. It is someone you bounce ideas off, safety issues, et cetera, et cetera.

25

Q. So you were obviously aware that you were the incident controller as well as the planning officer and, as it turns out, the logistics officer?

30 A. That is correct.

Q. Is that a common situation that occurs in the field that someone like you will take on all those roles in the field?

35 A. That is correct. We were at this stage still escalating the size of the fire and bringing more resources in to setting up the Bulls Head staging area, catering areas, helicopter pads, et cetera et cetera. There were a million and 10 jobs we were doing at that stage.

40

Q. As planning officer, what sort of interaction do you have in the role that is provided for you there on that chart with Mr McRae back at the office at Curtin?

45

A. Very little.

Q. Very little?

A. I had none whatsoever on that day. On the 11th, as it says somewhere in my statement, the incident controller from the SMT and the planning officer from the SMT, which was Hilton Taylor, came up to Bendora and we had some discussions about where we were up to and where we were going. We talked about our tactics and strategies of where we were up to.

10

Q. I think you say in your statement also that a map was brought up to that meeting which you were extremely satisfied with.

A. I was excited.

15

Q. You were excited - good. So as at the 11th as the planning officer for that shift for the Bendora fire, did you have any liaison at all with Mr McRae as to what he was actually doing?

A. Not that I can recall. I was a little bit busy.

20

Q. Did you have an understanding from your knowledge of the way the system worked as to what he would be doing?

25

A. Could you please --

Q. Did you have an understanding just from your general knowledge as to the way the system worked of what he would be doing as the SMT planning officer at that stage?

30

A. Yes. He should be looking at his planning structures, looking at his predictions, supplying weather information to come through the operations section to come out to us - millions of things he should be doing.

35

Q. Assuming that he was doing those things, do you recall seeing the product of that work at any stage on or after the 11th of January?

40

A. Yes. Later down the path there is a whole lot of maps that came out. There is all sorts of information flowing.

Q. One of the decisions that was taken on the 11th at the meeting at Bulls Head was that a back-burn would be done to try and prevent the

45

spread of that fire into New South Wales; is that correct?

A. That's correct.

5 Q. That effectively failed, as I understand it. The back-burn was started but it was a pretty intense burn and spotted over - I think you were trying to stop it going over the Bendora Break or certainly going over the New South Wales border.

10 A. It is actually the ACT/New South Wales border. There is actually a trail put through there with low levels of vegetation through there. We were trying to get a dozer through there and use it as a containment line. Our time ran out. That
15 resulted with the fire jumping the lines on the evening of the 10th.

Q. Just to follow through briefly the rest of the chronology. On the 12th of January you were the
20 overnight incident controller at the Bendora fire. You say on the 14th of January you spent some time mapping the Bendora fire and then, having done that, briefed the planning section at Curtin.

25 On the 15th of January, you were again at Curtin and again assisting the operations area which you describe in paragraph 45 as the coordination of resources.

30 On the 16th you were the incident controller at Bendora taking over from Mr Cooper. And the instruction for that day, as you describe in your statement, was a burn from Bulls Head to
35 Piccadilly Circus but there was a problem with humidity and that burn hadn't proceeded as it hoped it would; is that right?

A. That's correct. But there are a few other things that obviously impacted on our tactics. The lines that Mr Cooper was supposed to put in on
40 the evening before weren't complete. We had to finish those lines off before we actually started anywhere else.

Q. On the 17th of January you assisted Mr Graham
45 as the operations officer and then during that day, as you describe in paragraph 56, you became the incident controller up at the Tidbinbilla

Nature Reserve; is that correct?

A. That's correct.

Q. You say in paragraph 57:

5

"I went to TNR and found things in considerable disarray. New South Wales Rural Fire Service was in the process of doing a changeover with their two bus crews. Buses had just arrived and the crews were changing over - there was a lot going on. Peter Galvin and I spoke about the situation and how hectic it was. There were about 200 people there. The changeover was being done in the TNR Visitors Centre carpark, which was the staging area. Peter gave me as much information as he could during the debriefing."

10

15

20 I am right in saying, aren't I, that you went up there with no actual incident action plan?

A. That's incorrect. I think there is an incident action plan; I think it is attached to my statement.

25

Q. For the Tidbinbilla Nature Reserve on the 17th of January?

A. If my memory serves me correctly, I think there was one.

30

Q. I am not saying you are wrong about that, Mr Murphy, I just don't have it to hand. If what I put to you is incorrect, then I will obviously withdraw that. Doing the best you can from your memory because I can't show you the document - at least at this stage - what was the plan for Tidbinbilla on the 17th?

35

A. It would have been property protection for any of those resources out that way. I can't recall off the top of my head. As I said, it was very hectic on arrival. I went down with the New South Wales Rural Fire Service officer. Later he returned back to the Emergency Services Bureau to co-ordinate whatever he was doing within his structure.

40

45

Q. In paragraph 61 in relation to what was

happening up there you refer to New South Wales officer who had the nickname "Angry". You refer to him because you don't know his correct name?

A. I can't recall his name, that's correct.

5

Q. You say in paragraph 61:

"Angry, I and a few officers discussed the need for greater coordination and made decisions on what to do. We then started tasking officers with divisions and sectorised the fire."

10

How long would that process take?

A. I can't really recall. It took some time because, as I said, the area was in disarray when we got there. The changeover process was very hectic. Vehicles were coming and going. I didn't know what resources were on the ground. I don't think Peter Galvin actually had a list of all the resources that were there from New South Wales and ACT. There was also a spot fire in the middle of Tidbinbilla Nature Reserve when I arrived. We had crews working on the fire line. We had crews on the parameter trying to put a back-burn in. So there was a major effort to actually get it coordinated and get some sort of structure in place so we could actually work as one unit.

20

25

Q. Did you take charge effectively of the people that were there?

A. I did.

Q. Did that mean you took charge of about 200 people, including the New South Wales personnel?

35

A. There was a shift changeover. I don't know how many resources were in the task force for New South Wales. There was about half a dozen task forces I would say, plus the ACT resources. So there was a considerable amount of resources on the ground, yes.

40

Q. When you got there, was it apparent that nobody was in charge particularly?

45

A. No. That's not what I said.

Q. I know that is not what you said; I am asking

you.

A. Peter Galvin was in charge. He just arrived, I believe, at that same location when the changeovers were all happening.

5

Q. Why did you think there was such a dramatic lack of coordination, as you describe it?

A. It is like going to a pop concert.

10 Q. That doesn't help me much, Mr Murphy, although I have been to a few in my time.

A. Resources - people were coming and going left, right and centre. New South Wales resources are on different radio channels and the ACT on
15 different radio channels. Property owners - there is people absolutely everywhere. The media from New South Wales, the media from the ACT. There were resources and just people going everywhere. It took quite some considerable amount of time to
20 allocate where we were actually up to. Does that answer your question?

Q. Yes, it does. It sounds that what you are describing is quite a significant impediment to
25 dealing with the fire efficiently?

A. It doesn't help, that's for sure.

Q. You are still in the same position now as you were in during the fires?

30 A. That's correct.

Q. Are you aware as to whether or not this problem which arose at Tidbinbilla on the 17th, that kind of problem of lack of coordination has
35 been dealt with or discussed by anybody since the fires?

A. There is a whole range of issues and things that are actually being discussed. The headquarters team is a group of people who hold
40 positions within the bushfire structure. They are departmental; they are volunteers; they are paid personnel. They get together on a regular basis to discuss some of the issues and try and find solutions to it. Our resources and times are very
45 limited. There is just not enough resources within the Rural Fire Service in the ACT compared to the metropolitan one say, for instance. We are

very small compared to the CFA. We don't have the funds, the money or the resources to actually finish everything off without recreating the wheel.

5

Q. Is the answer therefore that this particular problem that you saw on the 17th of January in terms hasn't yet been satisfactorily dealt with since the fires?

10 A. We haven't had another incident to find out.

Q. No, but have you had discussions about it in order that you might work out a way to avoid it happening in the future?

15 A. It has been discussed, yes, amongst many other issues.

MR LASRY: Thank you, Mr Murphy. Thank you, your Worship. I have no further questions of
20 Mr Murphy.

THE CORONER: Yes. Mr McCarthy, do you have any questions?

25 MR McCARTHY: Just one small matter.

<CROSS-EXAMINATION BY MR McCARTHY

MR McCARTHY: Q. If I take you to paragraph 31 of
30 your statement, do you have that there?

A. It is coming.

Q. This deals with the construction of the containment line across the top of Bendora Hill in
35 an effort to stop the fire crossing over to New South Wales. Do you recall that occasion?

A. I do, yes.

Q. Am I right to understand that the general
40 scenario was that you and others had come to recognise that suppression by direct attack was not going to be successful and that the better course was then to move to indirect attack and hence the containment line across the top of
45 Bendora Hill; is that right?

A. That's correct.

Q. Just as a matter of what is perhaps a typographical error on perhaps the second last line where it says:

5 "An effort to stop it by direct attack.

That should read "indirect attack"?

A. Correct.

10 MR McCARTHY: That is all. Thank you, your Worship.

15 THE CORONER: Mr Walker, do you have any questions? Oh, Mr Pike, I overlooked you, I apologise.

MR PIKE: It is quite all right. I like blending into the background. I won't be long, I can tell your Worship.

20

<CROSS-EXAMINATION BY MR PIKE

MR PIKE: Q. Mr Murphy, you are in a relatively unique position in that you are a senior officer in the field in the sense you have often been an incident controller and as well you have often worked at ESB; is that right?

A. That's correct.

30 Q. You know very well from your time as an incident controller that the perspective you get on the field occupying that position is quite a unique one in terms of your being able to formulate perceptions and views of the incident you are managing which can't really be appreciated in exactly the same way by someone who is not actually there on the scene.

35 A. Correct. It is a totally different environment.

40

Q. Putting your hat on as person who works at ESB even assisting the operations officer or in whatever public capacity you work in there, it is a pretty brave call from anyone back at ESB to override a decision made by an incident controller on the field as to what to do with that fire then and there; isn't it?

45

A. Within consultation and the consultation has to be there. The incident controller at ESB has the picture of what is actually going on. I was incident controller of one fire. There were two
5 or three other fires around the ACT, and I don't know what resource levels were. That's what the incident controller is there for to have a big picture of what is actually going on and to liaise with people on the ground to see what resources
10 and tactics could be utilised.

Q. If the field incident controller makes a decision, it is a pretty big call for the person back at ESB to override that decision lightly,
15 isn't it?

A. Yes.

Q. And in fact in your experience it is never done lightly; is it?

20 A. Nothing is ever done lightly, no.

Q. Just in relation to the questions you were asked about resourcing at Bendora on the 10th. It is the case, isn't it, that the first part of the
25 10th you were at ESB and then you were sent out to take over as incident controller for Ms Arman that afternoon?

A. For Odile, yes.

30 Q. That was in the context of worsening conditions out at Bendora?

A. The fire was getting larger. Yes, it was becoming more complex.

35 Q. I am not sure if you have read Ms Arman's statement at all?

A. No, I haven't.

40 Q. I will read to you from paragraph 94 of her statement - [ESB.AFP.0111.0001] - which appears at page 19:

45 "I was advised that group officer Brian Murphy, Oscar 6, was on his way to assist in the management of the fire as we were now moving from direct attack to indirect attack and the fire was too big for me to manage on

my own."

Would you agree, at least from the information that you recall now, with that description of the circumstances in which you were sent out there?

A. Yeah. The dozer will be out there starting to work so we had actually changed some of the tactics of what we were looking at actually doing.

Q. The reality is that this is a dynamic situation which can change from hour to hour, and indeed apparently did change from hour to hour on that day?

A. That's correct.

Q. So what may have started off being adequate resourcing on the morning may well have turned out later that day because of changing conditions to be less than adequate for the purpose of containment?

A. That is also correct.

Q. In those circumstances, it would be entirely appropriate for the step to be taken to send out someone like you for the purpose of, as Ms Arman says, assisting her in the management "as it was now too big for me to manage on my own"; that is entirely appropriate?

A. It is appropriate. She asked for more resources; she got more resources.

MR PIKE: Yes, thank you.

THE CORONER: Now Mr Walker.

MR PHILIP WALKER: Yes, thank you.

<CROSS-EXAMINATION BY MR PHILIP WALKER

MR PHILIP WALKER: Q. Mr Murphy, you answered a question about mapping and whether there was a process in the off-season to upgrade the maps. You said:

"There was a system in place that all their managers were looking at upgrading the maps for their lands. There is a fuel management

plan which has maps in there. It doesn't have all the trails and so forth on them.

5 This system that you are referring to about people upgrading maps for their lands, who were you talking about there?

A. I'm quite sure you are aware there is a bushfire fuel management plan put out by the Department of Urban Services.

10

Q. When you talk about the "upgrading of maps for their lands", which area of the government are you talking about?

15 A. Urban Services - for all those areas that fall within the Department of Urban Services, maps were being revamped or changed to suit the new fuel management plan that was coming out to be a better document for the future.

20 Q. Urban Services is a bit of a broad church in the ACT. Which area of Urban Services are you talking about?

25 A. The four land managers that are actually involved or own parcels of land within that document are the ACT Forests, Environment ACT, Canberra Urban Parks and ACPLA --

MR PHILIP WALKER: Thank you, I have nothing further.

30

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

MR WATTS: Yes, thank you. Briefly.

35 **<CROSS-EXAMINATION BY MR WATTS**

MR WATTS: Q. In paragraph 37 you talked about the 16th of January. You were asked some questions by Mr Lasry about that when you were talking about the lines not being completed. Do you remember that?

40

A. Yes, I do.

45 Q. Just to clarify something, in your answer you used the words, "The lines Mr Cooper was supposed to put in on that evening were not completed." I take it you were not suggesting it was not a good

effort to put them in?

A. Oh, Cooper is just slack - no, sorry, I shouldn't say that.

5 Q. You are simply stating the fact that they hadn't been put in?

A. The conditions weren't suitable for him to actually complete putting the trails in. There was a task for that night, and the plan would have
10 been we completed lines from A to B, and he would have got halfway through say B just due to conditions, due to resources, due to whatever it may have been.

15 Q. So you are not intending to make a criticism though of anybody?

A. Of Mr Cooper - no.

MR WATTS: Thank you.

20

THE CORONER: Mr Whybrow?

<CROSS-EXAMINATION BY MR WHYBROW

25 MR WHYBROW: Q. Mr Murphy, in some of your questions earlier you were shown the document which has you listed as an incident controller and also had Mr McRae as a planning officer. I think you gave some evidence that you had no contact
30 with him during the course of that day?

A. Sorry, which day was that?

Q. This was either the 10th or 11th of January Mr Lasry asked you about and you indicated you had
35 no contact with Mr McRae.

A. That's the 11th. That's correct.

Q. You had some contact with Mr Taylor?

A. That is also correct.

40

Q. You understand he is a person who was working with Mr McRae in the planning area?

A. That is correct.

45 Q. I think you have recently made your own personal calculations as to the number of hours at least you worked during this campaign and perhaps

in comparison to what others who may have done some more had done. Is there any comment you would like to make to her Worship about that type of issue?

5 A. Yes. I went for 12 days because I couldn't keep up with where my logs were actually up to from 7th right through to 18 January. Through my wages section, they came back with 190 hours out of 288 hours for that period of time. That's a
10 24-hour day - 198 hours is fairly humungous. There was a lot of staff within the organisation at ESB that were burning on both ends of the candle.

15 I made a comment about the number of resources available for the Rural Fire Service. I think we need to be looking at acknowledging some of the people within the bureau of what they were actually burning - how many hours they are
20 actually doing, where they are coming from. And it is not just the people out in the bureau. There is people out in the field who are putting in extraordinary numbers of hours with sacrifice to their family and their properties. It is quite
25 apparent through the Rivers volunteer bushfire brigade that they lost a lot within that as well - urban and rural people.

30 Something we seem to be missing out is that a lot of the rural people just didn't sleep for weeks. The efforts they were putting in were phenomenal - losing properties, losing stock and trying to pick up the stock.

35 I didn't return back to the bureau until the Monday, because after the evening of the 17th at Tidbinbilla Nature Reserve I left that area and got home at about 10 o'clock. I got two hours
40 sleep and then our place was under threat, so I worked right through again there. We were quite safe. There was no dramas there.

THE CORONER: Q. Are you on a property, Mr Murphy?

45 A. That is correct, on the southern part of the ACT.

The areas that I believe there needs to be a little bit more thought given to in the future is the recovery side of the rural people as well as the urban people. When I went back to the bureau
5 on Monday, I was tasked to go and have a look around the rural areas to see what we need to put in place.

10 There were still people on the Monday who had not been approached by anybody whatsoever - in Pierce's Creek where they lost all their houses and so forth, and their stock and everything they had. They hadn't been approached, hadn't been
15 talked to. I found it very distressing going down there and doing that. We just didn't acknowledge where we were actually going. I think there was too much concentration on the urban area - not retracting from the impact on the urban area but the rural area also did suffer, and I think we
20 have overlooked that.

MR WHYBROW: Q. Mr Murphy, lest you be the only witness so far that is not asked the question: did you at any stage form a view that these fires
25 being a threat to the urban area of Canberra and, if so, when?

A. I never really had time. The number of hours and the input we were putting into the place with the fires to try and maintain them, the maps that
30 I had seen around the place, the maps we were putting up in the bureau and looking where the paths of the fires were going that we were in control of, we had a lot of grassland areas where we believed - well, I believed - that we could
35 pull the fires up in once it got out of the heavy fuel loads. So at no stage I thought the urban area was under any attack; I thought the rural areas were more than likely going to be attacked.

40 Q. Finally, Mr Murphy, in your record of interview towards the end you were asked a number of questions by the officers about whether you had any comments about Mr Cheney's report. Do you recall that?

45 A. It was in my police report, yes.

Q. One I particularly wish to take you to -

Mr Cheney gave evidence at page 489 of the transcript. It was under a heading at page 32 of his report and it said:

5 "It appears that crews were not permitted to work beneath helicopter drops which, if correct, almost completely negates their effectiveness."

10 That was a comment that appears in that report. You were aware that he has made that comment previously?

A. I have heard his comment, yes. I have read it yes.

15

Q. Do you have a view in relation to the accuracy of that comment?

A. Without shooting around it, we were using helicopters and we were using staff on the ground to try and maintain fires trying to put out areas. We did have those resources working within that. There were a lot of areas we couldn't put staff into or firefighters into due to the type of fuel, the trees, the broken trees, the branches. Safety is first - paramount. We didn't lose anybody. It is due to good management, I believe. We used choppers and ground crews at times when it was most appropriate.

30 Q. That comment appears to be based on some observations that Mr Cheney made. Is it your evidence that, in a general sense, that does not properly reflect the actuality in terms of the use of crews on the ground in relation to helicopters?

35 A. That may be the perception of a person who was there at the time, saw what was actually happening at that time and didn't have a full understanding of what was actually happening.

40 MR WHYBROW: Thank you. They are the questions I have.

THE WITNESS: Sorry, Phil.

45 THE CORONER: Mr Lasry, do you have any re-examination?

<RE-EXAMINATION BY MR LASRY

MR LASRY: Q. Just in relation to that last
point, I don't have Mr Cheney's report in front of
5 me but I think in part the point that was being
made was that helicopter water bombing is of most
use and more likely to be effective when there is
coordination between what the helicopter is doing
and what the crews on the ground are doing. You
10 said in answer to Mr Whybrow that both crews on
the ground and helicopters were being used. Were
you aware of the way in which those ground crews
were coordinated with the water bombing by
helicopters?

15 A. Yes. Direct communication.

Q. Does that mean that there is someone on the
ground with a radio who speaks directly to the
helicopter pilot?

20 A. That is correct.

Q. Is there a means of establishing how
frequently those arrangements existed during this
campaign? I am not suggesting you should know the
25 answer to that, but is there a way of establishing
how often that was actually done?

A. You would have to go back through the
transcripts, I suppose.

30 Q. The radio transcripts?

A. Yeah. I think you would have to go through
that process. I don't know what channels are used
all the time. I know there was one instance where
I was utilising a New South Wales RFS helicopter
35 which only had New South Wales RFS radios, and we
had to go back through our communications point at
Bulls Head to come back to the fire ground to
actually utilise that aircraft.

40 Q. You have not been back through those
transcripts, of course, for the purpose of
answering the question that Mr Whybrow asked you.

A. I received the transcripts on Wednesday when I
was still on carer's leave and I had only just
45 returned. There is more than enough paperwork for
me to read.

Q. I am not criticising the fact that you haven't; I am simply seeking to establish that you haven't done that.

A. No, I have not done that.

5

Q. Mr Murphy, seeing that you appear to be in good humour, could I ask you one question which I hesitated asking you about. It is

[ESB.GSO.0006.0184]. I will show you my copy.
10 Could you have a look at that document and see if you recognise it?

A. Yes, it was a late entry. I do recall that.

15 Q. Is that your work? It is a map which shows some containment lines.

A. There are a number of people who have actually scribed on this. There should be an original document around the place. Attached to my statement, I think there is copies of my original,
20 which encases the centre point of where the fire was escalating and there are some times in there. I used different coloured pencils.

25 Q. Just before we go any further, at what stage in the process is that map? What date would that map relate to?

A. I was having difficulties actually determining that. I talked to a couple of people about that to try and determine what date it might have been.
30 It is fairly early in the piece; it is probably around the 11th, 10th, 12th, maybe somewhere around that period.

35 Q. The outer containment line is endorsed with the words "oh shit".

A. Yes. It is the "oh shit" factor.

Q. Yes. What does that mean?

A. What it means is that if we lose it out of our
40 initial containment lines, that is our next stage of planning. So that would have been a planning point. This would have been in conjunction with probably the operations officer in the SMT and probably the planning officer in the SMT putting
45 together a map to actually broadcast that would be our next fallback lines.

Q. Mr Murphy, do you agree that helicopters working without ground crews, without coordination between, as you have described, someone on the ground with a radio and ground crews to
5 supplement, that water bombing without that being supplemented by ground crews in a fire, particularly a fire like this, is almost of no effect?

10 A. No. I disagree with that.

Q. You disagree with that.

A. Yep.

15 Q. So even if there is no-one on the ground to co-ordinate what is happening --

A. It depends what tactics you are putting in place. If you are putting in place to slow a fire down and in some of the incidents we're using the air support to slow the progress of the fire down
20 so we can some sort of time frame to actually work towards putting the containment lines elsewhere.

Q. And that is even without someone on the ground co-ordinating where the water is to be dropped.

25 A. That is without someone on the ground. We run with an air platform, which would be a chopper sitting up the air co-ordinating the helicopter resources. For example, if we had four
30 helicopters, we would have one sitting in the air and we would have three running around dropping water. The one sitting at the top would actually be co-ordinating the resources for those air
35 support people to actually place the water drops where required. It depends what tactics and techniques we were putting in place for what we were doing.

40 MR LASRY: Thank you. I have no further questions.

THE CORONER: Thank you, Mr Lasry. Thank you, Mr Murphy. You are excused. You are free to leave if you wish.

45 THE WITNESS: Thank you very much.

<THE WITNESS WITHDREW.

MR LASRY: I think as predicted yesterday, we don't have any other witnesses we can call today. I can tell your Worship what is expected to happen on Tuesday.

5

We expect Odile Arman, Peter Galvin and Andrew Winter for Tuesday and Wednesday; Mr Tonkin, Mr Gore and Mr Jamieson are listed for Thursday; Mr Murray, former Chief Police Officer, and Messrs Kirby and Byrnes listed for Friday.

10

THE CORONER: Thank you, Mr Lasry. If there are no other matters then we will adjourn until Tuesday morning at 10 o'clock.

15

**MATTER ADJOURNED AT 12.50PM UNTIL TUESDAY
27 APRIL 2004.**

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 41

Tuesday, 27 April 2004

[10.00am]

THE CORONER: Are there any preliminary matters before we commence?

5

MR WOODWARD: Your Worship, I call Odile Arman.

<ODILE MADELEINE ARMAN, AFFIRMED

10 <EXAMINATION-IN-CHIEF BY MR WOODWARD

10

MR WOODWARD: Q. Your full name is Odile Madeline Arman.

A. That's correct.

15 Q. What's your current professional address?

A. Legislative Assembly.

Q. For the purpose of this inquest you have provided a statement; is that correct?

20

A. Yes.

Q. You have also participated in a taped record of conversation with the Australian Federal Police on 2 December 2003?

25

A. That's correct.

Q. There has been a transcript of that produced?

A. Yes.

30 Q. You also participated in what has been described as a video walkthrough where you went with officers of the Australian Federal Police in a 4-wheel drive vehicle up to the site of the Bendora fire, where it was on the 8th of January, walked around the area where you walked on the night of the 8th; is that correct?

35

A. That's correct.

40 Q. I understand you have some amendments to your statement. Dealing with the taped record of conversation, have you had an opportunity to read that before coming into court today?

A. Yes, I have.

45 Q. Are there any matters you want to change or correct in that document?

A. No.

Q. Have you had an opportunity to view the video walkthrough?

A. Yes, I have.

5 Q. Again, are you satisfied that, at least to the extent that the audio was able to pick up what you were saying, that was correct?

A. Yes.

10 MR WOODWARD: Your Worship, I understand Ms Arman has a number of amendments that she wishes to make to her statement. Those are amendments that Mr Craddock has a note of, and neither I nor Ms Arman does. So it occurred to us it would
15 probably be most convenient for him to take her through those amendments before I commence with the examination.

20 THE CORONER: Yes, that is fine. Thank you, Mr Craddock.

MR CRADDOCK: For this purpose, I suppose it would be more convenient if we have the statement up. [ESB.AFP.0111.0001].

25

Q. The first matter appears at page 5 of the statement in paragraph 27 at 0005. Ms Arman, is it the case that in preparation for your attendance here you have examined the radio logs and your statement and the taped record of
30 conversation transcript.

A. That's correct.

35 Q. Is it also the case that you have not read any other witnesses' statement?

A. That's correct.

Q. You made a decision not to do so?

40 A. Yes.

Q. Going through your statement in preparation for coming here, did you discover about five lines up from the bottom of paragraph 27 that you had said in your statement that:
45

"At the junction of Mt Franklin Road and Chalet Road I marked the turnoff with pink

tape."

5 A. That's correct. Actually Cliff Stevens was the person that marked it. I thought at the time I had done it. It is through the radio transcripts it is quite evident that he did.

10 Q. The next matter is at paragraph 81. That is at 0016. You had a direction to make with respect to how the dozer was actually allocated to you to be tasked.

15 A. Yes, I do. The dozer was at Bulls Head when I was there at 6 o'clock in the morning. I didn't realise that it was actually allocated for my use. The correction that I wanted to make was that I directed the dozer to Warks Road, not COMCEN.

20 Q. I think at paragraph 82 you refer to the Bendora Break. Is it the case that you wished, in the light of some evidence, to give her Worship some evidence as to the status of the Bendora Break having regard to a period earlier in time when you worked as a ranger in that area?

25 A. I was a ranger in that area - a relief ranger and also an area ranger from 1986-1990. At that point in time, that was a few years before the park was declared in late 1984, and I never drove or patrolled those trails. That was always a closed trail as far as I was concerned.

30 Q. So your evidence is at least as far as you know from the whole period the park was opened from 1984, Bendora Break was in fact closed?

35 A. Was considered a closed trail.

Q. I think we now go to paragraph 92, which is at 0018. Going back over the logs, did you discover something about the times at which you gave situation reports?

40 A. Yes, I did. I noted in my logbook that I gave a report at 1100 and 1130 hours; it was actually 1030 and 1113 respectively. I on both occasions noted that additional resources were required and I was advised shortly after they would be
45 forthcoming in the afternoon.

Q. You make reference there to channel 4.

A. That's correct. It actually was channel 2 that we were using that day.

Q. The next I think is an amendment that may help
5 people find things if they are looking. At
paragraph 94, which is on 0019, there is a
reference on the 5th line to giving a situation
report. You said "approximately 1345 hours". For
the benefit for anyone who is looking for it you
10 have discovered that it was in fact?

A. According to the radio transcript for the day
it was actually - reference was made to that at
1330 hours, it is just a bit earlier.

Q. Likewise, just an additional detail that came
15 to your attention, paragraph 99, which is at the
bottom of that same page, you refer there to
having the benefit of three helicopters and you
have discovered a reference to one of those
20 helicopters being 'Firebird 241'?

A. That's correct.

Q. May I then take you to paragraph 122. Which
is at 0025. You refer to speaking to Brian Murphy
25 over the radio?

A. It was actually via mobile phone. I just
wanted to correct that.

MR CRADDOCK: That is the lot, thank you
30 your Worship.

THE CORONER: Thank you, Mr Craddock. Yes,
Mr Woodward.

MR WOODWARD: Q. Ms Arman, just in relation to
35 one of those amendments, that is the amendment to
paragraph 94 which goes from 0018-0019, in that
you indicate that the conversation you had at 1345
as I understand your statement was by telephone.
40 Is it the case that, having reviewed the
transcript, you have now identified that that was
by radio or was it possibly both?

A. That phone call was done via satellite phone.

Q. How did you pick up the time of that call?

A. I think there is a reference in the radio log
to say I was on the radio at the time - on the

phone at the time.

Q. The actual sitrep isn't itself recorded, just the time of it?

5 A. Yes.

Q. Subject to those amendments are you satisfied your statement is true and correct?

A. Yes.

10

Q. You refer to your qualifications and employment history commencing at paragraph 5 of your statement. That is on the first page. You say you are currently attached to the ACT Chief Minister's office as the liaison officer for Environment ACT; is that still your role?

15

A. Yes, it is.

Q. You mentioned a moment ago, and you talk about it in your statement commencing at paragraph 10 where you deal with your fire experience, that you were a ranger at Namadgi National Park. When did you commence that role?

20

A. In 1984, in August.

25

Q. You say in paragraph 13:

"When I was a ranger at NNP I attended a few remote forest fires as a crew member."

30

That was before you were appointed deputy captain. Was that as a member of a remote area firefighting team or what sort of --

A. Some of them were, yes.

35

Q. When you say "a few", does that mean about three or is there --

A. Probably less than - probably around 10. It is hard to be precise.

40

Q. That was during what period? From 1984 until?

A. To about 1995 when I took up a position in the urban area.

45

Q. Over the page at the top of page 3, you talk about when you were a ranger at TNR you were involved in final stages of mopping up a forest

fire as deputy captain. Is that to indicate in a sense your first involvement in a forest fire in a command position?

A. That's correct. And that --

5

Q. Sorry, go on.

A. That would have been in about 1994 - '93/94.

Q. You then say:

10

"Most of my fire experience, as with the vast majority of ACT firefighters, has been in small urban interface grassland, woodland and open forest fires."

15

Is that to distinguish your period from about 1995 when you became a deputy captain from what you were doing up to 1995?

A. Yes.

20

Q. Are you able to give a general indication of the number of forest fire incidents that you attended in a command role from about 1995?

A. Very few. Only because there weren't many.

25

Sometimes when we did have them, I mightn't have been on the roster.

Q. You have mentioned the one where you were involved in a mop up. You also talk about your involvement in the Casuarina --

30

A. At paragraph 15, Casuarina Sands at Bibaringa.

Q. Then you were the incident controller at Bruce Ridge during the 2001 fires?

35

A. That's correct.

Q. Are you able to indicate, apart from those three, of how many similar fires you have been involved in up to January 2003 in a command role?

40

A. They would be the main ones. There are probably a few lesser sized fires that I would have attended.

Q. You talk about your training in the incident control system in paragraph 14. As part of that training or during the period up to January 2003, have you otherwise become aware of the role of

45

what is known as the Service Management Team in the ACT?

5 A. Yes. We were briefed on it at a pre-season workshop in 2002, I think. It was either 2001 or 2002.

Q. What did you understand, as a result of that briefing, to be the role of the Service Management Team?

10 A. They were to provide support for the incident controller on the ground but they were working remotely at ESB.

Q. Just dealing with, in particular, the planning 15 function which you would understand from your ICS training is one component of the structure under ICS, what was your understanding of how that role would be filled during an incident?

20 A. As an incident escalates then that planning role would be managed by people within Emergency Services Bureau, a planning unit would have been made. But when an incident is at a lower level then that is undertaken by the incident controller.

25

Q. In the field?

A. In the field.

30 Q. Did you have an understanding that, even after an incident had escalated, it might be necessary still to continue to have a planning function in the field or was there a point where it shifted?

35 A. Yes. You work together on these things. You can't expect someone in the Emergency Services Bureau to do all the planning without input from the field. It is very important that you do have that.

40 Q. In the sense of providing information to the planning unit about the location of the fire, the intensity and so on?

A. Yes.

45 Q. If necessary, jumping forward a bit, did you have an understanding beginning with the 8th and perhaps also on the 10th as to where the planning function was being carried out?

A. On the 8th, no. Through to the 10th did you say?

5 Q. Your involvement began on the 8th and you had a role as incident controller on the 10th. Perhaps starting with the 8th, where did you understand the planning function was sitting on the evening of the 8th of January?

10 A. Probably more so in the field with myself as incident controller. Although I didn't at that stage have a sort of holistic view of what was going on. Obviously there would be some input from ESB. Certainly by the 10th the incident had
15 escalated - the fire had escalated in size and it was becoming quite apparent that there would need to be planning to complement what was going on in the field.

20 Q. And you understood by then, did you, that that at least to some extent, apart from information going back from the field, would be undertaken at Curtin?

A. Yes.

25 Q. As part of the support role of the Service Management Team?

A. Yes.

30 Q. You talked a moment ago about the planning and support that you expected or might have expected on the evening of the 8th. Perhaps just to descend into a little bit of detail, would that include things like provision of weather information?

35 A. Yes. I mean certain --

Q. What other things would you have expected the planning personnel at Curtin to be looking at on the evening of the 8th?

40 A. Certainly weather was one. I was working on the Bendora fire in isolation of what was happening to the other fires. I wasn't aware of what was going on because I was very focused on the Bendora fire. I guess at that stage a fair
45 bit is dependent on me giving input to them, because we are still on a fact-finding mission at that stage knowing what is required for the

fire --

Q. Having provided that input - we will come to your reports - were you expecting that there would
5 be some reciprocation; in other words, some information feeding back to you as to what the implications of what you were reporting might be?

A. It would have been helpful, yes.

10 Q. Just going back to your statement, at paragraph 15 you talk about your role during the fire at Casuarina Sands and then your role at Bruce Ridge. In relation to that latter role, you say about halfway through paragraph 16:

15 "The fire was about 50 hectares in size. We had numerous units available on site, and there was a very good network of trails available that permitted effective direct
20 suppression."

How would you compare that with what you were faced with on 8 January at Bendora?

A. It is quite different. It is like comparing
25 oranges with apples. It is a different environment altogether. These areas are adjoining the urban interface. As mentioned, they do have a good network of trails, whereas the fire at Bendora is in a remote area, water catchment.
30 There are a network of trails but they are not to the same level of what they were at Bruce Ridge. Can you ask me the question again?

Q. No, I think you have answered it. I think you
35 particularly seem to focus in your statement on the trails and its location to proximity to the urban area. Were those the major distinguishing features?

A. Terrain was a big difference too. I know we
40 do have some hills like Black Mountain around, but the terrain in Namadgi National Park is a lot steeper and a lot more varied than what you would get. The vegetation type was quite different, too, because you are at a higher elevation.

45 Q. So I think the key things you mentioned are the remoteness, the quality and number of trails

and the terrain; are they the main distinguishing features?

5 A. Yes. I think the other thing to remember is that these areas around town are reserves in Canberra Nature Park. There is probably a stronger emphasis on recreation than there is in parts of Namadgi National Park. They are much more heavily used. That's why there are a lot more trails.

10

Q. Either at that incident or indeed at any of the incidents in which you have been involved since you were appointed a deputy captain in 1995 have you been actively involved in overnight firefighting?

15

A. Sorry, can you just repeat the question?

Q. Since 1995, when as I understand it you were appointed deputy captain, have you been involved in overnight firefighting?

20

A. Yes. Well, the 2001 fire of course I worked overnight.

Q. Was that in a command role?

25

A. Yes. Did you say remote or just --

Q. I was just asking generally at this stage.

A. I have been in a couple of others too but I can't remember exactly which ones.

30

Q. Now adding the qualifier you have referred to: in a remote situation, has that been a role you have had to fulfil in the past; that is, being in a command position during overnight firefighting in a remote area?

35

A. I don't think I have.

Q. In the period up to 1995 have you, as a crew member, participated in overnight firefighting in remote areas?

40

A. Yes.

Q. You mentioned you thought - I appreciate it is a while ago - about 10 incidents, about how many of those would have involved overnight firefighting in remote areas?

45

A. Probably at least half.

Q. That would have included constructing rake hoe lines?

A. Yes.

5 Q. Just finally dealing with your experience and background, you talk about it having been recommended to you, as I understand it, that you apply for the role of brigade captain, Parks
10 brigade captain in August 2002. You agreed to take the job and were appointed at about that time to that role?

A. Yes.

15 Q. You say in paragraph 17 from pages 0003-4:

"I understood the role of captain was as much about co-ordinating and administration of the brigade, as it was about firefighting."

20 You elaborate to some extent on that in your taped record of conversation at question 149. We might perhaps get that brought up. It is [DPP.DPP.0004.0021] at page 19. While it is coming up I will read the question and answer.

25 "Q. You state in August 2002 you were offered the position of captain of the Parks brigade. Did you feel comfortable taking that position?

30 "A. Well, my understanding of the captain of the brigade was, um, I think there were other brigade officers that have more experience than I do."

35 I take it you are referring there to a firefighting experience?

A. Yes.

40 Q. You then say:

"I think the main reason I was asked was more from the coordination because I've got experienced supervising staff, doing rosters from the administration side of things as
45 much as it was from the firefighting point of view. So there are certainly brigade officers in the Parks brigade that would have

far more experience than I do, but aren't interested in taking on that role because of those things. They're very much field people."

5

As I understand that answer together with your paragraph 19, what you are reflecting there, Ms Arman, is that role as Parks captain really has two elements: one is an administrative role involving developing rosters and so on; is that correct?

A. That's correct.

Q. The other one would be a firefighting role.

15 A. Yes.

Q. I think what you are reflecting there, but correct me if I am wrong, is that you felt confident in your ability in relation to the administrative role but that you accept that there were people in Parks who had more firefighting experience than yourself but who may not have been interested in the administrative side of the role.

20 A. Yes, that's right.

25

Q. Does that also reflect the fact that perhaps you weren't expected to be confronted with what you were facing on both the 8th and the 10th of January so early in that role?

30 A. Sorry, I'm just having a moment to think about it. It was the first time being in a command role going to a remote area fire where a decision had to be made regarding initial attack. I did have experience elsewhere in other situations so I was applying that experience the best way I could.

35

Q. Well, we will come to the specific events obviously in a moment. Is it fair to say that, largely because of being relatively new to that role, you weren't as confident about the decisions you were in a position to have to make that night as perhaps you might have been or others in the Parks brigade might have been had they had more experience?

40 A. It's hard to say. I think one of the things I had to my advantage was that I knew the area quite well so I was quite comfortable about that. I

45

certainly didn't - at the time I didn't have an issue with it. Certainly on the 10th, I felt comfortable until Brian Murphy took over just after lunch.

5

I would say towards the 17th, I was starting to get a bit concerned about the role that I was taking on.

10 Q. Just before we move on to the events of the 8th and thereafter - and again you deal with this in your taped record of conversation - you participated in pre-season briefings and other sessions where the information was provided about
15 what was expected for the forthcoming fire season - I withdraw that and start again.

During 2002, as I understand it you participated in pre-season briefings concerning the forthcoming
20 fire season?

A. I attended a pre-season workshop held in October 2002.

Q. Did that include discussion of and information
25 concerning the forthcoming fire season?

A. Yes.

Q. What was the substance of that information?

A. A number of topics were covered including the
30 role of the SMT, the weather predictions and what the season might turn out like. We did discuss resourcing in terms of helicopter availability. It was over one day so there were a number of topics covered. Also we did an exercise scenario
35 and worked - yeah, like a desktop scenario.

Q. You refer to the weather predictions and what the season might turn out like. What's your memory about what you were told about that?

40 A. Well, we were in a drought - that possibly it might rain but it was not looking like it was going to. There were fairly dry conditions. That was --

45 Q. In your taped record of conversation - I won't bring this up unless it is necessary - at question 131 you refer to it as having the potential of

being a high risk season. That was explained. Is that consistent with your memory?

A. Yes.

5 Q. The desktop scenario that you referred to - it is not entirely clear from your taped record of conversation - was that the one that has been referred to at other times in the evidence as the Namadgi --

10 A. No.

Q. It is a different one?

A. I wasn't able to attend that. I can't remember why but I didn't attend that.

15

Q. Moving to the 8th of January, you describe in some detail in paragraphs 19 through to 29 the call-up that day and the process or your travel to the fire area. You say I think in paragraph 28 that you arrived at the fire ground at about 1850 hours; is that correct?

20

A. Yes. To the best of my recollection. Checking against the radio transcripts, it seems to match up.

25

Q. You then in paragraph 29 refer to the resources you had available to you at that stage and your initial observation of the fire. And then in paragraph 32 you refer to the fact that you were concerned to get an assessment of the fire and that required you to in effect do a circumnavigation of the fire area; is that correct?

30

A. Yes, that's correct.

35

Q. You had a discussion with Mr Cliff Stevens about that. At the bottom of page 6 of the statement in paragraph 32 you say:

40

"He suggested I did not go alone in view of the fact that we could hear falling timber and there was a considerable amount of debris on the ground making navigation difficult."

45

That is, not being alone on the fire ground is one of the general watch-outs, isn't it, in respect of fire?

A. Yes.

Q. That is something you would be seeking to do anyway, have someone accompany you?

5 A. Yes.

Q. You say at that stage you could hear falling timber. I take it you couldn't see any falling timber at that point?

10 A. It is always hard to see it. You can always hear timber. I don't know whether it was small branches or larger timber.

Q. At that point at least you were still down on what you later learned to be on Wombat Road?

15 A. Mmm.

Q. You could only just see roughly where the fire was. You couldn't see flame at that point?

20 A. No, you couldn't.

Q. Now you commenced your reconnaissance of the fire. You describe this in paragraph 35 as being at about 7pm and you were accompanied by Forest crew member John Kane. From paragraph 36 you refer to what you observed. Again, you have gone over this in some detail on the video walkthrough as well?

25 A. Yes, that's right.

30

Q. At paragraph 36 you describe what you observed to the southern edge of the fire. You say:

35 "The southern edge of the fire was burning very slowly and not noticeably spreading further south. Flame height at the edge of the fire, for most of its circumference, was about half a metre."

40 You then refer to the western flank and you say:

45 "... was in more open terrain, flatter than the southern flank. There was less understorey and debris underfoot. The fire was again burning very slowly in the upslope westerly direction".

47

You don't mention there the flame heights that you observed on the western flank. What is your memory of that?

5 A. It wouldn't be dissimilar to what was on the southern flank.

Q. It would have been similar or wouldn't be?

10 A. Wouldn't be dissimilar, but I can't recall exactly.

Q. In paragraph 38 you say:

15 "During our reconnaissance I could hear timber falling occasionally. I couldn't determine the point of origin and the head of the fire appeared to me to be moving upslope and to the north."

20 Again, were you able to see any falling trees or branches?

A. No.

Q. Can we take it from that then that what you were hearing was somewhere within the fire area?

25 A. Yes. Certainly as I walked around, particularly moving upslope, I felt nervous about being in that area.

30 Q. How far away were you from the fire edge while you were doing that?

A. Pretty close.

Q. One or two metres?

35 A. Yes, yes.

Q. What was the intensity, the heat of the fire at that stage?

40 A. It wasn't too dramatic. Certainly, you could work alongside it.

Q. Would it be consistent with your experience that, where you are on a fire ground and you hear falling timber or in fact see it, it would normally be an area where the fire has been burning for some time?

45 A. Yes, but it depends on the size of the trees and if there is already existing hollows. There

is a whole range of things that would affect that.

Q. Now you say in paragraph 39:

5 "On the north side of the fire, the fire edge
had moved partly into a gully line where the
vegetation was much more dense. There was a
considerable build up of fuel on the ground.
10 One section on the northern side looked like
it was out."

But you weren't sure whether that was because of
water bombing or whether it simply burnt back on
itself.

15 A. Yes, that's correct.

Q. You then talk about encountering the Parks
crew and their difficulty negotiating the hoses.
Then in paragraph 41:

20 "The vegetation in the area where the fire
was burning comprised of very tall, and in
some cases, large mountain gum and brown
barrel eucalypts. The fire appeared to be
25 drawing in on itself."

You were there referring to your observation of
the whole fire or are you just dealing with one --

30 A. Well, parts of it. Yes. There wasn't a fast
rate of spread.

Q. Then you say:

35 "However, some distance in from the fire
edge, the flame height averaged about
2 metres, particularly around the base of the
trees where bark had accumulated to some
depth."

40 Are you there drawing a distinction between what
you had observed on the fire edge, which I think
you indicated at least on the southern and western
flanks was about half a metre, and what you could
observe further in to the fire area?

45 A. Yes, I am. Where there were trees and a lot
of bark had fallen off, it certainly allowed the
fire to move well up into the trees.

Q. Ms Arman, I have made the mistake of not pre-arranging with the Court operator to bring this up on the screen. I will just ask you about it and perhaps we can do it a bit later, if time
5 permits. Are you familiar with the report from Mr Cheney in relation to fire spread?

A. Yes.

Q. Do you recall a photograph attributed to
10 Mr Cutting apparently taken from Wombat Road at 2100 hours?

A. Yes.

Q. Have you seen it before? If you need to see
15 it again, please say so. To avoid the delay of bringing it up now, are you able to say how that compared to what you observed during your reconnaissance and generally during the evening?

A. I think it is reasonably representative of
20 what I saw.

Q. So you had a combination of flame height on the edge of up to half a metre?

A. Half a metre, and certainly within the fire
25 ground there were tongues of increased intensity up the trees.

Q. Particularly where there was a heavy fuel deposit under a tree?

30 A. Yes, yes.

Q. Also in some cases flame running up the bark of a tree some distance?

A. Yes. The mountain gums in particular have
35 bark running a fair way up the trunk.

Q. I think you said a moment ago, and I will just check with you, that from your own walk around you were one or two metres from the fire. So far as
40 the intensity of the fire was concerned, was the fire in your view susceptible to direct attack with water and rake hoe teams?

A. Yes, it was.

45 Q. In paragraph 42 you provide an estimate of the size of the fire to be 300 to 400 metres although your estimate was fairly crude. I understand you

refer to this in your taped record of conversation that it took a little under an hour to do the circumnavigation?

A. That's correct.

5

Q. You refer in your statement and taped record of conversation to the fact that you were pausing from time to time and making notes - either mental notes or written notes - as you went around?

10 A. Yes, yes. Certainly lower slope there was a lot of obstacles. It is pretty rough ground to negotiate - a lot of rocks and you are losing your step. Quite large trees had have fallen prior to the fire that you had to scramble over. Some of
15 them are up to a metre.

Q. When you say the lower slopes, they are the slopes closer to Wombat Road?

A. Yes.

20

Q. The western edge, that was the edge furthest from Wombat Road; wasn't it?

A. Yes, that's correct.

25 Q. The conditions there were a little better; were they?

A. Yes.

30 Q. You refer in your taped record of conversation in the middle of a rather long answer to question 191 to something that is not clear to me, at least. I don't want to go to it because you talk about of the same information that is in your statement about hearing a couple of times fallen
35 trees. You say in the middle of it:

"I couldn't see the whole of the fire from any one point. I probably, on reflection, I probably overestimated the size of it."

40

In that comment were you referring to the estimate in paragraph 42 or some other estimate?

45 A. 300 by 400. Yes, I was. Because I couldn't see it from any one point, it was hard to make that estimation and I felt possibly I did overestimate it. When we went back for the video reconstruction, I felt it was probably a bit less

than that. But it was still significantly larger than 20 by 25.

5 Q. Yes, I think that is accepted. Doing the best you can now based on the video walkthrough and the material you have looked at since, what would you now say the fire was at the time of your reconnaissance?

10 A. Probably more around 200 by 300, but that's very ballpark.

15 Q. Mr Stevens in his statement in paragraph 10 - and of course this was without the benefit of himself walking around it - estimated the fire size of about 150 metres long and 120 metres in width. So your estimate would be a little bit larger than that?

20 A. Yes, and I did have the benefit of walking around it.

25 Q. In paragraph 43, having said you finished your reconnaissance - that's where you talk about your strong view that the fire was significantly larger than 20 by 25 metres, which was the estimates that you heard being given by 'Firebird 7'?

30 A. Yes. And SouthCare - I actually asked SouthCare for an estimate of the size and they were talking about a 750-metre front. I asked them to repeat that, to confirm that and they did. So there it was confusing as to exactly what the size was.

35 Q. Mr Stevens, after discussion with you, had gone to find the nearest water point?

A. Yes.

40 Q. You provided, on returning from your reconnaissance - you deal with this in paragraph 46 - your situation report to COMCEN at 2000 hours and the text of that is set out there. That is taken from the radio transcript; is that correct?

45 A. That's correct. I pretty well, as soon as I got back, made that situation report. I was quite anxious to make the report because I knew COMCEN - ESB would be wanting that information. It was getting late, and they needed to organise

resources for the next day.

5 Q. You note in paragraph 47 that you did not report the estimated fire size. This was an unintentional omission. You state, "I was anxious to lodge a report to COMCEN"?

10 A. Yes, that's correct. I wish I had given that size but I didn't. I didn't mean to leave it out. Sometimes we do get prompted by COMCEN about the fire size, but that didn't happen in this case.

15 Q. In paragraph 49 you report your next communication or next substantive communication with COMCEN where you asked - the words are there set out:

20 "Could you ask the duty co-ordinator what he would like us to do given that it is going to be dark soon. Um not really sure whether we should be sending a rake hoe team in."

Just pausing there, at your request, what prompted you to actually ask for the duty co-ordinator's opinion on that issue?

25 A. There has been a tendency in recent years not to have crews staying in remote area fires overnight. It's a lot more clear cut in the urban area because we have got access to a whole range of things. And also I was asked to go to a fire in December, and we weren't sending them until the following morning as opposed to going in the evening. But that was a much more remote area too - I should make that distinction.

35 Q. So you had, at least in your mind, some expectation that COMCEN and in particular the duty coordinator may have a view about that?

A. Yes, I wanted to clarify whether --

40 Q. You referred to the tendency not to send or have crews working overnight. Could you be a bit more specific? What are some examples of that tendency?

45 A. I believe there was a fire at Rendezvous Creek earlier in the fire season where crews were not put in on the first night. They went in the next day.

Q. Was there some discussion after that fire or at the time about why that happened or was it just that you were making some assumptions based on that decision?

5 A. I presume it was for OH&S reasons. Certainly occupational health and safety has been a much bigger issue in recent times.

Q. You do deal with that in your taped record of
10 conversation. I will find it in a moment. You have done some training in occupational health and safety?

A. Yes.

15 Q. In question 111 at page 13 of your taped record of conversation, you were asked about some training that you did. Without going to the entire answer, as part of your answer to the
20 previous question you say:

20 "So occupational health and safety has really been brought to the fore in the last, you know, last 10 years, it's a lot more in your face and a lot more is expected in terms of
25 ensuring that it's carried out in the workplace."

Over the page you were asked:

30 "Q. Have you noticed a change in the environment accordingly?

"A. Oh, yeah."

35 "Q. In the last 10 years --

"A. Oh, in terms of what sort of gear we're provided with in terms of there's been a tendency, I won't say every fire but in a remote sort of situation, not necessarily
40 keeping crews in on the first night because they've already been working all day."

Then you refer to equipment and so on. Is that as you understand it the rationale that, among other things, there is a concern about people starting
45 to work on a fire at night having worked all day?

A. I believe so.

47

Q. Are there any other factors that you are aware of as giving rise to what you describe as a tendency not to have crews out on the first night?

5 A. I think it really depends on the situation at the time. Certainly going back to the 8th, as the night progressed, there was the issue of trees and timber falling. That was certainly a very big consideration of mine.

10 Q. We will come to that - I was focusing for the moment on your -

A. Perception?

15 Q. Certainly your perception but also your request for guidance, what you describe as advice or guidance. At question 226 of your taped record of conversation you describe what was behind that request for guidance or advice. I think you have indicated that certainly one of the reasons was
20 because you have identified a tendency not to leave crews in on the first night; is that correct?

A. Yes.

25 Q. And occupational health and safety, you think, was a significant factor in that tendency?

A. Definitely.

30 Q. I will perhaps just ask again: what other factors are you aware of as giving rise to that tendency, if any?

A. Certainly if there was an accident in the remote areas, it is a lot more difficult to get assistance. I guess it really depends on - I have
35 to keep coming back to the fact it depends on the circumstances that you are presented with. They are not all the same, because the terrain and the conditions can be different from one fire to another. I don't think I can make a
40 generalisation.

45 Q. So the tendency that you have identified as being part of the reason why you were asking for guidance is one that you have observed based on the increasing emphasis given to general occupational health and safety?

A. Yes. I can't comment on other fires where

those decisions have been made because I wasn't part of those.

5 Q. The actual responsibility for that decision - you were asked several questions about that during your taped record of conversation. At question 236, page 37, you were asked:

10 "Q. ... whose responsibility is it to direct crews to continue firefighting or to discontinue firefighting at that stage of the evening ... is it the local incident controllers or the ESB?

15 "A. This is where it does get confusing because sometimes decisions can be overruled. So it's never been very clear. Sometimes we have received instructions from ESB about how we are to manage the fire and other times we are left on our own to make those decisions.
20 So I feel it's a bit of a grey area."

But then you say:

25 "I mean really it should be the incident controller on the ground."

You acknowledge there in a strict sense it is the role of the incident controller on the ground to make that decision?

30 A. Yes. But there is often a lot of discussion between the duty coordinator and yourself as an incident controller at a fire about various decisions on the fire ground. So often they are made jointly.
35

Q. That's in a sense, is it, why you were asking for that guidance or advice about what you should do?

40 A. Yes.

Q. The response to your request from the COMCEN operator - do you know who that was incidentally?

A. No.

45 Q. Was "Parks 1, I understand that teams will be removed from location this evening and return tomorrow. But I will check with the duty

coordinator and confirm that. I said I would wait for them to get back to me."

5 I know you were asked this question during your
taped record of conversation at question 238 but I
will ask it again: did that response influence
your subsequent decision?

10 A. It did give me the impression that we weren't
going to keep crews on the fire ground. I didn't
know what was going on elsewhere. And I guess it
did influence me a bit. Sorry, what was your
question again?

15 Q. It was whether it influenced your decision.
You have answered the question.

A. I would just like to add that it never was
answered. In hindsight I should have clarified
that with them.

20 Q. Indeed the next substantive exchange with
COMCEN was at 2006 hours. You deal with this in
paragraph 51:

25 "Do you intend remaining or leaving crews on
location overnight. If not"

30 I think there are a few versions of that
particular transmission in the radio log. Having
played it - were you present incidentally when
that was played during Mr Graham's evidence?

A. I think I was.

35 Q. One version has a full stop after the word
"overnight" which does seem to accord with the
pause in the actual transmission. Do you accept
that?

A. Yes.

40 Q. It continues:

"... if not crews will be going in first
thing in the morning and you could give us an
estimate on how many crews would be required
for the incident."

45 You just pointed out that request came to you
without any response to your earlier question.

How did that - that is, the fact that by that stage you had asked for some guidance, none had been given and instead in effect the decision had been placed firmly back in your area - how did you
5 react to that? Did you read anything into that at the time?

A. Well, in the back of my mind I did have that impression that we weren't going to keep crews and I knew at that point I'd have to make a
10 recommendation. I did see it as a recommendation and I thought if they weren't happy with that they would say so. So I put to them that we weren't going to stay that night.

15 Q. Again, the way in which that question was put to you and in particular the second part of it, did that influence your thinking at all that night?

A. Sorry?

20

Q. The fact that immediately after asking the question you were then asked about "if not crews will be going in" et cetera. Did that --

A. I certainly had issues about whether we should
25 be staying, which we will probably go into. It probably compounded it.

Q. You deal in paragraph 52 and 53 with factors that influenced your subsequent recommendation.
30 You also deal with similar issues in questions 240 and following of the taped record of conversation. As it may save some time, I am going to go with you questions 240 right through to 249, which is at page 38 and following.

35

Firstly, at question 240 the transmission that we have just been discussing was put to you, and you make the point, as you did a moment ago, "They never really answered my first query so it was a
40 bit messy." Then at question 243:

"Q. So what did you think after you got that transmission at 2006?

"A. I guess I had a bit of a feeling that we weren't going to leave crews but they were
45 still asking me what I wanted to do so I was a little bit confused there. And I decided

to proceed to make a recommendation and see what they would - how they would respond to that. There were a lot of issues that I was thinking about at the time and I certainly
5 felt that that night we wouldn't have been able to contain the fire, perhaps someone with more experience might have felt - thought a different case. And because it was night-time, because of the terrain, because
10 the crews had been working since 7.30 that morning, well I don't know about the Gungahlin crews because they're volunteers, but certainly our staff, both forestry and Parks staff, had been working since 7.30 in
15 the morning."

You talk about the montane forest:

"And I thought as the night progressed the
20 trees would be - the incidents of falling timber would be greater and the ground was really hard to negotiate and also because we had to do rake hoe work. That was probably the thing that really clinched it. I just
25 felt that there was a real - there was a safety issue and that's why I decided to recommend that we don't stay."

"Q. So on reviewing everything, whose
30 decision do you feel it was to actually say we won't stay overnight?

"A. I - well I guess it was mine giving it to
35 them and if they wanted me to - if they felt given they had a much bigger picture than I did of what was going on, if they felt that we should stay I was happy to accept it if we were overruled. If they said no we'd like you to stay, so initially I think me."

40 Meaning it was your responsibility. Question 245:

"Q. Have you ever been in that situation
45 before either as an incident controller or as a crew member where an assessment has had to be made of a fire in a remote location of whether or not crews will stay there overnight?

5 "A. Prior to Christmas we had some fires to the south of Namadgi and I wasn't involved. We were going to go in but it wasn't until the next morning. So a decision was made within ESB. I wasn't involved in that decision-making."

That's the example you were referring to earlier?
A. Yes.

10

MR LAKATOS: To the extent that it matters, my friend reading question 244 indicated that "initially I think it was me" was the quote and his comment was "so it was your responsibility".
15 In fact the question was "whose decision was it?" It may not matter very much, but the response was to whose decision was it rather than whose responsibility was it.

20 MR WOODWARD: I am indebted to my friend, your Worship.

Q. Question 246:

25 "Q. Did you feel having made that decision that you weren't going to stay over the night that if ESB had wanted you to they would have told you to?"
"A. Yeah".

30

Pausing there, both there, earlier on and in your evidence, I think what you have indicated is having not got the guidance or advice that you had asked for, at least in your mind you were
35 proposing to make a recommendation and see if that prompted a response either negative or positive. That was the process that was going through your mind at the time; is that right?
A. Yes.

40

Q. Question 247:

"Q. Or they would have said we'd like you to stay?"
45 "A. Well I would have thought so yes given there have been times where they have given out an instruction on a specific thing. So I

would have thought for something like that if they felt they should they would have told me, yeah. I was uncertain about whether we should withdraw or not and did raise it with Tony Graham who was the duty coordinator later in the evening. And when I had an opportunity to get in mobile range and asked him about it because I said I wasn't a hundred per cent certain about whether we should do that. But he said that it was supported, so, yeah."

I will come back to that telephone conversation in a moment. Then question 248:

"Q. Okay, I guess hindsight is a wonderful thing. ... And given the difficulty of containing those fires over the subsequent 10 days do you feel obviously in hindsight that perhaps crews should have been left on the first night?"

"A. Well I guess it depends on what the outcome would have been and if I had someone that was injured, I would say no, you don't know what is going to happen. And I made a recommendation on the night based on the situation at the time and I didn't have that hindsight at all and I guess my depth of experience is not as deep as - is not as extensive as some other people. And if I erred on the side of caution I did that in the interests of crew that I had for their safety and their welfare. So I guess I'm a little bit influenced by things that have personally happened to me. You know, many years ago I have driven home after working all night at a fire and the person I was with, that was driving, ran off the road into a tree because they were so tired. So working 24 hours straight is a long time and probably more so in this sort of environment because we've got a long way to travel and it's more difficult work than it is, say, in the urban environment where we've got better access with trails. And I mean that's still hard work but rake hoe work is a lot harder."

47

That, Ms Arman and what appears in your statement - does that fairly summarise the thought processes that you were going through your mind that night?

5 A. Yes.

Q. There has been some evidence, Ms Arman, about factors. Although it is generally acknowledged there are safety considerations in relation to overnight firefighting, it is something that can be done safely; do you agree with that?

10 A. Yes.

Q. Indeed, there are some factors that actually assist the firefighting process, particularly on the first night, and one of those is that generally the fire behaviour on the first night is usually at its most benign. Is that something that is consistent with your experience?

15 A. Yes. I think you need to take into consideration the sort of environment you are working in, too.

Q. That environment isn't going to change over the following days; is it?

25 A. No.

Q. The other factor that sometimes has been mentioned in the evidence is that, although at night there are difficulties because of visibility, in some respects they can actually be improved because you can actually see glowing branches and stags that may not be visible during the day; is that something you have observed?

30 A. I think - well I don't think you can tell every tree what state it is in. I mean some are obvious. Sometimes during the day you can actually see smoke coming out of a tree so you know there is fire burning within. That wouldn't necessarily be apparent at night-time.

Q. Is it the case, to some extent, to balance that out, sometimes during the day you can't see a glowing ember in a stag or in a branch which can be visible at night or in the evening?

45 A. No. But usually there is smoke so you can see the smoke.

Q. One of the factors that you refer to in the bottom of paragraph 53 is that being a remote area there being no immediate access to medical care. I think in your taped record of conversation you

5 also refer to similar factors, including the fact that although the forestry personnel may have had food and other supplies with them, the Parks personnel may not have?

A. I wasn't sure. Generally tanker crews would

10 not have the same sort of provisions as a RAFT crew. They would have probably had some food and water, but I don't know the full extent of what they had.

Q. At question 296 of your taped record of conversation - again if it assists you, we can go to that on the screen - you refer to the possibility of the SMT arranging for SES support during that night, although they may not have

20 arrived there until quite late - I think the time you gave is 3am.

A. I was giving that as an example because it would have taken time for them to activate those crews. From my experience at other fires and

25 given that it was a remote area, it would take at least an hour to drive out there and probably they wouldn't have known where they were going. You know, it was a crude estimate about when we would probably get something.

Q. That was certainly possible had you decided to stay overnight?

A. Yes, if they had been able to organise it.

Q. Your recommendation, as I understand it, was made without speaking or consulting any other personnel present at that time?

A. Yes.

Q. Did you, at the time that you were making those decisions, have available to you details of weather forecasts for that night and/or the next day?

A. I think I heard the weather forecast - it was

45 delayed in the afternoon - but I can't recall the details of it because it was at the time when the smoke sightings were being reported. So I think I

did hear the weather forecast.

Q. As you were or considering the various factors you have referred to in your statement and your
5 evidence, did you have in your mind at the time what the forecast was for that night and the following day?

A. I can't recall specifically. I certainly would have had an awareness of what it was. I
10 just can't specifically recall that.

Q. Were you aware that a wind change was predicted for some time that evening or night?

A. Generally a south-easterly or an easterly does
15 come through, and it did at about probably around half past 8.

Q. Did that influence your thinking?

A. It didn't - I'm not sure. Certainly we were
20 on the protected side of the range. When the south-easterly came through, it was no longer on the protected side but in terms of influencing my decision-making, I'm not sure. I can't say for certain.

25

Q. Just focusing in particular on the weather for the following day, was that something in your mind as you were considering the various factors you have referred to?

A. Well, I knew it was going to be an orange day, so I knew that we were still at a high readiness. I did think about it but not - it is difficult to recall exactly what my thoughts were. I mean those sorts of things you do consider but I can't
30 give you any detail.
35

Q. You say you do consider. Do you recall considering them that night?

A. I'm just not sure.
40

Q. You have mentioned it in your taped record of conversation in a few places - again, I can take you to them if it assists - that as I understand it you didn't undertake any detailed assessment of
45 likely fire spread overnight?

A. From my observations the fire wasn't moving - there wasn't a rapid rate of spread. It was

moving fairly slowly. I did take that into account when I decided to withdraw.

5 Q. Did you undertake any assessment of what the unattended rate of spread might be overnight to get an impression of what fire you might be dealing with the following morning?

10 A. No, I didn't, except to say that I didn't think it would grow excessively.

Q. So you didn't have a rule of thumb in your mind that "by tomorrow morning it might double in size"?

15 A. No.

Q. Did you have any view as to what the size of the fire might be when the crews turned up the following morning?

20 A. Well, I knew it would certainly be larger than what it was. In terms of exact size, no, because I was unsure of the size in the first place.

Q. Did you have a view as to whether or not it was likely that it might have crossed Wombat Road by the following morning?

25 A. I was reasonably confident that it wasn't going to cross Wombat Road because I felt that that was a reasonable fire break and I was looking at that as a containment line.

30 Q. Did you have a McArthur meter with you?
A. Yeah, probably did.

35 Q. Did you use it?
A. No.

Q. Did you that night think about other potential containment lines and whether or not they might be threatened by overnight spread?

40 A. The containment lines that I was thinking about were on the northern and southern flanks that we needed to do some rake hoe lines and water to contain the fire on those two flanks. I felt that on the northern side that aerial water
45 bombing was required to bring that under control. The area was bounded by some fire trails so, as a fallback position, Moonlight Hollow was one

containment line; Warks Road, which then turns into Wombat Road, was another containment line; and Chalet Road was the other.

5 Q. Were those potential containment lines, did you identify those on the night of the 8th or is that something that --

A. They were in the back of my mind, because I had a good picture of the area.

10

Q. From your previous experience in that area?

A. Yes, yes.

15 Q. In your taped record of conversation at question 226 on page 36, you were asked:

"What longer term issues did you consider?"

20 You then refer to calling into COMCEN because you wanted advice - you say at the end of that answer:

"So I guess I was seeking some advice, some guidance from them as to whether they were happy for to us stay out there all night.

25

"Q. And did you have any opinion on the future potential of the fire?

30 "A. It's hard to know, hard to say what would happen with the fire, there's so many variables and I guess because it - it wasn't moving rapidly, I didn't think it was going to expand rapidly. ... And I suppose I was probably more concentrating on the immediate situation rather than the longer term."

35

When you use the term "immediate situation", what are you referring to there?

A. Most of my attention was focused on dealing with what I had before me.

40

Q. Which was the potential for a night shift; is that correct?

A. Yes.

45 Q. When you say "longer term" there, what were you referring to?

A. Well if the fire developed, I wasn't really

putting a lot of thought into if it did expand.

Q. Your statement and taped record of conversation refer to many factors that you looked at that might be a consequence of actually staying at the fire. You have mentioned one or two consequences of leaving, in particular your assessment that the fire wasn't spreading rapidly. Were there any other factors that you considered as part of the recommendation you made as to what the consequences of not staying might be?

A. Of not staying?

Q. Yes.

A. Well I didn't lose a firefighter in it, so that's a pretty important one and I think that's been a bit overlooked in this. Sorry, can you repeat the question?

Q. Your statement and the taped record of conversation discuss in some detail about what you saw as being the potential consequences of staying overnight. I am trying to identify what, if any, consequences of not staying you weighed into the balance?

A. Well, I knew that the fire was going to be bigger than what it was that night. I mean, it couldn't be any other way. But I felt that the following day with fresh crews they would be able to certainly make an impact on the fire in terms of containment.

Q. Any other factors?

A. Are you asking me in relation to what actually ended up happening?

Q. No. I am just asking you to what extent you, at that night, weighed into the balance the consequences of leaving?

A. Of leaving --

Q. And I think to be fair to you, you said you assessed that there wouldn't be a significant spread overnight. That was your assessment?

A. Yes.

Q. And you assessed that the crews the following

day could have a significant impact. Were there any other factors?

A. No. I can't sort of think at the moment.

5 Q. Dealing with your final substantive radio transmission to COMCEN at 2014 that is dealt with in paragraph 56 and in particular your request or your identification of what resources, you identify at least two rake hoe teams and at least one heavy tanker - what was your thinking that each of those teams would do the following morning?

10 A. Pretty much what I would have tasked them to do that evening. I felt that we weren't able to get canvas hoses right round the fire, and there would need to be a combination of canvas lines and rake hoe work. I also want to add that I did ask for aerial water bombing as well - I didn't mention that - and that would play a role in trying to work at the remotest part of the fire doing some water bombing, extinguishing it out and making it easier for when the rake hoe teams finally made it up that way.

25 Q. Why did you say at least in each of those cases?

30 A. I knew when I left that various white calls had been called in. When I was at the Bendora fire, I didn't know exactly how many fires we did have. I thought possibly we had a few. I knew ESB would have a difficult time working out what resources to send the following day, so I put as a very minimum that number.

35 But I did discuss the resourcing issues with Tony Graham when I spoke to him on the mobile phone a little bit later and did say to him that more would have been better. But I did give an absolute minimum because I knew there were other things happening, and also we have to be able to have units in town because we are on high readiness as well.

45 Q. So as I understand it, what you were intending to convey there, conscious there may be other commitments, was that this is the minimum that would be necessary --

A. Absolute minimum, yeah.

Q. Because indeed that night, although you didn't have specific rake hoe teams, you actually had
5 more resources out there - at least more tanker resources out there - than you were recommending for the following day?

A. Well, I had two tankers that night and I did request at least one heavy tanker to work from the
10 road, because that would have been a containment line. I thought the rake hoe teams were probably more valuable in trying to provide containment lines, but it would be complemented by the tanker as well.

15

Q. Just before we leave that topic - you raised your discussion with Mr Graham, and I do want to come back to that - on the subject of resources, you haven't indicated that you repeated your
20 concern that more would be better.

A. Mmm.

Q. Can you recall with more precision what you said to him about that subject?

25 A. I think I said to him I would have liked to have asked for at least four rake hoe teams. But we are talking about 24 people - assuming it is six people on each rake hoe team. I can't recall what else I said about that but I did say that.

30

Q. So your memory is that you said four rake hoe teams would be better or you referred to the possibility of four rake hoe teams?

A. Yes, yes.

35

Q. I will just ask you about that telephone conversation with Mr Graham which you deal with in paragraph 65 of your statement. Based on your mobile phone records, you refer to that as being a
40 9-minute, 23-second call at about 2118, I think?

A. That is correct.

Q. You have dealt with the resourcing issue that you discussed with him. What other matters did
45 you discuss with Mr Graham in that phone call?

A. We talked about a whole range of things, but I can't recall all the detail. I certainly talked

to him about access and the water point that Cliff Stevens had identified. I think we discussed what was occurring elsewhere because he filled me in - he talked about the McIntyre's fire. Possibly -
5 we talked about resources.

Q. Do you recall discussing with him the size of the fire during that phone call?

A. I'm not sure, no. I possibly did, but I just
10 can't say for certain whether or I did or didn't.

Q. In a 9-minute phone call, is it likely that you would have said something to him, for instance, about how long it took you to walk
15 around it?

A. Possibly, but I can't specifically recall that part of the conversation.

Q. In paragraph 65 you referred to him saying to you, after you discussed with him that you were
20 unsure about the recommendation to withdraw, that he said words to the effect of:

"We are hoping you would do that."

25 Do you have a memory of that being said by him?

A. Yes.

Q. Do you recall him saying anything about anyone
30 else's views on the topic?

A. No.

Q. I am conscious that you used the word "we" in that section in quotes. Did he say who he meant
35 by "we"?

A. No. I assumed it was the SMT, but that may not be correct.

Q. Do you remember him making any reference to
40 Mr Lucas-Smith's views about the matter?

A. No, he didn't.

Q. He didn't?

A. No.
45

Q. So apart from the matters you refer to in your statement and what you have given evidence about

on the resourcing issue, is there anything else that can you recall discussing with him during that telephone conversation?

5 A. No. I mean, nine and a half minutes is a long time, but there were only certain things that stood out. I think I did discuss with him about the terrain and possibly - well certainly about the decisions. I assume I spoke to him about the safety issues but I just cannot recall exactly
10 what was said at that point in time.

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

15 THE CORONER: Yes. We will take the morning adjournment.

SHORT ADJOURNMENT [11.28am]

20 **RESUMED [11.50am]**

MR WOODWARD: Q. Ms Arman, just before the break you dealt with the issues discussed with Mr Graham. I think you mentioned in your last
25 answer that you do recall discussing the terrain with him. Do you recall what you said about that?
A. Not specifically, no.

Q. Have you, in your experience, either as a crew
30 member or in a command role, undertaken or been involved in rake hoe line construction in country of that kind?
A. Yes.

35 Q. Was this before 1995 or since?
A. Primarily before 1995, yes.

Q. Did you have a view that night based on your own experience as to how hard that was going to be
40 in those conditions?
A. It's always hard. It really depends on the vegetation that you are working with. Certainly at higher elevation while you haven't got - the trees are a lot more stunted and it is a lot more
45 spares in terms of woodland. The montane environment can be a lot more difficult to work with because of the understorey and material that

is on the ground, such as trees that have fallen in the past. Some in this case were up to a metre wide.

5 Q. This area was montane largely; was it?
A. Yes.

Q. Are those matters you recall discussing with Mr Graham?

10 A. Not specifically, no. But I can't - I mean I just can't recall all the detail of the conversation that we had.

Q. So is this an example of where you may have discussed it - you may not - but you just can't recall or where you say you didn't discuss it?

A. I did mention the terrain. But in terms of further detail, I can't say one way or the other whether I went into that.

20

Q. Given the difficulties from your own experience you would have anticipated the rake hoe crews were going to face the next day, did it occur to you to consider requesting dozer support?

25 A. At the time I thought rake hoe crews were adequate. Rick Hayes called me during the day, in the morning on the 9th. I did ask him if he thought the resources were adequate. I don't know exactly what was supplied that following morning and whether they were the full complement and, if they were, whether they were fully tested as to whether they were adequate or not.

Q. I think the start of your answer was that you thought that rake hoe teams would be sufficient. Do we take it from that --

A. I wasn't thinking of the dozers immediately, no.

40 Q. I think it probably follows, is that an issue you discussed with Mr Graham at all that evening?

A. No, we didn't discuss dozers.

Q. Would you agree that a dozer first thing on the morning of the 9th would have meant that the sort of work that was necessary to contain that fire would have been undertaken much more quickly?

45

A. It certainly would have assisted.

Q. Just moving to the following days. You were the nominated incident controller for the Bendora fire for the 10th; is that correct?

A. Yes.

Q. You were informed you would have that role some time on the 9th?

10 A. It was late afternoon on the 9th that I found that out.

Q. You deal with this in paragraph 69 of your statement. Towards the bottom of that paragraph, 15 you say:

"There was not much information forthcoming. I was not informed of the fire progress or what strategies had been put in place. I was 20 not going to be supplied with any maps."

Is that something you actually discussed with someone on the night of the 9th or afternoon of the 9th?

25 A. I was speaking to Rod Hillman who was the Parks and Conservation agency representative. He was located at ESB at the time. My questions about information were directed to him, and that's what he told me.

30

Q. He said, "We won't be giving you any maps" or something to that effect?

A. Yeah.

35 Q. Did you have your own maps at that stage of the area?

A. Because I had been there on the 8th of January, I knew certainly where the origin of the fire was and I made a point of photocopying a 40 number of maps that I was able to give to crews the following - the day that I was going out.

Q. You did that on the afternoon of the 9th, did you?

45 A. Yes. In anticipation for the 10th.

Q. Your instructions for the following day are

dealt with in paragraph 73 and following where you say Tony Graham directed you to contain the fire, and he told you the units that had been responded. You go on in paragraph 74 to say:

5

"While my instructions were to contain the fire, they were not specific in terms of the strategies to be employed or the objective to be achieved for that particular morning. So far as I recall at this time I was not provided with any further information aside from the weather, the fact that the fire was believed to be about 80 or 90 hectares in size, that we might get some extra support later, and we were to try and contain the fire."

Is that still your recollection, Ms Arman, that is about all you got?

20

A. I just wanted to add to that, because in the radio transcript Tony Graham did indicate that 'Firebird 7' would be going up and doing a reconnaissance and that would help in terms of detailing what the fire behaviour was and also give a more accurate estimate of the fire, because they only had information about the fire size from the previous evening and they knew that it would be growing overnight.

30

Q. Did that information come through to you during the morning?

A. Yes, it did.

35

Q. Did you understand in order to fulfil the objective of containing the fire that you were to be engaging in direct or indirect attack at that stage?

40

A. Direct was my understanding. There was a bulldozer located at Bulls Head and I didn't realise and it wasn't made known to me that it was at my disposal until about probably around 8 o'clock in the morning when it came up in radio conversations about where it was to go.

45

Q. So how did you come to learn that that was available to you?

A. I think I first heard one of the units talking

about a dozer, and then COMCEN called me and asked me where I wanted it.

5 Q. That was the point at which you made the correction to your statement that you directed it to go to Warks Road?

A. That's correct.

10 Q. You have also made some additions to paragraph 92 concerning your sitreps, where you have added that on both occasions you had indicated that you needed additional resources?

15 A. Yes. I would just like to add that shortly afterwards I was advised by COMCEN that they would be forthcoming.

Q. Is it your understanding that that included teams that had been originally deployed to the Gingera fire?

20 A. That's correct.

Q. As well as teams that had been deployed to McIntyre's; is that right?

25 A. I don't know about McIntyre's. I think they were crews that were redirected from Gingera.

30 Q. Now, you say in paragraph 94 of your statement that you had a more lengthy conversation with COMCEN. I think you have indicated that was at about 1338; is that correct?

A. 1330.

Q. 1330, was it?

35 A. Yes.

Q. Sorry, I misheard your correction earlier. You say:

40 "They put me on speaker phone and there were several people present, including Tony Graham. I was advised that crew officer Brian Murphy was on his way to assist in the management of the fire as we were now moving from direct attack to indirect attack and the
45 fire was too big for me to manage on my own."

Was that a decision that was made in consultation

with you or were you simply informed that a decision had been made to move to indirect attack?

5 A. I think it probably arose from the point where I requested more resources because the span of control had gone past five. They probably felt that it needed to have a more senior officer who had more experience. So I was quite happy with that.

10 Q. Just focusing on the decision: You would agree, I take it, a decision to move from direct attack to indirect attack is a significant decision --

A. Yes.

15

Q. -- in relation to the management of the fire?

A. Yes.

20 Q. I am trying to get a sense as to whether that was something you were informed of or whether there was a discussion and it was a decision that was made jointly.

25 A. We discussed at that meeting via the speaker phone - we were talking about what containment lines and what we were going to do. So I guess I did have an input into that.

30 Q. Was that the first time you were aware at least that a decision had been made or was to be made to move to indirect attack?

A. Well, the fact that the dozer came in earlier indicates that indirect attack was going to be employed.

35 Q. Well dozers can be used for direct attack --

A. For direct attack too - I'm not very sure about that.

40 Q. The reason I ask is because there is certainly some evidence, including that of Mr Graham, that suggests that the decision to move to indirect attack was in fact made on the 9th, the afternoon or evening of the 9th and was implemented during the day on the 10th. Was that something that you
45 were aware of when you arrived at the Bendora fire that morning that at some point during that day it had already been decided to move to indirect

attack?

A. It wasn't detailed in the briefing that I was given. I was asked to work out the best containment lines. But that the actual phrase
5 "indirect attack" wasn't used.

Q. You say in your statement in reference to this conversation "we were now moving from direct attack to indirect attack", which suggests that
10 the decision was being made at the time of the conversation. Can you assist with that at all?

A. Well, I wasn't aware of what was decided on the night of the 9th. I didn't speak to Rick Hayes, who was working on during the day of the
15 9th, so I was really relying on the briefing in the morning about what we were going to do.

Q. Do you recall the decision to move to indirect attack being discussed in the early morning when
20 you were given those initial briefings?

A. No.

Q. So as best as you can recall the move to indirect attack, at least so far as you knew, was
25 communicated to you for the first time during that telephone conversation at 1330?

A. Well except to say that once the dozer was on - I was asked how I was going to task the dozer. So quite possibly the thought might have
30 been that that might have been used for indirect attack.

Q. Could have been earlier?

A. Yeah, it could have been earlier.
35

Q. At paragraph 104 of your statement, reflecting on the work you had done during the 10th, you say "Even at that point" - I understand you to be referring to the end of the day 2030 to 2100
40 hours --

A. That I finished my shift, yes.

Q. You say:

45 "Even at that point, we still didn't have any maps provided by ESB."
47

When you say "at the end of the shift", that's the point you are referring to?

A. Yes. Certainly during the day Brian Murphy brought some maps out as well. He made some
5 copies of maps. At that stage it was really quite critical that crews had detailed maps of the area. I mean certainly all the crews have a 1:100,000 map. In terms of a map relating to the specific area, we needed to get that to them because there
10 are quite a few fire trails. And there were points that we needed to mark on the maps such as water points and also making it down into sectors, which is what occurred in the afternoon.

15 Q. Have you had experience up to that time, in other words in previous incidents, where maps have come to you with that sort of information on them, where water points have been marked and additional information is provided over and above what is
20 provided on the standard map?

A. Sorry, I'm just thinking about this. For control burns, it is generally the person that is conducting the burn who would provide the maps. Certainly we have provided comprehensive maps to
25 all the crews participating in the burn.

In a wildfire situation a lot of the time around town it is not really needed but in a remote area, it is more so. We haven't had that many campaign
30 fires. That's when maps start to become very important. Usually they're fires that start and can be contained by the next morning. So maps generally aren't required at that point.

35 Q. You say in paragraph 104 on the bottom of page 20:

"Adding to the problem at that time was the fact that there had been no overnight
40 incident planning and so there was no exchange of information for the incoming local incident controller in the field each morning. Shift handovers, even from day to evening crews, were difficult. Crews were
45 waiting around while incoming local incident controllers were briefed. A staggered shift changeover would have been useful. The

incoming incident controller could have commenced his or her shift a bit earlier so there is an opportunity for briefing and action planning before the crews reached the fire ground. That way crews could be deployed immediately and not have to wait around while the new incident controller receives a briefing and plans for the day."

10 There are two issues as I understand that you have raised: firstly, no overnight incident planning leading to delays for briefings the following morning; is that correct?

15 A. Well, certainly from my perspective on the 10th of January it would have been good to have spoken to Rick Hayes and got an update on what strategies he was employing and where he got up to. But I mean the way these things work, he wouldn't have started work at that point. He would have had quite a big day the day before. So 20 unless you have got crews coming in and the next crew going off, you don't get that sort of continuation of information exchange.

25 Q. As I understand what you are saying here is that gap could have been assisted by having some overnight incident planning as well?

30 A. Yes. But I guess it depends, too, on your size of the incident. I mean it may not be warranted at such an early stage, certainly at a later stage it would be.

35 Q. You refer about crews waiting around. Was that your experience that there were delays as a result of these issues that you have identified?

40 A. From my experience, it's always difficult to get crews out and new crews in. It's just the nature of the beast. You try and streamline it as best as you can but, yeah, there's always delays.

45 Q. Jumping forward to paragraph 138 of your statement, what was happening after the 18th is that the planning office started working each night providing clear objectives and an incident action plan for each day. Then you refer to what the strategies were. Just comparing those two times, that is early on in the fire and what you

experienced on the 19th and thereafter, do you think it made a difference; that is, having that additional planning support in contrast to what was occurring on the 10th, for example?

5 A. I was involved in the fire at the very early stages and I really can't comment from the 11th to the 16th because I was away. That's probably the time that that information would have been more beneficial. I worked on the 17th and, no, we
10 didn't have an action plan, but things were dramatically changing.

MR WOODWARD: I have nothing further, thank you Ms Arman.

15

THE CORONER: Thank you, Mr Woodward. Mr Lakatos?

MR LAKATOS: I have no questions for Ms Arman.

20 THE CORONER: Mr Pike, do you have any questions?

MR PIKE: Yes, thank you, your Worship.

<CROSS-EXAMINATION BY MR PIKE

25 MR PIKE: Q. You recall being asked some questions a little while ago about paragraph 94 of your statement. Do you have your statement with you?

30 A. Yes.

Q. This was in relation to a question of when you were first told by someone of the move to the indirect attack. Do you recall that line of questioning a few moments ago?

35 A. Yes.

Q. I think at the conclusion of that series of questions and answers you said words to the effect of "well it could have been earlier given the issue about the use of the dozer that was discussed"; do you recall that?

40 A. Yes.

Q. I take it you are finding it now, some 15 months later, difficult to recall precisely as to that issue?

45 A. Yes.

Q. And as to a number of issues in terms of precisely what happened on which day?

A. Yes, that's right.

5 Q. Can I take you also to some questions you were asked towards the beginning of your questioning at transcript page 4042. I will just read this to you. You were asked some questions in relation to the thought processes you had on the night of the
10 8th as to the risks and so forth about night crewing. I will read this passage out to you. The question was asked of you:

15 "Q. Indeed there are some factors that assist in the firefighting process, particularly on the first night, one of those is generally fire behaviour on the fires night is usually at its most benign. Is that consistent with your experience?

20 "A. Yes, I think you need to take into account - take into consideration the sort of environment you were working in too.

25 "Q. Well that environment isn't going to change over the following day, is it?

"A. No."

30 Would it be fair to say, Ms Arman, that true it is the environment isn't going to change, but the difficulty an environment poses to firefighters at night can be quite different from the difficulties the environment poses to firefighters in the day-time?

35 A. That's correct.

40 Q. In other words, visibility and things like that, if you can't see all the rocks, all the trees, all the things you are trying to fight around, that can pose a very different situation at night-time than at day-time.

A. Yes.

45 Q. Is that the sort of thing you were talking about when you were saying you have to take into account the environment?

A. Yes. I also meant that I needed to consider the condition of the crew that I had at the time.

And unlike the following day where they would be a fresh crew, having a good night's sleep, I am asking people to start another 12-hour shift - to continue on with another 12-hour shift and do
5 fairly physically demanding work. So, I mean, I would include that as part of my response to that.

Q. Asking a team who has already been on duty since 7.30 in the morning if they were fighting a
10 grass fire on the outskirts of the city to double shift, as it were, and work an overnight shift is a very, very different things, isn't it?

A. Yes, it is --

15 Q. Than asking them to do it in these circumstances?

A. That is certainly one of the things I was thinking about.

20 Q. It may well be the case that the environment may be the same both at night-time and in the day, but the type of risks that it poses and the assessment of those risks can be very different in the night-time situation?

25 A. Yes. I think you need to remember that working on a fire ground, it is a very dynamic thing. The situation is going to change all the time, depending on night or day, the fire behaviour, the terrain. There are a whole range
30 of issues that need to be thought about.

Q. You have now had 15 months to look back on what happened in January 2003 and 15 months to agonise over preparing for the inevitable inquiry
35 that was going to be held, which is now being conducted; is that right?

A. Yes.

40 Q. That has not been a pleasant experience for you, I understand?

A. No. Not at all.

Q. Nor for any of your colleagues. You don't do court work as a recreation, or anything like that?
45 It is not something you do every day?

A. No.

47

Q. I take it you have found both the ordeal of giving evidence and in particular the preparing for it a very stressful experience?

A. Very, yes.

5

Q. You have done your best, firstly, when you were preparing your statement to recall things as clearly as you could, and you found that a difficult process trying to separate things which were in your mind from other things which were in your mind and trying to focus on particular dates. That has been very hard, I take it?

10

A. Yes. Certainly some things are very clear, and others are more difficult to recall.

15

Q. You did your very best when you gave your statement to try and recall it as clearly as you could?

A. Yes.

20

Q. Having acknowledged that, obviously you were doing the best with your recollection at the time, and there could have been errors in your recollection at that time which were reflected in your statement?

25

A. I certainly tried to give my statement as best as I could possibly recall.

Q. The same thing with your taped record of conversation.

30

A. Yes.

Q. You did your very best there to tell it as precisely as you could but you were finding difficulty in doing that to some extent?

35

A. I wouldn't be alone saying that there are aspects that are difficult to recall.

Q. Again, precisely the same for today, you are just doing the best you can. It is difficult to recall with any degree of precision things like conversations with people, for example; is that right?

40

A. True.

45

Q. You have been assisted to some extent in terms of the conversations that have taken place over

the radio system in that you have been able to see radio transcripts?

A. Yes.

5 Q. With other conversations either face-to-face or by mobile telephone, you haven't been assisted by those transcripts because they don't exist; is that right?

A. That's right. Yes.

10

Q. Although you have done the best you can, again in concert with the other endeavours that you have made to be as accurate as you can, you haven't been assisted by transcripts in relation to those other conversations, as you have told us?

15

A. Correct.

Q. You may not be entirely correct in your recollection about specifics of those other conversations?

20

A. As I said before, some things are clear and other aspects are not so clear.

Q. On the night of the 8th, you were having a mobile telephone conversation with Tony Graham. That was in the context of a decision having already been taken about not leaving the crews out overnight to fight the fire at Bendora on that evening?

25

A. Mmm.

30

Q. You had a conversation with COMCEN earlier in the evening which you told us about?

A. Yes.

35

Q. Did you also have conversations with any of your crews after you made the decision about the fact that you are now leaving and not staying overnight?

A. The one person I do recall discussing the issue with, or briefly, was John Kane, who accompanied me on the walk around.

40

Q. You certainly turned your mind to the issue of resources being required for the next day?

A. Mmm.

47

Q. You communicated, as you have already told us as best you could, what minimum resources you thought would be appropriate for the following day?

5 A. Mmm.

Q. That was communicated to COMCEN?

A. Yes.

10 Q. You told us you used the words - at least I am paraphrasing to some extent, so if you don't accept my paraphrase please don't hesitate to say so - "at least" because ideally you would have liked to have more but it really depended on what
15 the big picture was and you weren't in the position to fully assess that yourself?

A. That's right.

Q. Or indeed to assess it at all?

20 A. Mmm.

Q. Because you were totally focused on that one fire as indeed you should be?

A. Yes.

25

Q. Then you had a conversation, as I started off with, with Tony Graham on the mobile telephone when you got back into mobile phone range, I think you said. And it was going through your mind, I
30 suggest, what you said to us previously, that you would have liked to have had more resources if you could have had them; is that right?

A. Yes.

35 Q. Do I take it you are not now totally sure precisely what you said to Tony in that entire conversation?

A. I said --

40 Q. I am talking now generally, not in specifics about anything in particular.

A. About all the details?

Q. Yes.

45 A. I don't recall the whole conversation. It is nearly nine-and-a-half minutes long. But there were some things I do recall, and certainly

resources was one.

Q. You certainly discussed resources?

A. Yes.

5

Q. That was mentioned in your statement.

A. Yes. I had mentioned to him that I would have liked to have asked for four rake hoe teams.

10 Q. Can I suggest to you that you may well have been thinking that at the time but you did not suggest that in terms of an actual suggestion to Tony Graham during that conversation?

15 A. It certainly was mentioned. That I can recall, yes.

Q. Can I suggest to you that, if it was mentioned, it wasn't mentioned during that conversation but it could have been mentioned at some later time?

20 A. No. It was actually mentioned that night.

Q. It doesn't appear in your statement at all.

25 A. No.

Q. It doesn't appear in your record of conversation?

A. No, no, it doesn't.

30 Q. It presents a different picture than that which is communicated, I would suggest, by your request for at least two rake hoe teams?

A. No. Why would it do that?

35 Q. I will ask it this way: asking for at least two rake hoe teams, to use your words precisely, is not the same thing as saying, "I would have liked to have asked for four rake hoe teams"; is that right?

40 A. I am just thinking about that. Certainly when I made the request to COMCEN, I had thought at the time more would have been better.

Q. Of course --

45 A. But hence I said "at least two rake hoe teams". Then when I spoke to Tony Graham I mentioned that to him ideally I would have liked

more, and specifically in relation to rake hoe teams.

5 Q. So do you think now - I won't put words in your mouth - doing the best you can, what is your evidence as to what you believe you said to Tony during that conversation? Are the words you used as you just told us a minute ago; namely, "ideally I would have liked to have had more, certainly
10 more rake hoe teams," or do you believe you said something about four rake hoe teams or are you just not sure now?

15 A. No. What I am saying is - and I can't remember my exact words - that four rake hoe teams would have been better. But I think I said to him I didn't think they would be forthcoming because of other things that were going on around which I didn't know of at the time. But I --

20 Q. See, when you were being asked questions by Mr Woodward a little while ago, you were essentially being given an opportunity to say as much as you could recall about that conversation. Mr Woodward was pressing you a little bit to tell
25 us as much as you could recall about that. What you have now told us is a little bit extra about that. It was something to the effect of you would have liked more but you don't believe they would have been forthcoming. That's not what you told
30 Mr Woodward before. Are you sure you said that?

A. No, I didn't say that to him. But that was what was said.

35 Q. It was certainly in your mind at the time, wasn't it?

A. Yes.

40 Q. You are sure it was said given the fact that again Mr Woodward asked you questions attempting to probe your recollection; certainly at the time you answered those questions you didn't have a recollection of that.

45 A. Well, I know I mentioned four rake hoe teams. Exactly how it was said, I can't recall, but I do --

Q. Again, going back to your first question and

answer concerning the four rake hoe teams, you started that particular answer by the use of the words "I think I said four rake hoe teams", that's how you answered it then. Again, I am not in any way being critical, you must understand, but by the use of the words "I think", when giving that answer were you indicating that was as best as you could recollect but you were not entirely certain?
5
A. I'm saying that with a reasonable amount of
10 certainty.

Q. That certainly wasn't --
A. But not --

15 Q. Sorry.
A. No, sorry.

Q. Do you want to finish that answer?
A. All I can say is I did mention four rake hoe
20 teams. How I expressed it, I'm not exactly certain of, but it was raised.

Q. You certainly had in your mind four rake hoe teams. We will start off with that proposition. Is it possible you didn't mention actual numbers to Mr Graham because you say you weren't sure as to how it was expressed?
25
A. Well, certainly four rake hoe teams was in my mind, yes.
30

Q. But you are not sure how that mental image that you had was expressed to Mr Graham?
A. Yes, that's correct.

35 MR PIKE: Thank you, your Worship.

THE CORONER: Mr Whybrow?

MR WHYBROW: I have no questions.
40

THE CORONER: Mr Walker.

<CROSS-EXAMINATION BY MR PHILIP WALKER

MR PHILIP WALKER: Q. Just on what occurred on
45 the 10th of January, if I understand your evidence is that, when you first arrived at the scene on the 10th, you commenced with some direct attack on

Bendora; is that right?

A. Yes. What I did on the 10th was to - I really needed to do a reconnaissance to work out what had actually happened from overnight on the 9th
5 through to the 10th, and from that I was able to then work out how I was going to deal with the fire at the time.

Q. Did you commence using methods of direct
10 attack on the --

A. As best as we could, 'Firebird 7' had indicated to us in their aerial reconnaissance that the fire had reached Bendora arboretum. I had deployed Guises Creek 11 to deal with that
15 flank of the fire. On Warks Road and Wombat Road I had deployed the other two tankers and the RAFT team.

Q. I think you said you learned of the presence
20 of this dozer at 8am; is that right?

A. Yes.

Q. At that point it had not arrived on the scene?

A. No, it was --
25

Q. It was coming to you from Bulls Head; is that right?

A. I was asked where I would like it so I directed it down towards Warks Road.
30

Q. You may have given this answer but I will ask again in any event: when did it arrive on the scene?

A. Some time after that, but I can't be certain
35 of the time.

Q. You said in your record of conversation at question 323 that there was a dozer supplied about mid morning - then you say "sorry, a bit earlier, a bit earlier than mid morning". Presumably that means when it got there rather than when you were notified of it because you said "supply"; is that right?
40

A. I would say the dozer arrived early to mid-morning, some time after 8am in the morning.
45

Q. Before 10?

A. Before 10?

Q. Yes.

A. Yes, yes.

5

Q. You told us that you had been asked to establish areas for containment lines, I think you said.

A. Yes.

10

Q. When did that request come to you?

A. About establishing containment lines?

Q. I think your evidence was asked to work out the best containment lines, or some words like that?

15 A. That was part of my briefing at 6 o'clock in the morning.

20 Q. Did you at any time establish an anchor point for your operations on that day?

A. When I first arrived on scene I needed to make an assessment before I could do anything. It was very much deploying the resources to the hot spots as I saw them and I didn't have enough to get right around the fire anyway. And parts of it were quite inaccessible. At that point it was really attending to some of the more difficult parts of the fire, such as the breakaway that was east of Wombat Road. I sent a RAFT team into there to deal with that and ensuring that the fire didn't break - go beyond Warks Road or go to the west of Bendora arboretum. So I didn't have an anchor point at that point because --

35

Q. Sorry, could you say that again?

A. I didn't have an anchor point at that point.

Q. If I understand, you were to endeavour to contain the fire to its best along Wombat Road; is that what you are telling us?

40 A. There was a breakaway on the eastern side of Wombat Road --

45 Q. So you were trying to deal with that?

A. So I was trying to deal with that --

47

MR CRADDOCK: Perhaps if she be allowed to answer the question.

5 MR PHILIP WALKER: Q. Is there anything further you wish to say?

A. About that, about what I have said already?

10 Q. I asked you whether you were endeavouring to contain it to the east. You said there was a break away to the east and you had to deal with the break away.

A. Yes, that's correct.

15 Q. You were then endeavouring to contain the main part of the fire to the east of Wombat Road; is that right?

A. Yes. I wanted to make sure that it didn't go beyond that, beyond Warks Road, onto the eastern side.

20

Q. You said in your statement you used the dozer along Bendora Break; is that right?

A. Yes.

25 Q. Was that in some effort to contain the fire to the forth?

A. No. It wasn't. I spoke to the dozer driver. He said to me he hadn't worked in that sort of area before. I had some concerns about him
30 working in that area. So I thought strategically it would be good to have access between the western and the eastern side of the fire, because it was a long drive to get right round. It was an 11-kilometre drive to get to the other part - the
35 western side of the fire. So initially I thought it would be beneficial to open up that break, and then we would utilise him on the north-western and south-western flanks of the fire.

40 Q. Was the use of the dozer on Bendora Break also to endeavour to contain the fire as well as to create that link?

A. No, no, it wasn't - not to contain it because the fire had gone north of that.

45

Q. What I would like to suggest to you is: was what in fact was happening on the morning of the

10th that you were in the first instance engaging
in direct attack on the fire, endeavouring to hold
it as best that you could, but that there was also
to be indirect attack techniques come into place
5 on that day, hence the reference to you
establishing containment lines and the provision
of a bulldozer?

A. Yes. That started to happen once the dozer
had opened up Bendora Break and ended up at
10 Bendora arboretum. It was then utilised to start
creating a fire break north of Bendora arboretum.

Q. So really on that day your response to the
fire was really utilising dual modes of dealing
15 with it, both direct for as long --

A. It was in a transition phase, yes.

Q. Could I have brought up the document
[ESB.AFP.0110.0756]. Just have a look at that, if
20 you wouldn't mind, Ms Arman. Just going through
the document, I think you have agreed with me that
one of the things you were doing at least
initially was direct attack, trying to hold the
fire to a minimum area?

25 A. Yes.

Q. Going down to some of the strategies, I gather
you didn't manage to establish an anchor point -
at least not initially in any event. Do you see
30 the first dot point?

A. Yes. I mean I haven't seen this before.

Q. You may not have. I am just trying to find
out what was actually done.

35 A. Certainly we were - I had deployed a RAFT team
to try and deal with that. It was the
south-eastern corner, actually. The south-western
corner was burning quite vigorously and we had
deployed - I had requested aerial water bombing to
40 assist there. In the morning I didn't have enough
crews to deal with what I had and I made that
known.

Q. Were you either aiming to or able to do what
45 the second bullet point is saying - that is "lock
down line along southern margin"?

A. No, I wasn't able to. As I said, we were able

to have access to helicopter water drops, and the number of helicopters working in that general area, south-west right through to south-east, the number of helicopters increased in the afternoon.
5 But in the morning, I think I only had one helicopter available to me.

Q. What about the third point "establish line along east then north edges". Were you firstly
10 aiming to do that and, secondly, were you able to do that?

A. We had started it. The eastern edge which was Warks Road was contained except for the southern part along Wombat Road, and on the northern edge
15 we had tried to put a rake hoe line in. It was pretty hard going, and they only got a certain distance.

Q. Does that indicate what you were aiming to do
20 in relation to the fourth dot point as well:

"Aim to pinch down north edge (pending am recon flights)."

A. I think actually achieving that - I mean that
25 would be the ultimate aim. I don't think that was achievable.

Q. That's what you were trying to do?

30 A. Yes, yes.

Q. It then says: "Lines to be built using D6 dozer and tankers and light units". Following the
35 previous questions, was that what you were aiming to do and to an extent able to do?

A. Yes. Once Brian Murphy came on board and we had a lot more resources at our disposal, we sectorised the fire and allocated resources to each of the sectors. So we had a lot better
40 chance of being able to achieve it as opposed to being the morning when I didn't have plane resources and was really just dealing with problem areas.

45 Q. Going further down the page and looking at those safety considerations, were you aware on that morning that fire behaviour may escalate?

A. I'm always mindful that that could happen.

Q. Perhaps we can deal with the other two dot points, the fire runs and loss of safe exit. Were
5 you made aware of that?

A. I wasn't made aware of it. It's the sorts of things that I would be thinking about, yes.

Q. Looking at the document and what you told us,
10 is it a fair assessment that you were broadly aiming to implement the objectives and strategies listed in this document; is that a fair overall assessment?

A. Yes. What I was thinking matched what was
15 documented here.

Q. You said you had not seen this document before. Did you have discussions with anybody that morning along these lines?

20 A. No. Because I was - there was some basic information given to me by the radio. The rest of the morning, it was up to me to try and work that out.

25 Q. To put it into practice?

A. Yes.

Q. You made some mention about absence of incident action plans. If you receive a brief
30 from the previous shift incident controller, does that not have the capacity to give you all that you might receive in an incident action plan?

A. Yes, it does work really well if you do have that handover, especially if you are actually on
35 the ground and getting shown what has actually occurred.

Q. Sometimes that may not occur as well as you would like, I dare say?

40 A. Well ideally you do work towards that to give as much information as possible.

Q. If that is happening and you are not receiving a formal document that is an incident action plan,
45 it doesn't matter quite so much because the practical outcome is the same - you know what the state of play is, what the objectives are and so

forth - is that right?

A. Yes. That's correct. I think when a fire gets to be quite large you might be in charge of a sector or a division, so it's important that you
5 know what the whole picture is. And that's where an incident action plan is useful.

Q. One other matter, just a very minor matter: you mentioned something about maps with water
10 points on them. Isn't that something that would have to be established in the field? It would be hard, would it not, to have a map which shows you that in advance, because water might be in one place one day and not very much the next?

A. I know Parks and Conservation or Environment
15 ACT have prepared maps that show helipad sites, water points. Unfortunately, I think the computer that had all that information was stolen so a lot of that information was lost. But that is
20 actually information that was going to be provided to ESB, that then could be used in the field for crews. And they would list permanent water points, fire trails, all that sort of information.

25 MR PHILIP WALKER: Nothing further. Thank you, your Worship.

THE CORONER: Mr Watts?

30 MR WATTS: I have nothing, your Worship.

THE CORONER: Mr Craddock?

MR CRADDOCK: I have no questions but I will take
35 this opportunity to say something, because that will allow Mr Woodward an opportunity to respond.

It is partly a suggestion, partly a question. I don't know the answer. I had the benefit on
40 Friday of tramping around this area of the Bendora fire as it was on the 8th. I have also seen the video. Having gone up there and tramped around the fire ground or having done my best to do so without falling down the mountain, it gave me some
45 insights that I did not get from the video, particularly in relation to the nature of the terrain and the gradient. You do not get a real

picture from the video, unfortunately, although it is very good in many respects.

5 If your Worship is going to be asked to consider matters such as overnight tasking in that sort of remote area in that terrain, it would be of, I think, very considerable benefit to your Worship if you were able to actually go to the area and go onto the fire ground, as it was on the 8th, to see
10 the actual terrain, the gradient, the nature of the vegetation. I don't know whether you have had the opportunity to do that. But having had the benefit of it myself, having seen the video and having been enlightened by the actuality of it, I
15 would make that suggestion if your Worship hasn't had the opportunity to do it.

THE CORONER: I have had that opportunity, Mr Craddock, I would say, to have a look at a
20 considerable amount of the area.

MR LAKATOS: Perhaps I should say, that is the general view of the Bar table. I should correct one thing: I was with Mr Craddock on Friday and he
25 didn't try to prevent himself falling down; he actually did fall down.

MR PIKE: My understanding is your Worship has actually had the opportunity to physically trek
30 around the area described by Ms Arman?

THE CORONER: Yes, I have. I have seen quite a lot of the area. I did that fairly early in the
35 piece.

MR PHILIP WALKER: Your Worship, I was also of the view that your Worship ought to see some of these areas. I am not quite aware what you have and have not seen. In fact, it was only when somebody
40 recently suggested that you had been there that, I must say, I was labouring under the misapprehension that you had not been there on the ground at all.

45 I also went up there with Mr Whybrow, Mr Lucas-Smith and so forth about 10 days ago and went to quite a range of different areas. I

wonder if I could get some idea of those areas that you have been to, your Worship, because there is of course the area which Ms Arman has given evidence about. And if your Worship has been
5 there, you would be aware of the terrain there. There are a couple of other areas that might also be of benefit. Are you able to give me some indication?

10 THE CORONER: I will have information on the area that I visited provided to you. There is no difficulty in providing that, and I will do that.

MR PHILIP WALKER: Thank you.

15

THE CORONER: Yes, Mr Woodward.

<RE-EXAMINATION BY MR WOODWARD

MR WOODWARD: Q. You were asked some questions by
20 Mr Pike about the difficulties faced by the crews working overnight. I wanted to clarify: You, as I understand your evidence, didn't ask anyone present that night how they felt about working overnight; is that correct?

25 A. No. No, I didn't.

Q. In fact Mr Kane, you refer to this in your statement at paragraph 59, seemed quite keen to stay overnight, did he not, or at least suggested
30 someone might stay and monitor?

A. Yes. When I said that, he was making reference to leaving a light unit to ensure that the fire didn't cross Wombat Road.

35 Q. Did you have a view based on what he said as to his attitude to stay in overnight?

A. Well, certainly he indicated from that - I gather he would have been happy to have stayed.

40 Q. Just one other matter, you were asked some questions by Mr Walker about the dozer. I just wanted to check with you. In relation to that issue which you deal with among other places at question 323 of your taped record of conversation.

45 Again I won't take time to bring that up but, if you need it, please say so. You were asked:

47

5 "Q. Do you think that had you been provided with more resources on the morning of the 8th, sorry the morning of the 10th, more would have been able to be employed on the 10th".

10 "A. I think the critical thing was the handing over and probably the aerial recognisance at the beginning would have been helpful. There was a dozer supplied mid morning - sorry, a bit earlier than mid morning, but I didn't realise that that dozer was for our use when it was up at Bulls Head, first thing in the morning. So, and then, I mean I don't necessarily have the expertise to work out where a dozer can go in terms of terrain."

Just on that issue, have you worked with dozers before?

20 A. Not a lot. I have been a dozer chaser - someone that follows behind a dozer. I haven't actually utilised dozers on a fire ground. There hasn't been much opportunity for it at all.

25 Q. Do you think that consideration - namely, what you refer to there as "don't necessarily have expertise to work out where a dozer can go in terms of terrain" - may have been part of the reason or the reason why it didn't occur to you to suggest that on the night of the 8th to Mr Graham?

30 A. No. I think initially I thought we could deal with it with the resources I asked for.

MR WOODWARD: That is all I have, your Worship.

35 THE CORONER: Thank you, Ms Arman. You are excused. You are free to leave or you can stay, if you wish.

40 THE WITNESS: Thank you.

<THE WITNESS WITHDREW

MR WOODWARD: We have in the witness list Mr Galvin as the next witness. I understand his legal adviser is not available until the afternoon. We have two options: we could either

take an early lunch and call Mr Galvin after
lunch; or, alternatively, Mr Winter who was the
next witness is now available and we could spend
10 minutes with him. I am in your Worship's hands
5 about that.

THE CORONER: I am sure that if we do adjourn
early, people will be able to fill in productively
the 10 minutes or so that we have. We will
10 adjourn until 2 o'clock.

LUNCHEON ADJOURNMENT [12.50pm]

RESUMED [2.01pm]
15

MR MILDREN: Your Worship, can you see me?

THE CORONER: I can see you. Welcome.

20 MR MILDREN: Thank you. I seek leave to appear on
behalf of Mr Peter Galvin who I think is due to
give evidence this afternoon at this inquiry.

25 THE CORONER: There is no objection to that, is
there, Mr Woodward?

MR WOODWARD: No.

30 THE CORONER: That leave is granted, Mr Mildren.

MR WOODWARD: If Mr Galvin could be called.

<PETER GERARD GALVIN, SWORN

35 **<EXAMINATION-IN-CHIEF BY MR WOODWARD**

35

MR WOODWARD: Q. Is your full name Peter Gerard
Galvin?

A. That's right.

40 Q. What is your current professional address,
Mr Galvin?

A. RMB141 via Tharwa, Tidbinbilla Nature Reserve.

45 Q. Your occupation is shown in your statement the
manager for the Tidbinbilla Nature Reserve; is
that still your occupation?

A. Certainly, yes.

Q. For the purposes of this inquest you have provided a written statement which you signed and dated on 1 December 2003; is that correct?

A. That's right.

5

Q. Have you had an opportunity to read that statement before coming to court today?

A. Yes, I have.

10 Q. Are there any corrections or other matters you want to refer to in your statement?

A. There is a correction I would like to bring up, not with the statement but of the transcript of the AFP interview I had done.

15

Q. We will deal with the statement first. Are you satisfied that the statement is true and correct?

A. Yes.

20

Q. You have also participated in a taped record of conversation on the 11th of December 2003; is that correct?

A. Yes.

25

Q. There is some correction you want to make to the transcript of that record of conversation is that right?

A. Yes. Page 10 I think it is.

30

Q. Some of us, I should indicate, don't have page numbers and we have question numbers. If you could provide us with that.

35 THE CORONER: Some of us don't have question numbers or page numbers.

THE WITNESS: It is question 50.

40 MR WOODWARD: Q. This is in the context of a discussion about a threat to Canberra, as I understand it. You were asked whether anyone made a comment about a threat to the pine forest?

A. Yes, that's right. The transcript states

45 "Tony Bartlett" that is not correct. The person I spoke to was Tony Graham. It is just changing the name from "Bartlett" to "Graham".

Q. It is Mr Graham you thought who made reference to the threat to the pine plantation; is that correct?

5 A. It wasn't a threat - the content of what the discussion we were having was about Tony Graham mentioning to me that there was a significant threat to the Uriarra pine plantation or words to that effect. The correction here is "Tony Graham" not "Bartlett".

10

Q. We will return to that a little later on. Are there any other matters in that transcript that you want to correct?

A. No.

15

Q. Subject to that change, are you satisfied that that transcript is true and correct?

A. Yes.

20

Q. Just returning to your statement, Mr Galvin, you deal there with your current employment which you have just confirmed is as manager of the Tidbinbilla Nature Reserve. In that paragraph 5, you indicate that you have been a district manager with the Parks and Conservation Service for about three years and have worked within the organisation in a variety of roles since 1988 when you commenced work as a park ranger; is that correct?

25

30

A. That's right.

Q. Over the page commencing in paragraph 7 you refer to your experience as a firefighter which you say also began in 1988 with your employment as an ACT Parks and Conservation service ranger?

35

A. That's right.

Q. You say you are currently a group officer with the ACT Bushfire Service?

40

A. Yes.

Q. How long have you been in that role, Mr Galvin?

A. Since 1995 as a group officer.

45

Q. You talk then about the various obligations of a group officer. In paragraph 10 you refer to

recent experience in large fires, including the Canberra fires of 2001. Apart from that fire, Mr Galvin, had you been involved in large fires in the period between 1988 and 2001?

5 A. Yes. There was the Pierce's Creek fire. I am not sure of the year. It was early '90s.

Q. What was your role during that fire?

10 A. As a crew leader on that fire. There was another fire in the late '90s, I think it was, the Dingi-Dingi fire in Brindabella National Park. Again, I am not sure of the year. I was a night shift incident controller on that fire.

15 There were other fires in the ACT which you would call medium to large as opposed to large and complex such as the Billy-Billy Rocks fire. I was incident controller there for a couple of days. I was the incident controller in another fire a
20 couple of years ago at Rendezvous Creek. There are a few like that that I can't remember. And then numerous smaller type fires that you would class as small fires as incident controller and/or as a crew leader.

25

Q. You refer also in paragraph 7 that you can be appointed as a local incident controller and can also be utilised within any role within an Incident Management Team as part of the ICS. I
30 take it that in that period, Mr Galvin, you have had training in the incident control system; is that correct?

A. I was formally trained in the incident control system in the early '90s, again I am not sure of
35 the exact year. Since then I have done some incident controller training - it was either one or two years ago - that was conducted by Emergency Services Bureau.

40 Q. As part of that training or at any other time have you received training or a briefing in relation to the role of the Service Management Team within the ACT?

A. I don't think I've received training. I have
45 certainly received briefings and discussions to the effect of how the Service Management Team works, yes.

Q. What was the effect of how the Service Management Team worked according to those briefings?

5 A. The Service Management Team was a team that co-ordinates resources for the ACT as a whole and may be dealing with one or more fires in the ACT. It differed from a local Incident Management Team on the basis that that local Incident Management Team mostly would be dealing with a one fire
10 event.

Q. Did you have an understanding under the structure as it was explained to you as to what would be the constituent parts of the local
15 Incident Management Team?

A. The parts of a local Incident Management Team could comprise a logistical area, an operations area, a planning area and obviously the incident controller.
20

Q. So you could have, in effect, a full Incident Management Team operating in the field?

A. My understanding was you could in effect have that, yes.
25

Q. Before we leave that topic, what was your understanding as to what support particularly in the planning area would be provided by the Service Management Team to the Incident Management Team or
30 the incident controller in the field?

A. The Service Management Team was there to support what requests or resources that a local Incident Management Team might want or request and, if that included planning resources, then
35 those planning resources would be looked at by the Service Management Team to see if they could resource and/or provide it depending on what else was happening.

40 Q. Did you have an understanding as to whether or not the Service Management Team would actually be undertaking part of the planning role in Curtin?

A. My understanding was that the planning team in Curtin was undertaking the planning role mostly.
45 That didn't mean that there was no planning going on in the field. There was some planning going on depending on who the Incident Management Team was,

who it comprised, and what time availability that there was and what functions could be classed as planning functions in the field.

5 Q. Can you perhaps give some examples of what you understood would be the planning role that would be carried out in Curtin against that that might be carried out in the field?

10 A. The longer-term planning - my understanding of what I had seen was operating in Curtin and then what I found in the field, before I went into the field my observations were that there was long-term planning going on in Curtin looking at the weather predictions and looking at the
15 planning options for combating the fire. That information was being put through to the operations area.

20 My understanding was that a lot of that information would come to the people in the field to be able to be utilised in the field. And in some cases that was happening. But in other cases, I don't think all the information was coming to the field.

25

Q. You refer to longer-term planning in Curtin. Is that where the contrast lay between that and what was happening in the field; what sort of planning was happening in the field or intended to
30 be done?

A. In the field what was happening in relation to planning was looking at where some of the fallback positions could apply with the use of heavy equipment. That was also being done in Curtin.
35 So there was the need to communicate to make sure people were actually looking at that and tasks were being done. And when things were starting to go wrong, where blocks eventually burnt out that wasn't necessarily planned for, then there was
40 that planning function - a little bit of that was being done in the field but my understanding was that it was mostly being done back at Curtin.

45 Q. Again just before we get to the events commencing on the 8th, did you participate in any briefings or workshops in which the subject of the 2002/2003 fire season was discussed - what was

anticipated for that season?

A. I think so. I'm just trying to recall. There would have been a pre-season workshop, which is an annual pre-season workshop that I think I would
5 have been at, because I have been to most of them, but I am just not certain whether I was at the one prior to that season but I think I was.

Q. What was your understanding of what was
10 anticipated for the 2002-2003 fire season?

A. It was widely known leading up to that season that the 02-03 season was shaping up to be a fairly serious season based on the continual dry weather and the long-term weather forecasts.
15 Everybody throughout the area that I work in was well aware that we were facing a serious fire season from the beginning.

Q. Is it likely that that sort of information was
20 communicated at the sort of workshop that you referred to?

A. Yes.

Q. But you don't recall specifically?

A. No, I don't recall it specifically. I don't
25 recall the exact words that were used. But in those sorts of workshops Rick McRae outlines a long-term weather prediction which usually can be taken as, you know, the sort of season that we are
30 going to be facing.

Q. You start dealing with the events of the 8th
of January and following from paragraph 13 of your
statement. You say your involvement commenced on
35 the 8th of January 2003 and ceased on the 29th of January 2003. Your call sign for the season was Oscar 8. Just jumping to paragraph 15 where you refer to the response to lightning strikes and your general understanding of what response there
40 was, you say part way through paragraph 15:

"I recall from radio transmissions that the
initial assessment of the fires in the ACT by
the helicopter put them at a relatively small
45 size. It appeared to me that the fire of greatest concern was the McIntyre's fire, located in New South Wales, because it

initially made a very quick 'up hill run' and burnt a large area. Based on that rate of spread it was considered worthy of close attention."

5

Was that something just forming in your own mind, Mr Galvin, or was it a subject of discussion on the 8th?

A. No. That was what was forming in my own mind.

10

Q. What was the information that you had on the 8th that led you to forming that assessment?

A. The monitoring of the two-way radio communication led me to believe that the McIntyre fire was making a major uphill run, and I knew that a large area would be burnt with that uphill run and that it was going to obviously stop, to some extent, when it hit the top. It was a large area that would have been burning, and at that point I knew it was a much larger fire than the other fires.

15

Q. Did you have an understanding at that point as to roughly where it was located?

25

A. A rough location, yes.

Q. Just moving to the 9th of January, you deal with that commencing at paragraph 21. In paragraph 22 you say:

30

"About 10am on Thursday the 9th of January I received a call from operations at ESB asking that I attend a briefing that would advise on the intentions for the tasking of senior officers for the next few days. The meeting occurred at approximately 1100 hours. Tony Graham and Brian Murphy were also present at the meeting."

35

40 Can you remember who else was there, Mr Galvin?

A. Pretty sure it was only those two. There would have been perhaps other people in and out of the operations room in Curtin at the time that the discussion was occurring, but I'm not exactly sure who may have been coming in and out.

45

Q. So your best recollection was that it was

yourself, Mr Graham and Mr Murphy; is that correct?

A. That's right.

5 Q. In paragraph 23 you say:

10 "Major concerns outlined during the briefing including the McIntyre fire and that New South Wales was likely to ask the ACT for resources."

I am just trying to get a sense, Mr Galvin, was this something that you were just there receiving this information; is that how it was working?

15 A. Yes.

Q. Who was providing it to you in the main?

A. Tony Graham and Brian, but I think in the main it was Tony Graham.

20

Q. You go on:

25 I was advised that Neil Cooper was in Queanbeyan as a liaison officer because the McIntyre's Hut fire posed a significant threat to the ACT pine forests."

30 Pausing there, was that part of the briefing; that is, someone saying that McIntyre's fire posed a significant threat to the ACT pine forests?

A. I'm pretty sure they were the words used. If they weren't the words they were awfully close to those words, and that was Tony Graham.

35 Q. You say:

40 "The initial threat, in my view, was to Uriarra pine plantation, then obviously through to Canberra. I had no idea that there was a threat to Canberra on that day. I realised that there would be a lot of work required to contain these fires, but if things did get out of hand it was very obvious to me that the pines would be under significant threat and then the urban edge of Canberra."

47

During the course of this discussion, Mr Galvin,
were you referring to a map at all?

5 A. No. I wasn't. There may have been reference
to a map during the discussions that I had with
Brian and Tony at the time. Brian was off doing
things while we were having this discussion. It
was mostly Tony Graham that was providing a lot of
information to me. There would have been a
reference to a map at some point there, perhaps
10 indicating a more precise location of where these
fires were, if I remember rightly.

Q. You were there focusing on the McIntyre's
fire, as I understand it. Do you have a memory of
15 Mr Graham or Mr Murphy talking to you by reference
to a map as to where the McIntyre's fire was
relative to the Uriarra pine plantation?

A. No. I can't recall that specific information.

20 Q. What is your memory of what, if anything, was
being discussed about the relative position of
each of those - the fire on the one hand and the
pine plantation on the other?

A. I don't think - if I can recall - I don't
25 recall completely. I don't think there was a lot
of discussion surrounding the McIntyre's fire and
the threat that it posed to the Uriarra pine
plantation. Those words were made, they were the
comments that were made to me and then we moved on
30 to other things. I agreed with the comment that
the McIntyre's fire posed a significant threat to
the Uriarra pine plantation.

Q. I appreciate that obviously you didn't go into
35 this much detail as you were putting this
statement together or preparing this statement,
but as I understand what you are saying, the words
that are in the second sentence "McIntyre's Hut
fire posed a significant threat to the ACT pine
40 forests" stopping there - those are the words you
recall Mr Graham using; is that correct?

A. Yes.

Q. What follows, am I right to understand, are
45 those - as you say in your view - conclusions that
you drew from that information?

A. Yes. The following sentences are my own views

in relation to that event that took place with those discussions.

5 Q. Just trying to understand, you say:

"The initial threat, in my view, was to the Uriarra pine plantation and then obviously through to Canberra. I had no idea there was a threat to Canberra on that day."

10

Then you go on to refer to the threat to the urban edge of Canberra. Do I understand you to be saying there that you didn't see the threat being a threat that day or have I misunderstood that?

15

A. No. That's right. On that particular day I did not believe that there was a threat to the Canberra urban area. But I had a thought of mine in the back of my mind that if things did get out of hand then, yes, the Uriarra pine plantation was going to be the first thing under threat and then it was possible that the fire could have burnt through to the urban edge. That's what I'm trying to say with that sentence.

20

25

Q. That was a thought in your mind on the 9th, was it?

A. Whatever day that was. I just can't remember.

Q. The morning of the 9th?

30

A. Yes.

Q. You have used in your statement and you have said again, "If things did get out of hand," what sort of things are you referring to there?

35

A. Well, if the fire was going to be unstoppable, I guess is what I am really referring to.

Q. Well, were you referring, among other things, to weather?

40

A. Yes, definitely. Factors such as weather has a significant part to play in controlling a fire, yes.

Q. At that stage did you have an understanding of what the forecast weather conditions were?

45

A. No.

47

Q. Perhaps I should just go back. When you say things did get out of hand, is it fair to say that one of the factors that you had in your mind then was presumably extreme weather conditions as a thing getting out of hand; is that the sort of thing you were considering?

A. It would have been a consideration. But to what extent it is difficult for me to say at the moment because this was just a passing thought that I had, had things got out of hand. But I also had a very reasonable level of confidence that we were going to be able to control these fires at this particular point. That included the McIntyre's fire, although that wasn't the direct responsibility of the ACT. It was the New South Wales responsibility. I still had a reasonable level of confidence that those fires were going to be ultimately controlled at that point.

Q. Do you have or did you generally have an understanding of common weather patterns during the summer in Canberra?

A. Yes.

Q. What are they; what is that understanding?

A. Predominantly north-west winds that can shift to the south-east later on in the afternoons.

Q. Was there, in your mind at least, a regular cycle that involved the move to a north-west wind flow?

A. That particular afternoon I'm not sure what the winds were doing. I think they were probably a south-easterly wind on that particular day. Whether I had thought about the winds, that must have been a consideration for what I was commenting on at the time, having the north-westerly influence. It wasn't there at the moment, but I would now say that it must have helped in influencing me somewhat along the lines in terms of the winds returning to the north-west. I think it was obvious that it was going to happen at some stage.

Q. Do you have a view as to what sort of time frame one could expect that to occur generally to the extent that there is a pattern?

A. I didn't know when - I hadn't spoken to anybody at that point about what the weather was doing. At that particular stage I had no idea what the weather was up to other than the fact
5 that I must have been told the weather that day, but I had no understanding of what was happening in the next few days weather-wise.

Q. But your expectation, as I understand your
10 earlier answer, was that a shift back to the north-westerly air flow was going to happen at some stage?

A. I would have been of an understanding that that would have happened at some stage, yes.
15

Q. I think you have dealt with this at question 48 and following in your taped record of conversation, but it is the case, as I understand it, that that view that formed in your mind, you
20 don't recall expressing that during the meeting that morning?

A. No. I did not express that view to anybody.

Q. Just before we leave it, and so we are clear,
25 the final sentence of that passage that I read to you:

"... a lot of work required to contain these fires - you have elaborated on that by saying
30 you hoped that would achieve containment - if things did get out of hand it was very obvious to me that the pines would be under significant threat and then the urban edge of Canberra."
35

Do your words "very obvious" - obviously subject to the qualification "get out of hand" - does that apply both to the threat to the pines and to the urban edge?

A. No. That whole comment that I have got there applied mostly to the Uriarra pine plantation.
40

Q. So how obvious do you think it was that, if things got out of hand, there may be a threat to
45 the urban edge of Canberra?

A. I thought it was a very remote possibility at that point and I was just trying to make the point

here that it crossed my mind.

Q. You talk about the remainder of the day you assisted Brian Murphy and Tony Graham in the operations area at Curtin. There were numerous tasks undertaken including answering phones and taking sitreps from the field. I wanted to ask you about a couple of documents which I think are signed by you in that context, but we will perhaps just check. The first one is [AFP.AFP.0003.0387]. That is a document that should come up on your screen in a moment. This is a message form to Parks 7 from it looks like Oscar 8, which was your call sign, on 9 January at 1200. Do you see that there?

A. Yes.

Q. If you could just go down to the bottom, is that your signature at the bottom?

A. Yes.

Q. Is this an example of the sort of task you were undertaking, as referred to in your statement, on the 9th of taking sitreps from the field and sending messages or passing on messages; that kind of thing; is that correct?

A. Yes.

Q. Similarly, document [ESB.AFP.0110.0725]. It is an AIIMS form situation report for the 9th of January for Gingera, date prepared 9 January 03, time prepared 1745. Again, is that in your handwriting, Mr Galvin?

A. It looks like it.

Q. You have put in details of your understanding of the Incident Management Team. Those individuals were based at Curtin at that stage; is that correct? That is PLS --

A. Yes.

Q. Presumably Mr Lucas-Smith, Mr McRae?

A. Yes, yes.

Q. Which Incident Management Team are you identifying there, Mr Galvin?

A. That would have been identifying the Service

Management Team.

5 Q. Did you understand that there was an Incident Management Team established for Gingera at that time?

10 A. I knew that we had responded to the people that was mentioned in that last document. I'm not sure how many units it was, but Parks 7 to assess the suitability of tanker access to the Gingera fire and report back.

Q. Just --

15 A. I didn't know whether - my understanding would be I don't think an Incident Management Team was established at that point.

20 Q. Just quickly checking the bottom of that page, you have got "control objective - water bombing to contain ASAP supported by ground crews". Is that your signature?

A. Yes.

25 Q. With that control objective, is that something that you are simply recording from something someone else has said or are you setting that objective in writing it down there?

30 A. I'm not sure whether it was something I was putting down as an objective or whether I was just trying to record the situation at that point. I think it was more along the lines of recording what was actually happening at that point as opposed to a control objective.

35 Q. Well, did you have any role during that day in actually setting objectives?

40 A. No. It was quite clear that Tony Graham was the operations officer. I was there just assisting where I could. I can remember talking to him about putting down some of this information on these sorts of forms to make sure things are recorded. But in terms of setting the objectives, the only objective that I can recall setting, if you like, was asking the Parks people from Tidbinbilla to attend the Gingera fire to assess
45 the suitability for access and report back on that suitability.

47

Q. So to the extent that you were recording there the control objective, where was that; who was giving you that information?

5 A. I'm not certain. As I said a minute ago, I think I was just trying to record exactly what was happening at the time.

Q. Was that based on information from various sources perhaps?

10 A. It probably would have been. I'm not sure whether it was based on information back from people in the field at that point and information from people like Tony Graham. It could have been a combination of both.

15 Q. Just again the same sort of question about this next document which is [ESB.AFP.0110.0726]. It is another situation report this time for Bendora. It has the same Incident Management Team
20 there listed. If we just scroll down the page we will see resources allocated. Then further down your signature again and the control objective is recorded as:

25 "Crews withdrawing. Fire broken containment lines. Active fire left unattended".

What do you say about that? Is that again something that you have recorded from information
30 someone else has given to you?

A. Pretty well much so, yes. I believe that was the case.

35 Q. Do you recall where that information came from?

A. Again, it could have come from the incident controller or somebody in the field and/or Tony Graham. I'm not exactly sure.

40 Q. Were you part of any discussion at about that time, Mr Galvin, about whether those crews that were then withdrawing should be replaced?

45 A. No. I wasn't part of any discussion about replacing crews, no, not that I can recall. I may have been there but I can't remember being part of any discussion to make that decision.

47

Q. Do you recall any discussion in respect of any of the fires about overnight crews on the 9th?

A. No. I can't recall any discussions specifically about overnight crews.

5

Q. Mr Galvin, you then deal with the period from the 10th in your statement at paragraph 24, 10-12 January. You say in paragraph 25:

10 "At around 1500 hours ... I relieved Neil
Cooper as liaison officer with New South
Wales, located in Queanbeyan. I was to
report liaison information directly to
Mr Peter Lucas-Smith, the Service Management
15 Team incident controller at ESB."

At the end of that you talk about the manner of communication. Then you say at the end of the paragraph:

20

"My role at Queanbeyan included meeting with the McIntyre fire IMT twice a day and providing information concerning ACT activities."

25

Later on, Mr Galvin, you say you were relieved by Mr Corrigan on the 12th. About how many IMT meetings between 1500 on the 10th and when you were relieved by Mr Corrigan on the 12th of
30 January did you attend?

30

A. Saturday morning, pretty sure it was also Saturday afternoon and it would have been Sunday morning as well. So I mean they were timed for one in the morning, one in the afternoon. So I would have been there - actually I was there on the Friday night as well, but it wasn't a really formalised meeting because there was just a lot of debate and a lot of discussion with a lot of people. There was also a different location.
35 There was a shift of locations on that Friday night, but I'm pretty sure it was three meetings.

35

40

Q. Just to clarify when you say one in the morning and one in the afternoon, you meant one meeting in the morning and one meeting in the afternoon?

45

A. Yes. I am not sure of the exact time. I

think they may have been at 9 o'clock and
4 o'clock.

5 Q. As I understand your evidence, you attended
those meetings and then would report back to
Mr Lucas-Smith, if he was available, the
information that you picked up from those
meetings; is that how it worked?

10 A. I was talking to Tony Graham prior to the
meetings to gain an appreciation of what was
happening at the fires in the ACT at that time so
I could report that to the meetings.

15 Q. So you could report that to the Queanbeyan
meetings?

20 A. Yes, to the McIntyre's Hut IMT meeting. I was
talking more to Tony Graham than Peter Lucas-Smith
but I did have a couple of conversations with him.
I just don't recall the details at the moment.
But I was gaining most of my information from Tony
Graham rather than Peter.

25 Q. Just moving forward to the 12th, you say you
were relieved by Mr Corrigan. When you returned
to ESB - paragraph 29 of your statement - you were
advised that you were to be the incident
controller for the Bendora fire for Monday the
13th of January:

30 "My instruction for Monday was to continue
back-burning with containment lines that had
been established. The instructions were
provided verbally. I was not handed an
incident action plan or any other operational
35 instruction/plan. I was given limited
information (which I cannot recall) before
attending the fire. I had to gather maps and
other resources myself from Curtin and spoke
to some people in the planning area to gain a
40 better appreciation of the situation. I did
not gain a good picture of the situation
until after the handover from Brian Murphy on
the fire ground early Monday morning."

45 You say earlier on that you weren't handed an
incident action plan. Did you expect to be handed
one?

A. No, I didn't necessarily expect to be handed one.

5 Q. Were you expecting to get, in a broader sense, more information than you did on that afternoon/evening about what you were expected to do the following day?

10 A. No. I wasn't necessarily expecting to get any more information - sorry, any more documents, if you like, than what I did. I was expecting to probably get a little bit more information from Tony Graham, but it was only a very brief conversation that I had with him.

15 But I also knew that I would get a comprehensive briefing the next morning so I wasn't too concerned. I am always one to spend a couple of hours gaining a lot of information from Curtin before I attend these fires under these situations
20 just so that I can satisfy myself that I've got as much information that I can get.

Q. You then deal with your arrival on the 13th in paragraph 30 and following and you refer to the
25 handover that you got from Brian Murphy. Just dropping down to paragraph 32 where you are describing how things were progressing, you say:

30 "Trying to contain this fire was proving difficult. Over the following days we just had to keep pulling back from line to line. The fire trail network, with its numerous twists and turns and inconsistent width ...
35 combined with dry conditions, hindered most back-burning operations. It was very easy for fires to spot over and turn into another fire, resulting in breaks in the containment lines that were being applied. As each
40 containment line didn't work we had to then pull back to the next lot of containment lines."

When you say "the following days" at the start of that paragraph, which days are you referring to?

45 A. The days following that particular day, which is January the 13th. And over the next two days, for example, when I was there as incident

controller on Wednesday the 15th, the fire had grown in size.

5 Q. So that was a reflection of the general experience you were having over those periods where you were the incident controller, being on the 13th and then again on the 15th; is that right?

10 A. Yes. I was just making an observation myself that, over those couple of days, we had to keep pulling back from line to line based on losing some back-burning attempts.

15 Q. You say in paragraph 36 that you had a rest on Tuesday the 14th and returned to work on the 15th, where again you were the incident controller for Bendora. You say in paragraph 37:

20 "I was given limited information and had to gather resources, lists and maps myself. I was not given a written action plan and obtained most of my information from talking to people in the planning section on Tuesday afternoon and the handover on Wednesday
25 morning at Bulls Head. I think the handover was from Brian Murphy. On this day I operated more out of a tent set up at Bulls Head and had an assistant as a scribe. There is a formal log of events recorded on that
30 day. My instructions for that day were again to continue back-burning to establish containment lines."

35 Perhaps if I could ask the same question again about your comment in respect to the 15th: Were you expecting to be given a written action plan in relation to your work proposed for the 15th?

40 A. I was expecting to probably gain some more information on the 15th, given that the fires had been operating for a week or so by then, but it was just basically the same information that I got two days previous. But I mean there was only the two-day gap. There was a noticeable difference to me from the way things were being organised on the
45 Wednesday to the Monday - i.e. the tent arrangement and fact that things were flowing a lot more freely than what they were two days

previously.

Q. Flowing between?

5 A. The communication on the ground and the people up at the staging area seemed to have things much better organised.

10 Q. Do you think that the sort of factors that you referred to there created any delays or other difficulties for you in starting work on the morning of the 15th?

15 A. I don't think there were many delays at all on the morning of the 15th; I think there was probably more delays on the Monday, if there were delays. I'm not sure that there were delays. Radio transcripts would have to probably provide that information.

20 Q. But your sense was that things were working more efficiently by the 15th?

A. Yes. My observations were that things were working more efficiently by the 15th.

25 Q. In your next few paragraphs you discuss what you were attempting to do during that day, what you were doing. In paragraph 41 you say:

30 "On the evening of the 15th of January 2003, the Bendora fire required mostly monitoring of hot spots, as we had several lines that were holding. There was still a lot of active fire within the perimeter and it was clearly acknowledged and recognised that changes in wind speed and direction could
35 cause this fire to break its containment lines easily."

When you say "it was clearly acknowledged", was that something that was discussed?

40 A. I think it may have been discussed between myself and others in the field on the fire site. I'm not sure whether it was discussed with Tony Graham as the operations officer back in Curtin. I think I might have had a conversation with him
45 along those lines but I'm not certain.

Q. Does that paragraph set out the substance of

those discussions that you referred to; namely, that with a change in wind speed and direction, the fire could break its containment lines easily?

5 A. Again, that's my thought processes in relation to how things were at the time. I was very conscious of the fact that we had winds that were unusual from the south-easterly direction. And I was conscious that again the winds would change back to the north-west at some point. So whilst
10 we were experiencing that weather pattern, things were fairly well okay. But I think I also go on to say that I was unaware of what was being predicted over the next few days.

15 Q. I was about to ask you, at that point - namely at the end of the 15th of January - did you have an understanding then of what weather was being forecast over the next four days?

20 A. I can't recall having any thoughts about what the weather was doing until Thursday afternoon. But I may have listened to a weather forecast that was put out over the two-way radios on the Wednesday afternoon. I just can't remember.

25 If I had listened to that radio forecast on the Wednesday, that may have given an indication of some changing weather patterns over the next few days but I'm just not certain.

30 Q. I suppose this question may be redundant then, but do you recall an understanding of what the weather might be doing in the next few days being a factor that led you to form that view in your mind about containment lines being easy to break?

35 A. No. I just had a thought afterwards that, if the weather pattern did change, then it was possible that those lines could be breached.

40 Q. Well, you deal, I think, with that in the following two paragraphs when you deal with the 16th. Paragraph 43 you say:

"There was considerable debate from a group comprising Arthur Sayer, Nick Gilles" --

45 Could that be Mr Gellie?

A. Yeah. Probably got the name spelt wrong or

pronounced wrong or something.

Q. You continue:

5 -- Tony Graham (I think), Tony Bartlett
(I think) myself and others I cannot recall
on what back-burning activity should be
undertaken at this time. We were very
concerned about back-burning as we were being
10 advised of a change of weather."

Now, where was that debate occurring, Mr Galvin?

A. That was at Curtin on the Thursday afternoon.

15 Q. When you say, "We were being advised of a
change of weather" how was that advice being
provided?

A. Well, everybody that was part of those
discussions was well aware of that changing
20 weather pattern. I, myself, found it out just
prior to those discussions because I had only just
arrived a short while before those discussions to
the Emergency Services Bureau at Curtin and I'm
not sure who gave me that information. But it
25 would have been somebody in the planning area that
I would have got that information from. But
everybody that was talking at that particular
point were well aware that there was some
predictions that saw the weather changing.

30

Q. You say:

"However, it was a two-edge sword because we
were also worried about not burning, which
35 meant not taking any action. (It was a bit
like damned if you do and damned if you
don't). The winds were expected to swing
around to the north-west and increase
somewhat on Friday. The weather outlook for
40 both Friday and Saturday at this stage was
not looking good because winds were expected
to increase and swing around to the
north-west. Temperature was to rise and RH -
that is relative humidity?

45 A. Yes.

Q. "was to reduce". Then you talk about

discussing containment lines. Was there a discussion of any other threats as you recall, Mr Galvin, as part of that debate?

A. Any other threats, no.

5

Q. So the purpose of the debate, was it to identify the proposed containment lines as you understood it?

A. Yes.

10

Q. When I ask about other threats I will be more specific - do you recall any reference to the threats that you had seen as a possibility, albeit remote, on the 9th; namely, to the urban edge of Canberra?

15

A. I can't recall any discussion around the urban edge of Canberra with those discussions.

Q. By this stage you understood the forecast or weather outlook for Friday and Saturday were winds to the north-west and a reducing in relative humidity. Had that affected your own thinking at that stage about the risks that you had first identified on the 9th?

20

A. No. At that point we were talking about what actions we were proposing to undertake to Stockyard fire. I was focused solely on the Stockyard fire. Something happening to the urban edge of Canberra at that point in my mind wasn't there. There was nothing there in relation to anything about the urban edge.

25

30

Q. Relative to Stockyard or generally?

A. Just generally.

35

Q. Sorry, I am just re-reading your answer. You said:

40

"Something happening to the urban edge of Canberra at that point in my mind wasn't there."

So as I understand it, are you saying that at that stage you weren't considering a threat to the urban edge?

45

A. No, I wasn't. Sorry, I was just trying to answer your question, and perhaps I might need to

hear that again.

Q. Perhaps I can ask you this first: you say you were focusing on the Stockyard Fire and that was your primary focus at that particular discussion. Is that right? Was there any discussion of the other fires as you recall it?

A. Not that I recall, no.

Q. Were you giving any consideration at about that time yourself to the McIntyre's fire?

A. No. My recollection of those discussions was purely to do with the Stockyard fire. And the main reason I was there was because I was appointed as incident controller the next day, and Arthur was there because he was going in that night to do these burns. So him and I were making sure that we were having some good communication about what he intended to do on the basis that I would relieve him in the morning.

Q. Going back to the question I asked you earlier about identifying a threat to the urban edge of Canberra, what was in your mind at that time about that threat?

A. Nothing. Nothing was in my mind. I can't recall anything about any threat to Canberra.

Q. Do you recall that changing at any stage between then and the 18th, Mr Galvin?

A. Between then and the 18th, I can't recall having a particular concern about the urban edge. However, I had some concerns on the basis that anything could happen. I think I made that statement somewhere. I'm just not sure where. But it was a general thought that I had that, once I knew that the weather was changing on that Thursday, my own thought patterns were "well anything can happen here".

Q. Perhaps consistently with that, Mr Galvin, in paragraph 47 of your statement where you are dealing with events leading up to events on the 17th, you say in the last part of that paragraph:

"I had visions that a large area on the eastern side of Corin Dam would now be well

and truly alight. At the same time I recall hearing on radio that it was believed that the Broken Cart Fire was intensifying."

5 What was in your mind at that stage about threats, including the potential threat to the urban area?

A. Again, in my own mind I was only thinking about a general threat to the ACT in visions of a large landscape fire that we had never
10 experienced - well, not in my time anyway - a large landscape fire that hadn't been in the ACT for a long while. I had no specific thoughts about a threat to the urban edge.

15 Q. Just finally, Mr Galvin, in paragraph 54 where you are dealing with the evening of the 17th, at the end of that paragraph you say:

"It was my understanding that overnight at
20 Curtin there was only an operations officer on duty. There was no incident controller, nobody in planning and, to the best of my knowledge, nobody in logistics overnight. This surprised me given the situation we were
25 in and the need to organise crews, equipment et cetera for what was expected on the Saturday."

That may be self-explanatory, Mr Galvin, but could
30 you elaborate on why it was surprising there was no-one in those roles on the night of the 17th?

A. That information came to me at around about 7pm in the evening when I made a phone call to the operations area in Curtin, and the person that
35 answered the phone was Brian Murphy. I'm pretty sure I asked him who was there with him in the operations area, and he said no-one, he was there by himself. I am not certain here but I think he also said that there was nobody also in logistics
40 and there was nobody also in planning, although somebody had been delegated a night-time operations officer role. I think that was Dave Jamieson. All this information that I'm saying there came to me via Brian in a phone call.

45 Since then - I am not sure where this information come from - I think I found out from someone or

somehow since then that perhaps the reason nobody was in these areas was that they were in a meeting somewhere. Those people might have been in a meeting at that particular point in time.

5

But that still didn't negate the fact, if I've got it right, that there was only an operations officer in Curtin during that night. When the other people went home, I don't know. But to me, at 7pm out in the field, I thought that there was a serious situation going on. There was the fire on the eastern side of Corin Dam. At that stage if the fire hadn't burnt up and over the Tidbinbilla Range, it was very close to being up and over the Tidbinbilla Range.

I heard earlier in the afternoon that the McIntyre's fire had broken its containment lines and there were numerous spot fires towards the pine plantations. To me, it was a serious situation at that point, and I was just surprised that there wasn't more people in Curtin looking at the situation as it was at that point and what resources we would need for the following day and what plan might be devised for the following day.

Q. Was that surprise contributed to by what you understood to be the anticipated weather for the Saturday?

A. Yes. That was part of it because the weather for Saturday, if I can remember, was similar to what it was on the Friday. The predictions for Saturday were going to be similar to what it was on the Friday.

35

MR WOODWARD: Thank you, Mr Galvin. I have nothing further. Thank you, your Worship.

THE CORONER: I just note the time. We might just take a brief adjournment.

40

SHORT ADJOURNMENT

[3.00pm]

RESUMED

[3.08pm]

45

THE CORONER: Mr Lakatos, do you have any questions?

MR LAKATOS: Yes, very briefly.

<CROSS-EXAMINATION BY MR LAKATOS

MR LAKATOS: Q. Counsel assisting directed some
5 questions to you concerning comments in your
statement pertaining to the 12th of January and
the 15th of January concerning a lack of incident
action plans on each of those two occasions. Do
you recall that general topic?

10 A. Yes.

Q. Your evidence in relation to the 12th of
January - paragraph 29 of your statement - was
that you did not expect to be handed a written
15 incident action plan; do you recall the evidence
you gave in that regard?

A. Yes.

Q. And indeed, would it be fair to say that the
20 lack of such a plan did not significantly hinder
your activities as incident controller on that
particular day?

A. That's right. It didn't hinder my task.

25 Q. In fact, it would be fair to say, I think, as
a fire ramps up and goes for a longer period of
time, the usefulness of an incident action plan
becomes more and more apparent, does it not?

30 A. The incident action plan that I think we are
referring to, which is a comprehensive multi paged
document, yes.

Q. So in the early stages, I guess the 12th of
35 January is four days into the Bendora fire, the
lack of such a plan because the event was
comparatively new was again not quite as important
as it might have been on later days?

40 A. No, I think it was still an important document
and still would have been a useful document at
that point because of the amount of information
that that sort of document has contained within
it.

45 Q. Going then to the 15th of January, I think
your evidence was when asked the question by
Mr Woodward, "Were you expecting a written
incident action plan" your answer was, "I was

expecting to gain more information," and then you went on to explain that statement. Is that correct?

A. Yes.

5

Q. In fact, you did gain that information, did you not, by a briefing that you had with the outgoing incident controller?

A. Yes.

10

Q. Were your activities as the incident controller on the 15th of January significantly impacted by the lack of a written incident action plan?

15

A. No. Again it didn't hinder the operations for that day.

Q. Would it be fair to say, perhaps by way of summary, the comments that you noted in various parts of your statement were simply thoughts that you had as to how the system might be improved in the future to make sure that things go more smoothly?

20

A. Certainly, in summary, yes.

25

MR LAKATOS: Thank you, your Worship. I have nothing further.

THE CORONER: Thank you, Mr Lakatos. Yes, Mr Pike.

30

MR PIKE: Very briefly.

<CROSS-EXAMINATION BY MR PIKE

MR PIKE: Q. You recall being asked some questions about the evening of the 17th, and I think the effect of your evidence was that you received third-hand or from somebody else the suggestion that there was nobody at the SMT in fact on duty at Curtin at about 7pm on that night?

35

A. Yes.

Q. Do you recall those questions?

A. Yes.

40

Q. Obviously you weren't in a position yourself to assess the accuracy of that statement and the

information that you had been given that there was no-one there?

A. No.

5 Q. So, for example, if Mr Ingram was off organising logistics in the field and if other members of the SMT were at an important planning meetings all contactable with pagers and mobile phones, that would have been information unknown
10 to you at that time?

A. That's right.

Q. In the circumstances of the events transpiring on the 17th, you would not be at all surprised if
15 that in fact was the case?

A. Yes. I don't know why I got that response and I could even be wrong with the words that were used for Brian. But I had an assumption that there was no-one else around at that particular
20 point. The reasons why, I don't know.

MR PIKE: Thank you.

THE CORONER: Thank you, Mr Pike. Yes,
25 Mr Whybrow.

<CROSS-EXAMINATION BY MR WHYBROW

MR WHYBROW: Q. You were speaking to Mr Murphy who was operating in the operations room at that
30 time; was he not?

A. He was in the operations room when I rang because I'm pretty sure he answered the phone, yes.

35 Q. Your recollection is he suggested something along the lines of "there's no-one around at the moment"?

A. I don't know if the words "at the moment" were used. There were certainly words to suggest there
40 was no-one there at that particular point other than himself. Actually the only other people who would have been in the room of course would have been the radio operators.

45 Q. You have known Mr Murphy for some time; is that correct?

A. Yes.

Q. You are familiar with his sometimes flippant sense of humour?

A. Everybody has a sense of humour. I am aware of Brian's sense of humour, yes.

5

Q. You understand - I think you did in your evidence indicate that subsequently you believe a lot of people you may have expected to be there may well have been in meetings at the time, things of that nature?

10

A. Yes, I recall somebody saying something to me along those lines. Either one or more of those people were at a meeting at that particular point because a couple of hours after that time I think I have seen something to indicate to me that, for example, Tony Graham I think was in the operations room at 8 or 9 o'clock or something that night. It was just at that point there was nobody there.

15

20 However, having said that, I'm still led to believe that there was only one person overnight in Curtin later on that evening, if you like, who was an operations officer. But then again I might be wrong there.

25

Q. If the other evidence were to suggest that members of the Incident Management Team and personnel at ESB were there up until perhaps later than 11pm that night, and including the time that you called in at about 7, you wouldn't necessarily disagree with that?

30

A. I wouldn't disagree with that, no.

MR WHYBROW: Thank you, your Worship.

35

THE CORONER: Yes, Mr Walker.

<CROSS-EXAMINATION BY MR PHILIP WALKER

MR PHILIP WALKER: Q. The same sort of subject, Mr Galvin. Firstly, did you have any discussion with counsel assisting the coroner in relation to that paragraph of your statement where you mentioned that you made a call to ESB and you were told there was no-one there?

40

A. I haven't had any discussion with anyone over that, I don't think, other than my counsel.

45

47

Q. Mr Mildren?

A. Yes.

Q. Just on that, if I put it to you
5 Mr Lucas-Smith finished at about 2300 on the 17th,
you wouldn't disagree with that?

A. I wouldn't disagree with that.

Q. These facts have not been put to you:
10 Mr Graham finished at 2305 on Friday the 17th and
recommenced at 0550 on Saturday. You wouldn't
disagree with any of that?

A. I wouldn't disagree with that.

15 Q. Mr Ingram was moving people from the Orroral
Valley to North Curtin Oval, are you aware of
that?

A. No --

20 Q. I am not criticising you, Mr Galvin, you must
understand?

A. No, I wasn't aware of that.

Q. On the Friday night there were a range of
25 people who were manning the telephones at the
Emergency Services Bureau alerting rural lessees
about the dangers of fire; you weren't aware of
that either?

A. No.

30 Q. None of those things were put to you when you
were led in chief. I take it you would be very
uncertain about there having been nobody at ESB on
that Friday night if that was the evidence of
35 other people?

A. No. That's fine. I have no problem with
that.

40 Q. The other thing is that the Emergency Services
Bureau is a building of a type where it is very
compartmentalised; isn't it?

A. Yes.

45 Q. If, for example, there was a meeting
organising publicity to rural landholders, that
could very easily occur in one part of the
building in almost complete isolation from

somebody in another part of the building?

A. Yes.

Q. Just one other matter, Mr Galvin, you mention
5 at paragraph 54 there was no incident controller.
I understand Mr Murphy's evidence to be that he
took over as incident controller from you; is that
your recollection?

10 THE CORONER: On what day, Mr Walker.

MR PHILIP WALKER: On the evening of Friday the
17th.

15 Q. Maybe I have got something wrong, but
Mr Murphy says in his statement under the heading
"the 17th of January 2003":

20 "On Friday I arrived at Curtin at about 11am
in the morning and helped the operations
officer, Tony Graham. I was tasked to be the
IC at Tidbinbilla Nature Reserve to take over
from Peter Galvin for the evening."

25 Does that ring any bells with you, Mr Galvin?

A. Only in the sense that the conversation I had
with Brian Murphy later that night was along the
lines that nobody had been organised to relieve me
and, between him and I, we agreed that he would
30 come out to Tidbinbilla and relieve me.

Q. In any event, that happened?

A. Brian Murphy relieved me at Tidbinbilla, yes.

35 MR PHILIP WALKER: I have nothing further.

THE CORONER: Mr Craddock?

MR CRADDOCK: No, thank you.

40

THE CORONER: Mr Watts?

MR WATTS: Yes, thank you.

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

45

MR WATTS: Q. I want to ask you a couple of
questions about the 10th of January when you went

to Queanbeyan. Do you recall that?

A. Yes.

5 Q. In paragraph 25 of your statement you tell us that you went there at about 1500 hours.

A. Yes.

10 Q. And I think you took over from Mr Neil Cooper?

A. Yes.

15 Q. When you arrived Mr Cooper briefed you, did he not, about what was going on?

A. Yes.

20 Q. He told you that there was a debate occurring about the back-burning at McIntyre's Hut fire and when it should commence?

A. No. That debate that I mention in my statement took place after Neil had left. I'm pretty sure Neil wasn't part of that debate.

25 Q. He suggested to you, I put it to you, that there was a debate and that he was encountering some resistance about the early commencement of that back-burning?

A. That would have been an earlier debate that probably I wasn't part of.

30 Q. What I am asking is when he briefed you at the handover he has told you that he had been expressing a strong view that an early commencement should be made on the back-burning?

A. Yes, he expressed that to me. He informed me of that, yes.

35

Q. He did express the view to you, did he not, that he was concerned about the delay commencing that back-burning?

A. Yes, he did.

40

Q. He told you that he was strongly of the view that there was a risk that the fire might get into the Uriarra Forest?

45 A. I can't remember that but I'll take that to be the case, yes.

Q. That was your view at the time as well, that

there was a significant risk?

A. Yes.

5 Q. That unless something was done at an early stage to try and contain the McIntyre's Hut fire, it could get into Uriarra?

A. Yes.

10 Q. Were you aware of the nature of the commitment that was made by the ACT to New South Wales for the provision of resources to attend to the McIntyre's Hut fire?

15 A. I'm not sure if I was aware of it before attending Queanbeyan. If not, I was aware of it through Neil.

Q. Did you understand the commitment was that resources and a crew would be made available for a period of 24 hours?

20 A. From first thing Saturday for a period of 24 hours. That's what I was informed, yes.

MR WATTS: Thank you.

25 THE CORONER: Thank you, Mr Watts. Mr Mildren?

MR MILDREN: I have nothing arising.

30 THE CORONER: Mr Woodward.

<RE-EXAMINATION BY MR WOODWARD

35 MR WOODWARD: Q. You were asked some questions about paragraph 54 of your statement and your evidence where you explained in a little more detail your surprise. It has been put to you a number of people were there until late on Friday night.

40 MR PIKE: I object. That hasn't been put. What has been put is that those people did not finish work until late that night. I don't think it was ever suggested by any of my learned friends, or indeed myself, that all the people who worked until 11pm that night were necessarily there.

45 THE CORONER: I don't understand that, Mr Pike. You are saying, for example, Mr Ingram could have

been arranging or was out working but not within the building; is that correct?

5 MR PIKE: Mr Ingram, we know where he was. I am only saying it was never actually said by any of my friends or myself that the people who were working until 11 were physically present all at that time at Curtin.

10 MR WOODWARD: I am content with that. I will go to the question I wanted to ask.

Q. If in fact the evidence was that, as I read your paragraph 54, there was no incident controller, nobody in planning, nobody in logistics overnight - that is in a true night shift - would you stand by your comments about being surprised by that fact?

15 A. Yes. In a true night shift.

20

MR WOODWARD: Thank you. I have nothing further your Worship.

25 THE CORONER: Thank you, Mr Woodward. Thank you Mr Galvin. You are free to leave, if you wish.

<THE WITNESS WITHDREW.

30 MR WOODWARD: Could we call Mr Andrew Winter.

30

THE CORONER: You are excused as well, Mr Mildren, if you wish to leave.

35 MR MILDREN: Thank you, your Worship.

35

<ANDREW EDWARD WINTER, SWORN

<EXAMINATION-IN-CHIEF BY MR WOODWARD

40 MR WOODWARD: Q. Your full name is Andrew Edward Winter?

A. That's correct, yes.

Q. What is your current professional address?

45

A. 25 Blaxland Crescent, Griffith in the ACT.

Q. Mr Winter, for the purposes of this inquest, you have provided a statement that you signed on

27 August of last year [ESB.AFP.0108.0128]; is that correct?

A. That's correct.

5 Q. You have also participated in a taped record of conversation that took place on 25 November of last year [DPP.DPP.0004.0034]; is that right?

A. That's right, yes.

10 Q. Have you had an opportunity to read both the transcript of that record of conversation and your statement before today?

A. Yes, I have.

15 Q. I understand that you wanted to make some amendments to your statement. I have a list of those and I will take you through those. If there are any more let me know. Firstly, in relation to your statement, I think you have indicated that
20 your occupation is now correctly described as senior forester; is that correct?

A. That's correct, yes.

25 Q. In paragraph 18 of your statement you refer to the third sentence of that statement which reads:

30 "I managed to make comment with the New South Wales incident controller and advised him of COMCEN's request, further suggesting the excellent opportunity we had in terms of back-burning conditions, being a cool evening with little or no wind."

35 If I understand correctly, you wanted to amend that to read:

40 "I managed to make comment with the divisional commander Rob Hunt and with his replacement Andrew Moore."

Is that correct?

A. That's correct, not the incident controller but the divisional commander.

45 Q. But in other respects that sentence is still correct; namely, that you advised Mr Hunt and Mr Moore of COMCEN's request and making that

suggestion about --

A. That's right, yes.

5 Q. In paragraph 22 you have indicated, I think,
on that shift that your role was a sector leader;
is that correct?

A. Yes, that's right.

10 Q. Finally, paragraph 25, where you are referring
in the middle of that paragraph:

"We have been up to Mt Stromlo to see what
was going on, noting that the fire was now in
the northern part of the Uriarra plantation."

15

I think the note I have suggests that you are not
able to say whether the fire was actually in the
plantation, all you can say from your observation
is that it was close to the plantation; is that
20 the position?

A. That's right, yes.

Q. That was your observation made from Mt Stromlo
that afternoon/evening?

25 A. That's correct, yes.

Q. Apart from those amendments, Mr Winter, is
your statement otherwise true and correct?

A. Yes, it is.

30

Q. The transcript of the record of conversation,
is that also true and correct?

A. Yes.

35 Q. You have indicated already what your current
occupation is. At the time of the fires in
January 2003 you were employed by ACT Forests as
the senior harvesting forester; is that correct?

A. That's right, yes.

40

Q. In paragraph 7 of your statement you say you
spent most of your professional career working
with New South Wales state forests in pine
plantations in the Tumbarumba, Tumut and Bombala
45 areas of New South Wales before coming to ACT
Forests in 2001. So that experience, as I
understand it, with New South Wales State Forests

was from about 1995 to 2001; is that correct?

A. That's right, late '95.

Q. You talk about your involvement in
5 firefighting operations in paragraph 8. You say
your roles have included as working as a basic
firefighter, sector leader and incident
controller. Some of these fires involve
10 back-burning operations as part of the overall
strategy. You say that you have also been
involved in hazard reduction burns. In 2001 you
were the incident controller and sector leader on
the Red Hill and Stromlo fires; is that correct?

A. Yes, incident controller in the Red Hill fire
15 and a sector leader on the Stromlo fires.

Q. In paragraph 11 you say you are currently the
captain of Forests brigade and for the 2002/3
20 season your call sign was Forests 1; that's also
correct?

A. That's right, yes.

Q. Are you still a captain of the Forests
brigade?

A. Correct. Although I was for that fire season
25 and currently the captain, yes.

Q. Now, you begin dealing with your involvement
with the January fires in paragraph 12, explaining
30 that you did not get involved until Friday, the
10th of January, where you were deployed to the
McIntyre's Hut fire with an ACT task force. You
there set out the components of that task force.
I understand you were the leader of that task
35 force, is that correct?

A. That's right, yes.

Q. You say on the 10th:

40 "We were diverted to the Bendora fire at the
last moment. As the New South Wales
authorities had informed us through Neil
Cooper, the ACT liaison officer, that
operations were not ready to commence
45 back-burning. As such, we returned to Bulls
Head to liaise with the incident controller
being Odile Arman."

Did you have any other information about that decision diverting you from McIntyre's to Bendora at that time?

5 A. My understanding of the reason for the New South Wales agencies not being ready for to us back-burn was that the bulldozer work associated with extending the control lines had not been completed. So they weren't comfortable with back-burning operations commencing at that time.

10

Q. That was information you were given at about the time, was it?

A. That's right, yes.

15 Q. By Mr Cooper?

A. Yes.

Q. Commencing at paragraph 15 the following day, the 11th of January. The New South Wales
20 authorities started back-burning around McIntyre's down to Flea Creek. You arrived there at 1130 and was tasked by Mr Hunt. You explain that your sector rang from Webbs Ridge along the power line trail to the east. You say:

25

"It was reasonably easy burning because we had the power line trail to burn from. We did not complete our objective for that shift because we were not there for the anticipated
30 24 hours."

30

In paragraph 17 you point out:

35 "We had been advised we would be deployed all night. However, without being given any particular reason, we received instructions from COMCEN to withdraw."

40 Firstly Mr Winter, when were you informed that you would be there for 24 hours?

A. We were informed on the 10th when we were going to go up to the McIntyre's Hut the first time. We had been told after that the intention was to repeat that the following day.

45

Q. Who told you that?

A. It would have been Neil Cooper.

Q. I think again in your taped record of conversation at about question 126 you deal with that issue. Perhaps I should ask you: when did you first hear that you were not going to be there
5 for 24 hours?

A. The first inkling I had that some of the units mightn't be there for 24 hours is when I heard COMCEN contacting two of Parks tankers direct and asking them to be back at their depots at a time.
10 That meant that they couldn't be there for the full 24 hours. That was around about 1800 hours, I believe.

Q. Did you come to learn later on the
15 circumstances in which that decision had been made?

A. No. The only reason I was given was that the units were required to be back at their depots the next day. They were going to be required the
20 following day.

Q. Did you know what they were going to be required for the following day?

A. No, I didn't.
25

Q. In your record of conversation at question 126, you say that subsequently you had been told that it was related to trying to make sure there were enough units on the Bendora fire for the next
30 day. Is that something that you have learned since the 11th of January?

A. That's right. I didn't know that at the time.

Q. Did you have any discussions at that time with
35 the divisional commander, Mr Hunt, about that issue?

A. Yes, I did.

Q. What was the substance of those discussions?

A. Essentially I said that it looked like we were
40 going to be taken off the fire line earlier than we originally told them. So I obviously thought I better let him know that. I also suggested if he did want to keep the ACT resources on the fire
45 line, then he should exert some pressures up his chain of command, so back to the New South Wales control centre.

Q. As I understand it, you are obviously not sure precisely what he did but, whatever he did, it didn't have that effect?

A. That's right.

5

Q. When did you actually get a direct direction that you were to withdraw from the McIntyre's fire that night?

A. It was around about 2200 hours, I believe. I have got the radio log here; I think it was around 2200 hours.

10

Q. Who did that come from?

A. That came from the COMCEN operator.

15

Q. Did you speak to anyone else at COMCEN, apart from just the radio operator?

A. Yes. I was talking to the ACT Forests agency representative as well.

20

Q. Who was that?

A. Rebecca Blundell was her name.

Q. What were you saying to her?

A. It was her job to co-ordinate ACT Forests resources and make sure they were ready to go wherever they were required at the various fires. She was trying to ascertain when we would be back at our headquarters or our depots. It was there, through initial conversations with her, that I discovered that she was under the belief that we should be back earlier than the full 24 hours.

25

30

Q. Do you know from your discussions with Mr Hunt that night or from any other sources as to what effect, if any, that earlier withdrawal had on the work that was being done on McIntyre's?

35

A. Yes. A check of the radio log indicates that he was concerned that that would leave his division underresourced for that night.

40

Q. Are you aware as to what, if anything, he did about that or as a consequence of that?

A. I understand that he relayed that information back to his incident controller, because the radio log indicates that he was talking to I think they call it FIRECOM, the New South Wales equivalent of

45

COMCEN, and obviously didn't get approval to keep us there at the fire.

5 Q. I am trying to find the reference in your statement, Mr Winter - I can't at the moment - but I recall some reference to it affecting his decisions about his own crews that night. Is that something you are aware of?

10 A. No. That was more my impression, I think.

Q. What was that impression?

15 A. My impression was that our early departure may have influenced the decision of the New South Wales people not to continue back-burning that night, which was an observation I made that they weren't doing any back-burning.

Q. As you were leaving?

20 A. That's right. About the last back-burning activities I'd seen undertaken were around about 1700 hours. After that time, even though I was on the fire line until about 2300 hours, I didn't see any back-burning activities. I'm not saying that they didn't occur but I didn't see any.

25 Q. To the extent that you formed that view, that was just an assumption you made, not anything he said you to that night?

30 A. That and the discussion with the incoming divisional commander.

Q. Who was that?

A. I believe his name was Andrew Moore.

35 Q. What did he say?

40 A. He said that he thought that, once the New South Wales people had completed their shift change, they may look at the possibility of doing more back-burning. So that suggested to me that they had stopped back-burning operations at that time.

45 Q. But did you understand from his comment then that they may recommence on change of shift by New South Wales personnel?

A. Yes. He indicated that that was a possibility.

Q. What time was that likely to be?

A. My recollection is that he said later in the evening, so I took that to mean maybe around 2200 to 2300 hours that they might expect to start again.

Q. Just jumping forward in your statement to paragraph 17 where you made that correction, in particular where you said fire was now in the northern part of the Uriarra plantation. Firstly, about what time were you making those observations?

A. Sorry which paragraph were you referring to there?

Q. Paragraph 25, in the middle of the paragraph where you deal with where you had been up to Mt Stromlo. At about what time were you up there seeing what was going on?

A. I'm not exactly sure. I believe it was around 1800 hours.

Q. As I understand your evidence now, you are not able to say it was actually in the plantation but it was close to the plantations. I appreciate it is some distance away, but can you give an estimate of how far away it was, to your observation at that time?

A. I would certainly say that it was less than a kilometre, probably less than 500 metres.

Q. Did you have an understanding or were you able to see, based on your knowledge of that area, whether or not it had crossed the border at that stage?

A. It's difficult to tell, because the border is just a straight line at that point to the ACT. I would imagine it would have crossed the ACT border at that time.

Q. At the end of your statement you deal with some concerns you had - some issues, I should say - arising from your involvement in the fires. The first of which relate to mapping and the production of field maps. You say in paragraph 31:

47

5 "Often we were just given maps with hatched
or dotted lines and contours on a black and
white map so we couldn't tell what was a road
and what was a contour. There were no road
names and no creek names so it made it very
difficult to read the map and plan some sort
of strategy for fighting the fire."

10 Then you talk about the ESB mapping situation and
what was available from Parks and Conservation.
Did you have available to you some standard maps,
Mr Winter, the 1:25,000 or 1:100,000 maps at the
time?

15 A. At that time I only had available the
1:100,000 bushfire map, like that one there.

Q. So the maps you are referring to there, do you
know where those maps came from, those photocopied
maps?

20 A. I believe they came from ESB and they were
brought up - we were only given those maps once
that I recollect and that was on the 10th. They
were brought up by Brian Murphy who was the
oncoming incident controller.

25 Q. I take it from the fact that you have raised
the issue that you would have expected to have
given some field maps produced specifically for
the purposes of the firefight; is that correct?

30 A. That's correct.

Q. Would that expectation have been based on your
time in New South Wales?

35 A. Yes, my time in New South Wales plus just
knowledge of what was available to other
firefighting agencies.

Q. In particular you refer to:

40 The ACT Forests and P&C GIS systems have the
ability to produce maps showing where fill
points, contours and standards of tracks are
detailed".

45 Are you able to assist to explain why those maps
weren't being produced and delivered to the field?

A. No. I'm not sure why that didn't occur. I do

know that the geographical information system,
which is a computer system used to produce these
maps - I know that the system that ESB use was
actually different to the ones used by both the
5 Parks service and ACT Forests. I am not sure
whether they were compatible or not; I know they
were two different systems. That may go some ways
to explain why that data wasn't available on those
maps.

10

Q. You then talk about the incident control
system. I think in broad terms you refer to some
confusion. What was your concern about the way
the incident control system appeared to you to be
15 operating during the firefight?

A. My concern was that when I was termed an
incident controller, I wasn't 100 per cent clear
on what my roles and responsibilities and
expectations of me in that position were.

20

Q. You say in that statement in paragraph 32:

"... even though we might be wearing the
incident controller tabard, we were in effect
25 divisional commanders in that we didn't have
the ultimate say over deployment of localised
resources or strategies."

Is that the way you saw yourself during that
30 period really in the role of a divisional
commander rather than as an incident controller?

A. That's right. My experience from being an
incident controller in New South Wales and seeing
how incident controllers in New South Wales
35 operated, I suppose I expected that if I was going
to be the incident controller then you would have
a fairly major say in the way which strategies
were employed to suppress the fire. Whereas in
fact when I was termed incident controller on this
40 particular fire, it was my understanding that for
major decisions regarding strategies to be
employed, they would actually have to refer back
to the Service Management Team.

45 Q. In your experience in New South Wales, was
that level of responsibility more equivalent to a
divisional commander under the standard IMT

structure; is that how you saw it?

A. Can you repeat the question? I'm not quite sure where you are coming from there.

5 Q. You say "we were in effect divisional commanders". When you compared your role during this fire as a so-called incident controller - perhaps I should ask this first: have you acted in the role of divisional commander in fire
10 suppression incidents in New South Wales?

A. Yes, once.

Q. Is the reason you made that comment because your perception of your role during this firefight
15 was more like the role you had as a divisional commander than an incident controller?

A. That's correct.

MR WOODWARD: Thank you, Mr Winter. I have
20 nothing further, your Worship.

THE CORONER: Yes. Mr McCarthy?

MR McCARTHY: We have no questions.
25

THE CORONER: Thank you, Mr McCarthy.

MR PIKE: Just one thing.

30 **<CROSS-EXAMINATION BY MR PIKE**
30

MR PIKE: Q. Apart from your statement and your taped record of conversation, have you looked at any other statements and record of conversation of other people who have been involved in the fires
35 on January of last year?

A. I looked at a few, yes.

Q. Statements of fellow forestry personnel, I take it?

40 A. Yes. I have looked at other statements of other forestry personnel and some Parks staff.

MR PIKE: Yes, thank you, your Worship.

45 THE CORONER: Mr Whybrow.

<CROSS-EXAMINATION BY MR WHYBROW

MR WHYBROW: Q. You said in your evidence that
you had with you some transcript which you
referenced to form your opinions about being
pulled out and the effect of the back-burn at
5 McIntyre's Hut on that night. Could you just
advise what part of the transcript of the COMCEN
radio transmission you are referring to?
A. Yes. That was the transcript or radio log for
VHF channel 5, and the dates would have been 11th
10 to the 12th of January.

Q. You were Forest 1?

A. That's correct.

15 Q. You were asked at about 9.22 by Mr Ingram to
provide a contact number for the New South Wales
divisional commander so there could be direct
communication.

A. That's right. Yes.

20

Q. You provided a number back, did you?

A. I don't recall having that number. But I
think I asked them to get the number from the
Queanbeyan fire office.

25

Q. You weren't party to any conversation at least
Mr Ingram had with the divisional New South Wales
person?

A. No, I have no idea what was said there.

30

MR WHYBROW: Thank you.

THE CORONER: Yes, Mr Walker?

35 MR PHILIP WALKER: Nothing.

THE CORONER: Mr Craddock?

MR CRADDOCK: Nothing.

40

THE CORONER: Mr Watts?

MR WATTS: I have nothing.

45 MR WOODWARD: No re-examination.

THE CORONER: Thank you, Mr Winter. You are

excused. You are free to leave.

<THE WITNESS WITHDREW

MR WOODWARD: Your Worship, even if there were
5 another witness available for this afternoon,
which there isn't, perhaps it would not be
appropriate to call them given the time.

I can indicate to the parties at this stage the
10 plan of attack for the balance of the week is as
previously indicated. That includes Mr Jamieson
and Mr Gore for tomorrow. Up to this stage we
have not been provided with a statement from
Mr Jamieson. I understand one had been prepared
15 in draft, and Mr Watts anticipates that that might
be able to be completed before Mr Jamieson gets
into the witness box tomorrow. If that can occur,
that will obviously speed things up a bit. He
will be called in any event. Then Mr Gore. He
20 will be followed by Mr Val Jeffery.

Your Worship, conscious that we are moving through
witnesses a little quicker, the only possible
variation over the next two days that we may use
25 in order to fill some potential gaps possibly
tomorrow afternoon but more likely on Thursday,
subject to the position other parties may take on
this, is there is some chance that we may call
Janelle Wheatley, who was an officer of ACT
30 Housing involved in contacting rural residents on
the night of Friday the 17th and Saturday the
18th. And also Mr David Dutton, an ambulance
officer may also be someone who we could bring in
early to fill a gap over the next two days.

35 As I say, it may happen tomorrow, but it is more
likely that that gap will occur on Thursday;
otherwise the witness list and order is as
previously indicated.

40 THE CORONER: Yes, thank you, Mr Woodward. Any
other issues before we adjourn? Thank you. We
will adjourn until tomorrow morning at 10 o'clock.

45 **MATTER ADJOURNED AT 3.50PM UNTIL WEDNESDAY,
28 APRIL 2004 AT 10.00AM**

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 42

Wednesday, 28 April 2004

MR WATTS: Your Worship, two matters. Firstly
could I seek your Worship's leave to appear in
5 these proceedings now for Mr David Jamieson, who
will be giving evidence this morning, and
Mr Robert Gore.

THE CORONER: That leave is granted to you,
10 Mr Watts, to appear for those two people.

MR WATTS: Thank you, your Worship. Mr Jamieson
has asked me to raise one matter with
your Worship. He is moving away from the ACT and
15 going to Perth. Unfortunately his clothing is all
packed. He has attended here in an outfit which
he would regard as unsatisfactory. He has shorts
on. It is either shorts or blue jeans. My
suggestion was that shorts may look better than
20 blue jeans. There is no discourtesy intended by
his appearance.

THE CORONER: I accept what you are saying.

25 MR WHYBROW: Before Mr Woodward starts, I
understand yesterday there was an indication that
given that we have moved rather promptly through
some more witnesses that a Mr Jeffery may be
called as early as morning tea this morning. I
30 overnight had a chance to go through some of
Mr Jeffery's material. As far as I am aware,
apart from the pro forma type statement that many
people have filled in, Mr Jeffery has provided a
submission to your Worship in the content of this
35 inquiry which contains a lot of comment and
doesn't seem to detail a great deal of what he
did, where he did it, who he spoke to and things
of that nature.

40 There is much in what he says which is of
significance perhaps to this inquiry and a serious
issue. But in the absence of any of the
underlying facts which perhaps justify those
opinions, some of which not only impact my client
45 Mr Castle but other firefighters for whom I act
for, my submission is that Mr Jeffery, given from
what his submission is, the apparent explosive

nature of that material, he should be like every other person from the Chief Minister, Chief Fire Control Officer to the Chief Police Officer and be required or asked, at least, to provide a
5 statement of what he did, when he did it, who he spoke to, so that I can take some proper instructions from my clients in relation to answering, if he does have allegations of
10 mismanagement or indeed illegality, as he alleges in his submission, I can take proper instructions and be in a position to properly know what is coming and deal with it.

As it stands, I have got no real understanding of
15 what facts, as opposed to his own opinions, he intends to put before your Worship to help your Worship deal with the issues that you have to deal with. I know this may cause some problems in terms of timing of witnesses, but my application
20 is - I raise it now rather than when he gets in the box - that Mr Jeffery be asked to provide a statement of the evidence that counsel assisting intends to lead from him so I can take some proper instructions from my clients.

25 What I have seen is quite disturbing in terms of the things that he may say. I don't know whether counsel assisting intends to lead any of that or not. If he even wishes to espouse such views,
30 unless there is some basis upon which I can know where he is getting those views from, I am not in a position to deal with that witness.

I am conscious of the fact that this is an open
35 inquiry and the people of Canberra have every right, and have been significantly kept apprised, of what is going in the inquiry. If Mr Jeffery says some of the things that he says and it subsequently turns out to be not supported by any
40 facts, damage will be done to particular persons which will not easily be undone. In that respect my application is that Mr Jeffery be asked to provide a statement of what he did, what he saw, who he spoke to outlining, if necessary, his own
45 experience so that if he is to express opinions we can judge the basis of those opinions and perhaps cross-examine him on it. That is my application,

your Worship.

THE CORONER: Thank you, Mr Whybrow. Mr Lasry,
just in relation to what Mr Whybrow has been
5 saying, is it intended to call Mr Jeffery? I
think that was the plan.

MR LASRY: It was intended to call him today.
What my learned friend has said about Mr Jeffery's
10 material is correct. I have to say, I have some
sympathy with the position that he expresses. It
seems to me there are two ways that this can be
dealt with. One way is for me to call him and
take him through the conclusions that he makes.
15 The problem with Mr Jeffery's evidence is that it
is, in a sense, full of conclusions. The factual
basis for quite a few of those conclusions, I
agree, is not apparent from the material. I could
take him through those conclusions and, in effect,
20 in the witness box obtain from him the factual
basis for it. That's a procedure my learned
friend Mr Woodward particularly favours in the
rushed discussion we just had.

25 The alternative really is to stand him down and
obtain a statement or have a recorded conversation
between he and a member of the Police Force which
we can then distribute which covers those areas.

30 If we don't deal with Mr Jeffery's evidence today,
then we will have two very brief witnesses this
morning and that will basically conclude
proceedings for the day. So time will be lost.

35 On the other hand, and in the end having to make a
decision about what I recommend, I think the more
efficient process from the point of view of
putting the material before the Court is probably
to stand him down, regrettably. I think there is
40 some force in what Mr Whybrow has put to
your Worship. It will take some time to obtain
the statement.

45 It is one of the disadvantages of the process that
was engaged in after the fires that had a lot of
advantages. But one of the disadvantages is that
a lot of people, offer material as it were

unsupervised without having their attention directed to the factual basis for views that were expressed. I agree that Mr Jeffery is in that category.

5

I am willing to call him and take him through his submission, as it were, but that will fragment his evidence.

10 THE CORONER: It will. It may be some time before he is recalled.

MR LASRY: I should also say a significant part of the material that Mr Jeffery has provided relates to the issue of fuel management. I had already decided that in relation to that I would not take the witness to that material, because we propose to deal with that as a discrete issue against the background of some expert evidence both from Mr Cheney and probably from one or two other fuel management experts.

Whilst Mr Jeffery has expressed views on fuel management - I am not saying they are not useful views - the way we are approaching the topic, I think, probably means it is better to leave that material out. Indeed, a lot of his material repeats other material, historical material from people such as Mr McBeth and so on.

30

I hadn't anticipated that his evidence would take very long. I am, having read the material, conscious of the fact that what Mr Whybrow says is right: that he makes quite dramatic and quite hyperbolic criticisms. I think the point that is made is a fair point.

THE CORONER: Is Mr Jeffery here this morning?

40 MR LASRY: I appreciate he will be.

THE CORONER: Is he on standby?

MR LASRY: He is on standby. It would have to be a pretty short standby, because the first two witnesses will be pretty brief.

47

THE CORONER: He will be willing to provide a statement or another statement or be interviewed by the police?

5 MR LASRY: I don't think there will be any problem with it. It is true he was a significant distance down the list, and we upgraded him, to put it in airline terms. So there is certainly an element of surprise.

10

MR PIKE: The other aspect of it is, of course, that, as with a number of other witnesses, this proposed witness may well require separate representation, particularly given, as we understand, the nature of some of the comments he has made and might make before this court. That adds a potential complicating factor to it. The period of time we might have today might help us overcome that, I would have thought.

20

THE CORONER: It might be just as well that Mr Jeffery not be called today, that we do attempt to obtain a statement from him or ask whether or not he would participate in a record of interview with the police and obtain further information, and put certain matters to him that you have expressed reservations about; and likewise Mr Whybrow and I am sure others as well fall into that category.

30

I am content we do that.

MR LASRY: We will certainly endeavour to use the time that the Court loses today in moving that process along.

35

THE CORONER: We always knew that some delays would be unavoidable in the process we are embarking. We can accommodate that as well.

40

MR LASRY: I should say I should at least express a general word of caution that, consistent with the policy that I announced at the end of last week about the way in which we would deal with witnesses, it now appears possible that we will finish the factual witnesses and not be quite ready to proceed with some of the expert material.

45

There may well be a gap that opens up during either late May or early June before we actually come to the last group of witnesses.

5 For myself, I suspect that won't really be a problem. It will give people an opportunity to prepare for the last phase, phase 2A if you like. But I think it is extremely likely that we will complete the evidence, certainly all of the
10 evidence by the end of June the way things are travelling.

THE CORONER: That was always the aim - or the hope.
15

MR LASRY: Yes.

THE CORONER: Thank you, Mr Lasry.

20 MR WOODWARD: Can I also just indicate in relation to this morning as I indicated yesterday the two witnesses to proceed Mr Jeffery were Mr Jamieson and Mr Gore. I would expect their evidence will conclude well before morning tea. As I mentioned
25 yesterday, we had foreshadowed the possibility of both Mr David Dutton and Ms Janelle Wheatley being brought forward to fill in some gaps. My suggestion now is, subject to the position that other parties are in, if, as I expect, we finish
30 Mr Jamieson and Mr Gore by morning tea, we then adjourn until after the luncheon adjournment and we do both Mr Dutton and Ms Wheatley straight after lunch, if they are available. Then people who have not had a chance to look at their
35 material, it is relatively brief, will be able to do so and then we can at least use that time in the afternoon.

MR WATTS: Just on that, I have instructions to
40 appear for Mr Dutton. I have only had the briefest of opportunities to see him this morning. I have arranged to see him this afternoon after court finishes to take his instructions. I would be caught by surprise if he was brought on earlier
45 than --

THE CORONER: Straight after lunch.

MR WATTS: Yes.

MR WOODWARD: We will perhaps discuss that with my
learned friend once we adjourn this morning and
5 see what can be done and tentatively adjourn at
least until straight after lunch and see what
happens.

MR PIKE: Might I rise also to say this: I am
10 playing catch-up at the moment, reading as much as
I can as quickly as I can. This is going beyond
what I can do. I just have not had a chance to
read tomorrow's witnesses. I have barely had a
chance to read the stuff from Mr Jeffery. I just
15 can't do it.

THE CORONER: Thank you, Mr Pike.

MR WOODWARD: Your Worship, could we call
20 Mr Jamieson, please.

<DAVID THOMAS JAMIESON, SWORN

<EXAMINATION-IN-CHIEF BY MR WOODWARD

25 MR WOODWARD: Q. Is your full name David Thomas
Jamieson?

A. Yes.

30 Q. Mr Jamieson, what is your current professional
address?

A. It's the Griffith library in Blaxland
Crescent, Griffith, with ACT Forests.

35 Q. Mr Jamieson, I think last night you finalised
a statement for the purposes of this inquiry; is
that correct?

A. Yes.

40 Q. I see you don't appear to have a copy of that
with you. If I could perhaps hand a copy to you.
That may not be the copy that you saw, but I
understand from Mr Watts, Mr Jamieson, that this
is the document that you finalised in discussion
with him last night. It is dated 27 April. Does
45 that appear to be the case?

A. Yes.

47

Q. Are you satisfied that the statement is true and correct?

A. Yes.

5 Q. I will just draw your attention to some of the passages within your statement. You indicate in that, Mr Jamieson, that you are currently employed by ACT Forests as the manager of environment and recreation but that you are retiring from ACT
10 Forests on 30 May of this year; is that correct?

A. It is actually the 30th of April, which is why I am here.

THE CORONER: Q. Leaving town, Mr Jamieson?

15 A. I am.

MR WOODWARD: Q. You state in your statement that you are responsible for our - I assume that is a reference to ACT Forests - environmental
20 performance and adherence to relevant legislation; is that correct?

A. Yes.

Q. Going to a little bit of your professional
25 history you talk about in paragraph 6 performing the role of bushfire captain with the Forests brigade up until mid-2002 when you suffered a heart attack; is that correct?

A. Yes.

30

Q. Is that about the time when you ceased to have any active involvement - at least fire ground involvement - in fire suppression activities?

A. Yes.

35

Q. You also mention at the end of paragraph 6 that you were a member of the Bushfire Council from 1991 until about 1996; is that correct?

A. Yes.

40

Q. You deal with your involvement in the January fires commencing at paragraph 7. But from that and the following paragraph, as I understand it, Mr Jamieson, you didn't have any at least active
45 involvement in the fires until the afternoon of the 11th of January; is that correct?

A. Yes.

Q. On that afternoon you received a telephone call from Tony Graham requesting that you work night shift in the control room at ESB for the next three nights. About when in the afternoon did you get that call, Mr Jamieson?

A. Around 5, 5.30 in the afternoon.

Q. You set out in paragraph 9 of your statement what he said you to. I will just read that to you. He said:

"You are to monitor what is happening with the fires. If anything gets out of control you are to ring me or Peter Lucas-Smith. You are to provide a report at 5.30 each morning about progress of the fires overnight."

You conclude that paragraph by saying:

"I was not asked by Mr Graham to do any planning or play any other role other than monitoring what was going on."

Mr Jamieson, about what time did you start that shift on those three nights?

A. Somewhere between 7 and 8 o'clock.

Q. If there is any difference between any of the three nights say so, but what was, generally speaking, the process you went through on arrival at Curtin on each of those days?

A. The first two nights it was just coming in to the control room and then getting comfortable and listening to what was going on.

Q. Apart from the general instruction that you received from Mr Graham on the 11th of January did you get any more specific instructions on any of the three nights from him?

A. On the 13th I was given a memo which outlined what was going to happen that particular night and I was just to keep an eye on that, that it was achieved that night.

Q. Was that for any particular fire or all the fires?

A. That was for the Bendora fire.

Q. When you say memo, do you recall more specifically what the form of that document was?

A. It was just a number of dot points.

5 Q. Was that setting out in broad terms the strategies that were being deployed on the Bendora fire that night?

A. Correct.

10 Q. Now, when did your formal role begin each morning, if you arrived there between 7 and 8, did you actually start that role at that time?

A. Yes.

15 Q. When did it conclude the following morning?

A. Around 7 o'clock in the morning.

Q. Your instruction from Mr Graham was to provide a report at about 5.30 each morning; who did you
20 give that report to?

A. Mr Graham.

Q. On his arrival?

A. Yes, yes.

25 Q. Did you understand you had a formal title in relation to the role you were fulfilling on those three nights?

A. Not until after the fires.

30 Q. What did you subsequently discover that was?

A. I think it was incident controller in Curtin.

Q. Are you familiar with the term duty
35 co-ordinator?

A. Yes.

Q. Was that at the time or subsequently do you
40 have an understanding as to whether that might also have been the title of your function overnight?

A. No. That's a reasonable conclusion I gather on a formal sense.

45 Q. Have you, in the lead-up to this time, Mr Jamieson, undertaken any training in the incident control system?

A. Yes.

Q. When did you do that?

A. The early 90s, '92, '93.

5

Q. Have you attended refresher courses since then?

A. I had attended I think at least one one-day course.

10

Q. Was that training to equip you to undertake any particular role under the ICS?

A. It was more to provide an overall update on the incident management system with the different roles that are associated with that, whether it is planning, operations, logistics.

15

Q. Had you previously fulfilled, before the January fires, any of those functional roles under the ICS?

20

A. Yes. I'd been operations officer in the 2001 fires.

Q. Any others?

25

A. Not - no.

Q. So you have not previously undertaken a planning or logistics role?

A. No. Not to my knowledge.

30

Q. What about incident controller?

A. Only in an exercise earlier in the mid-90s.

Q. But not in an actual incident?

35

A. No.

Q. Apart from the set of instructions that you received from Mr Graham on the afternoon of the 11th, did you have any understanding as to what the role that you were given, what work it may involve or what duties and responsibilities it involved?

40

A. Sorry, could you just repeat that, please?

Q. Sure. Apart from the specific instructions you were given by Mr Graham did you have any understanding or appreciation that the role you

45

were fulfilling that night carried with it, in a sense, automatically other duties and responsibilities?

A. No.

5

Q. So the limit of your understanding of your role that night was as articulated by those instructions?

A. That's correct.

10

Q. I just want to ask you about a particular matter that I understand occurred on the night of the 11th, Mr Jamieson. That relates to the activities of the ACT task force that had been sent to assist with back-burning at the McIntyre's Hut fire. Do you recall having some involvement in the deployment of that task force on the night of the 11th?

15

A. Not in the deployment, no.

20

Q. I suppose I was using the deployment meaning in the standing down as well?

A. Yes.

25

Q. You did have some involvement in that?

A. Yes.

Q. What was your involvement in that?

30

A. I was asked by Tony Graham to recall the units that we had at McIntyre's Hut to be back in sufficient time so those units could be used in Bendora the following day.

35

Q. Did he give you a specific time as to when that should happen?

A. He wanted that as soon as possible - by midnight, if that could be arranged.

40

Q. Could I just bring up on the screen [ESB.AFP.0110.0687]. Mr Jamieson, did you have some discussions during the course of the evening with personnel at Yarrowlumla Shire?

A. No. No.

45

Q. If you look at the screen next to you, you will see a document - is that in your handwriting, as best you can see it?

A. Yes, it is.

Q. It is a message form to the Yarrawluma
Shire - it looks like control room - and it is
5 directed to Ray from yourself dated 11 January 03.
It reads:

10 "McIntyre. Discussed ACT units and stand
down. Agreed units to stay until New South
Wales crews changeover but no later than
2400. Ray agreed to contact Dave Jamieson
approximately 2330."

Do you recall completing that document?

15 A. Don't argue with that. That's my writing.

Q. Was that a message you sent actually to
someone or are you recording something you
discussed with someone?

20 A. I was recording it.

Q. In your own words, what are you recording
there? What decisions are you recording there?

25 A. That we wanted the ACT units to come back and
that, yes, we did agree that they stay till
midnight.

Q. Can you recall there being some debate as to
whether or not they should stay longer or anything
30 of that kind?

A. I don't recall. But judging from that, I
would say we obviously had some discussion for me
to write that we agreed for the units to stay,
because my instructions were to bring them back by
35 midnight.

Q. To that extent, as I understand your evidence,
you were simply passing on the instructions you
had from Mr Graham?

40 A. Yes.

Q. Do you know why they were required back by
that sort of time?

45 A. So the units could then be used the next
morning to go to the Bendora fire.

Q. Just moving further on in your statement, you

then talk about the last night you fulfilled the role as, I think you say you subsequently learned, incident controller during the night was on 13 January; is that correct?

5 A. Sorry could you repeat that question?

Q. The last occasion that you fulfilled that night-time shift role was on the 13th?

A. Correct.

10

Q. Then you again had an involvement in the fires on and from the 15th of January where you took over responsibility for plant coordination; is that correct?

15 A. Yes.

Q. What did that involve, Mr Jamieson?

A. It involved monitoring where the units bulldozers in particular were up around the Stockyard Creek area and being available to access other units if they were required on the fire ground - bulldozer units not fire tankers.

Q. So part of the role did involve procuring additional dozers; did it?

25 A. Yes.

Q. That was a role you were fulfilling from the 15th through to the 17th; is that correct?

30 A. Yes.

Q. How many additional dozers, do you recall, were you required to obtain during that period?

35 A. I don't remember.

Q. What sort of steps were you taking when it became apparent that a further dozer was required; how did you go about procuring that?

40 A. I had a list of contacts which we had used in our normal duties. I just rang around and found out if there were units available and when they could be used.

Q. These were ACT Forests contacts, were they?

45 A. Yes.

Q. You say in your statement, paragraph 14, on

the morning of 18 January the army took over the logistics role in terms of planned operations; is that correct?

A. Yes.

5

Q. That was effectively the end of your involvement in the incident?

A. Yes.

10 MR WOODWARD: I have nothing further, thank you your Worship.

THE CORONER: Q. The statement I have is not signed, but presumably you have signed your statement, Mr Jamieson?

15

A. I have.

THE CORONER: Yes, Mr McCarthy.

20 MR McCARTHY: I have no questions.

THE CORONER: Mr Pike, do you have any questions?

MR PIKE: Thank you, your Worship.

25

<CROSS-EXAMINATION BY MR PIKE

MR PIKE: Q. Mr Jamieson, I think you have only just completed your statement in the last 24 hours or so; is that right?

30

A. Yes.

Q. It has been a bit of a work in progress over a period of time?

A. It was - I did a draft and then it was left.

35

Q. When did you first put pen to paper in terms of preparing to draft the statement, as best you can recall?

A. It would have been February/March 2003.

40

Q. It was not too long after the events?

A. No.

45 Q. I take it you used those drafts in part to assist you in coming to the final version which we now have before us?

A. Yes.

Q. You were asked some questions a little while ago in relation to having had discussions with someone called Ray at Yarrowlumla Shire?

A. Yes.

5

Q. Do you remember those questions you were asked?

A. Yes.

10 Q. I think your recollection, when the issue was first raised with you by Mr Woodward is that you didn't have a recollection at that time of having any discussions with Yarrowlumla personnel at that time?

15 A. That's correct.

Q. He took you to a document which we saw on the screen, and that did refresh your memory as to conversations you did have?

20 A. Yes.

Q. Is that, generally speaking, the case that you do find it difficult, without prompting from some document or some other source, to recall conversations you may have had 15 months ago?

25 A. Now that's possible with detail, yes.

Q. Certainly in relation to this gentleman called Ray at Yarrowlumla Shire you had no recollection at all?

30 A. No.

Q. Until you saw that document?

A. That's right.

35

Q. Not having any conversation?

A. Yes.

Q. Leaving aside the question of detail, you have no recollection of the conversation at all?

40 A. No.

Q. It does indicate, no criticism of you, I think we are all human in that respect, we can't recall necessarily what happened 15 months ago. That would be fair; wouldn't it?

45

A. That would be a fair comment.

Q. When you did have your conversation with Tony Graham on the afternoon of the 11th, I think you have spoken about that at paragraph 9 of your statement, you have set out there some of the words that you recall Tony having used that afternoon?

5 A. Yes.

Q. Obviously, again one wouldn't expect it, you don't have a verbatim word-for-word recollection of precisely what he said?

10 A. That's correct.

Q. You have done your best as you can to put in that statement the gist of what you were told by Mr Graham that afternoon?

15 A. Yes.

Q. Was it in that same conversation or in a different conversation that he gave you some instructions about the crews over at McIntyre's Hut fire?

20 A. At a different time. It was when I was in the control room that evening.

25

Q. So it was later that evening?

A. Yes.

Q. As I understand it, Mr Graham stayed for some time after you had commenced at ESB that evening?

30

A. Yes. There was a changeover.

Q. From recollection, from other documents it appears Mr Graham on that evening left ESB at around 10.30. Would that accord with your recollection?

35

A. Don't remember.

Q. The same thing for the following two days, you don't have any recollection of that?

40

A. No.

Q. I take it while you were in the control room during that changeover period, leaving aside any absences that Mr Graham may have had to take for attending meetings or other requirements, he would have been in the room with you during that period

45

of time?

A. From my recollection, not very often.

Q. Coming in and out; I take it?

5 A. Yes.

Q. As he came in and out, he would have conversations with you as the need arose?

10 A. Correct.

Q. In those conversations, as the need arose again, he would impart information to you?

A. Yes.

15 Q. Going back to that message form, it seems at least to my reading that you had certain instructions you had received from Mr Graham that afternoon or that evening about pulling out the ACT units from McIntyre's Hut fire. You have told
20 us about that?

A. Yes.

Q. You then had a discussion with a chap called Ray over at Yarrolumla Shire where he made a
25 request that those crews stay until "New South Wales crews change over but no later than 2400". That is what it says there; is that correct?

A. Yes.

30 Q. That called upon you to make a bit of a judgment call, I take it, as to whether you follow Mr Graham's request by the letter and say, "No, crews have to come back now," or whether you give
35 some leeway to Ray's request that they stay until the changeover?

A. Yes.

Q. You gave that some thought and agreed to the request made of you?

40 A. Yes.

Q. That was consistent with what Mr Graham had asked you to do, I take it - you weren't there
45 simply to be a message taker but as the need arose for things such as this, then you were to make judgment calls?

A. Yes, that's correct, unless there was

something more serious where I would have to give him a call at home.

5 Q. Quite so. If there was something more serious which required the attention or perhaps the approval of Mr Graham or another member the ESB, that would be an appropriate time for you to call such a person?

10 A. Yes.

Q. That's what you understood?

A. Yes.

15 Q. That's the basis upon which you approached your duties that evening and indeed the following evenings?

A. Yes.

20 Q. Going back to your statement, where you say in paragraph 10:

"I did no planning and played no operational role."

25 Leaving out the planning to one side for the moment, you say you played no operational role. There is of course some operational aspect of a discussion such as you had with Ray from Yarowlumla which you were expected to fulfil; a judgment call of that nature?

30 A. In a loose sense, yes.

Q. Now as you have already told us, that was your understanding and you followed that understanding and followed those directions in, for example, that discussion with Ray?

35 A. Yes.

Q. You also approached the discussion you had that evening at around 1.30 in the morning with Mr Cooper in the same light; do you recall that conversation?

A. No, I don't.

45 Q. I am not expecting you to. Obviously you can't be on top of all this stuff. This may refresh your memory. Mr Cooper, who was the

overnight incident controller at Bendora - do you recall Mr Cooper was fulfilling that position on the night of the 11th?

5 A. I would take your word for it. He certainly was the incident controller on one of those nights, yes.

10 Q. He says in his statement, paragraph 44, that he contacted ESB, spoke to yourself, and made a request asking for the ACT task force who had been recalled, he says, back from McIntyre's - we understand that from your evidence. He asked that that task force be sent to him at Bendora rather than be released to return home. Do you recall
15 him calling you about that?

A. I do remember that, yes.

20 Q. He says that request was denied because the units were again required at 6am the next morning. That would be consistent with your understanding?

A. Yes.

25 Q. He goes on to say: "I pointed out" - we take it from his words he pointed out to yourself?

A. Yes.

Q. He goes on:

30 "I pointed out it would still give us three hours of use of those crews who were keen to assist but COMCEN denied again this request."

Do you recall that?

35 A. We certainly did deny the request. At what time I'm not sure, but yes.

Q. You obviously turned your mind to the request being made by Mr Cooper?

40 A. I certainly took that on board but I stuck basically to what I was told or instructed to do with that crew.

45 Q. You turned your mind to it and applied your mind in the context of the instructions you had been given to that request?

A. Yes.

47

Q. And in the context of the instructions you were given, the overall instructions not simply those limited to this task force, after having applied your mind to it, you determined the appropriate thing to do was to continue with Mr Graham's request and to deny the request made by Mr Cooper?

5
A. I applied my mind to that specific request and dealt with it according to the specific request I received from Mr Graham.

Q. Of course, in having dealt with that request, in that limited sense you turned your mind to an operational decision to be made and made that decision in accordance with both what Mr Graham had advised you in relation to that particular crew and in relation to what Mr Graham had said your overriding responsibility would be on that evening?

15
A. Yes. In that limited sense.

MR PIKE: Thank you, your Worship, nothing further?

25 THE CORONER: Mr Whybrow?

MR WHYBROW: Nothing, thank you, your Worship.

THE CORONER: Mr Walker?

30
<CROSS-EXAMINATION BY MR PHILIP WALKER

MR PHILIP WALKER: Q. Mr Jamieson, when were you told you were incident controller?

35
A. Sorry, could you repeat that please?

Q. You said you did not know at the time that you had a formal title and you were subsequently told that you were incident controller. When did that occur?

40
A. Some time after the fire, but I can't give you a specific time.

Q. Not a specific day.

45
A. No.

Q. Can you give us some gauge - a couple of days, a couple of weeks, six months?

A. Probably a couple of weeks.

Q. Who was it who said that to you?

A. And that, no. Sorry, can't give you a name.

5 Don't know. I don't recall.

Q. I take it nobody said you were duty controller to you?

A. That's correct.

10 MR PHILIP WALKER: Nothing further.

THE CORONER: Mr Craddock?

15 MR CRADDOCK: Nothing, thank you.

THE CORONER: Mr Watts?

MR WATTS: Thank you, your Worship.

20

<CROSS-EXAMINATION BY MR WATTS

MR WATTS: Q. Mr Pike asked you some questions about the request that was made by Mr Cooper. Do you remember those questions?

25 A. Yes.

Q. You had been given instructions before that by Mr Graham as to what was to be done?

A. Yes.

30 Q. When that request came in, you simply advised Mr Cooper of what your instructions were?

A. Yes.

35 Q. And in fact what you told him was what you had been instructed by Mr Graham; is that so?

A. Yes.

MR WATTS: Thank you, your Worship.

40 THE CORONER: Thank you, Mr Watts. Mr Woodward, any re-examination?

MR WOODWARD: No re-examination. Perhaps given it is not on the system, we should tender

45 Mr Jamieson's statement.

47

THE CORONER: Mr Jamieson's statement dated
27 April 2004 will become 0043.

5 **EXHIBIT #0043 - MR JAMIESON'S STATEMENT DATED
24 APRIL 2004 TENDERED, ADMITTED WITHOUT
OBJECTION.**

10 THE CORONER: Thank you, Mr Jamieson. You are
excused. You are free to leave. Good luck to you
in the west.

THE WITNESS: Thank you, your Worship.

15 **<THE WITNESS WITHDREW.**

MR LASRY: I call Robert Gore, please.

<ROBERT IAN CHARLES GORE, SWORN

20 **<EXAMINATION-IN-CHIEF BY MR LASRY**
20

MR LASRY: Q. Mr Gore, your full name is Robert
Ian Charles Gore?

A. That's correct.

25 Q. You are a public servant by occupation?
A. Yes.

Q. In the ACT or in the Federal Public Service?

30 A. Federal Public Service.

Q. What is your professional address?

A. Russell Offices, ACT.

Q. What department do you work for?

35 A. Department of Defence.

Q. Mr Gore, am I right in saying that, in
relation to this matter, you have not made a
statement as such but you have completed what is
40 in effect a questionnaire and provided some
information?

A. I made a statement to Mr Jim Venn and
completed a questionnaire originally.

45 MR LASRY: Somewhere along the line I have missed
a most important document. I was looking for it.
It is not on our system, I take it?

Perhaps if I could have 5 or 10 minutes I might ask your Worship to stand down and I will read the document. Would your Worship say perhaps not before 11 and I will read through the document?

5

THE CORONER: Just let me know when you are ready.

SHORT ADJOURNMENT

[10.46am]

10 **RESUMED**

[11.03am]

MR LASRY: Thank you, your Worship. I have now worked out what went wrong. I am too embarrassed to describe it. We will just proceed.

15

Q. Mr Gore, I think we got to the stage of identifying your full name and occupation and professional address. The statement which I now have is document [ESB.AFP.0001.1256]. I gather there are some changes you want to make to that; is that correct?

20

A. That's correct.

Q. Let me take you to the ones that as I understand it you want to change?

25

A. In paragraph 16 on page 1258, the opening sentence of the paragraph says - referring to the events on 12 January:

30

"By now it would have been about 1500 to 1600 hours."

You now want to change that to 1630?

A. That's correct.

35

Q. That is a time you are now confident of?

A. I have looked through some transcripts, and that indicates that is a better time.

40

Q. Over on page 1261 at paragraph 23 of your statement, dealing with the events of 17 January, the opening sentence says:

45

"At about 1600 on Friday the 17th of January, I went into COMCEN."

You want to add to that "or a bit earlier"; is

that correct?

A. That's correct.

5 Q. The time at the end of that paragraph which reads:

"I did not keep a record but I believe at least 15 crews were stood down at that time being around 1830hrs."

10

You want to change that to "2030"?

A. That's correct. Can I also make one amendment to paragraph 23, third sentence just delete "Peter Buetel".

15

Q. It reads:

"Initially I assisted in the operations area with Tony Graham listening to what was happening up near Warks Road".

20

Mr Buetel was not present?

A. That's correct.

25 Q. Subject to that, is that statement true and correct?

A. Yes, it is.

30 Q. As I was earlier asking you, you also provided in effect a chronology, which I presume your statement is substantially based on, as part of the ESB questionnaire; is that right?

A. That's correct, yes.

35 Q. That document is [ESB.AFP.0053.0018]. Mr Gore, your firefighting experience goes back to 1986; am I right about that?

A. 1994 direct firefighting experience.

40 Q. Does that mean that, in the period between 1994 and 2003, you served in various capacities at various fires?

A. That's correct.

45 Q. What's the most senior capacity in which you had served?

A. It would have been incident controller at a

fire on Fairburn Avenue.

Q. When was that?

A. From recollection, late 2001.

5

Q. The only thing I want to ask you about in particular is the events of 17 January. The part of your statement, paragraph 33, which refers to that indicates that, as you have now amended it, at about 4 o'clock on the afternoon of Friday the 17th or a bit earlier you went into COMCEN at ESB to find out what had happened since the last shift; is that right?

10

A. That's correct.

15

Q. You describe assisting in the operations area?

A. That's correct.

Q. Had you just gone there because you were curious to know where things were up to or had you been requested to go in?

20

A. I can't recall the exact circumstances, but it was probably just to keep abreast of the situation.

25

Q. How did you come to be assisting in the operations area with Mr Graham?

A. Again, the actual details I can't recall, but I would say the conversation was just "would you mind assisting" during that period.

30

Q. Was it your perception that there was a fair level of pressure at ESB on that afternoon?

A. There was a lot of activity, yes.

35

Q. A lot going on?

A. Yes.

Q. So anyone with the potential ability to assist was being in effect co-opted to assist?

40

MR PIKE: I object.

THE WITNESS: I am not sure.

45

MR PIKE: I object. He is being asked to extrapolate this from his being brought in as to

anyone being brought in, and he can't answer that.

MR LASRY: I was asking as to his observation. He
5 may have made no observation. Let me rephrase the
question.

Q. To your observation, were people being
co-opted to assist wherever available, or is your
own situation the only thing that you know about?

10 A. From my recollection, there were a number of
staff already in there assisting, and I just
supported those staff.

Q. You said you were listening to what was going
15 on and assisting. In the sense that you were
assisting, what were you actually doing in the
operations area?

A. Primarily taking phone calls, and then
relaying that advice back to Tony Graham.

20

Q. Which phone were those calls coming through
on?

A. There were two standalone phones in the
operations room, and I was using those phones.

25

Q. Mr Brett McNamara has given some evidence,
particularly at page 3802, about a conversation
that he had with you. Do you recall Mr McNamara
ringing in? He says he rang in on a mobile phone
30 and spoke to you and provided in effect a
statement of the observations that he made. Do
you recall a conversation with him?

A. I don't actually recall that conversation, no.

35 Q. Are you aware of the conversation that I am
referring to?

A. I have heard about it since. I'm not aware -
I can't recall it on that day.

40 Q. He says in the late afternoon early evening of
the 17th of January probably around 7 o'clock
there were difficulties with the radio system and
that from where he was, particularly in the
Uriarra vicinity, he had difficulty getting
45 through and thought the radio was jammed. Were
you aware of a difficulty with the radio actually
jamming?

A. Not actually jamming. There was a lot of communications going on.

5 Q. Does it follow from the level of communication that the potential was there for the radio to jam? Is that what happens to radios when they have a high level of traffic?

A. My understanding is, yes, that can occur.

10 Q. He went on to describe in the course of his evidence the conversation he had with you from a mobile phone expressing his concerns in the following terms at page 3802:

15 "A series of large and significant fire fronts were moving across from the west, and generally the situation wasn't looking real good. I reported what I believed to be the Stockyard fire in terms of the spots.
20 Enormous rate that the winds were blowing down at honeysuckle plateau area; this is the general Billy-Billy area. I explained the spotting. I said to him - that is to you - I had grave concerns not only for the Corin
25 area particularly where Dennis Gray was located but I thought the fires were basically unstoppable in terms of reaching Mt Tennant. I can recall vividly saying to Robert that I really felt that the village of
30 Tharwa should have been evacuated or certainly consideration given to evacuating the village of Tharwa. I do remember making that call. It was a very big call, because at that stage to my mind we now had direct
35 threats to built assets within the rural area.

"Q. Did you report seeing fire north of Mt Coree?

40 "A. I believe I may have. I think I would have, yes. I was more worried, I suppose, about the Mt Tennant area through there. Again, the main reason for that is my kids go to school or went to school at the Tharwa
45 school, so yeah."

You don't have any recollection of that

conversation?

A. I recall discussions but I can't confirm that they were with Mr McNamara. I do recall discussion about the spotover from Stockyard on
5 the other side of Corin Dam. But the details, no.

Q. Are the two phones on which you were receiving calls ones where the calls are recorded?

A. I believe so.
10

Q. Has your attention been drawn to any recording of any of those telephone conversations on that day?

A. Yes, I've had a look at the transcripts - the
15 actual conversations, not transcripts.

Q. You have not been shown a conversation with Mr McNamara; I take it?

A. No.
20

Q. Is it possible that that conversation was held on some different telephone?

A. Possible, yes.

Q. Were you receiving calls, for example, on a mobile phone or some other phone that wasn't the subject of tape-recording?

A. May have, yes. There are a number of other phone sources, I guess, in the communications
30 area.

Q. I take it your position is that, if Mr McNamara says this telephone conversation occurred in the terms that he describes it, you
35 don't take issue with it; you simply don't recall it?

A. That's correct.

Q. If he says it happened, as far as you are
40 concerned it may well have?

A. Yes.

Q. Were you obliged to complete any kind of log or written record of the calls that you received?

A. Where we could, we would complete a log. And
45 I would probably assume, unless there were other priorities going on at the time, a log would have

been completed.

Q. At 10 o'clock that night, according to paragraph 27 of your statement you say:

5

"At about 22 hours Tony Graham had asked if I could stay on overnight and look after supporting operations from inside COMCEN while he went home to get some sleep. I continued there by myself with the two COMCEN operators. There was no other planning office, incident management or service management staff left in headquarters that night."

15

That's correct, obviously?

A. That was my understanding.

Q. That was your observation, wasn't it, Mr Gore?

20

A. Yes.

Q. Were you in effect the duty officer?

A. My role was slightly ambiguous. I saw my role as a duty coordinator, point of contact, liaison person.

25

Q. Did you have access to anybody else from the Service Management Team, if you had needed to consult with them, between 10 o'clock on the night of the 17th and the early morning of the 18th?

30

A. Tony Graham made it quite clear before he left that, if I needed any assistance or advice, don't hesitate to call him.

35

Q. What sort of things might you have needed his assistance or advice on?

A. I actually did call him later on. That was to seek his authority to undertake a back-burn.

40

Q. What time was that, Mr Gore?

A. 1 o'clock in the morning.

Q. You refer to that in paragraph 29. In particular describe in that paragraph:

45

"I received a call in COMCEN from Southern 1, Val Jeffery, requesting permission to conduct

5 a back-burn behind Tharwa. At the time there
were also 2 ACT Fire Brigade pumpers in
Tharwa as well and so I told Val that I would
get back to him. I spoke to Parks 1 and
Oscar 6 who were both managing that area and
verified adequate resources were there to
assist with Val's request. Because of SOPS,
I wanted additional coverage so I contacted
Tony Graham at home and explained the
10 situation to him. He was satisfied with Val
Jeffery's assessment and authorised a
back-burn."

15 You then managed to get back on the phone to Val
and advise him accordingly, and so on?

A. Yes.

Q. That is the call you are referring to?

A. That's correct.

20

Q. Apart from that phone call, did you have
access to anybody else - Mr Lucas-Smith, Mr McRae
or anybody else - if you needed it overnight?

A. No, I didn't.

25

Q. I take it that, as you say in your statement,
you were in a sense holding the fort; is that a
fair phrase to describe what you were doing?

A. That's correct.

30

Q. Clearly there was no planning going on, no
incident analysis or anything of that kind going
on. You were simply there keeping an eye on what
was happening; is that a fair description?

35

A. I was assisting the operational side. What
was happening behind the scenes, I was not aware
of.

40

Q. Whatever was happening, it was not happening
at the ESB office; is that right?

A. That I was aware of. There was no other
activity during that night.

45

Q. But it is the position, isn't it, apart from
the two COMCEN operators and yourself, as far as
you were aware there was no-one else in the ESB
office?

A. That's correct.

Q. From about 10 o'clock until about what time the next morning?

5 A. Till just before 6 o'clock.

MR LASRY: Thank you, Mr Gore. I have no further questions, your Worship.

10 THE CORONER: Mr McCarthy?

<CROSS-EXAMINATION BY MR McCARTHY

MR McCARTHY: Q. If I could take you to the 10th of January, as I understand it from your
15 statement, in particular paragraph 10, you were at at the Mt Gingera fire for the day shift under Mr Greep as the incident controller for that fire on that day?

20 A. That's correct.

Q. Now, am I right to understand that at the beginning of the shift Mr Greep gave a general briefing to everybody who was there as to what the objectives were for that day?

25 A. That's correct.

Q. Is it fair to say that the primary objective explained to everybody was that to keep the Gingera fire to the west of Mt Franklin Road; is
30 that right?

A. That was one of the objectives, yes.

Q. And that there was an additional objective; namely, to try and put a bare earth mineral
35 containment line around the fire if that was possible?

A. That's correct.

Q. For that reason, various rake hoe crews had
40 been assigned to assist with that additional objective?

A. That's correct.

Q. In paragraph 10 where you say:

45 "Our objective was to contain the Mt Gingera fire using RAFT crews and water."

Would it be fair to say the more expansive explanation of that statement is first and foremost to keep the fire to the west of Mt Franklin Road and, if possible, to put the mineral earth lines around the fire?

5 A. That's true.

Q. Now also at that briefing, am I right to understand that Mr Greep explained to everybody that part of the day's plan was for some of the RAFT crews to be deployed to another fire, in particular the Bendora fire, later in the day to assist with that fire?

10 A. Yes - at what time that hadn't been decided, but yes.

Q. I am not suggesting it was, but people knew in advance that that was the general intention for the day?

15 A. Yes.

Q. So in paragraph 12, where you refer to the fact that at about mid-way through the shift some of the crews were pulled off that fire, that was in effect putting into operation the plan that had been understood by everybody from the beginning of the shift?

20 A. That's true.

Q. In paragraph 12, this may be a minor detail, you say that you believe the crews were redeployed at Stockyard Spur and Bendora fires. Mr Greep has given evidence that the plan arranged with Mr Graham was that they would be redeployed mainly to the Bendora fire. You wouldn't take issue with that; would you?

25 A. Not at all, that was my understanding. It was one of our fires.

Q. To give effect to those general objectives for the day, some crews were left to patrol Mt Franklin Road and to ensure that, as the fire reached Mt Franklin Road, the fires were blacked out and to use various devices to ensure that that was done effectively and safely?

30 A. Yes.

40
45
47

Q. And that some of the RAFT crews were deployed in an endeavour to put the mineral earth lines through to the north and to the south of Mt Franklin Road in an endeavour to try and get
5 around the fire?

A. That's correct.

Q. Is it fair to say that those RAFT crews worked very hard in an endeavour to put those mineral
10 earth lines around the fire?

A. Extremely hard.

Q. But despite their extremely hard endeavours, they weren't able to do so?

15 A. That's correct.

Q. I understand that once some of the RAFT crews were redeployed to Bendora, the consequence was that the main task, namely to ensure that the fire
20 didn't cross Mt Franklin Road, became the objective for the rest of the shift?

A. Yes, as the watching brief.

Q. That objective was achieved?

25 A. Yes.

Q. Towards the end of the shift, I understand that you were able to get up to a higher area and have a look down on the fire; is that right?

30 A. That's correct.

Q. Mr Greep has given evidence that, even if all of those RAFT crews had been kept on the Gingera fire and not sent off to Bendora, the nature of
35 the terrain and the vegetation and the fire activity was such that, even if they had been kept there, you still wouldn't have been able to put a containment line right round the fire. Having been able to look down onto the fire, do you agree
40 with that assessment of Mr Greep?

A. Yes. From where I was originally, it was very hard to determine the size. Once I had seen the size of the fire, yes, I agree with you.

45 Q. If I could take you now to the 17th of January, and in particular counsel assisting took you to paragraph 27 of your statement. As I

understand it, Mr Graham asked you - to use the terms in the paragraph - to look after the supporting operations from inside COMCEN. Do you recall that being said to you?

5 A. Yes.

Q. The primary concern that night, as I understand it, was the fire activity down in the Tidbinbilla Valley?

10 A. That was one - the primary activity, yes.

Q. When did you arrive in ESB that afternoon?

A. Somewhere between 3 and 4 o'clock.

15 Q. Am I right to understand that Brian Murphy was to be the incident controller down in the Tidbinbilla Valley through that night shift?

A. Yes.

20 Q. And earlier in the afternoon he had been in ESB with you?

A. At some stage, yes.

25 Q. Had you had an opportunity to discuss the general activities and plans and objectives down in Tidbinbilla Valley with Brian Murphy through that afternoon?

30 A. I don't think I did at that stage. Given that I wasn't - I had no idea at that stage that I was going to hold a role --

35 Q. I am not suggesting that you did. But is it a question that you were familiar with what had been happening in the Tidbinbilla Valley during that afternoon?

A. I was familiar with what was happening, yes.

Q. You knew that Brian Murphy was intending to be down there that evening?

40 A. Yes.

Q. I understand he went off to do that task at around 8 o'clock that night?

45 A. Yes. I don't know the exact time, but that sounds close.

Q. Once Tony Graham asked you to stay on to

perform that supporting operations role from ESB, did that entail liaising with Brian Murphy as to what was happening down in that area of the fire?

A. Yes, it did.

5

Q. Were you able to keep in reasonable contact with Mr Murphy in regard to that task?

A. Yes. Probably hourly we were contacting each other to provide sitreps from both sides.

10

Q. Leaving aside the fact of what was actually happening down there, as I understand it, Brian Murphy was the field incident controller?

A. Yes.

15

Q. You had confidence in what he was doing?

A. Yes.

Q. And obtained hourly sitreps on what was occurring?

20

A. Yes.

Q. So from the point of view of performing your role to support Mr Murphy down in the field, was the "hands on deck" as explained by counsel assisting - did that create any practical problem for you in being able to liaise with Mr Murphy in providing the support that he sought?

25

A. Sorry, are you referring to in COMCEN my ability?

30

Q. Being able to provide the practical support to Mr Murphy's operations down in Tidbinbilla Valley?

A. Yes. In the majority of cases, yes.

35

Q. You were able to do that?

A. Yes. Some administrative support certainly would have been appreciated, but generally he was managing the operation from Tidbinbilla.

40

Q. You were able, in a practical sense, to be able to provide the support that he sought from time to time?

A. There from no issues that I came across that we couldn't address.

45

MR McCARTHY: Thank you, your Worship.

THE CORONER: That Mr McCarthy. Yes, Mr Pike.

MR PIKE: Just very briefly.

5 **<CROSS-EXAMINATION BY MR PIKE**

5

MR PIKE: Q. Following on from that, there were operational things that you were required to do between yourself and Mr Murphy and perhaps others and you were able to do them as you have told us?

10 A. Yes.

Q. In the instance that you have indicated in your statement where you weren't able to do it comfortably without liaising with Mr Graham, you raised Mr Graham on the telephone, discussed it in full, got his approval and did that?

15

A. Yes, that's correct.

MR PIKE: Thank you.

20

THE CORONER: Yes, Mr Whybrow.

<CROSS-EXAMINATION BY MR WHYBROW

MR WHYBROW: Q. Mr Gore, in your statement is it correct to say you were the equivalent operations officer overnight on the 17th of January?

25

A. Yes. I don't know if I had that title at the time but afterwards I realised that that was probably the role.

30

Q. You refer at paragraph 28 of your statement that you had a discussion with Andrew Winter in Forest 1 who had some crews up at the McIntyre's Hut fire that evening?

35

A. That's correct.

Q. You indicate his view that they were doing nothing and resources were being wasted. At paragraph 29 you say:

40

The Yarrowlumla Shire agreed that Forest crews could be released from the McIntyre's Hut fire and so I asked Forest 1 to go down to Tharwa and assist in that area."

45

A. That's correct.

Q. I note the logs indicate at 11.10, "Forest 1
4166

compliments of the operations officer, are you able to be released from that location?" and then some further conversations:

5 "The operations officer has talked to New South Wales and apparently it is the case you can go".

10 Were you the operations officer referred to in those logs?

A. Yes.

15 Q. So you spoke directly with somebody within New South Wales Rural Fire Service about whether or not the ACT crews that were at McIntyre's Hut at about midnight on the Friday night could be released down to Tharwa?

A. Yes, I did.

20 Q. They indicated to you that, yes, that could be done?

A. That's correct.

25 Q. I take it they didn't indicate you to at any stage that they were of the belief that that fire was going to break its containment line and burn into urban Canberra within the next 24 hours?

A. No, they didn't.

30 MR WHYBROW: Thank you.

THE CORONER: Yes, Mr Walker.

<CROSS-EXAMINATION BY MR PHILIP WALKER

35 MR PHILIP WALKER: Q. You, in answer to a question from Mr Lasry, suggested that people left at about 10 and were back at about 6. If I suggested to you in the case of Mr Lucas-Smith it was more like about 11 o'clock and back at about

40 5, would you argue with that?

A. No, I wouldn't.

 Q. I think also for Mr Graham, it was more like 11 o'clock that he left as well?

45 A. That's quite possible, yes.

MR WHYBROW: Sorry, there was one other thing.

THE CORONER: Are you finished, Mr Walker?

MR PHILIP WALKER: Yes, I have.

5 <FURTHER CROSS-EXAMINATION BY MR WHYBROW

5

MR WHYBROW: Q. In paragraph 31 you indicated:

10 "At about 0630hrs Saturday morning - the
18th - I handed back over to Tony Graham and
went home. At that time the status report
from New South Wales was that, whilst there
had been spotting over at Mountain Creek
Road, McIntyre's Hut was under control and
behind the containment lines and there had
15 been no additional request for ACT resources
throughout that night."

A. Yes. I received a brief or an update before
that, and that's the information I obtained.

20 Q. I was going to ask you, was that as a result
of another conversation with someone within the
New South Wales Rural Fire Service to you?

A. Yes, it was.

25 Q. And what you can recall is they said to you
that McIntyre's Hut was under control and behind
the containment lines?

A. Yes. It will probably just add to their
understanding at that time.

30

MR WHYBROW: Thank you.

THE CORONER: Q. Did you make the call or did
they make the call to you, Mr Gore, do you
35 remember?

A. Your Worship, I don't. We were in constant
communication both ways.

THE CORONER: Yes, Mr Craddock.

40

MR CRADDOCK: No questions.

THE CORONER: Mr Watts?

45 MR WATTS: Nothing, your Worship, thank you.

THE CORONER: Any re-examination?

MR LASRY: Yes, thank you.

<RE-EXAMINATION BY MR LASRY

MR LASRY: Q. Just going to the passage you have
5 just been referred to, paragraph 31. The passage
was just read to you referred to the status report
from New South Wales which included the
proposition that the McIntyre's Hut fire was under
control and behind containment lines. Are you
10 able to say when you actually received that status
report?

A. My recollection is it would have been around
5 o'clock in the morning.

15 Q. Who did you get it from? How did it come to
you?

A. It would have been in communication with the
New South Wales Incident Management Team at
Yarrowlumla Shire.

20

Q. Are you able to recall who you specifically
spoke to?

A. No, I don't.

25 Q. That's a verbal status report, I take it? It
was not something that was, for example, faxed to
you?

A. That's correct. It was a verbal over the
phone.

30

Q. Somebody said you to at about 5am, according
to your evidence, on Saturday morning the
proposition that is contained in the last sentence
of paragraph 31 of your statement?

35 A. That's correct.

Q. Did you record that somewhere?

A. Again, that type of information I normally
would and I would assume that I would have. If I
40 did or not, I'm not 100 per cent sure.

Q. The status report that you there refer to,
does that reflect in effect a summary of a
discussion you had with somebody?

45 A. Yes.

Q. Somebody is likely to have rung or is it more

likely that you have rung Yarrowlumla to make the inquiry?

5 A. Normally, knowing that Tony Graham was coming back at about 6 o'clock, I would have wanted to give him an update and I would normally have contacted them to get that information.

10 Q. You said in the course of some questions you were asked that, in the majority of cases, you were able to deal with the situations as they arose?

A. Yes.

15 Q. But that some administrative support would have been appreciated?

A. Yes.

20 Q. In particular, what kind of administrative support are you referring to that would have been welcome?

A. Someone to answer the phones, write down notes, that type of thing.

25 Q. Does that mean that wasn't happening in some cases?

A. In some cases, that's quite possible.

30 Q. Can I take it from your evidence that what you are there referring to is what might be described as the minority of cases where situations arose where resources were such that you couldn't record what you were being told or in some cases answer the phone; is that right?

35 A. That's correct.

Q. Were there a large number of incoming calls that you needed to attend to?

A. Yes.

40 Q. I take it the COMCEN operators were operating the radio?

A. That's correct.

45 Q. So you were the only person answering the phone?

47 A. That's correct.

Q. It was, I take it, very busy through the night?

A. It certainly was.

5 Q. When you spoke to Mr Graham in the middle of the night or at about 1am, as I think you earlier said, did you raise with him the fact that you were having troubles dealing with all of the incoming calls that you received?

10 A. No, I didn't.

Q. Were you concerned that you in fact were not getting to all the incoming communications?

15 A. I don't think that we missed many incoming communications at all. It was just constant.

Q. Were the bulk of those incoming calls in effect operational calls; that is, phone calls providing operational information about the fires either in the ACT or in New South Wales?

20 A. Yes.

Q. Am I right in saying that, at the time you finished in the early morning of the 18th, you had no information that the McIntyre's Hut fire either had crossed or was threatening to cross the ACT border?

25 A. Apart from a number of spot fires that had occurred during the night and they had been contained. My understanding was no, it was still within the containment lines.

Q. When you were dealing with Yarrawlumla obtaining these status reports and things of that kind, who normally did you speak to?

35 A. It was originally --

Q. I mean, on the night of the 17th?

40 A. On the night of the 17th, primarily the Incident Management Team and that varied from person to person - primarily Neil Donoghue and I can't recall anyone else.

MR LASRY: Thank you, Mr Gore. Thank you, your Worship.

THE CORONER: Thank you, Mr Gore. You are

excused. You are free to leave.

THE WITNESS: Thank you, your Worship.

5 <THE WITNESS WITHDREW

MR CRADDOCK: If that is the end of our witnesses for this morning?

10 MR LASRY: It is for this morning, yes.

MR CRADDOCK: May I make a request: to assist with the task of preparing for the attendance of Mr Jeffery, having now had the morning to read
15 some of what he has to say, I wonder why he would be called. But if he is to be called at all, I would like to have a copy of all of his contemporaneous documents, all documents that is that came into being after the 7th of
20 January 2003.

Mr Lasry observed this morning that Mr Jeffery sets out a lot of conclusions but without often setting out the factual basis for those
25 conclusions. In order to assess whatever evidence comes forward from him, in order to prepare for that and take instructions, I would really need to have access to all of his contemporaneous documents.

30 I have no doubt that your Worship has ample power to make an order but I doubt very much whether an order would be necessary. I suspect that a simple request would result in production of all such
35 documents. If they could be made available to us, that would certainly speed things along. That is my request.

THE CORONER: Mr Lasry, do you know whether such
40 documents exist?

MR LASRY: I don't. We have been here now since February or even since October last year and we have been, I would have thought, punctilious about
45 making sure that, if there were contemporaneous documents, they would be provided. It goes without saying and it doesn't need to be requested

that, if there are contemporaneous documents which
either are created by Mr Jeffery or by someone
else that is relevant to his evidence, they would
be referred to in the preparation of the document
5 that I have agreed should be prepared as a matter
of fairness. They will form part of the evidence.

There is nothing secret about this, your Worship.
We have provided every contemporaneous relevant
10 document and probably more than a number that are
contemporaneous but not that relevant for the sake
of completeness. So the answer is of course if
they exist, they will be produced.

15 MR CRADDOCK: I wasn't making any criticism. That
seems to meet with my needs.

THE CORONER: Thank you, Mr Craddock.

20 MR LASRY: Your Worship, the plan is to deal with
Ms Wheatley at 2 o'clock, if that is convenient to
your Worship, to adjourn now until 2 o'clock and
to postpone Mr Dutton's evidence until tomorrow.
I am happy to announce tomorrow's proceedings
25 otherwise - I might leave that until 2 o'clock.

I know Mr Tonkin, for example, is as it were
locked in for tomorrow morning. Whether he will
be first or second perhaps remains to be seen. He
30 will probably be first at 10 o'clock. With some
trepidation, as far as I am aware Mr Tonkin has
not made a statement.

The other matter that I want to raise now, because
35 it is becoming a matter of some urgency, is that
at the end of last week I outlined the process by
which we would call and not call witnesses. We
need to know today whether any of the New South
Wales witnesses who are in the "make available"
40 category are required next week so that we can
make arrangements for their attendance. If they
are not, then that is easy. But we need to be
informed today as to whether any of the others we
are not proposing to call are required by any of
45 our learned friends.

THE CORONER: If counsel could undertake to do

that and please inform Mr Lasry or members of his
team any witnesses, especially the New South Wales
witnesses - but indeed any witnesses. But I
understand the NSW witnesses are to be called next
5 week.

MR LASRY: They will start on Monday. So it is a
bit urgent that we know so we can start making
arrangements - today being Wednesday.

10 MR WHYBROW: If I can just make a comment on that:
I appreciate the extreme difficulty in logistics
that counsel assisting have especially in getting
people from interstate. There are a number of New
15 South Wales witnesses which I would hope would not
be required - I think including perhaps even Mr
Winter and Mr Wade whom I have shown some interest
in the proceedings so far.

20 For example, that last exchange from Mr Gore
brings out something that New South Wales
witnesses may well do as well. Most of them
haven't made statements; they have given evidence
in a coronial elsewhere; they have prepared
25 section 44 reports. I am able to say I don't
think I will require witnesses but I can't be in a
position, should something that falls from the
lips of these witnesses that said, "I don't know
that but I told Mr Wade", to say, "Come what may,
30 I won't require a particular witness."

The nature of the way evidence comes out, that may
apply to other counsel as well. I can certainly
indicate that we would expect not to require a
35 person.

THE CORONER: But we don't know what happens.

MR WHYBROW: We don't know what is going to happen
40 with somebody down the track. I know that makes
life very difficult. But rather than say "no, do
not need", perhaps I can just say, "All things
being equal, I don't expect."

45 The other issue is that, during the break as I was
coming back and forward from chambers, I noted
that Mr Jeffery was outside and for a period of

about 15 minutes seemed to be undertaking a media
interview. Could I just ask, and I can do no more
than that, that if it is possible, given there is
a lack of material from him, if counsel assisting
5 is available to - and I know it requires
assistance from those who were interviewing him -
if a copy of what he has said to the media could
be obtained. That may well be useful, if not more to
those representing some of the people he makes
10 some of these hyperbolic comments about.

THE CORONER: It is difficult to keep up with
transcripts of people who are making media
interviews.

15 MR WHYBROW: I do no more than say "if possible".

THE CORONER: We try to chase them down when we
become aware of anybody who is making statements
20 that might be relevant. I suppose we can just see
what he is saying and, if it is relevant, then we
will try to get a copy of it.

MR LASRY: I must say we haven't particularly
25 pursued - if Mr Jeffery is speaking to the media,
then he is following a tradition that was
established by Mr Koperberg and Mr Stanhope,
I think. I have no idea, beyond what I saw on
television, what either of those people said to
30 the media. I haven't bothered to pursue it but I
will make some inquiries.

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

35 **LUNCHEON ADJOURNMENT** [11.45am]

RESUMED [2.03pm]

MR WOODWARD: Your Worship, I call Janelle
40 Wheatley.

<JANELLE LEE WHEATLEY, SWORN

<EXAMINATION-IN-CHIEF BY MR WOODWARD

45 MR WOODWARD: Q. Your full name is Janelle
Wheatley?

A. Janelle Lee Wheatley.

Q. Could you spell your second name for us?

A. L-E-E.

5 Q. What is your current work address,
Ms Wheatley?

A. It is the Department of Education, Youth and
Family Services, Reid Street, Tuggeranong.

10 Q. You have provided a statement on 1 April for
the purposes of this inquest?

A. Yes, that's correct.

Q. Have you had an opportunity to read that
statement before coming to court today?

15 A. Yes, I have.

Q. Are you satisfied that it is true and correct?

A. Yes, I am.

20 Q. The document number of that statement is
[DPP.DPP.0006.0169]. Ms Wheatley, in your
statement you indicate that as at 17 January 2003
you were employed by the Department of Education,
Youth and Family Services in the role of executive
25 officer to the executive director of that
department?

A. Yes, that was correct.

30 Q. You point out in your statement that it is the
responsibility of that department under the ACT
emergency plan to provide community recovery
services to effected persons in the event of an
emergency?

A. Yes.

35

Q. It is in that capacity that you became
involved in the fires in January 2003?

A. Yes, it is.

40 Q. You point out:

"It is not required for there to be a state
of emergency declared to activate the
recovery subplan. It is a decision made by
45 the recovery co-ordinator, which is a role
within the department."

47

Is that correct?

A. Yes.

5 Q. The recovery co-ordinator during the relevant period was Barbara Baikie; is that right?

A. Yes, that's correct.

10 Q. You in the following paragraphs of your statement explain in a bit more detail the role of the recovery manager and the recovery team?

A. Mmm-hmm.

15 Q. And concerning the incident itself, these paragraphs don't have numbers, in the middle of the second page you say:

20 "In the week leading up to 18 January we (the recovery team coordinator and managers) were made aware of briefings taking place at ESB. This was by emails from Kate Keane at ESB. She maintained contact with the recovery coordinator via emails sent to members of the Emergency Management Committee."

25 There have been some examples of these emails produced in evidence in this court. They are emails sent by Ms Keane to a long list of recipients who, as we understand it, were for the most part members of the Emergency Management
30 Committee?

A. Yes.

Q. That is consistent with your evidence?

A. Yes.

35

Q. Were you personally on that email list or was the email provided to you in some other way?

40 A. Not on the direct email list. The recovery co-ordinator passed on those emails to recovery managers.

Q. Just to be clear again - I have already asked you this but, when you refer to the recovery co-ordinator, the person in that role for all relevant purposes was Barbara Baikie at this time?

45 A. Yes.

47

Q. You deal with your own active involvement commencing at the bottom of that page where you say:

5 "On Friday 17 January Barbara Baikie, the
recovery co-ordinator, made direct contact
with Kate Keane to ascertain if a recovery
manager could attend ESB briefings. Kate
Keane said we were welcome to attend and
10 Barbara asked me to attend the 1600 briefings
on 17 January 2003."

You then say you arrived at ESB at 4pm to learn
that the briefing, as you refer to it, had been
15 deferred until 1800 hours, to 6pm?

A. Yes.

Q. It goes on:

20 "During the two hours between the expected
meeting and when it took place, I went to the
media area and asked Marika Harvey if there
was anything I could do. Marika asked me to
search all media websites to see what
25 information was being disseminated (not just
local but including ABC) concerning the fire
around the ACT. I printed the information
off and gave it to Marika."

30 Just on that, this obviously may be stretching
your memory but do you recall looking at sites
that had information from New South Wales
authorities or the ABC was the only area where
that more general --

35 A. It was the media authorities that I was
searching the information for. It wasn't fire
authorities.

Q. Did you go to any New South Wales media
40 outlets in that search?

A. Not that I can recall. I mean, yes, I just
did a search on the web for all media sites and
obtained information that was relevant.

45 Q. But you can't recall now, can you, whether you
for example went to the 'Sydney Morning Herald'
site or any --

A. Not specifically, no.

Q. You say the briefing started at 1800 on
17 January 2003 and then set out there what was
5 discussed during the briefing. During this
inquest, we have come to know those briefings as
planning meetings. Is that what you understand or
have you heard that term used before?

10 A. I've heard the term used, yes.

Q. We are talking about a meeting attended by
numerous people from ESB and others where updates
of the fire occur and minutes were prepared and so
on?

15 A. Yes.

Q. You at about that time were keeping some
notes; is that correct?

20 A. Yes.

Q. I have a document or a notebook which is an A5
notebook which has written on the outside "ACT
bushfires 2003". It has on the front cover some
dates and times. Then inside is a series of
25 handwritten notes which appear to commence on the
15th of January. Is that the notebook you were
keeping at this time or one of the notebooks?

A. Yes.

30 Q. I see you have a copy of it there?

A. Yes.

MR WOODWARD: I understand that most of the
parties were provided with a copy of this document
35 and have had it - no-one is looking at me in a
confused manner. I will proceed on that
assumption.

40 MR PIKE: Might I express my confused manner.

MR ARCHER: And mine too, your Worship - nor the
statement, I should say, your Worship.

45 MR PIKE: I have that.

MR WOODWARD: Your Worship, I have a couple of
spares. I brought one for your Worship.

Q. Perhaps the best way to deal with this: would you be able to manage with the photocopy you have there or would you prefer the original?

A. No, this is fine.

5

MR WOODWARD: What I might do, with your Worship's permission, is hand to your Worship the originals of those documents. In fact I will hand you a third bundle as well which I will come to in a minute. Then if I can give the copies at least of those notebooks that I had. I only have one unfortunately of each of those.

THE CORONER: Can we make a copy of those, perhaps?

MR WOODWARD: I am not sure - I think we are now up to date. Mr Archer has those. He still doesn't have the statement, however.

20

THE CORONER: You have a copy yourself of these, Mr Woodward?

MR WOODWARD: I do.

25

Q. Just to explain, Ms Wheatley, the document I was asking you about earlier is a smaller A5 notebook?

A. Yes.

30

Q. That was a running notebook you were using during the relevant period; is that correct?

A. Yes.

Q. You also kept a booklet which was an A4 notebook which has up the top "communications log, recovery"; is that correct?

A. Yes.

Q. That includes some entries, as I understand it, on the 18th of January?

A. Yes.

Q. Referring to the first of those, the A5 notebook, I asked you whether that commenced with some entries on the 15th. Could you indicate: is it the fourth page of that document where you

45

began taking notes of the 1800 briefing on the 17th?

A. I have only got copies of the relevant pages. My understanding is that I started that notebook
5 on the 17th, not on the 15th.

THE CORONER: Q. I will just hand this down to you to have a look at, Ms Wheatley. It says here "15/01/03 accommodation - family services". There
10 is a date 15/1/03 "Barbara Lindy" and on the second page it says "17/1".

A. Correct.

Q. Is that what you say when you say that you
15 started it on the 17th?

A. Yes.

THE CORONER: There is nothing written on the first page which says the 15th, apart from that
20 one line.

MR WOODWARD: Q. The page that is headed up "17/1/03 EMB briefing"; do you have that?

A. Yes, I do.
25

Q. Are they your notes taken at that 1800 briefing on 17 January?

A. Yes, they are.

Q. You refer to that in your statement in more detail in the middle paragraph on page 3. You say you don't know the name of the person giving the information on the fires, but Mr Lucas-Smith and Mr Castle chaired the meeting. They advised on
30 road closures. You say that the thing of interest to you was "evacuation Cotter camp ground" and you explained why that was of interest to you. Then you say:
35

40 "There was a discussion on planning, with Rick McRae involved, on planning risks. There was reference made to comparison of the fire rating index on Christmas Eve 2001 in comparison to the expected index for
45 18 January."

Do you recall what the nature of that discussion

was or the reference was? What was the comparison?

5 A. Yes. On the next page of my notes there is a reference to what the fire index rating was on Christmas Eve 2001, being 36, and the expected fire index for January 18th was expected to be 62.

10 Q. That is at the top of two pages further on from the commencement of your notes of this briefing; is that right?

A. Yes.

15 Q. Because the immediately following page - the one which is the 5th page of the notebook, although they are not numbered - is headed ABC media websites and there is a reference there to four outbreaks and so on. Is that a note of what you have been informed about road closures and the like?

20 A. That's correct.

25 Q. Moving over to the page you have referred to with the comparison of the fire danger ratings, you then have the reference to planning risks. That is what you referred to in your statement as "Mr McRae discussing planning risks"; is that right?

A. Yes, it is.

30 Q. Could you assist us just to interpret the note you have made there "Uriarra school" - is that "BLD"?

A. School building.

35 Q. And Cotter?

A. Mmm-hmm.

40 Q. What are you noting? Do you recall what was being said that led you to make that note?

45 A. Yes. My recollection was that the maps that had been developed, based on the information that was available on the current fire conditions, was that with the expected wind conditions, temperatures et cetera there was a potential for the fire by 12 noon on the 18th of January to reach Uriarra. Reference to the school building obviously because there was a school building

there. I work with the department of education so that was of interest to me.

5 And then onwards from Uriarra to then reach the Cotter. By 6pm could potentially reach Mt Stromlo and by 2000 hours Narrabundah Hill.

Q. Do you recall whether there was any discussion of how significant the risks were of reaching those areas that you have identified in your notes?

A. No. None other than what is on my notes.

Q. Just looking at your notes there, that page and perhaps the next couple of pages, is that the last of your notes for that briefing, what appears on that page?

A. Yes, it is. Yes.

Q. When we go over to the following page which is headed "Steve Kirby AFP", that is notes of something that happened after the meeting; is it?

A. I believe that page headed "Steve Kirby" relates to the 6pm meeting.

25

Q. Still the 6pm meeting?

A. Still the 6pm meeting, yes.

Q. When do your notes, as far as you can tell, finish?

30

A. At the bottom of that page finishing "8.15 Jindabyne and Thredbo evacuated".

Q. In your statement at the bottom of page 3 you then say:

35

"I made contact with the recovery co-ordinator after the 1800 meeting. I don't recall what time it finished. After the meeting there was discussion with David Prince that we need a communications group. This was to plan for recovery needs in the event of the situation escalating and the requirement for some preparedness for evacuation. A communications meeting got under way at about 8pm on 17 January at ESB."

40
45
47

Just again relating back to your notes, the next page after the page where you say the meeting finished is headed up "communications group", then the following page headed "communications" and then there is another short reference on the next page and then a heading "communications". I will assume that "MT" stands for meeting, does it?
5
A. Yes MT for meeting.

10 Q. Can you quickly run through - the communications MT, is that the point where the communications meeting commenced?
A. No. The communications meeting commenced with the title "communications group fire safety officer".
15

Q. That is you noting down who was present; is that correct?
A. That's correct.
20

Q. The following page headed "communications" what are you noting there?
A. We undertook an exercise at that meeting to identify possible resources that would be required in the event of any recovery action, action needing to be taken as an event of the emergency escalating and potential evacuation.
25

Q. On the right-hand side of that page under the column "communication", what are you identifying there?
A. The types of communication channels that we could use or could be used to provide information to the public. Reference to assemblies is reference to assembly points, not the Legislative Assembly.
30
35

Q. Page 10, is that "meeting of rural lessees adjoining park has occurred" and then you have got some question marks?
A. Yes, the question marks was because I wasn't aware whether it had or hadn't occurred.
40

Q. What meeting is being referred to there?
A. We are still in the communications meeting that commenced at 8pm.
45

47

Q. Are you referring to a meeting of rural lessees?

A. Yes.

5 Q. What is that about?

A. From my recollection, I understand that there was some discussion that Maxine Cooper had met with or was going to meet with rural lessees, or had met with, I believe, and whether that occurred or not I wasn't aware. I couldn't confirm at the
10 time.

Q. The next page, the one headed "communications MT" maps of property, list of lessees' names. I
15 will come back to that in a moment. You have then got "meeting 8pm 26 AFP staff available". Do you know what that is a reference to?

A. My recollection is that Steve Kirby, who was present at the meeting and the AFP member,
20 provided information that he currently had at that particular time - 26 AFP staff available to assist.

Q. Was there a discussion of what sort of role
25 they might undertake?

A. There would have been a general discussion around police involvement in any potential evacuations, if that needed to occur.

30 Q. Do you recall any of the detail of that discussion?

A. No.

Q. At the bottom of that page you have written
35 "Dunlop"?

A. Mmm-hmm.

Q. Do you recall what that is a reference to?

A. No, I don't.
40

Q. Are you able to say whether that was something you have written down during the communications meeting?

A. It would have been something I had written
45 down during the meeting.

Q. But you don't recall what was said to cause

you to make that note?

A. No, I don't.

5 THE CORONER: Q. Sorry, Mr Woodward: what time was this communications meeting?

A. It commenced at 8pm on the Friday evening, 17 January.

Q. So after the planning meeting?

10 A. Yes.

MR WOODWARD: Q. Does that conclude your notes of that meeting, that page, because I notice the next page appears to be blank?

15 A. Yes, the next page is blank. The following page is titled "public information required". That formed part of the meeting. The bottom of that page is where that meeting information stopped.

20

Q. On that page "public information required" where it says "door knock hard copy", what is being talked about there?

25 A. My recollection was if we were to undertake door knock then we would provide the residents with some hard copy information, some factual information about what they could do to prepare for, prepare their homes.

30 Q. What was the discussion about whether that was going to be necessary and what areas it might occur in?

35 A. That discussion didn't take place. It was just more a brainstorming exercise to identify communications channels and what we could potentially prepare as resources or would be requiring if needed.

40 Q. Do you recall if there was any views expressed about whether a door knock would be something that was feasible or not?

A. No. Once again, as I say, it is just part of our planning for potential resources, information systems that we need to prepare in readiness.

45

Q. So there was no decision made one way or the other as to whether any or all of those sorts of

options would be pursued?

A. No, it was just a brainstorming exercise at that point.

5 Q. The bottom of that page, the word that is underlined there, is that "headings"?

A. Headings, yes.

10 Q. Is that a reference to what might appear in an information sheet or something of that kind?

A. Yes.

15 Q. And the things that appear under that, is that the sort of headings that might appear in such a sheet?

A. That's correct.

20 Q. The next page of your notebook has got a few names on it beginning with Jenny Reynolds?

A. They are a list of the names of recovery managers whose services I activated on the Friday evening to assist with the ringaround with the rural leaseholders in southern Tuggeranong.

25 Q. Now you say in your statement towards the bottom of the page 4, after referring to matters I have already asked you about in reference to your notebook:

30 "The 6pm meeting identified the immediate concern to be for rural residents of the Corin area. At the 8pm meeting we discussed how we would identify rural residents from the area. Kirran Styles from Environment ACT
35 provided a map of the area and a list of lessees' names, addresses and contacts."

40 I wanted to ask you whether the documents provided are what you are referring to there. Firstly amongst the material is a map. That is document [GSO.GSO.0004.0072]. Can you see that on the screen next to you?

A. I have got it.

45 Q. Is that the map that you are referring to in that part of your statement?

A. Yes. We had that but we also had another

full-sized map.

Q. What did the full sized map show?

5 A. Basically the same as what you have got in front of you, yes.

Q. The list of the lessees - I will just ask you to look at another document and let me know whether this is the one that is referred to in that paragraph of your statement
10 [GSO.GSO.0004.0054]. This is a 12-page list of names and addresses. Do you see that on your screen? I think you have a copy of that in front of you.

15 A. Yes.

Q. Is that the list of addresses as it was first provided at that time by Mr Kirran Styles?

20 A. Yes. He provided that. The lines through it are my crossings.

Q. What do they indicate?

25 A. They indicate leaseholders that weren't in the area that we were requested to take the ring around.

Q. So you have just gone and identified those that were outside the areas that had been identified as under threat?

30 A. Yes.

Q. Because they are not sorted by area, are they?

A. No. I believe they are alphabetical.

35 Q. So this is a list of all rural lessees throughout the ACT in all the areas identified in that map; is that correct?

40 A. I couldn't answer that. This was a list that was provided to us by Environment ACT to undertake the ring around.

Q. You explain in that paragraph of your statement that you made direct contact with the recovery co-ordinator and asked her to come to
45 ESB. Then you describe how you had some discussions, and she had some discussions with personnel in relation to the process of contacting

rural lessees. You describe that process in the following paragraph on page 5 of your statement; is that correct?

A. Yes.

5

Q. In the course of that paragraph you talk about a script being prepared or put together concerning what would be said to the leaseholders. I will just ask you whether this is the script that you are referring to there. It is [GSO.GSO.0004.0069]. If you have the copies there, this is a document that is headed in it looks like a texta of some description "Barbara Baikie"?

10

A. No, that is not the script. It is this one. (indicating a document)

15

Q. I don't think I have that. But you weren't involved in preparing that script in any event; is that right?

20

A. No, I wasn't.

Q. That was something provided to you that evening?

25

A. Yes.

Q. This document, while it is on the screen, appears to have what is down the page as a door knocking script. Do you know what this is?

30

A. I wasn't involved in the preparation of that document but, based on the information that is provided in the proposed door knocking script, it replicates that which we used on the Friday evening.

35

Q. Are you able to say when this document - I understand you say you weren't involved in preparing it, but do you know when it was prepared?

40

A. No, I don't.

Q. Now you say in your statement a record of those phone calls made has been provided. You later on in your statement refer to a fax that you received on the afternoon of the following day. Is that the same document?

45

A. No.

Q. What form does the record of the phone calls take that you refer to in that paragraph?

A. The record of phone calls made on 17 January is that document that was provided.

5

Q. Could I have a look at that, please?

A. Certainly.

Q. Was this prepared on the night of the 17th?

10 A. I believe so, yes.

Q. Who prepared it?

A. It would have been myself or one of the recovery managers that was working with me.

15

Q. It is a document in four columns: The first column indicates the time of the call; the second the name and district of the person called; the third, the phone number; and the fourth, the action taken, who was spoken to and in summary what was said - is that correct?

20

A. Yes.

MR WOODWARD: Your Worship, that is not part of the bundle I have. I am not suggesting for a moment - I am sure it has been provided as indicated but I don't have that. Perhaps if an inquiry can be made as to whether it is on the system somewhere. If we could make that inquiry and, if necessary, at the end of Ms Wheatley's evidence we will tender that.

25

30

Q. You say in your statement that the ring around that you refer to there was completed by midnight?

35

A. Mmm-hmm.

Q. Is that correct?

A. Approximately, yes.

40

Q. And you went home some time later than that, did you?

A. Yes.

Q. Where were you undertaking that ring around from; where were you located?

45

A. We were based at emergency services in Curtin.

47

Q. In what room there, do you remember?

A. I can show you where it was. It was around - I believe used by - it was Kel Hannon's office.

5 Q. At the bottom of page 5 you refer to your return the following morning and say:

10 "I returned to ESB in time for an 8am briefing. We called that a communications briefing."

I understand the notes for that briefing appear in your A5 notebook again under the heading "18/01/03 communications briefing 8am"; is that correct?

15 A. Yes.

Q. We have seen some notes of this briefing taken by Marika Harvey, who you indicate was there. Her notes have it headed up as "evacuation planning meeting". Are you able to indicate what name was given to it or how that came about?

20 A. I have it recorded in my logbook as "communications briefing". The agenda that was prepared for that meeting was titled "meeting on preparedness for evacuation".

Q. You actually refer to that agenda in your statement. You say it wasn't prepared by you. There are a couple of versions of this on the brief. I will just bring up one so you can identify it, Ms Wheatley. It is [GSO.GSO.0004.0066]. Is that the agenda you are referring to?

30 A. Yes.

35

Q. You say in your statement your recollection of the others present are:

40 "Felicity Prideaux, Anthony Pollineli, Paul Ratcliffe from Canberra Connect, Paul Tonkin from Chief Ministers and Lucy Bitmead from INTACT, Rick McRae from ESB planning."

You mention in one line further down that Mr Prince gave an overview. I assume he was also present; was he?

45 A. Yes. My statement actually indicates that the

group that had met on the 8pm on 17th reconvened.
It was that group plus this.

Q. Both David Prince and Rick McRae were present?
5 A. Yes.

Q. You say:

10 "There were updated planning maps on current
fire conditions and operations. We were told
that the operations base had been moved to
North Curtin Oval. At this time we were
preparing for any possible role, not
15 necessarily evacuation, but it might have
been personal support, information via a hot
line or the like. We were told, by David
Prince and Rick McRae, that the major concern
at that time was the McIntyre's fire and the
20 potential for it to push into the forest
area. Of concern were Stromlo Forest and the
possibility of Woden west, Duffy, Holder and
the Belconnen suburbs of Dunlop, Holt,
Higgins and MacGregor. I did not record, but
25 I do recall information was provided, that
whilst there was a concern, the firefighters
were confident. There was comment that
coming out of the forest you have the
grassland verge and fire can be attacked
30 differently in that area and it can be
contained coming out of the forest at that
grassland verge. I cannot say whether it was
Rick or David who said that."

That's your recollection of the meeting?
35 A. Yes.

Q. Just going back to parts of that. Firstly I
should ask: was it one or other of Mr Prince and
Mr McRae who made reference to the areas of
40 concern - Stromlo Forest and so on?

A. It was one or the other. I don't have a clear
recollection.

Q. Of which?
45 A. Of which.

Q. And you have noted in your notes in respect to

that meeting those areas of concern: you have got Stromlo, Woden west, Duffy, Holder, Dunlop, Holt, Higgins and MacGregor. So those were the places that were specifically mentioned?

5 A. That's correct, yes.

Q. I appreciate you have said in your statement you did not recall, but the firefighters were confident. Was there any discussion of what level
10 of risk or the timing of the risk to those areas?

A. There was no mention of the time, no.

Q. What about any suggestion as to what the level of risk was? Was it suggested it was remote or
15 serious?

A. I honestly can't recall whether there was mention of the level of risk, no.

Q. When you left the meeting or at that time when
20 those places had been mentioned, did you have in your mind an understanding of how likely it was that those areas might be affected?

A. There was certainly a level of confidence, I felt, that the fires could be contained because of
25 the grassland verge. My interest was in planning for a recovery response.

Q. Was the nature of the discussion such though that, again in your mind, whilst there was
30 confidence that the fire might be contained it was also possible that it would not?

A. No.

Q. I'm sorry?

35 A. No.

Q. I probably asked that question very badly. I had better start that one again. You say that there was reference to there being confidence that
40 the fire might be contained. Does it follow from that that the possibility was also being considered by reference to those areas that it might not be contained?

A. As I said, my focus was on a recovery. I
45 mean, yes, the thought crossed my mind. However, I didn't have any information to base that on.

47

Q. Perhaps more specifically you refer to comment about the fire being attacked differently when it comes into the grassland area.

A. Mmm-hmm.

5

Q. Was there anything or did you have any other information about what plans were in place to undertake that kind of attack?

A. No. That's not my role or responsibility.

10

Q. I appreciate that.

A. I didn't have an awareness of any, no.

Q. Was there any discussion at that point after those places had been mentioned about what, if anything, needed to be done to warn residents in those areas?

A. Sorry, can you repeat that?

Q. Was there any discussion during this meeting about what, if anything, should be done to warn the residents in the areas that are identified in your notes?

A. There was some discussion that the Canberra Connect website was up and running providing information to the public on the current fire status. Apart from that, I don't recall any other discussion.

Q. Were you in your role considering what, if anything, might be done to issue a warning to residents of the suburbs that had been named there?

A. It is not a recovery responsibility to provide those warnings to the public.

Q. But you deal with that later on - I was going to come to that - was one of the tasks that you might have been asked to undertake to assist with providing warnings to residents in those areas?

A. No. My understanding would be the media unit would be responsible for managing that process.

Q. And why is that to be distinguished from the role you did fulfil the night before and later on that day in assisting to warn residents in the rural areas and the lessees - and the forestry

settlements?

5 A. It certainly wasn't - it is not a dedicated role or responsibility under the community recovery subplan to undertake the function that we did. It was more to provide support and assistance to the Emergency Services Bureau, and we had the capacity to do that.

10 Q. I am trying to understand why if you understood at least at that stage you were being asked to assist in relation to providing information to rural lessees and later on in the morning to residents of the forestry settlements, why it wouldn't have at least been possible that
15 you also would be asked to assist to warn residents in those urban areas?

MR LAKATOS: I object to the question. With respect, she is being asked why somebody else
20 might not have asked her to do something as to that particular possibility. With respect, the answer might be obvious that somebody might have asked her, but the fact is she wasn't asked. I am not quite sure where this is going, with respect.
25 She wasn't asked and that is where it stands.

MR WOODWARD: Your Worship, I was just seeking to inquire a little further about the witness's distinction between those areas. She indicated
30 that it would be the media unit that would deal with that aspect.

THE CORONER: Does the warning.

35 Q. You were tasked with the responsibility to contact the rural lessees; were you not?

A. We assisted in the task of contacting them, yes. We weren't involved in preparing the script or the providing of the details. We were just a
40 voice on the end of the phone.

Q. I would like to know the distinction as well. So what would you say to them if you telephoned them - I suppose if it is not a warning, what are
45 you ringing them to tell them?

A. The alert that we gave on the Friday evening, which has been provided to the inquiry as

evidence, was an alert about the fires in their district and the need for them to prepare and make the decision whether to - that the fires were within their district and whether they wanted to
5 make the decision to stop and fight the fires on their property, if they felt that they were prepared enough, or to have the opportunity to leave when they could.

10 THE CORONER: I suppose that is in the nature of a warning, really.

MR WOODWARD: Q. Perhaps I can deal with it this way: did you have in your mind when you were being
15 told about the risk particularly to these urban areas, these suburbs such as Duffy and Holder and so on, that you might be asked to assist in the process of warning people in those areas?

A. It was quite possible that the recovery
20 personnel could be involved - could assist in that process. That could be by way of the door knocking.

Q. At that time were you giving some thought as
25 to how that process, given that you might be asked to be involved, might be undertaken?

A. I didn't become any further involved in that part.

30 Q. As I understand your evidence, there was no discussion at that time at least as to the mechanics of any warning to those areas - that is, the urban areas?

A. I certainly wasn't aware of any, no.

35

Q. You deal with this later in your statement. Because you referred to it in your evidence, as I understand it, your role was really reactive in the sense that, whilst you were there to assist,
40 you effectively had to be asked to undertake a particular task as part of the overall responsibility before you undertake it. You weren't in a position to initiate any of those processes; is that correct?

45 A. That's correct.

Q. Are you able to indicate again how far your

notes of that meeting go in that notebook? I assume it is that page headed up "communications briefing" but what about the next page?

5 A. No, it is just that page headed up "communication briefing". The next pages refer to my own planning and preparedness for potential evacuation sites.

10 Q. You refer in your statement to the fact that, either at that meeting or shortly thereafter, a decision was made that most of the people involved in the role you have been describing should relocate to the Winchester police operation centre; is that correct?

15 A. That's the recovery personnel involved, yes.

Q. You stayed at the ESB?

A. That's correct, yes.

20 Q. You don't refer to this in your statement but did you attend the planning meeting at 9.30 that morning?

A. No, I did not.

25 Q. You say at page 7 of your statement - this is where your other logbook comes in:

30 "At 9.40 you contacted Bernadette Maher of ACT Housing to alert her of the current situation and to place her on standby".

On the third page of what is the A4 notebook headed "communications log" you have noted at 9.40am that contact; is that correct? Is that your handwriting incidentally on that?

35 A. Yes. I am just trying to find the page you are referring to - yes, that is my handwriting.

40 Q. Someone has noted or initialled that in that column; is that correct?

A. Yes. My initials are underneath the message. The action noted column is the initials of the recovery coordinator.

45 Q. That is Barbara Baikie again?

A. Yes.

47

Q. She informed you of housing trust settlement in Stromlo. Do you recall in any more detail the discussion in which she mentioned that to you, that there was that settlement there?

5 A. No.

Q. Did you mention to her that Stromlo was an area that had been identified as being under threat?

10 A. I possibly could have, given we had just come out of the 8am briefing, yes.

Q. Having been given that information, what did you do about the people in that settlement?

15 A. At that particular point, I didn't do anything further.

Q. Did you pass that information on to anyone or ask anyone about it?

20 A. The point of the communications book was to provide an information record for the recovery coordinator and the recovery managers, so that information was noted by the recovery coordinator. As I said, I wasn't part of any of the planning
25 meetings so this was part of the purpose of providing this information.

Q. Through making that note and being actioned by Ms Baikie, it was brought to her attention and
30 that was the end of your role on that issue?

A. Yes. At that point, yes.

Q. There is a note in your other notebook, two pages further on from the one we were speaking
35 about - I have noted it as page 19 - where you have a note at the top "Bernadette Duffy pine settlement" and it has a line through it. Is that a reference to the same discussion?

A. I would suggest so, yes.

40

Q. It is referred to in some of the documents also as "Duffy", isn't it?

A. Yes, we referred to Stromlo as Duffy, yes.

45 Q. You say in your statement:

"At 10.50 I noted we were contacted" - you

5 say you noted in the log that we have just recently spoken about at 10.50 - "advised verbally by David Prince to undertake a ringaround of Pierce's Creek and Uriarra Settlements."

10 Was that the first time that there had been any discussion, in which you were involved at least, where the need to contact the Pierce's Creek and Uriarra Settlements had been raised?

A. Yes.

15 Q. That's at 10 to 11 on Saturday morning; is that right?

A. Yes.

20 Q. You then made contact again with Bernadette Maher from ACT Housing to request a contact list of those housing properties. She gave you information not only about Uriarra but also about the Duffy - if I can call it Duffy/Stromlo settlement?

A. Yes.

25 Q. She told you at 11.10 that she was faxing through a contact list for those settlements at Pierce's Creek, Uriarra and Stromlo?

A. Yes.

30 Q. And then you go on to explain in your statement how, because you were on your own by that stage at ESB, you basically just faxed that document on to Winchester; is that right?

A. Yes. That was faxed at 11.40.

35

40 Q. That document I think is [GSO.GSO.0004.0073]. That is a fax cover sheet on ACT Housing letterhead to Janelle with "tenants of all ACT housing rural properties - cheers Bernie" written on it. You have noted on it two things: the first is a fax number at the top of the page, which your statement indicates you believe is the Winchester fax number?

A. Yes.

45

Q. And down the bottom you have made a note "Jason Byrnes" with a mobile number?

A. Mmm-hmm.

Q. Is that your handwriting down there?

A. Yes, it is.

5

Q. Do you recall the circumstances in which you made that note at the bottom of the page?

A. No, other than perhaps he was an alternate contact within ACT Housing.

10

Q. He is actually a police officer I think; does that assist?

A. No, it doesn't. No.

15

Q. If we can go to the first page, which is the second page of the document, it is a list of people as you understood it in the Uriarra Settlement; is that correct?

A. This is a list that was provided by ACT Housing of their rural housing trust properties.

20

Q. Do you know who made the handwritten notations on that document and when?

A. No. I'm not aware. As I indicated in my statement, this document was faxed to the recovery team at Winchester Police Centre to commence the ringaround.

25

Q. Were those notes on it before you sent it to Winchester?

30

A. No, I would suggest not. There was a fax that came through from Housing. They are certainly not my notations. But, no, I couldn't say.

35

Q. As indicated by the fax cover sheet, it includes people of all of the settlements in Pierce's Creek, Uriarra and Stromlo; is that right?

A. Yes. It was a list provided by Housing.

40

Q. You won't be able to add anything to this, I expect, but I should ask you this for her Worship's benefit: at 0078 there are a series of addresses shown as the location "Duffy". That is, as you understand it, the Stromlo pine settlement; is that correct?

45

A. Yes.

Q. Your Worship might note that item number 78 in that list is the address for Dolly McGrath.

5 You say in your statement you had no dealings with the Winchester centre for the balance of the day about the process of the ringaround?

A. That's correct.

10 Q. Are you aware from that day, or indeed at any time since, whether Mrs McGrath was contacted?

A. I can't answer that; I don't know.

15 Q. Now you say in your statement in the second paragraph on page 8 that you received a fax from Winchester at 1610. That is document [GSO.GSO.0004.0083]. In your statement you say:

20 "This was the list I had sent to them, with notations that indicated to me that a ringaround had been undertaken. A copy of that list with notations has been provided to the inquiry. I do not recall having conversations with people at Winchester about progress with the ringaround during the day.
25 My personal tasking, as directed, was to consider evacuation requirements and find recovery workers. There was senior people available at Winchester."

30 The document on the screen now, is that the fax you are referring to in that paragraph?

A. Yes.

35 Q. If one follows the pages that appears to be firstly sections from the list of rural lessees with annotations interspersed from time to time, and I will give an example - actually that page 0091 would appear to be again a page from the list of people from the forestry settlements, that
40 second list that was sent?

A. Yes.

Q. That was all part of the one fax, just checking from the page numbers at the top?

45 A. Yes.

MR WOODWARD: Your Worship will not see this on

the screen but at the very top of the page, it is cut off, there are automatically generated fax page numbers that show that they were apparently sent in this order. You have the hard copy there.

5

THE CORONER: I have the hard copy here.

MR WOODWARD: Q. That fax, it doesn't appear to include all of the pages of the forestry settlement fax - they don't appear to have come back to you?

10 A. No, it doesn't.

Q. Are you able to explain that?

15 A. No, I'm not.

Q. Who would be the person involved in that ringaround, Ms Wheatley, who might be able to assist with those matters?

20 A. Yes. I think I provided the names in my statement of those that were present at the Winchester Centre.

Q. At the top of page 8 Kate Collins/Hayford, Amanda Tobler and Marie Bennett?

25 A. Yes.

Q. Were they to your knowledge being supervised by anyone at Winchester?

30 A. The others present at Winchester to my knowledge were Adele Gillespie and Sue Birtles.

Q. Was there a hierarchy amongst that group or were they all doing what they could to get these warnings out?

35 A. They were all doing what they could. Sue Birtles would have been the highest ranking officer out there.

Q. Have you seen any other documents amongst the material you have seen that have annotations against other parts of that fax with the names of people at the forestry settlements?

40 A. Are there any other documents, sorry?

45

Q. Yes.

A. Not to the best of my knowledge. This is the

information that I had retrieved from our records.

Q. I appreciate you say in your statement you didn't have any conversations with people during
5 that day, but either that day or since, has anyone told you when that ringaround was completed?

A. No.

Q. So you don't have any information about that?
10 A. No.

Q. You say in your statement you were then largely involved in arranging for and providing facilities to proposed evacuation sites; is that
15 correct?

A. Yes.

Q. So you had no further involvement in any process of ringarounds or warnings to the
20 community?

A. No.

MR WOODWARD: I have nothing further. Thank you,
25 Ms Wheatley.

THE CORONER: Mr Pike?

MR PIKE: No.

30 THE CORONER: Mr Archer?

<CROSS-EXAMINATION BY MR ARCHER

MR ARCHER: Q. Ms Wheatley, I represent the Australian Federal Police. Your statement
35 suggests that, so far as the Friday night was concerned, the emphasis of the gatherings at ESB that night were with rural settlements and getting systems in place to ensure that information was conveyed to them about the fires that may threaten
40 those areas that night and early in the next day?

A. That was my role on the 17th, yes.

Q. Was there any suggestion that night that the urban fringe of Canberra was a concern for your
45 planning group?

A. No, it was never mentioned.

47

Q. So far as the following morning was concerned, did that emphasis change at all?

5 A. Other than the reference at the 8am planning meeting on - pardon me the communications meeting at 8am on the 18th, there was a reference to the concern of the possibility of the fire affecting those suburbs mentioned.

10 Q. But as you understood it that prospect as at that time, so far as those who were telling you the information concerned, that that prospect was remote?

A. Yes.

15 Q. Your activities that morning were directed, I suggest to you, completely at assisting others notifying those in rural areas of dangers that may present themselves that morning?

20 A. On the Saturday morning?

Q. Yes.

A. I had no involvement in the ringaround on Saturday morning.

25 Q. I will go back to that communications meeting that morning. Marika Harvey was there?

A. Yes.

30 Q. What recollection now do you have of what she was intending to do so far as going beyond the ringaround process was concerned?

35 A. There was the discussion, as I mentioned, about the information that was available to the public through the media channels and through the Canberra Connect website.

Q. Were radio stations mentioned, for example?

A. Can I refer to my notes?

40 Q. Yes.

A. No. No, I don't have any other notes that have any reference to that.

45 Q. Your notes don't contain that reference. Do you have a recollection yourself of the sorts of things that were said by Marika Harvey at that meeting as to what she was going to do?

A. No, other than the reference to the Canberra connect site.

5 Q. Your understanding when you left that meeting was that it was the media unit that were going to address those other issues?

A. That's correct.

Q. You were present at ESB all that Saturday?

10 A. Yes.

Q. When did it become apparent to you - and I acknowledge you are not part of the firefighting effort - that the focus was shifting from the rural sort of precinct to the urban fringe?

15 A. I have no vivid recollection. My focus was very much on planning for potential evacuation sites and what I needed to do to resource my team to ensure that those sites were ready, should there be a need - should the need eventuate for them. I wasn't involved in any planning meetings or discussions. I was basically contained at a desk.

25 Q. Initially those people who may require the resources that were available in those evacuation centres were people from rural areas; is that correct?

30 A. We prepare - from a recovery perspective recovery planning starts at the same time as the response so we have a certain level of preparedness to accommodate, should the need arise.

35 Q. Those who are going to be your clients as it were in that process were, to your understanding on the Friday night and Saturday morning, those from rural areas that may need to be evacuated; is that right?

40 A. The potential was there for the rural with the fires in the area, yes.

Q. During the day, I am talking about the 18th, did it become apparent to you that the number of people that may require access to those facilities and resources might increase, because it may involve people from urban areas going to those

areas?

A. Yes. Yes.

Q. Is that the case?

5 A. Yes.

Q. When did that change happen?

A. From a planning perspective too, from a
recovery planning perspective people will make
10 their own decisions whether they are told to
evacuate or not. They may self-evacuate for
reasons to themselves. So we plan for capacity.

Q. But when did your planning start to take
15 account of the fact that people from urban areas,
whether they self-evacuate or are told to evacuate
or however it happens - when did your planning
start to take account of the fact that there may
be people from urban areas who might need to go to
20 evacuation areas?

A. Initially we had identified a number of sites
but were only planning for one evacuation centre.

THE CORONER: Q. When, I think, is the question?

25 A. Mid to late Saturday morning, I think it
actually records in my notes - but mid to late
Saturday morning.

MR ARCHER: Q. Do you recall having any
30 discussions with a police liaison officer at
Curtin other than Steve Kirby? Do you recall
another face?

A. Certainly when Steve went off shift he was
replaced by another liaison officer, and I made
35 contact with that person.

Q. That person, I suggest to you, was Jason
Byrnes?

A. It could be.
40

Q. The name that appeared on that fax?

A. It could be but there was a female officer at
some stage as well.

45 Q. I suggest that was much later in the day?

A. Yes.
47

MR ARCHER: Yes, thank you.

THE CORONER: Mr Lakatos, any questions?

5 MR LAKATOS: I don't expect so but if I could go at the end.

THE CORONER: Mr Pike?

10 MR PIKE: No.

THE CORONER: Mr Whybrow?

MR WHYBROW: No.

15

THE CORONER: Mr Walker?

MR PHILIP WALKER: No, your Worship.

20 THE CORONER: Mr Craddock?

MR CRADDOCK: No.

THE CORONER: Mr Watts?

25

MR WATTS: No, your Worship.

THE CORONER: Mr Lakatos?

30 MR LAKATOS: No, there is nothing arising.

MR WOODWARD: Just one matter in re-examination.

<RE-EXAMINATION BY MR WOODWARD

35 MR WOODWARD: Q. Ms Wheatley, just from a question Mr Archer asked you when he was asking you about the information you were provided at the meeting at 8am on the morning of Saturday, the 18th. I think he put to you, after referring to
40 the prospect of reaching the suburbs, that those who were telling you the information were saying that the prospect of that occurring was remote; and you agreed with that. Do you actually recall
45 someone saying something to that effect, "Look, the prospect of this occurring is remote," or was it more in terms of your statement that they were confident that they could still stop the fire at

the grassland area?

A. Yes, it was more that there was confidence that the fire could be contained within that grassland verge, yes.

5

Q. Was there any expression used that indicated to you a degree of probability about whether or not the fire might reach those suburbs?

A. No, no. As I said to you before, there was no category of level of risk or time.

MR WOODWARD: That is all I have, your Worship. But I will mention that the document that Ms Wheatley provided as a record of phone calls is on the system but is not part of courtbook. It is document [ESB.AFP.0051.0343]. Rather than tender this document, having read out that number, we will arrange for that to become part of the brief in the usual way.

15
20

Q. Perhaps I should, on reflection, just ask you, Ms Wheatley: do you know whether a similar document was prepared about the ringaround the following day?

A. I'm not aware.

25

MR WOODWARD: Yes, thank you. Thank you, your Worship.

THE CORONER: I will return these diaries and note pads to you, Ms Wheatley.

Thank you, Ms Wheatley. You are excused. You are free to leave.

35

<THE WITNESS WITHDREW

MR WOODWARD: That is it for this afternoon, your Worship.

40

THE CORONER: So we will adjourn until 10 o'clock tomorrow morning.

**MATTER ADJOURNED AT 3.05PM UNTIL THURSDAY
29 APRIL 2004.**

45

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 43

Thursday, 29 April 2004

[10.05am]

MR LASRY: Your Worship, the first witness this morning is Mr Tonkin, and I will call him. After
5 Mr Tonkin and Mr Dutton have given their evidence, we propose to play quite a large number of recorded telephone calls which have been the subject of some evidence so far.

10 We have a schedule which is being prepared and will be distributed. The calls themselves will be given to our learned friends on a CD.

In essence, these calls come from the two
15 telephones where tape-recordings were maintained. They are identified as channels 53 and 54. What has effectively occurred is that the police investigation team have been through all of them and selected those which appear to be relevant.

20 There are a number of phone calls which are clearly not relevant. They are discussions about personal matters and so on. These recordings were in the possession of the government solicitor.
25 That is where we got them from. Anyone who wants to look through the rest of them in the event that we haven't played all the relevant calls is of course welcome to do so.

30 If other calls are brought to our attention that are relevant and we haven't played them, then of course we will play them.

The plan is to start the process today after the
35 two witnesses have given their evidence, Mr Tonkin and Mr Dutton, and get as far as we can and possibly complete the process tomorrow after the evidence of Mr Murray and Mr Byrnes, who are giving evidence tomorrow.

40 It will take some time. The theory behind it is that if these calls are played chronologically then what they basically provide is a chronological outline of what was occurring at the
45 time it was occurring. So they are of some value for that purpose. Unlike the radio transmissions, which are also valuable, a number of these calls

contain discussions about suppression and
containment options and likely threats and all the
rest of it. We think it is important to hear it
more or less en masse and chronologically so the
5 picture can be painted.

As occurs with any playing of tape-recordings
where there are a number and it takes a while,
there is an element of tedium to it. Hopefully,
10 the relevance of the material will be apparent as
soon as we start to play it.

THE CORONER: Is there a transcript of these
conversations?
15

MR LASRY: There is no transcript. That is why we
are playing them in court. The process the police
have undertaken has only relatively recently been
done. What we can provide is a schedule of each
20 call identifying who the caller is and who the
receiver of the call is, although in probably 70
per cent of the cases the callers self-identify
and it is obvious who is doing the talking. We
propose getting them transcribed, but that
25 involves sending them off to a transcription
service, probably WordWave. When that has been
done, we will distribute those transcripts as
well.

It is not proposed to call witnesses and put these
to witnesses at this stage, although it is
relevant to several of the witnesses. Mr Gore,
for example, yesterday gave evidence which is
relevant to these calls. One of the examples of
35 these calls was the conversation between Mr Graham
and Mr Lucas-Smith, I think, on the night of the
8th of January. I think at that stage what I put
to Mr Lucas-Smith or what was put to Mr Graham was
a transcript. I don't think we actually played
40 the call. That's from memory. In any event, we
now have the full collection and hopefully they
will be of significant assistance to you.

THE CORONER: We will propose playing those after
45 Mr Dutton's evidence this morning.

MR LASRY: After Mr Dutton has completed his

evidence. We think that will be some time after the morning break.

5 If we are not already in the morning break, there may need to be a break to set things up. We will play them through an amplifier and speakers here. Your Worship would be conscious of the need to ensure that the sound was also transmitted next door. It may be that the court system is the way to do that, but we will sort that out before we start.

THE CORONER: Thank you, Mr Lasry.

15 MR PIKE: Perhaps now is the right time for me to indicate, I am not sure how my other friends are placed, but I will have to reserve my position in relation to this proposed course of action in relation to any application I may have to make. I was first advised of this proposed plan of attack at around 4.30 yesterday afternoon. I have no idea at all what is in the tapes, who is speaking.

THE CORONER: You are not alone.

25 MR PIKE: I know that. What is the context of these conversations and what instructions I may need to take, I am just completely and utterly in the dark. There has been no foreshadowing to me at all.

THE CORONER: We are all in the same position.

35 MR PIKE: We are all in the same position, save this and I just make this point: if there is to be anything else of this nature, anything else which might take myself or perhaps even my colleagues by surprise, I would like to have a little bit more notice than this. It just makes it impossible to do anything.

THE CORONER: It is a matter of sitting there and listening, Mr Pike. That is all that you will be required to do today, as with all of us. If there is anything that needs to come from that --

MR PIKE: The difficulty is the task, for example,

to try and sort out context. It may involve somebody, myself or some other person going back and listening to other recordings around these times. That may present - it may not - a
5 logistical nightmare. I just indicate that I must reserve my position.

10 THE CORONER: I understand that. Thank you, Mr Pike.

MR WATTS: I now seek leave to appear for Mr Dutton. I foreshadowed that yesterday and I now seek leave.

15 THE CORONER: Thank you, Mr Watts. That leave is granted to you.

MR WATTS: Thank you, your Worship.

20 MR LASRY: Can I just say in relation to what has just been said by Mr Pike that I have some sympathy with the position. I have listened to some of the tapes but not all of them. The reason we are doing it in a sense quickly is because it
25 seemed to me before the New South Wales witnesses give evidence next week this exercise ought to be undertaken. There are a significant number of telephone conversations which involve New South Wales, and the most effective way to inform
30 everybody as to what is in those conversations is to play them in court.

In a sense I am in the same position as my learned friend, although I have listened to some of them.
35 I have only listened to the selection. I also have no understanding of whether there is some other relevant context. I must say, on listening to the conversations, I would be surprised if there was. They are very much self-explanatory.
40 The relevant ones dealing with operational fire matters very much follow on after each other at the critical periods. I would be surprised if the significance and the context of them isn't fairly apparent from the tape-recordings themselves.

45 I call Mr Tonkin.
47

<ROBERT HENRY TONKIN, SWORN

<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Tonkin, is your full name Robert
5 Henry Tonkin?

A. Yes.

Q. Are you presently a special adviser seconded
to the Department of Prime Minister and Cabinet?

10 A. Yes.

Q. Are you seconded in effect from the office of
the Chief Minister in the Australian Capital
Territory?

15 A. From the Chief Minister's portfolio, yes.

Q. At relevant times, that is during the fires in
January 2003, did you occupy the position of the
chief executive of the ACT Chief Minister's
20 Department?

A. Yes.

Q. Had you been there for something a little
under three years at that stage?

25 A. Yes.

Q. Commencing in May of 2000; is that right?

A. Yes, correct.

30 Q. Prior to that you had been with the
Commonwealth Department of Defence in the capacity
as deputy secretary resources and management?

A. That's correct.

35 Q. And the information I have put to you is on a
piece of paper which everybody has got, is that
right?

A. As far as I know, yes.

40 Q. You haven't made a statement for the purpose
of this proceeding, have you?

A. No, I have not.

45 Q. But at the time, as you said, you were the
chief executive of the Chief Minister's
Department. You had been there, as you said, for
some years prior to that. Before we come to the

fires themselves, I want to ask you briefly about a discrete matter which concerns the computer-aided dispatch system for the Emergency Services Bureau.

5

Am I right that, from about 2000-2001 onwards, there was some discussions about the need to replace the CAD system at ESB?

A. I'm not necessarily aware of all of that.
10 That would have been a matter for the relevant department rather than centrally.

Q. Do you recall having a conversation with a Mr Olaf Moon in 2001?

15 A. No.

Q. Do you accept that you might have?

A. I accept I might have. I have read the material.

20

Q. You have read his transcripts, have you?

A. Yes.

Q. I should indicate that the transcript refers to a tape recorded record of conversation between Mr Moon and members of the Police Force conducted on the 30th of March 2004 - document number for which I don't have at the moment.

30 THE CORONER: I have a copy of that, Mr Lasry.

MR LASRY: Q. I don't want to go into detail in relation to this, Mr Tonkin, but in the course of that interview Mr Moon asserts that in
35 January 2001 - he says it by reference to a diary which he was proposing to check - at question 39 that he went to you and said specifically that funds needed to be allocated for a replacement CAD system. I take it that, despite having read this
40 transcript, you have no recollection of that conversation?

A. I still have no recollection, no.

Q. Have you had any involvement at all in the process by which the CAD system was to be replaced?

45 A. I can only describe in general terms the

process we followed for projects of that type.

Q. No. It may be that I will ask you to do that
in a moment. But in relation to this particular
5 system, perhaps let me ask you this: had it been
brought to your attention prior to January 2003
that, in the opinion of some, the CAD system at
ESB was inadequate?

10 A. I think I recall, yes, that that had been the
case.

Q. Sorry?

A. Yes.

15 Q. How long before the fires of January 2003?

A. I can't recall. I think it had been an issue
for some time.

20 Q. Can you recall who you spoke to about the
deficiencies in the CAD system?

A. I think I may have had conversations in the
past with Mr Castle about that, probably at his
initiative.

25 Q. Did he agree that the system was deficient?

A. I think they were looking to improve their
system.

30 Q. Mr Moon suggests the problem with the system
was that it could only handle 12 vehicles and in
the event of a significant disaster, such as the
fires in 2003, the system simply wouldn't be able
to cope with the number of vehicles it would have
to handle. Had that been the subject of
35 discussion prior to January 2003?

A. I don't recall any specific discussions about
the actual technical capability other than its
general need to be upgraded.

40 Q. Has it been, as far as you know?

A. I believe the project was certainly approved.
Whether it has actually been completed, I don't
recall. I think funding was made available for
it.

45

Q. There is a fairly lengthy tendering and
exploration process, isn't there, before a system

like this is actually settled on?

5 A. Before any major government contract is entered into it needs to be specified. It needs to go to tender. The tenders need to be evaluated, selected and then a process of implementation. It can take a considerable period of time.

10 Q. When Mr Castle initiated conversations with you, was it because he was wishing to discuss it with you on the basis that he realised that the system needed to be improved?

15 MR LAKATOS: May I just ask whether or not that question is directed towards something Mr Castle told Mr Tonkin. Really he is being asked Mr Castle's motives for raising it with him. Perhaps it should be made clear where that comes from, if he knows.

20 MR LASRY: I thought it was implicit in the question. What I was asking the witness was whether when Mr Castle spoke to him he explained why he was making the approach.

25 Q. Did he, Mr Tonkin?
A. I have only the very vaguest recollection of these discussions. I can recall visiting at some period in the past the CAD dispatch room, having the general thing explained and indications that they sought to improve it. That's about all I can recollect.

30 Q. Did they tell you why it needed to be improved - Mr Castle or anybody else?

A. I can't recall the specifics, sorry.

35 Q. How long before January 2003 would that have been?

40 A. I can't tell you that either. I can't recall.

Q. Mr Moon says he spoke to you in January 2001. It is likely to be between those two dates, 2001 and 2003?

45 A. It may or it may not have been. I had been chief executive since May the previous year and I may well have visited ESB in that intervening

period.

Q. Mr Tonkin, in relation to the fires themselves, I take it you became aware of the fact
5 of the fires some time after the 8th of January?

A. Yes.

Q. How long after?

A. I can't recall precisely. I was in Sydney
10 that week, but I returned to Canberra before the end of the week. The fires were then in place. Some time just before the weekend.

Q. What was the first day on which you had any
15 official connection with the fires?

A. On the Sunday the 12th of January I spoke to the Chief Minister. I rang the Chief Minister and his chief of staff. Out of that flowed the
20 briefing on the next day.

Q. Did you contact the Chief Minister?

A. Yes.

Q. What did you tell him?

A. I think - I can't recall the conversation. I
25 am inferring that the discussion was the fires were there. We should know what the status is.

Q. So a briefing was arranged for the following
30 day, the 13th?

A. Yes.

Q. You made some notes of that briefing?

A. Yes, some very brief notes.
35

Q. Do you have them?

A. I don't have them with me.

Q. It is on the system at [GSO.GSO.0004.0001].
40 Mr Tonkin, with great respect to you, I reckon your handwriting is even worse than mine.

A. It has been a bone of contention throughout my career.

Q. I am going to need some assistance. I am not
45 sure necessarily the order of these documents. Certainly the front page is a note pad in relation

to the Council of Australian Governments National Inquiry on Bushfire Mitigation and Management?

A. Yes.

5 Q. Were you a member of that council or were you at the time?

A. I was the head of the secretariat of that inquiry.

10 Q. The first part I can read "bushfire briefing 13/1/03". Can you just read to us the rest of the note, please?

A. It says:

15 "Costs - may be an issue. Fuel" - don't know what the next word says to be honest -
"Helicopters et cetera. 4.78 million is the national disaster threshold. ACTEW would be
ineligible. Then dollar for dollar" - I
20 think it is - "to the threshold and 75 per cent of threshold then \$3 to \$1. Need for contingency plan re westerly winds and ability to make quick decisions on priorities."

25

Q. What does that note represent as far as people speaking is concerned? Perhaps I will be more specific and perhaps just add some other details: this is a briefing which occurred at ESB with
30 Mr Lucas-Smith and, I think, Mr Castle?

A. Yes.

Q. The Chief Minister, yourself?

A. Mr Keady, Mr Thompson and Minister Wood.

35

Q. Was costs the first thing that was raised in the discussion as far as you can recall?

A. I don't recall. It is the first thing I wrote down.

40

Q. Was there a reasonably extensive discussion about what this was costing?

A. There was some concern about our ability to fund the operation. I don't recall whether it was
45 extensive.

Q. Who expressed that concern?

A. I think it was Mr Castle, on probability.

Q. Hence the discussion about the \$4.7 million national disaster threshold?

5 A. That's a discussion about the mechanism under how that works.

Q. The last paragraph "need for contingency plan re westerly wind", what does the rest of it say, Mr Tonkin?

10 A. "And the ability to make quick decisions on priorities".

Q. What does that summarise?

15 A. It summarises a discussion that, in terms of how ESB was responding to the fires, there needed to be a structure in place that they could work out how they will respond if circumstances changed and how decisions would then be made as to where
20 you would deploy resources or what you would do. It is just a normal operational planning.

Q. What was explained to you about what would happen in the event of westerly winds?

25 A. I don't recall any explanation on that.

Q. The note makes it fairly apparent that westerly winds were going to make the situation worse, I take it, from the context of the note. That's fair isn't it?

30 A. Well, that's true.

Q. Because in the event of a westerly wind there was a need then for a contingency plan to cater for that?

35 A. Yes.

Q. What was the problem that was going to be created by the westerly wind?

40 A. Well, the fires were to the west of the city, and hence a westerly wind would bring the fires towards the more developed parts of the territory - geography being what it is.

45 Q. What you just engaged in was a process of deduction. Is that what was discussed at the meeting?

A. I'm not - I can't recall the precision that you request.

Q. I appreciate you can't recall the precision.
5 Let me put it another way: was the sense of that discussion that a more serious development as at the 13th of January would be a westerly wind which would be likely to push the fire in the direction of Canberra itself?

10 A. Push the fire in the direction of areas outside the forested areas, which affects the rural areas as well.

Q. Settled areas?

15 A. Settled areas.

Q. The note expresses a need for a contingency plan. Were you given details of what the contingency plan actually was?

20 A. I don't recall that we were, no.

Q. It seems to me at least that that is the extent of your note of that briefing; is that right?

25 A. That is right.

Q. Then people, yourself not included, got into helicopters, took off and later found themselves in the Bendora Dam; is that right?

30 A. That's right.

Q. There was a further briefing, as I understand or recall the evidence of the Chief Minister, in conjunction with an attempt to fly over the fires on the 15th of January. Were you a part of that process?

A. No, I was not.

Q. Had you had any connection with ESB or the fires on the 14th of January?

40 A. No.

Q. Was your next involvement the cabinet briefing on the 16th?

45 A. That's correct.

Q. Have you had an opportunity to read the

evidence of the witnesses who have given evidence about that so far?

A. No.

5 Q. Not at all?

A. Only what I have read in the newspaper.

Q. Do you recall the circumstances under which the cabinet briefing came to be arranged?

10 A. Yes.

Q. What were they?

A. My recollection is at the briefing on the 13th, I suggested - I think there is a written
15 note to that effect - that we ought to arrange a below the line briefing for cabinet so that all the ministry could be advised of the situation.

Q. Just pause there for a moment. Could we go
20 across to page 0003 of the notes that I have already referred to. The difficulty I have got, Mr Tonkin, is the way in which these notes have been placed onto our system doesn't make it absolutely clear the order in which they actually
25 should be looked at. I suspect --

A. That is the correct one.

Q. That is the right one; is it?

A. Yes.

30

Q. Just tell us about this note. What is happening here?

A. Well the relevant is the first five lines. That was the time of the Monday briefing. It says
35 "Tim/Alan, I suggest we get below the line discussion at cabinet on Thursday on options priorities if the situation deteriorates". So that was essentially the genesis, as I recall it, of the cabinet briefing on the 16th.

40

Q. Who are Tim and Alan?

A. Tim Keady, the chief executive of Justice and Community Safety, and Alan Thompson, chief executive of the Department of Urban Services.

45

Q. It says "I suggest we get" --

A. "Below line discussion at cabinet on Thursday

on options priorities if situation deteriorates".

Q. What kind of deterioration did you have in mind that inspired you to make --

5 A. If the weather changed or the fires became more serious than they were at the time, just essentially precautionary.

Q. What is the purpose of having the discussion with cabinet on the Thursday if the situation deteriorates?

10 A. The purpose is to have all of the cabinet participate in that sort of discussion and to do it, I suppose, in an effective and formal manner.

15

Q. Why is that necessary?

A. It was a --

Q. Why would that have been necessary?

20 A. The fires were a significant event occurring within the Territory. It was the first cabinet meeting of the year. I thought it sensible and prudent to give cabinet the opportunity to be advised.

25

Q. Now the note that is under that on that same page, is that relevant to the note that you just read?

30 A. No. That reflects a two-sided piece of paper. Those headnotes are actually from the 9.30 briefing - part of my notes of the 9.30 briefing on Saturday the 18th.

Q. At the briefing itself, as you may know, there are a number of sets of notes of what occurred at that briefing on Thursday the 16th?

35 A. Yes.

Q. Have you looked at those notes for the purpose of giving your evidence?

40 A. I have seen them very, very briefly.

Q. But Mr Castle was present; you were present, as you said; Mr Kwiatkowski, the cabinet secretary was present; Mr Quinlan; Mr Keady; Mr Stanhope; Mr Corbell; Mr Wood; and also Claire Wall, who was present taking notes as well?

45

A. That's correct.

Q. I think that is the complete complement. As I
have been through with other witnesses, the thing
5 that occurred earlier in the process seems to be
the tabling of the briefing paper, which is
[DPP.DPP.0003.0078]. Do you recall that briefing
paper being provided, Mr Tonkin?

10 A. Yes.

Q. While that is coming up, as at 9.30 on the
morning of 16 January when the cabinet briefing
occurred, had it crossed your mind for any reason,
either because you thought of it or because
15 someone said it to you, that these fires might be
a threat to the suburban area of Canberra?

A. No.

Q. Hadn't occurred to you?

20 A. Not to the suburban area.

Q. When the briefing paper was handed out at the
start of the cabinet briefing, did you look at it?

25 A. I would have.

Q. Do you recall reading it?

A. No, but I would have.

Q. Just going to page 2, page 0079, under the
30 heading "New South Wales fires", do you see it
says:

"McIntyre's fire to the north-west has secure
containment lines to the south and east
35 following back-burning operations. 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
40 and subsequently the urban area."

A. Yes.

Q. Do you recall reading that?

45 A. Yes.

Q. Do you recall being concerned about it?

A. Not particularly.

Q. Why not?

A. Because of the overall context in which it was presented. It wasn't stressed as an area - as an issue of significant concern in the presentation.

5

Q. Do you mean in the verbal presentation?

A. In the verbal presentation or in what you see on the screen.

10 Q. Well, going down the page a bit, the "assets under potential threat" are dot pointed and they include:

15 "The Cotter Catchment area, ACT pine forest plantations, isolated communications infrastructure, Tidbinbilla Nature Reserve and tracking station, rural leases, urban edge" --

20 Did that concern you?

A. No.

Q. Why not?

25 A. I was concerned in a sense about all those areas but, if you go to the particular aspect of the urban, the urban edge is in my definition the area from the back fence back into the open area rather than the built environment. So that's an occurrence which occurs and occurred in 2001.

30

Q. So converting that to your line of thinking at least in relation to the "potential threat" which is the heading under which "urban edge" appears, the potential threat was to that section of land up to the back fence of the edge of the suburban area but not beyond it?

35 A. That's what my understanding of urban edge is.

Q. Is that what you believed?

40 A. Yes, and that's what we experienced.

Q. That it would stop at the back fence?

45 A. That there are fire breaks behind the back fences across Canberra or there are edge streets between open space and housing and, having reflected on where fires had occurred previously, that's where fires had been contained too.

Q. Under the New South Wales fires of course further up the page the reference is to the urban area. That would be beyond the back fence wouldn't it, as far as you would understand, that particular --

5 A. I would understand that is what that phrase would mean, yes.

Q. What was being described there is a potential serious impact to the forest pines and subsequently the urban area?

10 A. Yes.

Q. Did that raise in your mind whether or not there was a need at least to warn people in the relevant urban areas that this was a potential threat?

15 A. Not within the context of the overall briefing that we were given, no.

20

Q. We will come back to that. The scheme of the briefing, apart from the distribution of the briefing paper, seemed to then involve Mr Castle providing an overview. He described how the fires had started and he described the weather. The evidence seems to be not disputed, but in the course of that overview, he said that the following Monday the 20th would be a 1:40-year weather event and the fire event was already a 1:20-year fire event; do you recall that being said?

25

30

A. Yes, I do.

Q. It seems also clear that reference was made to 1983 and the fact that this would be worse in the sense that the conditions were worse than 1983 - either equalling 1983 or surpassing it. You recall being told that?

35

A. I don't recall the reference to 1983.

40

Q. You also made a note of the cabinet briefing yourself, Mr Tonkin, I think?

A. Yes, I did.

Q. Which is [ESB.DPP.0001.0104]. It will come up on the screen in a moment. Were you actually making notes as you went?

45

A. Yes.

Q. Do you have those?

A. No, I don't. That's the document that you
5 should have.

MR LASRY: What I might do, Mr Tonkin, is hand you
my copy of this document and ask you to look
through it and identify those notes which
10 represent the notes you made at the briefing.
Perhaps if you could read them.

These notes are in the document that I have
already once quoted, which also contains the note
15 in relation to 13 January.

THE WITNESS: The document that you referred me to
was a typed document. It is not those.

20 MR LASRY: Q. My question was were you writing
handwritten notes as you were going?

A. Sorry, I misunderstood you. I entered my
comments straight onto the palm pilot.

25 Q. If we can go back to [ESB.DPP.0001.0104]. I
will perhaps read the note. The document is
headed "Cabinet 16 January 2003 briefing on fire
situation" and it says:

30 "Background advice on fire history, plus
review of weather forecast, 1:40-year
weather. Already a 1:20-year fire event."

So you have noted the matters I have been putting
35 to you. The next note you have made is that the
Uriarra Forest is at 70 per cent risk. Do you
remember making a note of that?

A. Yes.

40 Q. Do you remember who told you that the Uriarra
Forest was at 70 per cent risk?

A. No, I don't. Sorry, the document you have is
not my notes - hang on, maybe it is. Hold on.

45 Q. My understanding is that is your note. If you
don't recognise it and you say it is not, that is
all right. We can deal with that.

A. It could well be my note, yes.

Q. Take a moment to read it through and see if it is.

5

MR LAKATOS: Perhaps it should be said parts have been removed. The "redacted" might be the confusing part.

10 THE WITNESS: Thank you. My recollection is it is slightly different. That is certainly my notes, yes.

MR LASRY: Q. In relation to the 70 per cent risk at Uriarra, do you remember who provided you with that information?

A. No.

Q. Was that of concern to you?

20 A. It was of concern to me, yes, about the forest being at risk.

Q. Did you realise, did you understand or did you come to the conclusion that, if the Uriarra Forest was at 70 per cent risk, then there was a risk to areas much closer to the suburban area including the Stromlo Forest?

A. No. It didn't come - I didn't recognise that at the time.

30

Q. Did anyone ask when that information was provided that Uriarra was at 70 per cent risk what the consequences of that would be?

A. I don't recall any such question.

35

Q. The next thing that happened in the course of the briefing was Mr Lucas-Smith provided an overview of the fires and discussed the spread of the fires, methods of containment and things of that kind, resources that were coming from New South Wales and so on; do you recall that being outlined to you?

A. Yes.

45 Q. Then according to the note of Mr Kwiatkowski, Mr Stanhope asked a question. That question was:

47

"How close was the McIntyre's fire to the nearest forest?"

5 The answer was given "one to two kilometres". Do you recall that exchange?

A. No, not directly, no.

10 Q. I take it when you don't recall things it is simply you don't recall; you are not saying they didn't occur?

A. No, simply I don't recall.

15 Q. Your recollection, I also assume, would give way to a contemporaneous note, wouldn't it, if someone was writing something down?

A. Look, I have every confidence in Mr Kwiatkowski's notetaking.

20 Q. There was a discussion about infrastructure and the MacGregor substation; do you recall that discussion?

A. Yes, I do recall that.

Q. And concern for the MacGregor substation?

25 A. And for the power lines that supply them.

30 Q. And Mr Keady is recorded by Mr Kwiatkowski as having raised what is described as other important potential effects, urban periphery and then some reference to urban firefighters. Do you remember a discussion about effects on the urban periphery and urban firefighters?

A. No, I don't.

35 Q. Have no recollection of that at all?

A. No.

40 Q. There was then some discussion about arson and previous activities of arsonists. Then it is noted by Mr Kwiatkowski that the principal threat to major infrastructure and urban area is the McIntyre fire?

45 MR LAKATOS: Not "urban area", my note is "urban".

47 MR LASRY: Sorry, I added "area".

Q. It is "major infrastructure and urban" is the McIntyre fire, do you recall that being said?

A. Not specifically. I think that would be correct, though.

5

Q. If it was said, Mr Tonkin, that's the third direct reference to something to do with urban, either the urban edge, the urban area in the briefing paper and, according to this note, a principal threat from the McIntyre's fire to major infrastructure and urban. It's clear, isn't it, from the materials and I suggest from your recollection that the urban area and a potential effect on the urban area was something that was being discussed at this meeting?

10

15

A. The potential impact of the fire coming closer to the city certainly was discussed.

Q. Having heard that information, did you or anybody else raise the issue as to whether or not it was appropriate to warn people who lived in the affected areas about that potential?

20

A. I did not raise that. I don't recall it being raised. There was some discussion I think about information systems or something.

25

Q. I will come to that in a minute. The notes of the conversation don't appear to record any discussion about whether or not it was necessary or appropriate to issue warnings to people who were in the potentially affected areas. I take it that accords with your recollection?

30

A. Yes, except the discussion about the public information systems.

35

Q. Can you recall what that discussion was?

A. Simply about having in place a system whereby you can provide more information to the public should the need arise.

40

Q. How did that discussion occur?

A. I can't recall. It was just part of the general.

Q. Who talked about it?

45

A. I don't recall.

47

Q. Who raised it?

A. Again, I don't recall. Simply I recall that part of what was written up in the end was to do with having arrangements in place.

5

Q. In your note in point C in the document that is on the screen at the moment you refer to the fact that "public information system will be activated as required by Emergency Services in consultation with DUS"?

10

A. Yes.

Q. So somebody has said that, and you have written it down?

15

A. Yes, but I don't recall who it was.

Q. You don't recall who or in what context?

A. No.

20

Q. So I take it that the triggers for the activation of the public information system, if they were discussed, you can't remember them?

A. No, I can't remember them.

25

Q. You don't recall asking any questions yourself about it?

A. No. I don't recall asking any questions.

30

Q. You don't recall anyone else present at the meeting asking about the circumstances, for example, in which that public information system might be activated?

A. No, I'm afraid I don't.

35

Q. Mr Kwiatkowski notes at about that stage in the conversation, that is after the discussion about McIntyre's being the major threat to infrastructure and urban, it was stated that "there may need to be a very quick decision made depending on where to deploy resources"; do you recall that being said?

40

A. Yes.

Q. Who actually said that?

45

A. I don't - I couldn't unequivocally tell you.

Q. Never mind unequivocally, who do you think

said it?

A. I would assume it is something Mr Castle would have said or Mr Lucas-Smith would have said.

5 Q. Do you know what it means?

A. It means whether - I believe it means --

Q. I am sorry to cut you off. Let me withdraw that. Did whoever said it explain what it meant?

10 A. I don't recall it being explained. I thought it was self-evident.

Q. What did you think it meant?

15 A. Where you would put your firefighting resources to protect either the forests or critical pieces of infrastructure such as the MacGregor power station.

20 Q. The next thing that I have plugged into my chronology, which may not be accurate as far as its position is concerned, is your assertion that you were informed that Uriarra Forest was at 70 per cent risk. Do you recall where in the course of the briefing that piece of information was
25 passed on to you?

A. No, I don't. But those notes were contemporaneous, so in sequence. That's when it would have happened.

30 Q. So it is likely to have been earlier in the piece following the section which has been removed and subject to the section that has been removed in the content of the description of the 1:40-year weather and the 1:20-year fire event?

35 A. I think there is some gap in time between the 1:40 fire event advice and the Uriarra Forest reference, the area that is missing from that which is on the screen.

40 Q. There was a discussion then about the declaration of a state of emergency; do you remember that discussion?

A. Generally, yes.

45 Q. Mr Kwiatkowski's notes indicates that Mr Castle provided an explanation of when an emergency declaration might be made. Do you agree

he provided that explanation?

A. Yes.

Q. Do you recall what he said?

5 A. Only in general terms. It was to the effect of how a declaration is made, the mechanism.

Q. The note says "when" but may also refer to how. Your recollection is it was the
10 circumstances under which a declaration would be made?

A. That's the process and the consequences.

Q. Did somebody ask about the way in which the
15 circumstances which prevailed here might give rise to such a declaration?

A. I don't recall that being asked.

Q. Did you understand why Mr Castle, or did he
20 tell you, did he say why he was raising the question of a declaration of a state of emergency?

A. My general recollection, just in the general
25 run of contingencies that the most extreme contingency could occur that you would require a state of emergency. It is as simple as that: a description of process.

Q. What was the most extreme contingency?

30 A. In an undefined extreme contingency you go from how you are responding to an event through to a state of emergency.

Q. What was the relevant extreme situation in
this case?

35 A. It wasn't defined.

Q. It wasn't defined?

A. No.

40 Q. It wasn't that, for example, Mr Castle was saying - I am not suggesting the evidence is that he did particularly - "Look, there is a realistic chance that these fires will hit the suburbs. In those circumstances there will need to be a
45 declaration"?

A. No, absolutely not.

47

Q. So no set of facts or circumstances was put?

A. No, simply a discussion of the process of a declaration.

5 Q. You seem quite clear on the fact that no particular reason for a state of emergency was discussed?

A. That's right - to my recollection.

10 Q. You are confident about that?

A. Yes.

Q. Did you ask why we would need a state of emergency?

15 A. No, I didn't, no.

Q. Did anyone ask?

A. I don't recall if they did or they didn't.

20 Q. There hadn't been a state of emergency declared in the ACT possibly ever - or at least not for a long time?

A. I don't think ever.

25 Q. So it is a dramatic response obviously - it would be a dramatic response?

A. It would be a dramatic response.

30 Q. It would only occur, one would expect, in extreme circumstances?

A. I would think that's reasonable.

35 Q. But your recollection is that nobody asked Mr Castle why the situation might get to a point where such a declaration might be required?

A. I don't recall.

40 Q. Now after that there was some discussion about cost. From your earlier note, it seems as though it was a re-run of the discussion you did have on 13 January?

A. Generally, yes.

45 Q. What are the costs so far, what it would cost, whether it would go beyond the disaster threshold and things of that kind; is that right?

A. Yes.

Q. One of the people present identified as "MFP" in Mr Kwiatkowski's notes raises a question about the capacity of the SES. Under that particular line the note says "could seek assistance if
5 necessary around urban areas". Do you recall that being raised?

A. No. I don't think so.

Q. Could the designation "MFP" be Minister for
10 Police and Emergency Services or another portfolio holder, the Minister for Planning, for example?

A. It could have been either of those two. They are two different individuals in this case.

Q. You have no recollection of there being any
15 discussion about the assistance of the SES, do you?

A. I have some recollection, whether it is in that discussion or somewhere else about the use of
20 SES for road closures. We had experience in 2001 of not wanting to use police, tying up police resources to close roads when the SES could do the same thing.

Q. That may have been discussed?

A. That may have been discussed - that was discussed at some point.

Q. There was also a discussion which is recorded
30 in the notes of Ms Wall about costs and whether or not if the federal Department of Defence aided the civil community there would be no cost to the ACT; do you recall a discussion along those lines?

A. No, I don't. It could well have happened, but
35 I don't recall.

Q. Also in Ms Wall's notes towards the end of the briefing she appears to be summarising the decision that was made as a result of the briefing
40 that was provided. Is it right to say that, during the course of the briefing and while Mr Lucas-Smith and Mr Castle and Co were still present, the cabinet in effect determined a course of action or began to formulate the cabinet minute
45 that was to be passed in response to the briefing they had been given?

A. Yes. It is the general practice to discuss

what the outcome of the briefing or item is.

Q. Ms Wall's notes at [DPP.DPP.0003.0266] and in particular at 0268 note that "Ted", who was
5 Mr Quinlan, Acting Minister for Police and
Emergency Services?

A. Yes.

Q. Do you recall that being referred to that
10 Mr Wood was going away?

A. Yes.

Q. Going on leave on the Friday?

15 A. Yes.

Q. Was there any discussion about whether that
was appropriate for Mr Wood to be going away on
the Friday or not, given the circumstances?

20 A. I don't recall any such discussion.

Q. The note goes on saying:

25 "The brief is noted. Advice on costs.
Public information system activated as
required. Chief Minister can declare a state
of emergency."

Then there is a reference to the police minister
and it says:

30 "Tim Keady will take administrative
responsibility. Note that if necessary
cabinet may need to be recalled to make quick
advice on priorities for which assets to be
35 saved."

Do you recall that being discussed?

A. Yes. By advice she meant decision but --

40 Q. Then it says:

"Now significant. The chances that a state
of emergency will have to be declared 40-60
per cent."

45 Do you recall that discussion?
A. No, I don't.

Q. Then "also a question of significant arson activity"?

A. I recall that.

5 Q. It goes on "suburbs of greatest risk - Dunlop, Weston Creek". Do you recall that being discussed, noted or referred to in any way at all?

A. I recall a general discussion about the whole western extremity of the territory which runs from
10 Dunlop to southern Tuggeranong.

Q. That is not what is written here. What is written here is "suburbs of greatest risk - Dunlop, Weston Creek"?

15 A. What I am suggesting to you is whether that is a complete list of what was discussed - it was more a western extremity of the city.

Q. What I am asking you is whether you recall a
20 reference to --

A. No, I don't.

Q. -- either to Dunlop or Weston Creek being at greatest risk?

25 A. I don't recall that specifically, no.

Q. And then, in effect, a vote of thanks to those present for providing the briefing. Then a minute was provided, which perhaps I don't need to take
30 you to. Do you recall any discussion at all about the potential need to warn people in the areas of Dunlop or Weston Creek or the areas in between?

A. No.

35 Q. None whatsoever?

A. No.

Q. So the overall position is that, throughout this briefing and at the conclusion of it, there
40 was no discussion that you can recall about the circumstances in which a warning could or should be issued to suburban occupants on the western edge of Canberra?

A. No. The discussion was to the fact that a
45 mechanism would be put in place to enable such warning to be given.

47

Q. But there was no discussion about the circumstances in which that would occur?

A. No.

5 Q. On the Friday, the 17th of January, were you involved in the activities at the Emergency Services Bureau at all?

A. No.

10 Q. Not at all?

A. No.

Q. Did you attend any meetings on Friday, the 17th of January?

15 A. No.

Q. Were you contacted by anybody from ESB on the Friday in relation to meetings which you were asked to attend on the Saturday or the Sunday?

20 A. Yes, I was. I was contacted some time just before 10pm.

Q. On the Friday night?

A. On the Friday night.

25

Q. Who contacted you?

A. I can't recall precisely. It may well have been Marika Harvey.

30 Q. What did she tell you?

A. I can't recall other than the fact they were having a discussion in the morning and could I come in. I said I would.

35 Q. Why did they want you to come in?

A. I think just for general guidance and support. We put in place the arrangements of public information. That's why Marika was there. I was her boss.

40

Q. What time was the meeting going to be?

A. 8 o'clock.

Q. Did you attend?

45 A. Yes.

Q. Is what you have just described the extent of

your conversation with Marika Harvey?

A. I can't recall any further extent of that conversation.

5 Q. Did anyone tell you that the meeting was to be a meeting to discuss issues of evacuation?

A. No. I don't recall that being the objective of the meeting - essentially a "status, where we were up to" discussion.

10

Q. Was an agenda prepared?

A. I don't recall seeing an agenda. It was a reasonably informal discussion.

15 MR LASRY: I wonder if we could have [GSO.GSO.0004.0066].

Q. I think the evidence given yesterday by Ms Wheatley, who was also at that meeting, 20 indicates that was an agenda prepared for that meeting - albeit that it says the 19th of January, it is clearly for 8am, Saturday 18th of January. Is the document familiar to you?

A. I don't recall it. I may well have read it at 25 the time but I don't recall it.

Q. Certainly you didn't prepare it?

A. No.

30 Q. Who was present at the meeting, apart from yourself?

A. Myself, Marika Harvey, Barbara Baikie, I think Cathy Atkins, David Prince, I think Rick McRae, Lucy Bitmead, and a range of other people largely 35 from Barbara Baikie's community services area.

Q. Were there introductions as the agenda suggests there should be?

A. I don't recall them happening. I recall it 40 occurring in a rather small and cramped room.

Q. Do you recall someone provided you with background on the current situation?

A. I think there was a presentation. 45

Q. Who provided that?

A. I think it might have been Rick McRae.

Q. What did he say?

A. I don't recall the specifics of what he said. I think he was outlining where the fires were and what was happening. But specifics --

5

Q. What did you think the purpose of the meeting was at this stage?

A. I thought the purpose of the meeting was to inform the people involved in the community recovery aspects of how things were to happen and to set up arrangements whereby we could ensure the information was flowing both to those people and through Canberra Connect, through the web and through the call centre, to make sure that we had current information available to give out to the public through all the means that we had. So it was a general coordination interest. We set up a mechanism to ensure that that happened on a regular basis.

20

Q. The agenda suggests the meeting was a meeting about the preparedness for evacuation. Was evacuation discussed at the meeting?

A. I don't recall it being a high part of the discussion.

25

Q. I didn't ask whether it was a high part of the discussion --

A. I don't recall much about evacuations happening at all in that meeting.

30

Q. In her evidence yesterday, Ms Wheatley said - in fact what was occurring was her statement was being quoted to her at page 4192 in the following terms. Having described who was present, her statement said:

35

"There were updated planning maps on current fire conditions and operations. We were told the operations base had been moved to North Curtin oval. At this time we were preparing for any possible role, not necessarily evacuation. But it might have been personal support, information via a hot line or the like. We were told, by David Prince and Rick McRae, that the major concern at that time was the McIntyre's fire and the potential for

40

45

it to push into the forest area. Of concern was Stromlo Forest and the possibility of Woden west, Duffy, Holder and the Belconnen suburbs of Holt, Higgins and MacGregor. I did not record, but I do recall information was provided, that whilst there was a concern, the firefighters were confident. There was comment coming out of the forest you have the grassland verge and fire can be attacked differently in that area. It can be contained coming out of the forest at that grassland verge. I cannot say whether it was Rick or David who said that."

15 As to her statement, that's her recollection of the meeting. Do you agree with that recollection?
A. That's a good recollection.

20 Q. Do you agree with that recollection; is it consistent with your recollection?

A. It is consistent with my recollection and consistent with the 9.30 briefing that followed.

25 Q. Her note is at [GSO.GSO.0004.0038] and, at page 15 of those notes, she also refers to that information. While I am waiting for it to come up I will read it to you. She describes it as a communications briefing. It is 0046:

30 "McIntyre's Hut - I think it is - into ACT border. Winds 35-60 kilometres. Temperature 36 degrees. All resources moved to North Curtin oval."

35 I am not sure what the R stands for. But:

40 "Paddys River, Tidbinbilla, Tharwa, Naas. McIntyre major concern, push through forests. Stromlo concern - Woden, Weston, Duffy, Holder, Dunlop, Holt, Higgins, MacGregor. Information Canberra Connect. Evacuation decision TBC. Stay out west of Murrumbidgee Mike Castle."

45 As I understand her evidence, that is the note she made at the time during the course of the meeting. Again consistent with your recollection,

Mr Tonkin?

A. Yes. More detail there than my recollection, but consistent.

5 Q. No question, is there, that what was being discussed was the possibility of effects on the suburbs named?

A. Not in the context of evacuation.

10 Q. Not in the context of evacuation. But what is being described in her account both in her note and in her statement - that is part of the reason you were meeting, I suggest - is because particular suburbs were now likely to be affected
15 by this fire as at 8am on Saturday morning?

A. That wasn't the reason for the meeting to my recollection, no.

20 Q. When you were given the information you were given by Mr McRae, which is presumably the information that I have just read to you, do you recall getting the information and being concerned about it?

25 A. I don't recall the degree of information that is present in these notes.

Q. You accept that it was provided?

A. I accept that it was provided, yes.

30 Q. Was there any discussion that you can remember at this stage that the people in those suburbs should be warned of the potential risk?

35 A. No, there was no discussion of them being warned at that point. Again, it goes to the question of setting up processes to have in place so you can make sure that current information is available as the day progresses and as situations change.

40 Q. Did it occur to you that it would be appropriate as at 8 o'clock on Saturday morning for a ESB media release to be issued which contained information to the effect that ESB were particularly concerned, but given the
45 circumstances there was a potential risk to the suburbs that are referred to in Ms Wheatley's note or in your statement?

A. No, it did not.

Q. Such a prospect wasn't discussed at that meeting at all?

5 A. Such prospect, to my recollection, was not discussed at that meeting nor was it discussed at the 9.30 briefing.

10 Q. Did you have an understanding as at 8 o'clock on the Saturday morning as to when a warning would be given to the occupants of those suburbs?

15 A. No. I had no specific understanding as to when a warning. My presumption was that a warning would be given when there was a perceived threat to those suburbs as distinct from a potential threat.

Q. What is the difference between "perceived" and "potential", Mr Tonkin?

20 A. Everything is a potential, but perceived is an assessment that it is more likely to happen.

25 Q. How much more realistic can it be than to have Mr McRae saying - reading from Ms Wheatley's statement - "of concern were the Stromlo Forest and a possibility of Woden, Duffy, Holder, west Belconnen suburbs of Holt, Dunlop, Higgins and MacGregor"?

30 A. At the time that was a possibility. It was not presented, in my recollection, as being a direct threat to those suburbs.

35 Q. Do you accept now that at that stage it would have been appropriate for somebody - I am not suggesting it was your responsibility necessarily - to have taken the initiative at 8am on the Saturday morning and said, "It is necessary that people in these suburbs to which Mr McRae just referred be warned of the potential impact"?

40

MR LAKATOS: I object to that question. The basis is not clear. What he is being asked, "do you accept now?" What information and what material does Mr Tonkin have regard to to accept? Much has happened. We know what happened. Is he being asked to put himself in that position as to what he knew at that particular time, that's one

45

question; or is he being asked to say now that he knows what happened on the 18th subsequently was it appropriate to give a warning. The question is not clear, with respect.

5

MR LASRY: I will make it clearer.

Q. Mr Tonkin, I am asking you the question on the basis of what you knew at the time. You had been briefed on the 13th of January. You had formed the view on the 13th of January that the matter was of sufficient concern that it would be appropriate to have cabinet briefed on the 16th of January.

15

At that cabinet briefing the contemporary information indicates a potential impact on the suburbs of Canberra. You are told on the morning of the 18th, at 8am at this meeting, when you are provided with the information in particular that was apparently given by Mr McRae and taking from the contemporary notes of Ms Wheatley made at the time as Mr McRae was speaking:

25

"McIntyre major concern. Push through forests. Stromlo concern - Woden Weston, Duffy, Holder, Dunlop, Holt, Higgins MacGregor."

30

Armed with that information, do you not think it would have been appropriate at that stage for someone to have taken the initiative and formulated a media release to people in that area that there was a significant risk or a major concern about these fires affecting those suburbs?

35

A. On what we knew at the time, that's not a position that I would have formed at 8am that morning, no.

40

Q. Why not?

A. It was not my understanding at that time that the level of risk to those suburbs or other suburbs from Greenway to southern Tuggeranong was such as to put those suburbs on alert.

45

Q. What level of risk did you think would have to be reached before they were given the information

that was available to you?

A. That would be something upon which we would rely on the professional advice of the firefighting services, their assessment.

5

Q. But you didn't raise it with anyone?

A. I didn't raise it with anybody, no.

Q. Did anyone give you information on the morning of the 18th at that meeting, bearing in mind the circumstances as they then prevailed as to in what circumstances the public information system would be activated?

A. We already had the public information system activated. We had put in place an arrangement for hourly updates of information, which took into account if the situation changed advice to the public could be provided.

Q. But you didn't see the need, as you sat there at 8am on the 18th, to provide it to those suburbs?

A. In that specific detail to those specific suburbs, no.

25

MR LASRY: Thank you, Mr Tonkin. I have no further questions, your Worship.

THE CORONER: Thank you, Mr Lasry. Mr Archer?

30

MR ARCHER: I have no questions.

THE CORONER: Mr Lakatos, do you want to go to the end?

35

MR LAKATOS: If I may.

THE CORONER: Mr Pike?

MR PIKE: No questions.

THE CORONER: Mr Whybrow?

MR WHYBROW: No questions.

45

THE CORONER: Mr Walker?

47

MR PHILIP WALKER: No questions.

THE CORONER: Mr Craddock?

5 MR CRADDOCK: No questions.

THE CORONER: Mr Watts?

10 MR WATTS: No questions.

THE CORONER: Mr Lakatos?

<CROSS-EXAMINATION BY MR LAKATOS

15 Q. The questions you were asked concerning your notes [GSO.GSO.0004.0001] - I don't need them brought up - have the Council of Australian Governments National Inquiry on Bushfire Mitigation and Management on the top; do you see that?

20 A. Yes.

Q. In fact that was placed on the photocopy and was not part of the original; was it?

25 A. That's correct.

Q. So the actual note is really the lines and the written part?

A. That's correct.

30 MR LAKATOS: Thank you, your Worship. I have nothing further.

THE CORONER: Anything arising from that?

35 MR LASRY: No, your Worship, thank you.

THE CORONER: Thank you, Mr Tonkin, you are excused. You are free to leave, if you wish.

40 **<WITNESS WITHDREW**

THE CORONER: I note the time. Do you want to start with Mr Dutton now or after the morning tea adjournment?

45 MS CRONAN: We can start after the morning tea adjournment.

SHORT ADJOURNMENT

[11.15am]

RESUMED

[11.40am]

5 MS CRONAN: I call David Dutton.

<DAVID SHANE DeCOURCY DUTTON, SWORN

<EXAMINATION-IN-CHIEF BY MS CRONAN

10 MS CRONAN: Q. Would you please tell the Court
your full name?

A. Yes, it's David Shane deCourcy Dutton.

Q. Your current occupation?

15 A. It is operations manager, ACT Ambulance
Service.

Q. What was your occupation in January 2003?

A. At that time I was operations manager with the
20 ACT Ambulance Service.

Q. You have made a statement to police dated
24 March 2003 which is [ESB.AFP.0053.0167]. Have
you had an opportunity to go through your
25 statement recently?

A. Yes, I have.

Q. Is there anything in that statement before we
start that you would like to alter or to correct?

30 A. There is. If I may refer to my documents?

THE CORONER: Yes.

35 THE WITNESS: In that statement on page 3 where I
talk about Monday the 13th of January, a
correction in regard to the 9.30 planning meeting.
In my statement I say I received a copy of those
minutes. I don't have a copy of those minutes,
and it is now my understanding that minutes of
40 that meeting were not taken.

MS CRONAN: Q. Are there any other alterations
that you wish to make?

A. No, there are not.

45

Q. You also participated in a taped record of
conversation with Constable Travis on

14 April 2003?

A. Yes, I did.

Q. And the transcript of that is
5 [ESB.AFP.0048.0204]. Have you had an opportunity
also to go through that transcript of your
conversation?

A. Yes, I have yesterday.

10 Q. Is there anything in that that you would like
to alter or correct?

A. Correction to the spelling of my third name.
It is spelt incorrectly in the document. The
correct spelling is DeCOURCY.

15

Q. Is that the only alteration that you wish to
make?

A. Yes, it is.

20 Q. If we go to page 1 of your statement on
24 March 2003, on 8th of January you were on duty
and you had no involvement in the bushfire
activities; is that correct?

A. That's correct.

25

Q. On page 2 you have no involvement again on the
9th and 10th of January and you are not on duty on
11 January?

A. That's correct.

30

Q. Further on, on Saturday, you say that you had
a telephone discussion with ACTAS duty manager
Paul Bellman in which you summarised a
conversation you had with Brian White, who was a
35 New South Wales Ambulance Service officer; is that
right?

A. That's correct, yes.

40 Q. You talked about the details of the New South
Wales deployment. Did you at that stage have some
sort of awareness of the fire situation as at
11 January?

45 A. I became aware during those conversations that
there were fires predominantly in New South Wales
to start with, and then in discussion with duty
manager Paul Bellman about fires in and near the
territory.

Q. Had you had any discussions at that stage with anybody at ESB about the fire situation as it was in the west of Canberra?

5 A. No. To the best of my recollection, my conversations with Paul Bellman was the first awareness that I had.

Q. Were you told at that stage about any concerns that anybody at ESB might have in relation to
10 urban areas of Canberra?

A. Not to the best of my recollection.

Q. Over on the next page you say on Sunday the 12th of January you were rostered off-duty but you
15 received several briefings throughout the day via phone from the ACTAS duty manager Paul Bellman. Can you describe generally what those briefings related to?

20 A. They were general updates by telephone about ambulance support to bushfire activity. I hold the portfolio responsibility for emergency and non-emergency ambulance operations and also emergency management and mass casualty incident
25 planning. Paul at my request, following the first phone call from Saturday, kept me abreast of developments, particularly as they related to ambulance operations across the weekend.

Q. That was in support of bushfire activities close to the fire ground; is that right?

30 A. Yes, that's correct.

Q. You returned to work on Monday the 13th of January and you attended the Bushfire Service
35 briefing at ESB at Curtin. Is there any particular reason you personally attended that briefing?

40 A. By virtue of my position and my portfolio responsibilities and the awareness that I had received from Paul across the weekend, I became aware that there were regular meetings planned and subsequently attended those.

Q. So it was basically to keep abreast of the situation because you had ambulance crews working
45 with the Bushfire Service; is that correct?

A. That's correct. The Ambulance Service had an

involvement in supporting the operations.

5 Q. You made some notes of that meeting. The notes begin at [ESB.AFP.0010.0038]. Have you got a copy of the notes?

A. What notes are you referring to?

10 Q. I will withdraw that. They relate to the morning of the 14th of January. We will get to those shortly. I think for the rest of the 13th you were involved in operations surrounding the crash of the helicopter in Bendora Dam?

15 A. That's correct. I was rostered as the ambulance duty manager on that day.

Q. At page 0171 of your statement, which is page 5, you again attended the planning meeting at ESB on the morning of the 14th of January?

20 A. That's correct.

Q. You took some handwritten notes of that planning meeting; do you recall taking those notes?

25 A. Yes, I do.

Q. If we could go to [ESB.AFP.0010.0038]. Do you have a copy of the handwritten notes you took with you in court?

30 A. No, I do not.

Q. Perhaps if I could just show you my copy. For the record I am taking the witness to the bottom of 0039. If I could ask you to have a look at the bottom section of those notes under "Roger Good" you will see a discussion about the McIntyre's Hut fire.

35 A. I don't believe these are my notes. Certainly I don't recognise the handwriting on the document. It is not my normal style.

40 Q. Sorry. If I might have those notes back. It is filed in our system as your notes. Do you have a recollection of what was discussed at that meeting?

45 A. As indicated in my statement, the format of the meeting basically involved a discussion of operations to date and in planning and in

logistics issues associated with the fire. Again,
reading from my statement on the bottom of page 5,
specific issues that were of interest directly to
me were that there were now night operations up or
5 near the fire line and that the number of
personnel that were deployed to fight the fires
had increased.

Q. Do you recall being addressed at that meeting
10 by a New South Wales Rural Fire Service
representative, Mr Roger Good?

A. Not specifically, no, I do not.

Q. Do you recall any references at all to what
15 was occurring with the McIntyre's Hut fire at that
stage?

A. Not specifically, no, I do not.

Q. Did you go to the afternoon planning meeting
20 at ESB that day?

A. On Tuesday, the 14th?

Q. Yes.

A. I don't believe that I did and I haven't
25 recorded that in my statement.

Q. On Wednesday, the 15th of January, you
attended at ESB and went to the 9.30 planning
meeting. You have referred to that at page 6 of
30 your statement. Do you have any actual
recollection of what was discussed at that
planning meeting?

A. The only specific recollection is what is
referred to or reflected in my statement that, at
35 the beginning of the week, there had been three
separate distinct fires and at about that time or
at that meeting we were advised that two of those
fires had joined together and that the name in
reference to that fire is now the Stockyard fire.
40

Q. Did you have an understanding from what you
were told of any potential consequences of the
joining of those two fires?

A. No. I don't believe that I do other than
45 obviously that the fire was continuing to grow and
I make reference in my statement to weather
conditions forecast in the coming days.

Q. What was your understanding of the consequences of those weather conditions that were forecast at that stage?

5 A. In combination with the fact the fires were growing, that the situation was escalating.

Q. On that day did you attend the afternoon planning meeting?

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

Q. So you again were on duty on the 16th of January. At page 8 of your statement you say:

15 "At approximately 9.30 I attended the briefing at ESB at Curtin. Present were key members of the bushfire Incident Management Team and other agency representatives. The meeting was minuted and I later received a copy of those minutes."

20

I would like to take you to the minutes of that meeting which is [ESB.AFP.0004.0219]. Can I ask you while that is coming up, was the only representative of the Ambulance Service attending at specifically this meeting?

25

A. To the best of my recollection I was. Certainly the pattern across the early part of the week was for myself to be the only ambulance representative. In the latter part of the week, as the situation and the number of people involved grew, I may have been joined by other ambulance people.

30

Q. If we could go to 0220, the top of that page, do you see there is a heading there "ACT fire brigade operations" it says "the ACT fire brigade" which you understood to be the urban firefighters; is that correct?

35

A. That's correct, yes.

40

Q. It says:

"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."

45

47

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

5 Do you have an actual recollection of the discussion that was taking place during that part of the meeting?

A. To the best of my recollection, the discussion was focused more on the potential for the
10 establishment of rural task force, involving urban fire brigade units and, following on from operations in the past when task forces had been sent interstate, the Ambulance Service attached an intensive care paramedic to that task force for
15 the welfare of the task force.

Q. What did you understand the term "urban contingencies" to mean that was being discussed at that point?

20 A. I don't specifically recall the discussion in relation to the urban contingencies. I do recall the rural task force or the potential to establish the rural task force and a general agreement that we would follow the principles established by the
25 Emergency Services Bureau that it would be a multi-agency planning operation.

Q. What steps did you take after the meeting to arrange further meeting with the urban fire
30 brigade to discuss urban contingencies in that context?

A. To the best of my recollection, I had some informal discussions outside of the meeting with urban fire brigade personnel confirming the
35 potential for task forces and confirming our intent to provide ambulance support to those. At that point, that was the limit of my involvement.

Q. Where did you envisage at that stage that your
40 Ambulance Service would be working with the task force?

A. To the best of my recollection it was to the south of Canberra, the rural communities to the south of Canberra and in the general Naas area, as
45 I think it was referred to.

Q. Following on that meeting, you had a further

meeting at 2 o'clock that afternoon?

A. That's correct. At 2 o'clock I attended a meeting.

5 Q. Who arranged for that meeting to take place?

A. I don't recall specifically who arranged it but I became aware during the course of the day that there was to be a meeting or briefing at 10 2 o'clock that day, predominantly attended by management of the ACT fire brigade. And I was extended an invitation to attend that meeting also.

Q. Who was at the meeting when you got there?

15 A. Again to the best of my recollection, Superintendent Dave Prince; myself from ambulance; Jan Biciancin, ambulance operations support officer; a large number of uniformed ACT fire 20 brigade personnel; certainly the upper levels of management at superintendent district officer level; I recall a number of station officers being present; Peter Lucas-Smith, who conducted the briefing; and I believe at the beginning 25 Mike Castle.

25

Q. You have covered essentially what happened at that briefing in your taped record of conversation with Constable Travis. Could you tell her Worship what you recall happening or what you were told 30 during the course of that meeting?

A. The purpose of the meeting to my understanding was to brief the urban fire brigade and also the Ambulance Service on the history of the fires to date and also to provide an historical context of 35 fire history in the territory in or around the territory.

Q. In relation to providing an historical context, were some maps utilised?

40 A. To the best of my recollection, they were. I believe that there were maps on the wall of the conference room where the meeting was held, and they were referred to during the briefing.

45 Q. Were they drawn on or pointed to by anybody that you can recall?

A. I don't recall people drawing or annotating on

the maps. I believe that they were referred to.

Q. How were they referred to?

A. By way of gesture to what was on the wall.

5

Q. So areas were indicated by Mr Lucas-Smith?

A. I believe in referring to the maps, yes he would refer to an area.

10 Q. When you were told about the historical fires, these are fires that had burnt in and around Canberra in previous years; is that right?

A. Yes, that's correct.

15 Q. Were you told where any of those fires had burnt to in terms of where urban Canberra is currently situated today?

A. I don't recall specific detail of that. Certainly I left that meeting with an impression
20 that there had been a significant history of bushfires in the territory and the scale of those had been quite significant in the past.

Q. Do you know why you were being told where
25 fires had burnt to in the past?

A. I guess the conclusion that I left the meeting with was that the territory was facing a bushfire that represented a serious threat to the
territory.

30

Q. When you say "the territory" what part of the territory were you contemplating?

A. To the territory, the whole territory. The historical context provided a scale of fire that I
35 was not aware of and that there was potential for these fires to also be significant.

Q. When you say "the whole territory", did you leave that meeting with an impression that the
40 whole of the territory, including the urban areas of Canberra, were potentially at risk from those fires?

A. I wouldn't say I left the meeting with the impression that the whole of the territory could
45 be burnt by fire. What I left the meeting with was the impression that fire didn't respect any particular boundaries and could be widespread at

times.

Q. What kind of boundaries are you referring to?

5 A. I didn't have a specific - I didn't walk out of that meeting with a specific idea that the fire would burn to point X or point Y. I walked out of that meeting with a greater understanding of what fire had done in the past and that this current fire situation was considered serious.

10

Q. Perhaps if I could take you to your taped record of conversation at [ESB.AFP.0048.0204]. If we go to 0208, at question 33 you say:

15 "Mr Lucas-Smith indicated that he had either just briefed cabinet or was just about to brief cabinet on the fire situation."

20 Can you recall what he said about the need to brief cabinet on the fire situation?

A. No. I can't recall the exact words Mr Lucas-Smith used, but the context was that he either had just or was just about to. Certainly I was of the understanding that a briefing to
25 cabinet had occurred or would occur very close to the meeting that I was attending.

Q. He also informed you that there was a significant level of concern with regard to
30 extreme fire weather conditions being forecast for the weekend and earlier the following week. Then at question 34 you say:

35 "The impression I was left with after the meeting was that there was a significant fire history or bushfire history in the ACT."

40 You had been unaware of that previously. I think your conclusion is at question 38 of the bottom of the page - is this consistent with your recollection now:

45 "In broad terms there were two scenarios that I specifically identified as having interest to the ambulance and impacting on ambulance operations. The first was the potential for fire to enter pine forests and rapidly

progress towards Canberra and in particular the urban fringe. There was also concern for rural communities to the south of Canberra."

5 Did you leave that meeting with an impression that both those scenarios were of concern at that stage?

A. Yes, to the best of my recollection I did.

10 Q. Do you recall anything being said at that meeting about restricting the use of the information you were being given?

A. No, I do not. And I was asked that question in my record of conversation.

15

Q. Immediately following that meeting you went to the start of the fire brigade meeting which was chaired by Superintendent David Prince?

A. That's correct, yes.

20

Q. Can you recall what was the purpose of that meeting?

A. Following on from the briefing provided by Mr Lucas-Smith, it was to start to get into specifics of agency contingency development or agency planning.

25

Q. For the urban fire brigade?

A. Yes.

30

Q. You also went to an ambulance strategy meeting about 3 o'clock that afternoon?

A. That's correct. I was at the fire brigade meeting for only a short time and then excused myself in order to brief the ambulance management team.

35

Q. What briefing did you give the ambulance management team that afternoon?

A. The first part of my briefing to the ambulance management team is basically a summary of the information that I had just been provided with, my understanding of the information I had been provided with. Then we went on to discuss some specific issues of ambulance planning.

45

Q. Perhaps if I could take you to the minutes of

that meeting, which is [ESB.AFP.0016.0443].

MR WATTS: At this stage there are in fact two documents which purport to be the minutes of that meeting. My friend should perhaps raise both of those because they are slightly inconsistent with each other. It is not apparent which is actually the correct set of minutes.

MS CRONAN: I propose to take the witness to both.

Q. As your counsel has said, there are two different sets of minutes or what purport to be minutes to this meeting. Have you had a look through this particular document that is on the screen recently?

A. I had an opportunity to look at both documents yesterday, and that's where the confusion was established.

Q. Are you able to say or identify which of the official minutes of that meeting were taken by Penny Bartram?

A. No, I'm not. During yesterday afternoon I attempted to establish what was the correct version of the minutes for that meeting. I made a number of telephone calls and did a search of ambulance records and am advised - I am no clearer as to whether these are the correct documents or whether they are mislabelled.

Q. They appear to be essentially with some slight differences, essentially the same notes and you are satisfied that they both reflect or relate to that meeting at 3 o'clock on that day?

A. Having had the opportunity to examine both documents, I note that the content of the documents appears to be very similar. The layout is different and the attendees and the finishing time of the meeting are different on the two documents. At this point I am unclear whether these are separate minutes of two meetings or both versions of a set of minutes of one meeting.

Q. I will take you to the differences shortly. If we could start with this document. You say you briefed the meeting on information you had

gathered from the 9.30 briefing that morning and also from the 2pm briefing by Mr Lucas-Smith; is that correct?

A. That's correct, yes.

5

Q. Were there any other sources of information you used to brief the ambulance management team at that stage?

A. They would have been the two main sources of information. However, aside from meetings that I attended during this time, I had a number of conversations with a number of people and specific reference to the establishment of a second staging area I had spoken with Mr Tony Corrigan, I think it was, and had a number of conversations with other people in the bureau.

What I reflected to the ambulance management team would not be exclusively from the two meetings referred to earlier but a synopsis or a summary of all the information I had to hand at the time I briefed them.

Q. You start by saying.

25

"9.30 OPS meeting advised the fire/weather report was not good and that Monday is expected to be extreme conditions."

30 Then further down, the last dot point currently shown on the screen, you say:

"At 1400 today Peter Lucas-Smith briefed the executive and cabinet on the outlook for the next five days. He indicated extremely poor outcomes for the fire. Weather conditions will be worse than for Ash Wednesday fires, with Monday showing potential that the Stockyard and Bendora fires will join. Spot fires will present a huge danger, even for urban areas, and these areas could be under significant threat from spot fires from pine forests. Peter Lucas-Smith will not deploy firefighters into the pine forests due to the extreme danger for the firefighters."

45

Can I just clarify with you, sir, whether that

information that you briefed the management team with came from Mr Lucas-Smith's briefing at 2 o'clock that day?

5 A. In generality that would be correct, noting the discrepancy between documents and that I am not confident in either of these documents being an exact record of what was said. However, my practice was to brief the ambulance management team on all of the information that I had to hand,
10 and that would have included the 2 o'clock meeting.

Q. Do you know where you got the information that "spot fires will present a huge danger even for
15 urban areas and these areas could be under significant threat from spot fires from the pine forests"; who told you that on the Thursday?

A. I don't specifically recall where I gained that information from.
20

Q. Before we leave that document, there is another point where it says halfway down the page:

25 "David Dutton will have delivery of all relevant maps from Sydney on 16/1/03."

What was the problem getting relevant maps at that stage, can you recall?

A. The problem was not so much with the relevant
30 maps as the quantity of relevant maps. At about this point in time we were talking about establishing a second - or there was talk of establishing a second staging area to which ambulance would provide medical support. To
35 achieve that, the ACT Ambulance Service requested assistance from New South Wales ambulance. We wanted to be sure that we had sufficient maps and sufficient quantity of maps to distribute to not only our own personnel but personnel that would be
40 coming from interstate and might be unfamiliar with the immediate area.

Q. The New South Wales Ambulance Service?

A. New South Wales ambulance officers, that's
45 correct.

Q. If we could go then to the other apparent

minute of this meeting which is
[ESB.AFP.0016.0441]. This is in slightly
different terms from the previous minutes. Here
it records you as giving a briefing to the
5 management team saying:

"The 9.30 briefing on the fire situation
indicated that the ACT is facing a very real
threat to property from this situation with
10 Monday 20/1/03 presenting extreme
conditions."

Do you recall saying something about the 9.30
briefing indicating the ACT was facing a very real
15 threat to property?

A. Again, the information that I provided to the
management team would have been a summary of all
of the information that I had available during
that day. But it is my recollection at the
20 planning meeting there was discussion about
forecast weather conditions in the coming days.
It is likely they would have made a comment, that
comment or a comment similar to that and relayed
that to the ambulance management team.

25 Q. It records you here saying at the 9.30
briefing the situation was indicated to you that
the ACT was facing a very real threat to property.

30 MR WATTS: I object to that. He is not saying
that. He has already indicated this is an
overview, it is a summary. It is not his exact
words. It shouldn't be put in those terms.

35 MS CRONAN: Q. Do you recall what you said to the
management team meeting about the ACT facing a
very real threat to property?

A. I don't specifically recall a comment to
property. I would have communicated to the
40 ambulance management team through all of the
information that I was aware of that the fires
were serious and significant and that was one of
the main reasons for briefing the wider ambulance
management team.

45 Q. There is a summary here of what you said as:
47

5 "Peter Lucas-Smith has indicated we are
expecting extremely poor outcomes from these
fires. The conditions will be potentially
worse than the Ash Wednesday fires and there
is potential for the Stockyard and Bendora
fires to join. Spot fires will present a
huge danger in the forests and potentially in
the urban areas of the ACT. Peter
Lucas-Smith advised that if the fires enter
10 the pine forests, he will remove his
firefighters due to the extreme danger."

Do you recall briefing the management team in
those terms?

15 A. I do recall reference to the potential of fire
in the pine forests and that that was an extremely
hazardous environment for firefighters. I don't
recall the specific terms or the exact words I
used on that occasion.

20 Q. Given that you had just come from a briefing
with Mr Lucas-Smith at 2pm and that the other
document I have previously taken you to records
that dot point paragraph as apparently containing
25 information that you got from Mr Lucas-Smith at
1400 that day, is it likely that the information
contained in the second sentence of that paragraph
came from the briefing you had from Mr Lucas-Smith
at 2pm that day?

30 A. I'm sorry, could you repeat or rephrase the
question?

35 Q. If you read the words from "Peter Lucas-Smith
has indicated" to the end of that paragraph, can
you say to the coroner whether or not it is likely
that that information contained in those sentences
came from the briefing with Mr Peter Lucas-Smith
at 2pm that day?

40 MR PHILIP WALKER: Before the witness answers
that, perhaps it is best he asked what he
remembers and what he doesn't, rather than making
essentially probability guesses.

45 THE CORONER: He has been asked that.

MR PHILIP WALKER: I appreciate that. He has

given his answer on that. "Is it likely" really doesn't help you, in my submission.

5 THE CORONER: We will see if Mr Dutton can answer it, Mr Walker.

MR PHILIP WALKER: Your Worship, with respect, he may well be able to answer it. But assuming he does, my point is that whether it is likely or not is really not germane to the point. The question is whether it occurred.

MS CRONAN: Your Worship --

15 THE CORONER: If it is not from that briefing, then where else would Mr Dutton have received the information.

MR PHILIP WALKER: That may be so.

20 THE CORONER: That's why we have to know. Where else would it have come from if it wasn't from that briefing. I think that is all that is being asked. I will allow Mr Dutton to answer the question.

MS CRONAN: Q. Would you have a look at the information I have referred you to and tell the coroner whether or not in your view it is likely all of that information came from the briefing you got from Mr Lucas-Smith at 2pm that day?

A. Given the confusion in the documents I could not with any degree of certainty say from what meeting the comment in relation to the pine forests came from. What I however do recall is at some stage during the day I heard that comment, and it was sufficient in my recollection or my memory that I would pass that on to the ambulance management team. Unfortunately the issue of the document serves to confuse me as well as others.

Q. I am more interested at this stage in your reference not to the pine forest but potentially to danger in the urban areas of the ACT. Do you know where you got that information from?

MR McCARTHY: With respect, I object. It is plain

that Mr Dutton attended the briefing at 9.30 that morning. He then attended a further briefing with Mr Lucas-Smith in the company of the fire brigade at 2 o'clock that afternoon. He then goes to
5 another meeting at 3 o'clock that afternoon. We are now being asked about a chain of events that occurred many, many months ago. The witness has already explained that he can't say with any certainty where he got this information from. It
10 is reasonable to presume that that lack of certainty is clear from the sequence of events that we know that occurred that day. He says he doesn't know. To now press him about more particulars on something where he says he doesn't
15 know where it came from is really not going to assist the coroner at all.

THE CORONER: He can be asked more than once, Mr McCarthy, as to where he got the information
20 from.

MR MCCARTHY: If it please the Court.

MS CRONAN: Q. Specifically in relation to the
25 potential danger to areas of the ACT on 16 January, do you know where you got that specific piece of information from that day?
A. No, I do not. The confusion in the document adds another layer of uncertainty to that.

30 Q. What was the purpose of you briefing the management team that afternoon?

A. The main purpose of briefing the ambulance management team was to communicate information
35 that I was aware of, and at about this point in time ambulance support to the bushfire operations was growing or extending and that other managers would become more involved in that process.

40 Q. You needed to gear up, didn't you, in relation to potential risks that might occur with the severe or extreme fire conditions? You needed to worry about recalling staff and increasing your resource levels because of the threat that was
45 posed by the fires; is that one of the reasons?

A. It is correct to say that in my estimation or based on the information I had available to me,

the threat from fire was not going away and based on that it was felt prudent to take some steps in terms of preparation for Ambulance Service involvement in support of any of those activities.

5

Q. Perhaps if we could go over the page to 0442. You briefed the management team in relation to staffing issues. Do you recall saying that over the crisis period you need to consider the following options?

10

A. I recall that there was general discussion amongst the team about if we needed to escalate or increase our support to the operations. There was some exploration of the options that we might do to maximise the number of people available to the roster or available to ambulance operations.

15

Q. You are looking at potential escalation at that stage?

20

A. It was prudent planning to consider what options we had available to us to identify those early.

Q. Did you consider at that stage that there was a potential threat to the urban areas of Canberra?

25

A. I considered that there was always the potential for a threat of fire to the urban areas of Canberra. That the fire - my involvement in this circumstance from being briefed on the weekend through to now, midweek, was that the situation was continuing to grow and it was serious. As a result of that, I made a number of preparations and expanded the amount of information available to other members of the ambulance management team.

30

35

Q. Going down to the bottom of that page you have got under "general information" that you would have all relevant maps from Sydney on the 16th. I think you have already given evidence that you needed maps for your Ambulance Service and for the New South Wales Ambulance Service as well of the relevant areas that they might be looking at?

40

A. That's correct, yes.

45

Q. What did you mean by the term "relevant maps"?

A. The reference to the maps is to maps of the

rural areas, 1:25,000 or similar maps. We had checked with the ACT Bushfire Services the map series that they were using and, together with the ACT Fire Brigade, had ordered a quantity of maps from Sydney to be delivered to the territory.

Q. Why were they relevant to what your service was planning at that stage?

A. Because at that time ambulance was providing support to a staging area at Bulls Head, and earlier in that day there had been discussion about the establishment of a second staging area for the southern fires. Whilst the staff would be Ambulance Service of New South Wales staff, in terms of command and control they would be reporting to the ACT Ambulance Service.

Q. Perhaps if I could show you [ESB.AFP.0016.0459]. Perhaps if I could show you a copy of a facsimile transmission to Geoff at the Land and Property Information Department of the New South Wales Government from yourself on 16 January. It is a one-page fax and it has on the top "urgent request". Is that a facsimile you sent off on the 16th requesting 1:25,000 maps?

A. To the best of my recollection, yes. It is certainly my signature at the bottom of the page and my style on the document.

Q. Could you read out to her Worship, since we don't have it on the screen, the areas you requested maps for that afternoon?

A. The detail of the fax is:

"As discussed please supply 10 copies of the following maps."

Then in dot point form: Brindabella, Peppercorn, Roules Point, Tidbinbilla, Corin Dam, Rendezvous Creek, Tuggeranong, Williamsdale, Michelago.

Q. Can you tell her Worship why you requested a 1:25,000 map of Tuggeranong that afternoon?

A. From the map series or telephone discussion with Land and Property Information, we determined to acquire as complete a set of maps for the territory as we could.

Q. If I could have that back. You attended the afternoon planning meeting that afternoon at ESB, did you or not?

A. On Thursday the 16th?

5

Q. Did you go to the afternoon planning meeting?

A. Not that I recall, not that I have a record of in my statement.

10 Q. You were on duty again on Friday, the 17th of January. You say you met the Ambulance Service New South Wales officers at quarter past 8 and provided them with a brief on background, current situation and tasking communications. Can you say
15 who you met with on that morning?

A. I can't recall the two officers' names. They were two specially casualty access team paramedics from Ambulance Service, New South Wales.

20 Q. What information did you provide them with?

A. I provided them with an overview of events to date by way of background to the request and their assistance to our service, an overview or orientation of our service, and incident details
25 on where they would be deployed.

Q. Then at 9.30 you went to the normal morning briefing at ESB?

A. That's correct.

30

Q. Do you recall Mr Lucas-Smith talking at that meeting about concerns with the aerial incendiary back-burn operations at McIntyre's fire?

A. Not specifically, I do not.

35

Q. Do you recall him talking about potential uphill runs and spotovers of potentially 10 kilometres from a north-west wind impacting on the ACT that morning?

40 A. I don't recall those words being used. I recall general reference to wind and weather conditions and the effect that might have on the fire.

45 Q. What do you recall about that?

A. My general recollection is that, with increased winds, that would affect fire behaviour.

Q. Did you get an understanding from what was discussed at the meeting of how it would affect the fire behaviour?

5 A. The understanding that I left with is the wind is blowing in one direction and the fire will move in relation to the wind; if the wind is blowing from the north-west, the fire will move south-east.

10 Q. Do you recall anything else of significance being discussed at that morning planning meeting?

A. Not specifically, no.

15 Q. You didn't go to the afternoon planning meeting that day, I take it?

A. Not to the best of my recollection and not that I record in my statement.

20 Q. You held a meeting again where you briefed the ambulance management team at approximately 3pm that day?

A. That's correct.

25 Q. If you could have a look at [ESB.AFP.0016.0472]. Sorry, your Worship, this one is not on the system either. If we could try [ESB.AFP.0042.0150]. Sorry, that is not the document.

30 Perhaps if I could show you a copy of a document that appears to be the minutes of the meeting of the Ambulance Service at 1505 on 17 January. Could you have a look at the paragraph under the heading "update". If you could read that
35 paragraph out to her Worship as we don't have it on the screen.

A. The entire paragraph or the highlighted?

40 Q. The entire paragraph?

A. Under update there are three dot points:

45 "Fire brief reported planned fire bombing and back-burning of the Stockyard fire was unsuccessful. Brindabella Valley back-burn unable to proceed due to the Kosciusko fire. The Bendora fire has not changed. McIntyre's Hut fire was being managed by New South Wales

west of Coree.

5 The weather report has been revised to
35-kilometre north-west winds, with the same
on Saturday, and Monday not as bad as
originally thought. Change due on
Wednesday/Thursday.

10 Spot fires possible up to 10 kilometres ahead
of the fire front. The fire is starting to
break the containment lines."

Q. I suggest to you, sir, that was information
that you gained from attending the planning
15 meeting at ESB at 9.30 that morning; is that your
recollection?

A. It's likely that that's the main source of
information that I used in that briefing. There
may have been other sources between the planning
20 meeting and the 3 o'clock meeting.

Q. Did you have an understanding when you briefed
your management team how far away from the ACT
border the McIntyre's Hut fire was that afternoon?

25 A. Not specifically in terms of distance. I
guess I had a general appreciation that all of the
fires were closer to Canberra.

Q. At your briefing by Mr Peter Lucas-Smith the
30 previous day, had he shown you on the maps where
the McIntyre's Hut fire was?

A. To the best of my recollection, Mr Lucas-Smith
had given an outline of where the fire activity
was, yes.

35 Q. Did you have an understanding of what was
meant by the term "10-kilometre spot overs"?

A. Not necessarily of the term "spot overs", but
my general understanding was that there was the
40 potential with winds behind a fire for embers to
be thrown in advance of the main fire line.

Q. If I could have that back, please. Do you
agree with me that this document appears to be the
45 minutes of that meeting?

A. Yes, I do.

47

Q. There is a heading on page 2 "broader aspects":

5 "An evacuation contingency planning committee
was to be set up and Ken Paulsen called for a
delegate for that committee to be prepared
for that eventuality. Perhaps Howard Wren,
Louise Smith to be the delegate depending on
10 the timing. Evacuations to be called for if
absolutely necessary, but we need to plan for
that contingency."

What were you talking about there when you briefed
the meeting on contingency planning for
15 evacuations?

A. I don't recall whether I specifically made
those comments. There was some discussion amongst
the management team that if the fire situation
continued to grow evacuation was a potential.
20

Q. Was there any discussion about what areas
might need to be evacuated?

A. I don't recall reference to specific areas.
My recollection is the discussion was a broad or
25 general one about evacuation being a possibility
if things continued to deteriorate.

Q. In your statement at page 8 in the last
paragraph you talk about radio channels. You
30 asked:

"Operational support officer Jan Biciancin
and intensive care paramedic David Dutton to
conduct a radio coverage survey of ACTAS UHF
35 channel 4 along Paddy's River road. The
reason for the survey was preparation for
operations in that area in the immediate
future."

40 I think that was because of increasing amounts of
fire related traffic. You say once you made that
request, you left Curtin and activity continued
throughout the night. Did you go to the afternoon
planning meeting that afternoon?

45 A. Not that I recall, not that I reference in my
statement.

47

Q. If you could have a look at
[ESB.AFP.0042.0150].

5 MR PHILIP WALKER: While that is coming up, I
wonder if I might have access to the document that
was given to Mr Dutton and I can have a quick look
at it in the meantime.

10 THE CORONER: Certainly.

MS CRONAN: Q. Do you recognise that document,
sir?

A. Yes, I do.

15 Q. Is that an update from you to all staff on the
afternoon of the 17th of January?

A. It is an ACT Ambulance Service memo prepared
and distributed by myself. But it was prepared
later in the evening. It was not faxed out on the
20 afternoon.

Q. When do you recall preparing this document?

A. That staff memo was prepared following
telephone discussions and myself returning to
25 Curtin that evening at around 2100 or 9pm. That's
referenced in my statement on page 9 of 16.

Q. Perhaps if we could go to 0151. If we could
go down to the bottom of the page. Do you see on
30 the left-hand side there is a reference to a
database?

A. There is a file name reference. I believe
that is to the local drive on my laptop computer.

35 Q. It says on the right-hand side it was last
printed at "16:29". Do you know what that
reference is in reference to?

A. It is a date/time reference to when the
document was sent from the computer to the
40 printer.

Q. Having had a look at that, does that assist
you to recall when it was that you prepared this
particular document?

45 A. Sorry, when I prepared the briefing note to
staff or the staff memo?

47

Q. The staff memo.

A. The document we have on the screen is a written briefing note and it is one version of that briefing note that was prepared as an aide-memoire for the ambulance manager briefing ambulance crews that we were deploying to the field. That copy of the document, which at the top of the page says it was updated on 17 January, was printed that afternoon.

10

Q. So that was not attached to the update 3 document that you prepared on the previous page?

A. To the best of my recollection, the staff memo that we are referencing on the 17th of January was prepared in the evening following around a 2100 meeting at Curtin. That document would have been faxed to all ambulance stations from my laptop computer.

20 Q. As a single page?

A. I believe as a single page. I don't recall having any attachments to that staff memo.

25 Q. The document that is currently up on the screen, what was the purpose of this document?

A. As stated previously, the purpose was to provide a memory prompt for ambulance managers who were briefing crews that were deploying to support bushfire operations of some key points, including safety points. It is my recollection that we also provided a hard copy of that document to crews.

30 Q. It went out in an email and in hard copy?

A. It would have been held as a briefing note. They would have been provided with a hard copy.

35 Q. If we could go to the top of that document it says under the "situation" report that:

40 "Fire weather conditions across the weekend, and in particular on Monday 20 January are forecast to be extreme. There were reports late this afternoon of fires spotting east of existing containment lines."

45

Do you know where you got that particular information from?

A. No, I don't recall specifically. It was obviously of significant relevance to include in this updated version.

5 Q. That the fires were at that stage spotting over their containment lines?

A. That there were reports that that was the case.

10 Q. What were the implications of that piece of information to you?

A. The implications were that, if there were reports of that, it was important for our staff that we were deploying into an area of operations
15 to be aware of that information.

Q. Is that the only implication it held for you at that stage?

A. In terms of preparation of this document and
20 that information, our prime concern was the welfare of our staff in the field.

Q. What fires were you referring to in that sentence?

25 A. I believe that I would be referring to the fires that were of significance to the territory.

Q. You weren't aware of any specific fire that you were referring to?

30 A. The fact that I didn't attach a name to the fire suggests it is a general comment. I don't specifically recall that it was referenced to one fire or another. And had that been the case, it is more than likely that I would have actually
35 referenced the name of the fire for the reference of our staff.

Q. If we could go back to the previous page which is 0150. You say this is a document that you
40 prepared later than the situation report we have just dealt with, the statement that I think you said went out at --

A. There are two reasons that that is my belief. One is the copy of the document that I have has a
45 fax header on it which has a transmission time of 2321 hours. The other is the first line of the document that says "rapid developments during this

afternoon/evening". If I have referenced the evening then it must have been prepared in the evening.

5 Q. You go on to say:

10 "Fire has jumped to the eastern side of Corin Dam and there is also now fire near the Tidbinbilla Nature Reserve. There is a significant concern that the fire could spread to pine forests and rapidly move towards Canberra."

15 Do you know where you got that information from throughout the afternoon and evening of the 17th?

20 A. No, I don't specifically recall whether that information was provided on the 17th or whether that was something that stuck in my mind that I had learned or become aware of earlier that week or on the day before, Thursday the 16th.

25 Q. Further down under the heading "forecast for ambulance operations" you have advised people that:

30 "Expanded ambulance operations directly related to the fires having the potential to impact on Roules communities to the south of Canberra and the suburban fringe".

35 Were you anticipating at that stage that your ambulance operations relating to the fires would be carried out on the suburban fringe at that stage?

40 A. No, I don't believe it was a specific reference other than to highlight or draw people's attention to the fact that the circumstances, as I understood it on the evening of 17 January, was that ambulance operations were no longer to remote staging areas to the west of Canberra, that the situation had changed. And that included, as the fire had moved, that it was closer to home for people.

45 Q. You are suggesting there, aren't you, that there would be an impact on the suburban fringe that ambulance operators need to be aware of?

MR WATTS: I object to that. It suggests a potential.

5 MS CRONAN: Q. Potential impact on the suburban fringe?

A. I'm drawing the attention of our staff to the fact that the fire has moved and grown and appears to be continuing to progress towards Canberra.

10 Q. This document went to all ambulance staff, did it, on the evening of the 17th?

15 A. The document was faxed to all ambulance stations in a group list - at the time that's seven ambulance stations in the territory - and I would have also faxed copies to the administration area of the communications section.

20 Q. Why did you tell all your ambulance stations that there was a potential for the fires to impact on suburban fringe that evening?

25 A. Clearly, in my estimation the fire had continued to grow and was moving towards inhabited areas, be they Roules or urban areas. If the fire continued to move, then one of the potentials was that that would affect ambulance operations.

30 Q. I take it, since you wrote it and faxed it, that you considered at that stage that the fires did have the potential to impact upon the suburban fringe; is that what you considered?

A. It's correct to say that I had identified that as a potential, yes.

35 Q. I think before you sent that out you returned to ESB at approximately 9 o'clock on the Friday evening and you had discussions with Louise Smith, who was your Ambulance Service duty manager that night?

40 A. Mmm-hmm.

Q. And also with Tony Graham, who was the incident controller. Do you recall the content of your conversation with Tony Graham that evening?

45 A. Broadly the reason for my return to Curtin was the advice I had received from Louise Smith and the substantial change that had on ambulance operations in relocating our units. I returned to

gain a greater appreciation of what the situation was and where we would be placing our staff and potentially at what risk they might be at.

5 Q. Do you recall what Mr Graham said to you that night?

A. I recall a short conversation with Mr Graham about the fire and in particular the movement of resources and with particular emphasis for myself
10 on the movement of ambulance resources.

Q. What did he say to you?

A. That the staging points previously identified or used at Bulls Head had been closed and that
15 resources were closer to Canberra, and that included the movement of ambulance resources. There was then some discussion between the three of us - Louise Smith, Mr Graham and myself - about an appropriate and safe base of operations for the
20 ambulance resources.

Q. Did he tell you anything about the spread of the fire and the predicted spread of the fire at that stage?

A. I don't recall specific comments Mr Graham made about the spread of the fire or the predicted spread of the fire. The impression I had at the conclusion of our conversation was that the situation had moved from serious to very serious.
30

Q. In what respect?

A. In the respect that the fire was spreading and there was a change in the nature of operations that were being undertaken and, as a result of
35 that, there was a change in the location and deployment of ambulance resources to support those operations.

Q. Did he tell you where it was spreading to?

A. Not that I specifically recall. I recall general discussion about the fact that the fire was spreading and that this had resulted in a change of tactic, a change of allocation of resources.
40

45

Q. You say at page 9 of your statement on Saturday the 18th of January you were rostered

second call to ACT Ambulance Service duty manager David Foot due to the seriousness of the fire situation. What does that mean?

5 A. It means that I was off-duty. However, in the ambulance strategy meetings in preparing our staffing and resourcing scenarios, we had identified that, whilst David was the rostered duty manager and we would normally have one duty manager over the weekend, I would be the second
10 call to him for the weekend.

Q. You would be available to go in and help him if things hotted up?

15 A. I would make myself immediately available to return to the workplace, if required.

Q. And he rang you, I think, straight after the 9.30 planning meeting?

20 A. That's correct. Following the conclusion of the planning meeting he rang me and relayed the information that he had been provided, and subsequently I then recorded an update for the whole of our management team.

25 Q. Did he tell you anything about ESB's current areas of concern, including a potential run from McIntyre's fire impacting on Weston Creek to Greenway?

30 A. I don't specifically recall those comments or those areas mentioned. I recall that we spoke for some time and in depth about the seriousness of the fire situation.

35 Q. At the end of that conversation, what was your understanding of the fire situation?

40 A. At the conclusion - as I have recorded in my statement, with the message and the information that I then relayed to the ambulance management team that there had been a further deterioration in the fire situation. At that time I did not make an evaluation that it was sufficiently serious for me to return to the workplace immediately but reinforced that I was available on
45 short notice.

Q. Operationally, the situation you prepared for on page 10 of your statement was that you have two

ambulance crews supporting bushfire operations at Oakey Creek; is that your recollection?

A. That's correct.

5 Q. You would have seven stretcher ambulance crews in Canberra in the urban area - I am adding in the "urban area". Was that in the urban area?

A. That would be a reflection that there would be seven stretcher ambulance crews in the urban area
10 of Canberra, that's correct.

Q. Then it says:

15 "Additional ambulance communications and management team support. Calwell station was covered at all times by stretcher car due to increased risk to the south."

20 What did you mean by "the increased risk to the south"?

A. That's a reference to information provided.

Q. You have identified Lanyon High School, Hawker College and Phillip College as standby evacuation
25 centres available at short notice. Did you have an understanding of what areas might need to be evacuated to those points?

A. Not specifically in terms of mapping suburbs
30 that someone had identified potential evacuation centres.

Q. You went to ESB at 1.30 and received a brief from David Foot. Can you recall now what he told
35 you at that briefing?

A. In generality that the situation had deteriorated even further.

Q. Can you recall anything other than the
40 situation had deteriorated?

A. Clearly, my attendance at the workplace and starting to establish the medical emergency control centre was that this was a very
45 significant and widespread emergency event.

Q. Were you gearing up for the fires to impact on the suburbs of Canberra at that stage?

A. I wouldn't say we were gearing up for the fires to impact on the suburbs of Canberra. What I would say is that, with all of the information available and with the spread of the fires,
5 clearly there was increased concern about the potential, and that concern was sufficient for David and myself to take a number of planning or preparation steps.

10 Q. Can I just ask you: if hypothetically somebody had throughout the days preceding 18 January identified a potential risk to the suburbs of Canberra, would it have been important to you operationally to have that information about the
15 potential risk in order for you to do your job and prepare efficiently for that eventuality?

A. I just seek clarification on the hypothetically. In terms of general principles of emergency management planning, the more
20 information you have available, the better that you can prepare. However, emergency management is also about dealing with poor quality information and making the best decisions at the time that you can. I don't really understand the hypothetical
25 part of your question.

Q. Well, if you had been told a number of days prior to the 18th that there was a potential for an impact of those fires on the suburban areas of
30 Canberra, would that information have assisted you to prepare for the impact?

MR McCARTHY: I object, your Worship. In my submission, it is apparent from the briefing that
35 Mr Lucas-Smith in particular gave to the fire brigade and the ambulance on 16 January that very strong information was given, and that both the ambulance and the fire brigade acted on that information. And in particular with regard to the
40 specific point that counsel assisting makes - namely, this potential to reach the urban areas and the history of the fires in Canberra, here in the territory - in my submission, the Court is not assisted by advancing a hypothetical where the
45 very information in issue was put to the Ambulance Service on the 16th and they took action accordingly.

THE CORONER: I think what Ms Cronan is trying to get at is if there was information in relation to a particular area.

5 MS CRONAN: Not a particular area, just an impact on any of the suburbs, any of the densely populated areas of Canberra. My understanding of the witness's evidence just a short while ago is that as at 1.30 they weren't gearing up for an
10 impact on the suburban areas of Canberra.

It probably doesn't assist your Worship very much.

15 THE CORONER: I think the answer is the more information you have, the better you can prepare. And the sooner presumably you get that information, the better you can prepare.

20 THE WITNESS: That's correct, your Worship. And just to re-emphasise the point, there are very few certainties in emergency management or emergency situations. I think that's the point that I'm trying to make.

25 THE CORONER: Q. You had concern, though, from the 9.30 briefing the day before on the 16th, did you not? That's the information you were given.
A. It is correct to say that, as that week progressed, I had increasing concerns about the
30 potential for this fire. But I think that it is a big jump to say because you have concerns about potentials that you actually know what the end result is going to be.

35 MS CRONAN: Q. Just one other matter, Mr Dutton. At the bottom of page 10 there is an urgent update from you:

40 "Public radio announcement advises Weston Creek residents adjacent to pine forest to return to their home, ambulance has increased admin support and are evaluating impact on operations. Further advice will follow."

45 I am not clear what you mean by that update. Can you tell us what that means?

A. It was a page to the ambulance management team

to indicate that there was public information about people returning to their homes.

MS CRONAN: I have nothing further.

5

THE CORONER: Do you have any questions, Mr McCarthy?

MR McCARTHY: I have no questions of Mr Dutton.

10

THE CORONER: Mr Pike?

MR PIKE: Nothing.

15 THE CORONER: Mr Whybrow?

<CROSS-EXAMINATION BY MR WHYBROW

MR WHYBROW: Q. With respect to the meeting you were asked a number of questions about on Thursday, the 16th of January at 2pm, could I suggest to you Mr Castle was not in fact at that meeting. You indicated your recollection was that he may have been there at the beginning of the meeting?

20
25 A. To the best of my recollection, I recall that he was there at the beginning of the meeting. I don't recall him being there for the entirety of the meeting.

30 Q. Is it fair to say that, if the other evidence suggests in fact he was elsewhere, you wouldn't necessarily disagree with that? Your recollection is that he was there at the beginning but that may be a faulty recollection. That is what I am suggesting to you?

35
40 A. I accept that I might be mistaken. If there is other evidence to suggest that he wasn't there, then clearly that would indicate that that was the case.

MR WHYBROW: Thank you.

THE CORONER: Mr Walker?

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

45

MR PHILIP WALKER: Q. Concerning the same meeting, Mr Dutton, at 1400 on the 16th: when you
4281

left that meeting did you feel yourself under any constraint as to the use you could make of the information that had been passed to you in that meeting?

5 A. No, not at all, by virtue of the meeting being called and the information being provided, I left with no understanding or impression of limitations or restrictions attached to that information.

10 MR PHILIP WALKER: Nothing further, your Worship.

THE CORONER: Mr Craddock?

MR CRADDOCK: I have no questions, thank you.

15

THE CORONER: Mr Watts?

MR WATTS: Just one.

20 **<CROSS-EXAMINATION BY MR WATTS**

20

MR WATTS: Q. On the last page of your statement you refer to spiral bound notebooks of notes you made during this period of time being talked about; is that so?

25 A. Yes, that's correct.

Q. Is it your evidence that you in fact recall giving those to the Australian Federal Police?

30 A. Yes. I submitted, as requested, any notes that I completed together with my statement.

Q. But you have not been able to see them since that time?

35 A. That's correct. I have been unable to see them or locate a copy.

Q. They may have assisted to some extent to refresh your memory, but you have done the best you could without those notes?

40 A. That's correct.

MR WATTS: Thank you, your Worship.

45 THE CORONER: Thank you, Mr Watts. Any re-examination, Ms Cronan?

MS CRONAN: No, your Worship.

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

<THE WITNESS WITHDREW

5 THE CORONER: We will adjourn until 2 o'clock or thereabouts ready for the recordings of the telephone calls.

LUNCHEON ADJOURNMENT

[1.07pm]

10

RESUMED

[2.00pm]

MR LASRY: Can I just add to the explanation that I gave earlier about these tape recordings in case it hasn't been made clear. I hope by now everybody has a schedule of the conversations. It's unnecessary for me to announce each one with a date and time because it's apparent from the schedule. The plan is that Ms Drew is going to play the conversations through the laptop in front of her from the Bar table. We will just follow chronologically.

One thing I should make clear, there are two channels or two phone lines. We start with channel 53 and go through those calls chronologically. Then when they are finished we will go back to channel 54, which means reverting to the 8th January on channel 54, and go through chronologically those calls.

THE CORONER: That is fine.

MR LASRY: The ideal situation would have been to amalgamate the two. However, something may turn on which line the calls were made on anyway, so that may not be such a disadvantage. People can, of course, incorporate these into their own chronologies as they wish. We will simply start with 8th January on channel 53 at 17.46 and make our way down the list.

If there is any confusion at any stage about which one we are listening to, I will endeavour to assist. I won't say any more about that until that need arises.

47

THE CORONER: It is not proposed that a realtime transcript be made of the telephone calls?

5 MR LASRY: I think that's asking too much. We do propose to have them transcribed over the next few weeks.

10 THE CORONER: I'm sure you made that arrangement with the operators.

MR LASRY: I am told the channel 53 phone number, and the number is mentioned in a couple of the calls, is 62078397. I'm not sure at this stage what the channel 54 number is. That may become
15 apparent.

I should also say that the system has been tested, and I gather the sound in the courtroom next door is satisfactory.

20

(Tape played)

MR LASRY: Your Worship, I perhaps should just say, because there are people listening to this
25 who don't have the schedule, I suspect that all the calls we've heard up to the present have been from the 8th of January. The next three will be from the 9th of January. Perhaps I will come back again at the 10th of January.

30

(Tape played)

MR LASRY: Your Worship, the next three, for those without a list, are on the 10th, 11th and 13th
35 of January; followed by another three on the 15th of January; and then quite a large number from the 16th.

40

(Tape played)

MR LASRY: Your Worship, the following calls, although they are separate computer files for the time being at least the next few calls are all on
45 16 January.

45

THE CORONER: The caller is Mr Watson, who was the New South Wales liaison officer?

MR LASRY: Yes, your Worship.

(Tape played)

5 MR LASRY: It is the 17th of January from here on,
your Worship.

(Tape played)

10 MR WHYBROW: I have just lost the spot where we
are with these.

MR LASRY: The one that we just heard was
17 January at 13.49.13.

15

MR WHYBROW: Thank you.

(Tape played)

20 MR PIKE: Pausing for a second, I'm really not
sure if we have missed one. Can someone tell us
what is going on?

MR LASRY: We are about to hear 16.40.52.

25

MR PIKE: Okay.

(Tape played)

30 MR LASRY: Is that a convenient time?

THE CORONER: Yes, that takes us to the end of the
17th.

35 MR LASRY: It does. Tomorrow we will start the
day with Mr Murray, then Mr Kirby and Mr Byrnes,
and then we'll probably continue with this. It
seems unlikely we will finish the rest in the time
available tomorrow but we will go as far as we
40 can. If we don't finish it, then we will just
seize the next piece of downtime to try to finish
the playing process. If your Worship pleases.

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

**MATTER ADJOURNED AT 4.13PM UNTIL FRIDAY,
30 APRIL 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 44

Friday, 30 April 2004

MR LASRY: I call John Murray.

5 <JOHN MURRAY, AFFIRMED

<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Murray, would you tell the Court
10 your full name, please?

A. My full name is John Murray, Murray spelt
M-U-R-R-A-Y.

Q. What is your present occupational profession?

15 A. Presently I am a consultant.

Q. What is your professional address?

A. Apartment 17, number 15 Dequetteville Terrace,
Kent Town, South Australia.

20

Q. Mr Murray, as at January 2003 you were the
Chief Police Officer for the Australian Capital
Territory?

A. Yes.

25

Q. And a Deputy Commissioner of Police in the
Australian Federal Police; is that correct?

A. Yes, that's correct.

30 Q. You are a career police officer commencing in
South Australia in 1963?

A. I was sworn in in 1963, yes.

35 Q. As I understand it, you were then in the South
Australian police force from 1963, I think, until
1997; is that right?

A. That's correct.

Q. Continuously?

40 A. Continuously, yes.

Q. For a period between 1997 and 2000, as I
understand it, you took up a professorial position
at university?

45 A. It was at university. It was the Charles
Sturt University. I was associate professor and
head of the postgraduate school.

Q. You became the Chief Police Officer for the Australian Capital Territory in September 2000?

A. That's correct.

5 Q. You have now left that position. When did you leave that position?

A. At the end of February 2004.

10 Q. For the purpose of this inquest, Mr Murray, you have provided I think in total something of the order of 327 pages of material. I just want to identify what you provided so we all know what we are looking at, not that I am going to take you to any substantial detail. The documentation is
15 basically in one lump at [AFP.AFP.0110.0001]. From 0001 to 0021 is effectively a submission to the coroner; is that correct?

A. That's correct.

20 Q. Dealing with a number of matters, but dealing with broad areas of the policing arrangements in the ACT, police role in large scale events, police role in emergency management, discussion about the role of police and responsibilities in emergencies
25 and the management of emergency events and things of that kind; is that right?

A. If I could explain that. I saw my
accountability to this inquiry to be at least in two parts: the first being my accountability as
30 the Chief Police Officer of the ACT, in which case it seemed appropriate for me to outline how I saw that arrangement in terms of policing this community; and, secondly, a factual account of what happened relative to the fire.

35 Q. Although it is not perhaps chronologically correct, one of the issues you deal with in the course of the submission deals with evacuations in the January 2003 bushfire emergency, in particular
40 at page 16 of the submission or at 0017 using the number of the system. Some of the material in your submission, Mr Murray, is actually a statement of fact. I take it some of your statements of fact are either from your own
45 knowledge or from information you have gathered in your position as Chief Police Officer.

Perhaps I can ask you specifically about a couple of matters. Under that heading of "evacuations in the January 2003 bushfire emergency", you summarise and tell us that you recognise the role of the firefighting agencies as being obviously centrally involved in making decisions about evacuations and, of course, responding generally to the fire. You say in the second paragraph on page 16 of the submission:

"It is obvious there was conflict between ACT policing and ESB officers regarding the most appropriate time to evacuate rural residents on the 18th of January 2003. Police urged residents to evacuated while ESB officers supported many locals who were keen to stay to defend their properties. It is recognised that rural homes can be saved if residents stay and fight fires. It is common practice to do so. Both rural and urban fire policy encourages people to stay with their homes as long as they are well prepared and well informed. Such preparation includes accessible exit options, available water levels and pressure and, preferably, fire tankers and fighters to assist residents.

It was obvious to police in the field that some residents were not well prepared and not well informed. Given the unique weather conditions, the fuel loads in gardens and pine forests, and the fire's intensity and speed, some residents were not in a position to safely defend their homes.

In anticipation of the impact of the fire, police provided the residents with as much information as possible so residents could make an informed decision on whether to leave the area or stay and fight the fire.

Police did ask residents to voluntarily leave for their own safety but many residents were reluctant to leave. This was one of the key considerations for police seeking a declaration of a state of emergency. A declaration was required in order to

effectively manage the emergency response and to secure the cooperation and coordinated management required in emergencies of this scope.

5

On the 18 January 2003, police at the Police Operations Centre experienced progressive difficulties receiving and relaying information to fire authorities and senior executives of ESB. The commander of operations faced a potential strategic management void as she was not receiving the information she required.

The commander constantly sought information and expert fire advice from the fire control room. There was constant difficulties in the flow and availability of that information which was extremely frustrating for the commander."

That is a series of conclusions which you have reached to some extent based on incidents that you were personally involved in, particularly on the 18th of January, but also on information you had been provided by other members of the Police Force; is that correct?

A. That's correct.

Q. The other matter that I just want to briefly take you to in that context and ask you to expand on, if you want to, is that you say on page 17 or 0018:

"From about 12.10pm fire authorities asked police to clear areas such as the Cotter and Casuarina Sands and the Mt Stromlo Observatory. Later, further requests were made for police to clear all people in the areas in and around Kambah Pool.

As the afternoon progressed, despite worsening conditions, policy information from ESB continued to be a problem. Police continued to work on the best fire advice available. Had police waited until they received clear instructions from ESB

regarding all evacuations, it is my belief, the loss of life would have been much higher."

5 I just ask you to expand on that, if you can.
What was the particular problem that you are
identifying there about the flow of information;
and do you now understand what caused the delays
in that information being relayed to your officers
10 or to you?

A. I think it should be said from the start that
I believed then, and still believe, that the
policy in respect of evacuation was one which the
fire authorities and I both agreed with. That was
15 on the AFAC protocol that police commissioners had
agreed to some time before.

The basis of that policy relies on fire
authorities to give advice to police in terms of
20 evacuation. It would be arrogant and even
counterproductive for police to assume they had
that sort of knowledge. I still agree with that.

On this particular day there was a communication
25 void for substantial times which did not allow
information to come from the policy or strategic
area of the ESB. Put another way, field officers
were in a position at times where they were unable
to get strategic advice.

30 It was my belief then and it is still my belief
that police officers and other Emergency Services
people have to work according to the circumstances
as they are presented. Notwithstanding a policy
35 that says, "It is best if you are well prepared,
well informed and equipped and able, it is
generally best to stay in your premises," there
will be circumstances so horrendous that it would
be inappropriate to do so. That judgment, in my
40 belief, should be taken in the field, again, if
the fire authorities can provide that advice.

In this instance, there were occasions where
police did not have that facility and made
45 decisions based on their own personal judgment.

Q. That is because they didn't have access to a

field incident controller or someone in the fire section who was in a position to give them that advice?

A. In both instances that's my belief, yes.

5

Q. Does that also raise a communication problem in the sense that they could get that advice by speaking personally to someone who could offer it to them or who is equipped to offer it to them, or they could do it by radio or telephone?

10

A. By whatever means that is available. In this instance, the radio communication was not sufficient in terms of its link to ESB. There were voids at times where this wasn't available.

15

Q. I want to come back to the declaration of the state of emergency. The evidence that we have heard so far seems to suggest that, from the Chief Minister down, the primary reason for making a decision about the declaration of a state of emergency was to provide police with the power to evacuate if they thought it was necessary. Am I right about that being the main reason for the declaration of a state of emergency?

20

A. It was the main reason, yes.

25

Q. It was the main reason you pushed for it on the afternoon of 18 January?

A. Yes.

30

Q. With the benefit of hindsight, which is an approach often applied but appropriately applied in this courtroom, was there any actual utility or benefit in that declaration as it turns out, looking back at what happened after the declaration?

35

A. Most certainly. I take you back to your suggestion which I agreed with; it was the primary but not the sole reason.

40

Q. What were the benefits of the declaration as you saw them?

A. There are many powers under the act and as a matter of practicality which I saw as being necessary, that was the powers to do things that you wouldn't otherwise have powers to do. These include the movement of people, the movement of

45

animals, admission to properties. But generally the drawing together in a cohesive form all the utilities and all the other bodies of people who might reasonably be involved.

5

Q. To your observation, did the declaration make any difference to the role being performed by senior members at ESB, for example Mr Lucas-Smith?

A. Most certainly.

10

Q. Was he empowered to any greater extent by the declaration of the state of emergency?

A. Yes, he was.

15

Q. In what respect as far as you saw it?

A. He had the powers under section 27 of the Act.

Q. Just summarise those for us.

A. I think there are 20-odd provisions there of the type I described to you: the power to evacuate people against their will, if necessary; the movement of animals; the closure of roads, et cetera.

25

Q. In relation to your statement, Mr Murray, which was made or signed on 10 October of last year. Perhaps I will just pass over that and go to some of the attachments just for identification purposes. You have attached to your statement what are, I gather, various iterations of the arrangements for policing in the Australian Capital Territory. There are quite a number of those through to and including attachment 4.

30

35

Attachment 5 is a flowchart of the fires themselves, which is, your Worship, at 0129 and 0130 of the material. Attachment 6 is the declaration of the state of emergency.

40

Attachment 7 is the assignment of territory controller functions and powers.

45

Attachment 8 is the authority to exercise powers as the alternate controller. That is a document signed by you dated 18 January at 1455 hours which authorises Mr Lucas-Smith to exercise those powers.

Attachment 9 is the report of the police to the ACT government in relation to the recovery process for the bushfire emergency. Attachment 10 is the submission made to the McLeod Inquiry and also a commentary, I think, on a draft to the McLeod Inquiry; is that right?

5 A. That's correct.

Q. Going back to your statement, which is at page 0022, your statement sets out in quite some detail the number of events which occurred, which obviously you were aware of because somebody told you about them not because you were necessarily involved in them all; is that correct?

15 A. A combination of both.

Q. You note on page 0022 at the bottom of the page that you became aware of the fires primarily through media reports, as you say:

20

"Through media reports I was aware, as were many of my colleagues, that fires were burning in the bushland particularly in Namadgi National Park. There was no indication that the fires posed a threat to the Canberra urban area. ACT policing was not involved with or officially notified of the bushfire situation in the ACT and New South Wales during their initial stages."

25
30

For completeness, I wonder if we could have [ESB.DPP.0001.0071]. The document is uncontroversial, Mr Murray: it is a message to you from Mr Castle on 9 January, I think, as an email which among other things provides you with some information about the fires as the situation stood on the 9th of January. Do you have any recollection of receiving that?

35 A. Yes, I do.

40

Q. As a matter of course, is it the position that police would be notified once the fire reached a point where it was more than a minor incident? For example, if it was an incident that was going to last for more than a day or two and where some residents, whether rural or of course if they were urban, particularly might be affected, as a matter

45

of course were the police notified formally and kept informed as to progress?

A. Perhaps that might require further explanation, if you would like me to do that.

5

Q. Yes.

A. In the normal course of events, if it is an isolated or even distant fire, I would expect the local police to be involved. That arrangement has been working very well where the local superintendent would be in touch with ESB and more than likely the planning officer, Senior Sergeant Stephen Kirby, would be involved. That wouldn't necessarily be brought to my attention. It would be regarded as a local policing operation.

Hypothetically, as a fire got larger and involved several police districts for example or threatened property, it might then become an ACT regional policing matter, which again might not reach me. I would be advised as a matter of passing but it would still be handled by then the commander of operations.

25 Q. I wasn't suggesting that you would --

A. I am just trying to clarify for the sake of her Worship. I think that part has to be made clear. The third and last dimension is when it becomes a state of emergency. Some formalities take place which involve setting up the Police Operations Centre.

30 Q. Although in this case you were personally involved well in advance of any declaration of a state of emergency; weren't you?

A. Yes, I was.

40 Q. You were involved at a stage where I assume you regarded the fires - I am now referring to the 16th of January - as of sufficient seriousness or an emergency of sufficient magnitude to justify you being involved that you went to ESB and were briefed on the circumstances?

A. I'll have to clarify that, too. I was asked to go to a meeting on the 16th. The tenor of that briefing did not suggest the urgencies that you are suggesting, no.

Q. Let's deal with that. Why did you attend with Commander Newton on that day? Was that because someone requested that you attend?

A. Yes.

5

Q. Who made that request of you?

A. ESB. I can't remember who it was particularly, it was presumably Mike Castle.

10 Q. This topic is dealt with at page 0023 on page 2 of Mr Murray's statement. You say:

15 "At about 2.30 on Thursday the 16th, Commander Newton and I attended a meeting at the ESB headquarters in Curtin."

You identify those present as being Mr Castle, Mr Lucas-Smith, Mr Bennett and Ms Kate Keane. That's the entirety of those present?

20 A. Yes.

Q. When you were requested to go to the briefing, do you recall being given a reason why that was necessary?

25 A. I don't recall. I suspect it was to do with fires.

Q. To do with --

A. I suspect it was to do with the fires, yes.

30

Q. Bearing in mind that you say you weren't given any impression of urgency in that meeting, did you understand why it was necessary for the Chief Police Officer as well as Commander Newton to be present at such a briefing?

35

A. Not at all. I didn't see that as being unusual. Mike Castle and I had then enjoyed a very good working relationship, and we spoke often and in informal terms. I regarded this as addressing it more formally.

40

Q. You describe the meeting in the following terms. You say:

45

"Mr Lucas-Smith advised us of the developing fire situation west of Canberra. He told us there was a possibility of high fire risk to

the Territory in the coming week. He described how on the coming weekend (the 18th and 19th of January) the weather patterns were expected to produce high winds and temperatures. This was expected to create a moderate risk which would escalate to severe on Monday, 20 January. Because of the unpredictable nature of the weather there was a chance that the conditions might have become severe on Sunday."

You then make the point there was no reference to the possibility of urban Canberra being under threat. Then you describe what happened after the meeting. How long did the meeting actually take?

A. Around 30 minutes to 45 minutes, no longer.

Q. Obviously the detail of what you were told was significantly more than I have just read from your statement. Your statement is very much a summary of what was said?

A. That's correct.

Q. You record that Mr Lucas-Smith said that there was a possibility of high fire risk to the territory in the coming week. Are they, as best as you can recall, the words he used?

A. As best as I can recall, the emphasis that is clear in my mind now is that the Monday was going to be very severe and perhaps it might be brought forward to the Sunday.

Q. It is clear enough from the summary you provided. Were you making notes of this conversation?

A. No, I didn't.

Q. Do you have a day book that you keep with you to record conversations that you regard as being --

A. I have a day book but I don't always use it.

Q. Were you using it on the 16th, 17th and 18th of January?

A. No, I had Commander Newton with me. I didn't for that reason take it.

Q. Was she, as it were, designated to make some notes?

A. She wasn't designated to make notes, no.

5 Q. Did she make notes of this briefing, as far as you can recall?

A. I don't know.

10 Q. Did you ask questions about the information you were being provided with by Mr Lucas-Smith? For example, when you were told that there was a possibility of high fire risk to the territory in the coming week, did you ask what that meant so far as its possible consequences were concerned?

15 A. I would have. I can't remember specifically. But the whole tenor of the answers given or the briefing offered was that it was a rural fire.

Q. Mr Lucas-Smith told you where it was?

20 A. Yes, he did.

Q. Identified where it was and was easy enough to work out how far from Canberra it was?

25 A. Yes.

Q. Presumably you were aware then that the risky weather, as it were, was weather that would generate a westerly or north-westerly wind and other extreme conditions of temperature and dryness?

30 A. Wind direction wasn't in mind. I rely on the fire authorities to give me that sort of information.

35 Q. Had it not crossed your mind in the course of that half an hour's briefing that you received from Mr Lucas-Smith that residents to the west of the Canberra urban area or the Canberra urban area itself might suffer some consequence as a result of these fires?

40 A. It was clear that, in terms of rural Canberra, wherever there was property in that wake, yes, there was an issue.

45 Q. Did you raise that as a possibility with Mr Lucas-Smith?

A. No, I did not.

Q. Where was your information coming from, Mr Murray, so you could prepare? This was clearly an emergency, wasn't it, at this stage?

A. No.

5

Q. It wasn't?

A. I disagree. No, it wasn't. The whole tenor of this was one of information giving sufficient for me to say, "I must look into this," in which case immediately following that meeting we appointed a liaison officer to determine the true extent of what was happening.

10
15 So in answer to your question, no, it wasn't an emergency - and far from it. It was described in terms of being a rural fire only, and there was no suggestion or emphasis on emergency or high risk.

Q. You knew, didn't you, by the 16th that the fires had now been burning for eight days?

20
A. Yes.

Q. On your account of what Mr Lucas-Smith said to you, which I think his evidence is he doesn't particularly disagree, there was a high fire risk in the coming week. I take it that meant from the police point of view it was likely that police potentially at least would have to be involved in the management of that risk?

25
30 A. Most certainly.

Q. But, in any event, you weren't asking questions about the likely consequences, where the consequences might occur or anything of that kind in this briefing; you were simply absorbing information?

35
40 A. Mainly absorbing information but asking general questions. The next stage of the planning, and appropriate to this whole scenario, was for someone who was well versed in planning to take over the job. That's why Sergeant Steve Kirby was appointed to do that.

Q. He is giving evidence, and we can ask him about that. Were you told in the course of that meeting that that very morning the ACT cabinet had been briefed by Mr Lucas-Smith and Mr Castle and

45

others present discussing these fires?

A. I can't recall. It's possible.

5 Q. Were you shown the briefing paper that was prepared for that purpose?

A. No.

10 Q. Are you confident about that?

A. Quite confident.

10

Q. Would information which indicated, as that briefing paper did:

15 "McIntyre's Hut fire to the north-west of Canberra has secure containment lines to the south and east following back-burning operations. However with stronger winds from the north-west, there was the potential for spotting over containment lines which has
20 potential serious impact to ACT Forests pines and subsequently the urban area."

25 Would that information have been useful to you on 16 January, if that was the view of ESB as to what could happen?

A. That would have been useful, yes.

30 Q. Would it have been useful for you to know that a potential serious impact from these fires would be on the forest pines and the urban area?

A. Most certainly any propensity or possibility of being in the urban areas, yes, would raise the matter considerably.

35 Q. You are confident, are you, that nothing like that was said on the afternoon of the 16th?

A. I'm certain.

40 Q. Additionally to that, would it have been useful for you to be aware that, in the opinion of ESB, an asset under potential threat was the urban edge of Canberra?

A. Would it have been useful to know that?

45 Q. Yes.

A. It would have been critical to know that.

Q. If you had that information on 16 January - I say you now speaking pretty much in a corporate sense rather than individually - what would have been the police response to that?

5 A. It would have been no different in the sense that I would have still conducted an appreciation through a person with that expertise. That would have still been Steve Kirby.

10 Q. Sorry, I missed that.

A. It still would have been Steve Kirby.

Q. You say it would have been useful information. The question I am asking as a consequence of that is: would it have made any difference to the urgency with which you prepared from the 16th onward?

15 A. It was more than useful; it would have been critical information; it would have meant my liaison with Mike Castle would have been more constant and more regular. I still would have relied on Steve Kirby for an appreciation and contingency plan.

25 Q. Did anyone inform you on the 16th that there was a 70 per cent chance that the McIntyre's Hut fire would burn into the Uriarra pine forest?

A. No.

30 Q. Would that have been useful information?

A. Critical information.

Q. Did anyone inform you that there had been discussion in the cabinet meeting about the suburbs at greatest risk being Dunlop and Weston Creek?

35 A. No.

Q. Were you aware that that morning at the cabinet meeting there had been a discussion about the possible declaration of a state of emergency?

40 A. No.

Q. Did anyone raise with you at all up to the end of the 18th of January the possibility that Canberra's power might fail by a factor as high as 80 per cent?

45

A. No.

Q. Have you ever heard that said before?

A. No.

5

Q. By anybody?

A. No.

Q. Is my question to you the first time you have
10 ever heard that proposition?

A. No. After being briefed by counsel, I had
learned that.

Q. How long ago was that?

15 A. Over the last two weeks.

Q. Since Mr Stanhope's evidence?

A. I can't recall when that was, I'm sorry.

20 Q. Apart from what you might have heard as a
result of the evidence given here, that
proposition has never been put to you at all?

A. No.

25 Q. Did anyone raise with you between 16th and
18th January, or your officers to your knowledge,
the possibility that the State Emergency Service
might be engaged to assist in the urban area in
any respect at all either in relation to road
30 blocks or in some other way and, if so, what way?

A. I understand that that was done via my local
officers but I probably didn't know at that time.

Q. In the course of the briefing that you
35 received on the 16th of January, Mr Murray, were
you made aware that, in the opinion of the senior
officers at ESB, the weather was the worst weather
for fire than the previous 40 years?

A. Using 40 years doesn't come to mind.

40 Certainly very severe, yes.

Q. Were you made aware that, in their opinion,
the fire as at the 16th of January was already
effectively the worst fire for the last 20 years?

45 A. No. No, that wasn't said.

Q. And either as bad as February 1983 - Ash

Wednesday?

A. No.

Q. Or worse?

5 A. That wasn't said.

Q. I take it that, in relation to the state of
emergency, if you were not informed that cabinet
had discussed the possibility of a state of
10 emergency being declared, you were likewise not
informed that some estimation by somebody had been
made that the prospects of that having to be done
were between 40 and 60 per cent. You don't recall
that being said you to by anybody?

15 A. That wasn't said.

Q. If you take it from me that the evidence
indicates that those matters were all discussed
before the cabinet of the ACT on the morning of
20 16 January, in the ordinary course of events is
there any reason why that information couldn't
have been made available to you?

MR LAKATOS: I object to that, with respect. This
25 witness is being asked to comment on why somebody
else might not have done something. With respect,
he can't say is the reality of it.

THE CORONER: I think what Mr Murray is being
30 asked is whether or not he is aware of any reason
why that information could not have been passed on
to him.

MR LAKATOS: By whom and in what circumstances?
35 With respect, it is so nebulous and the answer is
probably he may not know.

THE CORONER: Then Mr Murray can say so.

40 MR LASRY: I will de-nebulise.

Q. Mr Murray, is there any reason you are aware
of or have learned of since as to why what was put
before the ACT cabinet on the morning of the 16th
45 of January couldn't have likewise been put before
you on the afternoon of 16 January by either
Mr Lucas-Smith or Mr Castle, both of whom were

present?

A. I have no reason. Nothing to offer to that question. I have no idea why.

5 Q. Your statement then goes on to describe what occurred after that meeting, after you have pointed out Sergeant Kirby was nominated as the liaison officer between ESB and ACT policing. We will hear his evidence later on this morning. Am
10 I right in saying that your next involvement at a personal level was on the morning of the Saturday after you had been to Sydney. I think you went to Sydney, am I right, on Friday the 17th on other matters?

15 A. That's correct.

Q. At about quarter past 10 on the morning of the 18th, as you say on page 7 or at 0028 of your statement that you were telephoned by Commander
20 Newton as you were driving back to the ACT?

A. It was an earlier telephone call at about 0835.

Q. At about what time?

25 A. 8.35am. At that time just to help you, if you don't mind: she told me she was on her way to the Police Operations Centre. She was making the call from the car and she would give me a further briefing when she got to the Police Operations
30 Centre.

Q. It was in that conversation that she passed on to you the recommendation that Mr Kirby had made that contingency plans for evacuations were
35 necessary, according to your statement anyway?

A. There was a general discussion which implied that the matter had become serious and issues like that would have been discussed. But only in a brief form in that introductory telephone call.
40 She was, after all, on her way to the Police Operations Centre. It was then that I expected a more full briefing.

Q. You then describe a further conversation, as I
45 earlier mentioned, at quarter past 10 while you were on your way back to the ACT. In the course of that conversation at least she indicated the

possibility that a declaration of a state of emergency might have been required. Had you and Mr Castle - I mention him because he was your most frequent contact at ESB, wasn't he?

5 A. Most certainly, yes. He was the contact with ESB.

Q. As at 10.15am on 18 January, had he discussed with you at all the possibility of a need for a
10 declaration of a state of emergency?

A. No.

Q. Not at all?

A. Not at all.

15

Q. Never mentioned to you?

A. Not mentioned at all.

Q. So as far as you were aware, this was
20 something being discussed within the ACT police and at least from your point of view, without knowledge at all as to whether ESB were considering such a declaration or the need for one, you had no information about that at all?

25 A. At the 10 o'clock telephone call at that stage no. It was ACT only.

Q. A bit later on at page 10 of your statement or
30 page 0031, you describe another phone call that you received from Commander Newton, who by then had obviously firmed up on the opinion that a declaration of a state of emergency was required and that in her opinion all the criteria required for such a declaration had been satisfied. During
35 the course of that conversation she expressed some frustration about her inability to contact Mr Castle, and the circumstances of that of course we can obtain from her.

40 The result was --

MR WHYBROW: If we can obtain that sort of information from her, what is the need for Mr Lasry to just put that out there for the
45 purposes of perhaps writing it down and going into the paper when --

THE CORONER: It is in the statement, Mr Whybrow.

MR WHYBROW: Yes, it is in the statement. This is
an inquiry into the facts. Mr Murray can give
5 evidence about things he then knew. He cannot
possibly know what contacts were made by Commander
Newton.

THE CORONER: He does, Mr Whybrow, because it is
10 in Mr Murray's statement. So he does know about
contacts that were made.

MR WHYBROW: No, your Worship. He has been told
that attempts were made and somebody was
15 frustrated. If he has gone through the phone
records and had a look, let counsel assisting ask
those questions. Just making the comments in a
throwaway manner, I object to that. If it is not
going to be pursued, it doesn't need to be said.

20

THE CORONER: Thank you, Mr Whybrow.

MR LASRY: This is part of the narrative. If I
chose to do it in an inquest, I would be entitled
25 to go into some detail with this witness as to
what he was told by Commander Newton. I choose
not to because she is being called. It is part of
the linkage in understanding where we get to on
the afternoon of 18 January.

30

Q. Mr Murray, those various conversations having
occurred, you describe on page 13 or 0034 of your
statement your arrival at the Winchester Police
Centre and then subsequently you went to ESB.

35 Whilst at the Winchester Police Centre, you
indicate that Commander Newton, in effect,
reemphasised her belief that a state of emergency
was necessary. You obviously had another
conversation about it?

40 A. Yes. A very short conversation then, yes.

Q. Am I right in saying your views about the need
for a declaration were essentially based on the
information you had been given by her and other
45 police rather than obviously your own
observations?

A. Of course, yes.

Q. So the purpose of the trip to ESB, which brought you there at 8 minutes to 2 on 18 January was - am I right in putting this to you - to introduce ESB to the concept of the need for a
5 declaration; that's why you were going there?

A. More than that. It was a comment by Commander Newton along the lines "They're not listening to me. They're not listening to my request for a
10 declaration of a state of emergency." That made it a matter of urgency for me.

Q. Your conversation with her and your arrival at ESB led to the meeting which you describe on page 14 of your statement. You describe yourself,
15 Sergeant Kirby and Sergeant Byrnes going into Mr Castle's office. In that office, as you say, there was already a meeting in progress which involved Mr Stanhope, Mr Castle, Mr Keady,
20 Mr Lucas-Smith, Mr Bennett and Mr Tonkin. I take it from that part of the paragraph that, as you walked in, a meeting was under way and discussions were already occurring between those people present; is that right?

A. Yes.
25

Q. In a sense you interrupted the meeting or were you expected, as far as you knew?

A. I wasn't expected, as I understand it. I wasn't invited and I wasn't expected.
30

Q. So did the conversation then stop to acknowledge your presence?

A. It certainly did.

35 Q. Did you then seize the opportunity to start talking?

A. I immediately took the opportunity to express my concerns.

40 Q. You describe in your statement that your opening comments to the group were that you were strongly of the opinion a state of emergency needed to be declared. You go on to say on page 14:
45

"I explained that on the basis of the briefings I had received from the commander

in the Police Operations Centre, the views expressed to me by Sergeant Kirby and Sergeant Byrnes and from my experiences in the Ash Wednesday fires in Adelaide in 1983, a state of emergency declaration was critical. There was a need to have that is right to evacuate people, if necessary, against their own personal judgment. There had been an example at Uriarra where people's live may have been put at risk because of their failure to heed the warning of police to leave. Mr Lucas-Smith said as a general rule it was best, if people were prepared and able, they should stay and protect their property. I can recall saying "without putting myself forward as an expert in fires, as I am not, I was involved in the Ash Wednesday bushfires in South Australia and I can say that many houses exploded because of the extreme heat, and occupants had died.

Mr Lucas-Smith said that in his experience he had never heard of houses exploding.

At one time the Chief Minister stated, "You are the experts. All I want is advice."

Just in relation to the Ash Wednesday bushfires in South Australia, what role did you play during those fires?

A. Well, for the duration of the fires I was the intelligence officer.

Q. What did that mean you were required to do?

A. The role of the intelligence officer was to receive all of the raw information from whatever source. And that would come from officers in the field, other Emergency Services people, telephone calls, et cetera, through receivers of this information and turning that raw information into intelligence from which hypotheses were established in terms of what strategy should be put in place.

Q. The information that you conveyed about housing exploding, where did that come from?

A. My experience in Ash Wednesday bushfires where

people described the houses exploding in front of their eyes.

5 Q. So it is not that you saw a house explode, it is that you were told by people - in effect that was their impression of what happened?

A. That's how they described what happened.

10 Q. I take it in those cases the people giving that description were people who had been significantly traumatised by the experience?

15 A. That's correct too. But I also visited the site where houses were disintegrated and saw the remains of people who had remained in their houses. The remains of these people were, as I remember, left with something like a few centimetres of body because of the intensity of the heat. That's all that was left.

20 Q. Your description of the Chief Minister saying, "You are the experts, all I want is advice," to your observation was that comment made against the background of what appeared to be a disagreement about the need for a declaration of a state of emergency?

25 A. Yes.

30 Q. You have related parts of the conversation, but I wonder whether there was any other part of the conversation where Mr Lucas-Smith, for example, or anyone else present put any argument against such a declaration?

A. The whole tenor of that 45-50 minutes was against my submission.

35

Q. Who was putting views against your submission?

A. Everybody except me and Sergeant Kirby.

Q. Apart from Mr Lucas-Smith --

40 A. I exclude the Chief Minister from that. He wasn't contributing.

Q. He was caught in the middle?

A. He was caught in the middle.

45

Q. Apart from the observation made by Mr Lucas-Smith that "as a general rule it was best

if people were prepared and able they should stay and protect their property," I take it that he was, to your observation, saying that as an argument against compulsory evacuations; is that
5 the context in which he was putting that forward?
A. Yes. That's correct.

Q. Were there other things being said which raised other issues, disadvantages, problems or
10 obstacles about the declaration of a state of emergency, apart from that one sentence?
A. There was suggestions made that what would we do under a state of emergency that we can't currently do. That was the tenor of some of the
15 suggestions made.

Q. What was your response to that?
A. The one I have already given to you in evidence is that there are many provisions under
20 the Act which allow the controller to do thing which he wouldn't otherwise have the authority to do.

Q. Was the discussion fairly animated?
25 A. Yes.

Q. At all hostile?
A. No.

30 Q. So in good spirit but animated?
A. Good professional emphasis.

Q. And strongly held views being put both by you and by Mr Lucas-Smith and others?
35 A. Yes.

Q. Ultimately, is it fair to describe the result as an accommodation being reached that the Chief
40 Minister was persuaded that the declaration of emergency should be made, but it was important that the person in charge of the fire effort, Mr Lucas-Smith, would be effectively the controller for that purpose?
A. Yes. Can I add to that?
45

Q. Certainly, explain.
A. A decision was reached on the advice that he

was given. Ultimately he said, "Yes I will
declare a state of emergency. I insist that Peter
Lucas-Smith be appointed the alternate controller.
I want the fire authorities to lead this
5 operation."

Q. You accepted that?

A. It was eminently sensible given the extent,
nature and proximity of the fire. It seemed to me
10 the only thing to do.

Q. It enabled you to achieve your purpose, which
was to have the power to compulsorily evacuate if
it was necessary?

15 A. It seemed to me that Mr Lucas-Smith would have
the same powers.

Q. When that meeting concluded and the Chief
Minister signed the declaration, you then had a
20 discussion, as you say on page 16 or on page 0037,
with Mr Lucas-Smith about command and control
issues which he said were essentially in place.
You make the observation in your statement that
you noted the layout of the building was not
25 conducive to a good command and control process
being established. What was the problem?

A. Well, it is hard to know where to start there
because the building is a good operational centre.
It is a good classroom setup. It was totally
30 inappropriate, something which has been realised
since. I felt quite sorry for Peter Lucas-Smith
at the time because the conditions under which he
was working were extremely testing.
Notwithstanding, he was energetic and professional
35 about his work. I offered my assistance, and my
early advice to him was that an intelligence
process should be set up whereby we were acting on
refined raw information rather than just raw
information itself and that he receive regular
40 briefings from an intelligence person.

I say that for this reason: because of the layout
of the rooms, we were hearing raw information over
the telephone and were hearing - for example, on
45 one occasion I heard "helicopter down" and that
turned out not to be true. The role of the
intelligence officer is to sift out things like

that and present to the co-ordinator - or in this instance the controller - information which is known to be true or reasonably known to be true.

5 We then set up in the conference room a central position to which the focus of that intelligence briefings could be made. I'm not sure whether that had been done before. That was my suggestion.

10

Q. The balance of your statement, Mr Murray, starting from page 17 or 0038, outlines a number of events which were going on outside the ESB building, and indeed you narrate that through from the afternoon of the 18th until the revocation of the state of emergency by the Chief Minister on 15 28 January; is that correct?

A. That's correct.

20 MR LASRY: Yes, thank you. I have no further questions of Mr Murray.

THE CORONER: Thank you, Mr Lasry. Yes, Mr Lakatos.

25

<CROSS-EXAMINATION BY MR LAKATOS

MR LAKATOS: Q. Mr Murray, I want to raise two things with you flowing from the documents you put 30 before the inquiry. They relate to evacuations initially and the other one is the state of emergency. It is not unknown in your experience, is it, that when a massive catastrophe or emergency occurs, the operating procedures and 35 protocols and systems within a service such as the police force or other services get severely tested?

A. Get severely tested, is that the question?

40 Q. Yes.

A. That's quite correct.

Q. The bigger the emergency, the more demands there are on these various protocols and at times 45 they break down. That would be your experience; would it not?

A. Most certainly. If I can add to that:

I shared with Peter Lucas-Smith at the height of this dreadful event just how trying these circumstances can be, because you can add to a trauma of this sort things like communication
5 breakdowns, power failures, which would test the most professional controller under these circumstances, yes. I agree.

10 Q. Indeed, I suppose those pressures would also put added stress on to services such as the Police Force on one hand and ESB on the other effectively communicating and interacting as well; would they not?

15 A. Most certainly.

Q. Indeed, I think your comments at page 16 of the submission, which had been referred to by counsel assisting, outline the various problems in relation to evacuation caused by this particular
20 catastrophic event; would you agree?

A. Yes, I would. Put another way: If policies and strategies are clearly enunciated to people in the field, they are much better off, yes.

25 Q. One of the big issues that you were taken to this morning and you outlined is the fact that there wasn't any adequate flow of information to allow your officers in the field when the catastrophe hit at Duffy to give information to
30 residents as to evacuate or not; would you agree?

A. I agree, yes.

35 Q. I suppose it would not be unfair to say, would it, that the circumstances on the afternoon of the 18th was such that things were moving with tremendous rapidity, tremendous speed - the events, the fires and so on?

A. Most certainly, yes.

40 Q. So that one can foresee there may have been problems in information getting from the urban interface to Curtin to get back to fire officers and so on, so the chain of information was long and the speed was such that these things may not
45 have operated effectively at all; correct?

A. Yes. That's correct. Can I add to that for your information?

THE CORONER: Yes.

THE WITNESS: That was my experience in 1983, too. Despite the best plans and processes in place,
5 given the extremities of these situations there would always be communication voids given the rapidity of the events, the severity of events and the natural impediments to communication. There will always be that time when there is lack of
10 information, and therefore lack of information upon which to make decisions.

MR LAKATOS: May I suggest at least part of the reason why you have raised these problems of
15 evacuation, for example, were firstly to record as a fact that these were the experiences of your officers in the field; would that be correct?

A. Yes.

20 Q. And, secondly, to draw to attention this problem so that it might be addressed and fixed in the future?

A. That's the general tenor of my evidence that I am giving to her Worship. Lessons learned,
25 lessons we work from, yes.

Q. When was it, Mr Murray, that you relinquished your position as Chief Police Officer?

30 A. The end of February 2004.

Q. You are aware that, in August/September 2003, a process was concluded between ESB and your service, particularly Commander Newton, of a memorandum of understanding relating to
35 evacuations?

A. It describes a protocol, I think, yes.

Q. I wonder if exhibit 21 [DPP.DPP.0003.0209] could be brought up. I wonder if you would be
40 good enough to have a look on your screen. If we could go to page 2, which is 0210. The signature on the right apparently is that of Commander Newton?

45 A. Yes.

Q. Of course Mike Castle's signature, may we take it you recognise that in that document?

A. Yes.

Q. That was an agreement which I suppose was
hammered out and ultimately came to fruition in
5 August or September 2003?

A. Yes. I note for the record Commander Newton
is using the position Acting Chief Police Officer,
which means I was not there at the time. Acting
implies I was not there for some time and not just
10 the one day. She was acting in my position.

Q. At least this agreement or memorandum of
understanding is a positive step forward, I take
it you would say, between the relationship between
15 ESB and the AFP in circumstances such as occurred
in January of 2003?

A. Yes. There was no negativity prior to that,
by the way. It is an added positive step, yes.

Q. You also have been taken by counsel assisting
to the meeting on 18 January concerning a state of
emergency at which the Chief Minister and others
were present. After the debate, which is set out
I think very clearly in your statement, and the
25 Chief Minister's entreaty that all he wanted was
advice, do you recall whether or not what occurred
was that the Chief Minister asked everybody in the
room whether or not they agreed with the advice as
was ultimately given to him?

30 A. Everybody had something to say.

Q. Was there, however, a formal request directed
by the Chief Minister to every person in that room
as to whether he or she agreed or gave that
35 advice?

A. Not in that sense, no.

Q. In your submission, which precedes your
statement, you also refer to potential problems
40 concerning the position of territory controller
and alternate controller.

A. Mmm-hmm.

Q. May we take it that those are thoughts of
45 yours where you raise problems which in fact did
not occur in January of 2003 but might occur if
such a situation is replicated in the future?

A. No. Problems did occur because of that on January the 18th.

Q. What were the problems from your perspective?

5 A. Not just from my perspective. There were claims made justifiably, it seems to me, that worked against the principles of single lines of command and control. People were confused about to whom they should report or from whom they
10 should receive strategic advice. There were two bodies set up extensibly, one under the alternate controller and one under the controller.

Q. You record in the submission at
15 [AFP.AFP.0110.0020]. I am quoting from the first full paragraph:

"As will be clear from my statement, I
20 believe the two positions could co-exist and I could manage the recovery process while Mr Peter Lucas-Smith as alternate controller AC could manage the firefighting effort aided with the additional territory controller powers in the case he was required to
25 authorise officers to undertake unusual actions. It appears that Mr Lucas-Smith did not exercise any territory control of powers in this firefighting effort. Such details and responsibility in consequence were not
30 debated as people were keen to work on the issue at hand."

Does that fairly summarise how the situation, as it were, panned out on the 18th of January?

35 A. Yes.

Q. So that in effect, whilst there may have been problems, people made it work on that particular occasion; would that be fair?

40 A. Yes.

MR LAKATOS: Thank you. I have nothing further.

THE CORONER: Thank you, Mr Lakatos. Mr Pike?

45

MR PIKE: I have no questions.

THE CORONER: Mr Whybrow?

MR WHYBROW: Can I ask that we take the morning
adjournment at this stage so I can get some
5 instructions?

MR PHILIP WALKER: I am in the same position.

THE CORONER: You want to take some instructions
10 as well, Mr Walker?

MR PHILIP WALKER: Yes.

THE CORONER: We might take the morning
15 adjournment.

SHORT ADJOURNMENT [11.15am]

RESUMED [11.40am]
20

THE CORONER: Yes, Mr Whybrow.

MR WHYBROW: Thank you, your Worship.

25 **<CROSS-EXAMINATION BY MR WHYBROW**

MR WHYBROW: Q. Mr Murray, I represent Mr Castle.
Mr Murray, you were taken by counsel assisting to
the bottom of page 1 of your statement where there
30 was a sentence:

"There was no indication that fires posed a
threat to the urban area. ACT policing was
not involved with, or officially notified of
35 the bushfire situation in the ACT and New
South Wales during their initial stages".

I think you agreed when you were shown an email
that Mr Castle sent to you - do you agree that is
40 a notification to you as the head of the ACT
police of the situation of the fires at that stage
at 9 January?

A. Yes.

45 Q. Would it be fair to say then, that the next
sentence needs to be seen in that context, the
next sentence of your statement:

"The first real understanding of the extent of the fires was experienced on 13 January."

5 Would you agree that the contents of the email that Mr Castle told you were quite detailed as to the state of the fires at that early stage, 9 January?

A. Yes. I can help you out, if you like.

10 Q. Yes.

A. I would presume also there would be daily contact between Mr Castle's office and my representatives in the field.

15 Q. You are not suggesting, are you, Mr Murray, that the AFP were kept in the dark as to what was going on from the 8th of January until the 15th of January when you and Commander Newton were involved in that briefing?

20 A. I'm sorry the question posed that way I find a bit difficult - "kept in the dark".

Q. The statement indicates that ACT policing was not officially notified of the bushfire situation during their initial stages. What I am suggesting is that there was an official notification from the head of Emergency Services to yourself detailing quite extensively what the state of the fires was as at 9 January.

30 A. I agree with that.

Q. Your expectation is there would have been ongoing contact between ESB and police over the next few days as to what was going on.

35 A. Yes.

Q. Could I perhaps bring that email for you, Mr Murray. It is [ESB.DPP.0001.0071]. Have you had a chance to re-read that email recently?

40 A. Yes.

Q. The McIntyre's Hut fire is the subject of the second last paragraph there, do you see? I will read it out. After Mr Castle outlines the fires in remote parts of the ACT and a number to the south-west of the ACT and New South Wales, he then goes on:

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 nat parks and they are attempting to
muster resources for it but will need our
assistance. This is a major threat to ACT
10 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."

15 Q. Do you recall reading that information on about
the 9th?

A. Yes.

20 Q. Is it your understanding that, between the 9th
and the 15th, the fires had, to some extent, grown
in size?

A. Yes.

25 Q. And containment of the various fires had been
attempted from time to time but they could not be
said to be under control?

A. I couldn't answer the question whether they
were seen to be under control or not.

30 Q. On the 16th you attended a briefing with
Mr Castle?

A. Yes.

35 Q. Was that at ESB?

A. Yes.

Q. Ms Kate Keane was also present?

A. Yes, she was.

40 Q. Did you know her to be an officer working in
that area, an officer involved in the Emergency
Management Committee?

A. Yes, I did.

45 Q. You were the then chair of the emergency
committee?

A. The Emergency Management Committee, yes.

Q. And part of that role was as the designated territory controller in the event that a state of emergency needed to be or should be declared under the Emergency Management Act?

5 A. Yes.

Q. Was it under that act that you were the chair of the Emergency Management Committee?

10 A. Under that act, yes. It is an appointment under that act, yes.

Q. Mr Castle was the executive director of the Emergency Management Committee?

15 A. No. He was executive director of ESB, the Emergency Services Bureau.

Q. Did he also not have a role under the Emergency Management Committee that you were the chairman of?

20 A. He had a role as an executive director of ESB and a position as deputy chair of that committee.

Q. As a consequence of being the executive director of ESB?

25 A. According to the provisions of the Act, yes.

Q. A number of matters were suggested to you by Mr Lasry that were not discussed in that meeting. Could I ask you your recollection as to what was discussed in that meeting?

30 A. The 16th, we are referring to?

Q. Yes, I understand it went from about half an hour to 40 minutes?

35 A. Perhaps even longer. It was essentially a briefing in major part by Mr Lucas-Smith.

Q. Mr Lucas-Smith and Mr Bennett, the Fire Commissioner, came in at some stage during the course of that briefing?

40 A. Yes.

Q. Mr Lucas-Smith gave a briefing as to the current state of the fires?

45 A. Yes.

Q. What else can you recall being discussed

during that 45-minute or so long briefing?

5 A. Unless you direct my attention to something you are concerned about, I couldn't say. It was a conversation essentially set up for a briefing to me and Commander Newton. That was the essence of that meeting. There may well have been other things discussed, but I can't recall.

10 Q. Can I suggest that one of the things would have been discussed was a reference to the fact that cabinet had been briefed earlier that day about the fire situation?

A. That's possible.

15 Q. Perhaps I will take you to some of the evidence of Ms Keane and then ask you some questions as to whether you recall. She was there, and I can indicate she didn't take any notes at the meeting, so it is from her
20 recollection. She gave evidence that she had a mental picture of a map being on the wall and discussions around a map?

A. Yes.

25 Q. Do you recall that occurring?

A. Yes.

30 Q. That would have been in the context of where the fires were at the moment and potentials for growth and things of that nature?

A. Yes.

35 Q. At the end of the meeting, was it your position that, whilst the fires had potential to burn into the rural ACT, you had no appreciation or there was no general sense in that meeting of an actual risk or even a perceived risk to the urban areas of the ACT?

40 A. Not even a suggestion.

Q. Do you specifically have any recollection, sir, of reference being made to the fact that cabinet had been briefed that morning?

45 A. I can't recall.

Q. I take it then you wouldn't be able to recall whether or not Mr Castle had any notes or papers

with him from which he was referring or speaking to during the course of this briefing?

A. I don't recall that, no.

5 Q. Ms Keane had a recollection --

MR LASRY: While my friend is pausing to formulate, I wonder if we could have where possible page numbers of the transcript.

10

THE CORONER: Are you referring to the transcript, Mr Whybrow?

MR WHYBROW: Yes. It is about pages 2544 to 2545.

15

Q. Mr Murray, during her questioning Ms Keane was shown a document, which I understand you did not see. It was a draft email which you were subsequently sent where there was a reference to the low possibility of a state of emergency needing to be declared. She was asked questions about that and that ultimately came out in the draft that was sent to you. She was asked where that reference came from. At the top of 2545, she was asked:

20

25

"Q. The state of emergency reference that you put in that document - this draft email - where did you derive that from?

30

"A. Possibly from that briefing with Mr Murray and Commander Newton, that meeting. It is possible that was discussed and I put it in that paragraph after I discussed that brief. That's potentially where I got that information from."

35

Mr Woodward, who was asking Ms Keane questions then said:

40

"Q. Again I should ask you, and you will be asked, I am sure: is that a reconstruction based on your best recollection 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?

45

"A. I think we did discuss it because I had

5 to make sure that I had a disk of the actual
the ministerial documents for signature in
the event that a state of emergency was
declared. So, yes, I believe it was
discussed in that meeting."

10 MR ARCHER: I rise to object. There was a lot
more cross-examination than that, particularly
from me, and the effect of that cross-examination
altered that factual matrix quite significantly.
If my friend is going to put that
cross-examination, I ask that the whole lot be
put, particularly those answers to questions asked
by me in relation to either a suggestion that a
15 state of emergency was discussed or a document was
produced.

20 THE CORONER: Are you in a position to do that,
Mr Whybrow?

MR WHYBROW: My friend will be going second last
today and will be able to in effect re-examine on
anything. I am putting some answers that Ms Keane
gave on the basis that I think I predicated of
25 asking Mr Murray whether he could recollect such a
thing being said. Now I was going to ask, "Having
heard that, does that jog your memory at all as to
whether or not" --

30 MR ARCHER: I maintain the objection.

THE CORONER: It does leave the impression that
that is the evidence of Ms Keane.

35 MR ARCHER: That is not the evidence.

40 THE CORONER: I don't know that that is the true
position at the end of Ms Keane's evidence. That
is the difficulty, Mr Whybrow. But I suppose
there is an opportunity for you, Mr Archer, to
clarify that when you do cross-examine.

45 MR WHYBROW: I will put the question to Mr Murray.
He can say whether he has a recollection or he
doesn't.

THE CORONER: I will allow that question.

Q. Does that ring any bells?

A. I can answer categorically: when she drew up that document, it did not come from the meeting of the 16th. I can answer that categorically. That
5 is not where she got the information from.

MR WHYBROW: Q. Sorry?

A. Implicit in your question was the possibility that the reference to the state of emergency came
10 from the meeting on the 16th. That was your question, I think.

Q. Was there any discussion?

A. My answer categorically is no, that's not
15 where she got the information.

Q. My question is not where she got the information from but whether or not there was any discussion - in the context of yourself as the
20 chair of the Emergency Management Committee, Ms Keane as an officer attached to that committee, and Mr Castle having this briefing - whether there was any discussion of a state of emergency at all during that meeting?

25 A. On the 16th?

Q. Yes.

A. Definitely not.

30 Q. You indicated to Mr Lasry in answer to a number of points he put to you that you didn't recall or even higher stated were not said in that briefing that would have been of critical
importance to you in terms of future planning.

35 Given that you were aware on the 9th of January there was a major threat to the ACT pines and ultimately property if the winds turned back, and there had been at least some increase in the size of the fires from the 16th, what sense did you
40 leave that meeting as to the fire situation?

A. That everything was under control.

Q. Did that include New South Wales fires or was there any briefing on that?

45 A. Generally that everything was under control. This was an information session only.

Q. Did you leave with the impression that the comments that were sent to you on 9 January no longer existed?

5 A. It was essentially the same. It was a rural fire some distance away which posed no real threat.

Q. On the 18th of January - you gave evidence that you weren't invited and weren't expected at the meeting which you ultimately attended. If there had been a conversation between Mr Castle and Mr Kirby as to your current whereabouts and whether you were on your way, you wouldn't be able to be in a position to necessarily disagree with that; would you?

15 A. That observation is correct.

Q. In the sense that it may have been the case that you were expected, but you didn't know they knew you were coming?

20 A. Yes.

Q. Is it fair to say that the difference between senior officers at ESB and Commander Newton and yourself and other police in relation to the need for a state of emergency essentially at that stage revolved around the need to have a power for compulsory evacuations?

25 A. You use the word "essentially"; the word I have previously given evidence about is "primarily".

Q. You also gave evidence that there are a number of other powers under the Act that it was, in your opinion, necessary for either yourself or the alternate controller to have at that time?

35 A. Yes.

Q. You said in your submission that one of the key considerations for police seeking a declaration of emergency was the compulsory evacuation issue?

40 A. Yes.

Q. Following the declaration, what powers to your knowledge were actually exercised in the afternoon of Saturday the 18th?

5 A. I recall at least three where access to gas facilities on private property, access to power supplies, and another issue where the authority wouldn't otherwise be there without the provisions of the Act. I can't recall it, but there were at least three separate incidences where that authority was needed.

10 Q. Before the state of emergency was declared, you were aware that there had been coordination and communication between the Australian Federal Police and Emergency Services in relation to, for example, notifying residents of Casuarina Sands of the need to evacuate?

15 A. Yes.

Q. There had been road blocks that previous evening in the Tidbinbilla area?

20 A. Yes.

Q. And that had been done in consultation between Emergency Services and the Australian Federal Police?

25 A. Yes.

Q. In a coordinated and in a way where they were dealing with each other in a professional and appropriate way - Emergency Services and the police?

30 A. Yes.

Q. The Police Operations Centre that Commander Newton set up on the morning of Saturday the 18th, that was not set up in the December 2001 fires?

35 A. No, it wasn't.

Q. In that case, was it not the situation that a senior police officer worked out of Emergency Services Bureau itself?

40 A. That's correct.

Q. You gave evidence as to the inadequacies of the building at ESB for managing a serious incident of this nature?

45 A. Yes.

Q. Was that, to your knowledge, a factor which

led to Commander Newton not following what had occurred in the previous bushfires in coming down to ESB?

5 A. You may have to ask her that. But I would sense that the police involvement in the fire which was then being described to us on the Saturday morning required more than usual police resources and a more formalised response essentially at a strategic level. That's why she
10 set it up.

Q. At that stage - it has been subsequently identified as a problem - there were some downsides of the Police Operations Centre being
15 separate from Emergency Services because of the nature of the links between the two buildings?

A. Yes, that's correct.

Q. For example, the Police Operations Centre was
20 not on the ACT or INTACT net communication lines; there were no internal phone numbers between the two buildings?

A. Yes.

25 Q. And, for obvious reasons, officers from Emergency Services who were liaising with the AFP would not have had access or would have been authorised to operate communications or computers in the Police Operations Centre?

30 A. Nor would they need to.

Q. There were, as you have indicated, communication voids at times during the course of that morning. I take it you have not personally,
35 sir, gone through the phone records to see what attempts had been made by various people to call Mr Castle's pager, for example?

A. I have since seen reference to that, yes.

40 Q. Do you understand there is only one record of a call being made or a message being left on his pager by Commander Newton that morning?

A. I'm not aware of the numbers but I'm aware that there were attempts made, yes.

45

Q. You are ultimately aware that contact was made between them by the use - I think it was Sergeant

Byrnes who was the liaison officer at the time?

A. Yes.

5 Q. Being called and being in close proximity to Mr Castle and handing him the phone?

A. Yes.

10 Q. The issue of the need for compulsory evacuation is, would you agree, one where minds may reasonably differ depending on the circumstances?

A. I find it difficult to answer that yes or no. Do you want me to explain why?

15 Q. Let me ask you this question: at the discussion preceding the state of emergency being declared, you indicated that there were two camps as to whether the need of a state of emergency should be given. Is it fair to say that, at least
20 on the part of Mr Castle and those that were arguing against the need at that stage, significant in their points was the issue of evacuation?

A. Yes.

25

Q. Your point of view and that of your other officers was that was a key issue at that stage?

A. A critical point, yes.

30 Q. You are not suggesting, are you, that those who had a different point of view from you at that time were not holding that view honestly - are you? At that stage minds were differing about an issue --

35 A. I find it difficult to answer the question in those terms. If you allow me to explain my position which may well differ to what they have already evidence about. Fundamentally I agreed
40 with the AFAC protocol. If you are well informed, well equipped, able and have equipment to fight the fire within your own premises, generally speaking it is best to stay in the premises.

45 But there will be circumstances, such as there were on the 18th, where people were not be so well informed nor equipped nor able and that you might have to take action against their own judgment. I

believed that to be the circumstance and I believed people would die if that action wasn't taken.

5 Q. That was at that time your strongly held views?

A. My strongly held views at the time and still.

10 Q. What I am suggesting is that the strongly held views by those that were not agreeing with you were not anything other than honestly held beliefs as to the situation at that time?

15 A. I believed them to be frank and honest according to the views that currently at that time they held, yes.

Q. Indeed you were aware of a senior officer of the organisation, Superintendent Lines?

20 A. Am I aware?

Q. Are you aware that he was involved on this day?

A. I certainly am, yes.

25 Q. That morning he was involved in, as I understand it, some contingency planning for evacuations in the Duffy area?

30 A. He was the forward commander in the Duffy area liaising with a field officer from the ESB and, in consultation with that fire officer, drew up evacuation plans, yes.

Q. At 3pm he was on the ground effectively on the fire front at Eucumbene Drive?

35 A. Yes.

40 Q. I suggest to you perhaps an example of minds differing on a similar issue. He stated at page 10 of his statement, at 2.59 he is on Eucumbene Drive:

45 "Dark, dense smoke was high in the north-west sky. Notwithstanding the deteriorating conditions, I remained confident that ACT policing and the fire brigade were operationally prepared with the approaching fire front. While evacuation remained an

option, I decided that the situation as I assessed it then did not warrant the blanket and forcible evacuation of Duffy."

5 A. At that time.

Q. At that time?

A. Mmm.

10 Q. That is at about the same time the discussions are taking place in ESB about a state of emergency?

A. Yes.

15 MR WHYBROW: Nothing further your Worship. Thank you, Mr Murray.

THE CORONER: Yes, Mr Walker.

20 MR PHILIP WALKER: Thank you.

<CROSS-EXAMINATION BY MR PHILIP WALKER

MR PHILIP WALKER: Q. Mr Murray, I gather your
25 view of the way Mr Lucas-Smith acquitted himself and discharged his office is that you were somewhat critical at times around the 16th because you would have liked more notice of what was required of the police, but I gather you are much
30 less critical of the way he discharged his office on the 18th; is that correct?

A. Yes.

Q. Dealing with the 16th, is the issue which
35 divides you and Mr Lucas-Smith fundamentally one of timing? Let me explain what I mean: If the risk from a fire was very slight, you wouldn't want a Chief Fire Control Officer to be telling police that there is a great risk, if that was not
40 his view?

A. Yes, correct.

Q. If the risk is quite high, then of course you would expect the police to be informed?

45 A. Yes.

Q. The difference between the view you hold of

what was done on the 16th is that you believe the call, so to speak, should have been made to the police at an earlier time?

A. What call are you talking about?

5

Q. Well, the suggestion that there was a grave threat to the urban area and the police to prepare to deal with that sort of threat; you believe that information should have been passed on and a request made to the police at an earlier time; is that right?

10

A. Earlier than the 16th?

Q. No, sorry, earlier than when it occurred. My apologies - it should have occurred perhaps on the 16th?

15

A. I find it hard to answer the question in those terms that you have asked them. My expectation would have been, having now seen the documents that are currently before this inquiry, that some of the details in that cabinet document would have been known to me.

20

Q. Would you expect some request for assistance or emergency action to be given to the police at some earlier time than when it occurred?

25

A. Given the tenor of the information we were receiving, which was essentially this is a rural matter under which we currently have under control, no, it was played down - circumstances relayed to us which suggested everything was under control.

30

Q. Let me go to that meeting. I think you answered a question from Mr Whybrow suggesting there might have been a map and you might have been shown some things on a map. Would that have been by Mr Lucas-Smith or by somebody else?

35

A. Either by Mr Lucas-Smith or Mr Castle or both.

40

Q. Could you have been shown the location of the fires - McIntyre's Hut, Bendora, Stockyard fire and so forth?

A. Yes.

45

Q. Do you think you might have been informed at that time of the situation of containment lines in

relation to those fires?

A. Yes.

5 Q. Might you have been informed that to the east
the side fronting the ACT - that the Bendora fire
was in fact contained to the east as at the end of
the 15th?

A. It's possible.

10 Q. That New South Wales had informed the ACT that
McIntyre's Hut was contained to the south-east,
the face of the fire facing the ACT?

A. That's possible.

15 Q. Might you have been informed that there was an
intention for a back-burn to occur on the
Stockyard fire that evening?

A. Yes.

20 Q. In fact, those would be the sort of things
which would give rise to some belief on your part,
would they not, that things were reasonably in
hand as at that particular point of time?

A. A measure of reassurance, yes.

25

Q. If that was the view which was held by the
Chief Fire Control Officer, then you would not
expect him to be effectively raising the alarm if
that was the circumstances of the fires as he saw
30 them?

A. Under those circumstances, I agree with you.

Q. In your statement at the bottom of page 2, you
mention that there was some adverse weather
35 expected on the weekend and you raised the
possibility that the weather could have become
severe on the Sunday. Could I suggest to you it
might have been the Saturday and the Monday and
that Sunday was not mentioned as a day in which
40 the weather might become severe?

A. That's not correct.

Q. I think you have agreed already that
Mr Lucas-Smith came in a little after the meeting
45 on the 16th had commenced; is that right?

A. I didn't put it that way. He came in at some
stage. I'm not sure when he came in and when he

left.

Q. How long?

A. I'm not sure.

5

Q. He was not there right from the start?

A. It's possible. I have got no independent memory of that.

10 Q. Was that meeting fundamentally one about global coordination of emergency services; was that the principal reason it was called?

A. It was a meeting set up to brief us on the extent and direction of the fires, as I understood
15 it - information briefing.

Q. Let me come to the question of Saturday, the 18th. I think you said very early in your evidence-in-chief that you are of the view that
20 people should work according to the circumstances and that judgments must be made in the field about whether evacuation is necessary. Do you recall some evidence to that effect?

A. As long as you interpret that in the context
25 of what I also said, that fundamentally we agreed with the AFAC protocol. That formed the basis of that comment.

Q. I think you went on to say that judgments were
30 to be made in the field - my note is not a perfect record of what you said - but with fire authorities providing some advice in that respect; do I have you right?

A. Yes.

35

Q. Are you speaking there about fire authorities on the ground in the field as well or are you talking about some more central notion of a fire authority?

40 A. Including in the field, yes.

Q. You are talking about both?

A. Both, yes.

45 Q. You said there was some disagreement about evacuations on Saturday. I'm trying to get some gauge from you, what level of evacuation was being

discussed at that meeting when there was this disagreement about --

A. I don't think I used the word "disagreement". You might have to explain what you mean by that.

5

Q. I gather that the police were wanting a state of emergency declared primarily, I think you said, because of the issue of evacuating people; is that right?

10 A. Primarily that was the issue, yes.

Q. In fact, much of the discussion I think you said centred around the question of evacuations; did it not?

15 A. Yes, it did.

Q. Mr Lucas-Smith advanced the view that the policy has historically been that people should stay with their homes; is that right?

20 A. Yes.

Q. That is a view, I gather, that there was some disagreement about or not?

A. Yes. There was disagreement.

25

Q. Insofar as there was disagreement about people staying with their homes, the corollary being there be evacuation, I am trying to get some understanding of what scale of evacuation, at least so far as you had participation in that meeting, were you contemplating? Was it house by house as the circumstance had required; or was it whole streets; or was it whole suburbs?

30

A. My briefing at Winchester with Commander Newton presented me with a scenario that people of Uriarra were in the path of a fire and were showing reluctance to leave.

35

I was also told and agreed with the suggestion that if they stayed in the path of the fire they might well be killed. Now, to that extent I believed again the general rule to stay is a good one but there will be circumstances such as they were in in that fire where the fire is so intense, to stay in your premises you put your life at risk. That's the disagreement which we had.

40

45

Q. You expressed your view; what do you say was the other view which was put in relation to, take Uriarra?

5 A. Generally speaking, these are the protocols we work by. They were put forward by Mr Lucas-Smith. I agreed with them. I said as a general rule that is quite correct. But I have been through this before. When you have a fire of this intensity, you have to work outside that general rule and we, as police, will preserve people's lives where we see appropriate.

15 For example, I know as a fact with the fire that there were older people who were not just ill-informed or not informed but ill-equipped and less able to fight the fire but nonetheless thought they could. There were instances where police put these people in police cars and took them away. That is the sort of thing I am talking about. You might describe that as forcible evacuation. If you do, I would have to agree with you. I would have to also say that it is appropriate for police to do that.

25 Q. Can I suggest to you that Mr Lucas-Smith did not oppose individual evacuations on a case-by-case basis, but his opposition was to large scale evacuations, forcible evacuations?

30 A. That's possible.

Q. Accordingly, if there was, to use your example, sir, an elderly person who perhaps for emotional reasons did not wish to leave but was in imminent peril, there was nothing that Mr Lucas-Smith said that such a person should not be evacuated if necessarily forcibly?

A. I agree with that.

40 Q. His opposition was to the suggestion that somebody should, in a somewhat more arbitrary way, almost draw a line on a map and say, "We will now evacuate these three streets or this suburb," or something of that nature, that that was his opposition?

45 A. I can't answer for his thought process, but that's quite possible.

Q. Well, did he express himself in those terms?

A. His objection to the declaration of the state of emergency was running in parallel with his concern about evacuation. I believe his concerns
5 about evacuation were in the context of no need to declare a state of emergency. That's how I understood it.

Q. That may be so. I am trying to get a gauge on
10 this question of evacuations. I think you have agreed with me that he did not express any opposition to an individually examine case-by-case sort of evacuation of the sort of example we have just been speaking about?

A. He didn't express any objection to that, but I
15 don't think it was discussed.

Q. The proposition I am putting to you was the
20 objection he expressed was - without the examination of circumstances - to simply say that large groups of people should be told that they must evacuate their houses; as I said, almost like run a line on a map?

A. I would agree that is a sensible way to
25 approach that, yes.

Q. Did he say that?

A. I'm not sure if he said that. I can't
30 remember.

Q. Or something to that effect?

A. It is possible he said that, yes.

Q. Would you accept that, if somebody were to say
35 that a large proportion of the suburb such as Duffy had to be evacuated, that could in fact create an emergency situation of itself because of the swamping of roads?

A. It's possible.
40

Q. Insofar as Mr Lucas-Smith discussed the
question of evacuations and the state of emergency, is it a fair summary of what he said that his concern related far more to the question
45 of the evacuation issue than to the question of whether or not there should be a state of emergency?

A. I'm not sure I understand that question, I'm sorry.

5 Q. Let me try and give you an example. A person could say, for instance, "I'm not particularly concerned whether there is a state of emergency or not. But I do oppose the implementation of a particular power in a particular way if one is declared"?

10 A. Okay.

Q. Do you understand what I mean?

A. Yes, I do.

15 Q. Is it a fair summary of what Mr Lucas-Smith's position was on that day that his opposition was not so much to the declaration of a state of emergency in principle but his opposition was to this large-scale move to evacuate people?

20 A. No, I don't agree with that. Everyone except Sergeant Kirby and myself was against the state of emergency being declared, outside the Chief Minister.

25 Q. I don't know that that quite answers the question as I put it. I wasn't suggesting that Mr Lucas-Smith might not have said that a state of emergency should not be declared. I was asking you whether it was a summary of his position that
30 his principal objection was, "This is going to be used to effect wide-scale evacuations. I don't want to see it happen"?

A. That's possible.

35 Q. You mentioned some examples of the use of state of emergency powers. You said there were three, but I think you were only able to specifically remember two. One was gas on property. Do you know how many instances you were
40 talking about there? Are we talking about one house or are we talking about scores or what?

A. I would have to go through records to determine that. I know it was exercised.

45 Q. I take it you would be in a similar position in relation to the exercise of those powers in respect of electricity, which was the other

example that you mentioned?

A. Yes.

MR PHILIP WALKER: Those are my questions,
5 your Worship.

THE CORONER: Thank you, Mr Walker. Yes,
Mr Archer?

10 MR ARCHER: I have no questions, your Worship.

THE CORONER: Yes, Mr Lasry.

MR LASRY: Thank you, your Worship.
15

<RE-EXAMINATION BY MR LASRY

MR LASRY: Q. Mr Murray, just in relation to
perhaps one other matter that I should have asked
20 you earlier, you said in answer to questions from
me that you were unaware of the content of any
briefing to cabinet on the morning of the 16th. I
think you appear to be accepting that it was
possible that the fact of the cabinet briefing may
25 have been mentioned to you on the afternoon of the
16th?

A. That's correct.

Q. But that you are clear, as I understand it,
30 that you were not told what they were told?

A. I was categorical that none of the items you
referred to were mentioned.

Q. Did anyone tell you that, at about half an
35 hour before the briefing that you undertook, a
briefing was undertaken by Mr Lucas-Smith to the
urban fire brigade?

A. It's possible that was mentioned.

40 Q. Did anyone give you any details of the content
of that briefing?

A. No.

Q. One other matter in relation to the fires
45 themselves, the evidence indicates that at a
planning meeting on Friday night, the 17th,
predictions were made about the fires arriving at

Narrabundah Hill. Do you recall being given any information about that?

A. I wasn't given that information on the Friday night.

5

Q. You weren't?

A. No.

Q. You were aware that police were present at that meeting and obviously were present when information was being received?

10

A. I learned that the following day.

Q. The following day?

15

A. Yes.

Q. In relation to the agreement which was drawn to your attention between the AFP and ESB, which is [DPP.DPP.0003.0209]. This is the undated agreement signed by Mr Castle and then Acting Chief Police Officer Mandy Newton. Perhaps I should recall from your evidence, but did you have anything to do with the discussions leading to this agreement being entered into?

20

25 A. I had nothing to do with that.

Q. Do you understand what the legal status of that agreement is?

A. Yes, and I disagree with it.

30

Q. What is the legal status?

A. I'm not so sure the provision in one of those clauses there is as unambiguous as it appears about lawful authority, as I recall it.

35

Q. I wanted to ask you about paragraph 3. I am not sure if that is the one you are referring to or not. It reads:

40

"Where in the opinion of the most senior fire officer present or a police officer that a person's life is immediately at risk by them being in a particular location they will be advised to evacuate either by a fire officer or a police officer. The police officer will seek the advice of the senior fire officer prior to making a decision to evacuate,

45

except in the most urgent of circumstances.
In the event that such advice is ignored a
police officer may order them to evacuate and
has the legal power to enforce that
5 evacuation."

A. This is not as clear as it appears. I believe
that police under common law powers in terms of
preservation of life always have that authority.
10 I also have been made aware since that there are
provisions within the Fire Brigades Act which
allows this to happen. Whereas initially I had
some concern about the clear unambiguous nature of
this document, I think now reading it again, it is
15 probably accurate in terms of its legal status
than I had formerly realised.

Q. This legal document wouldn't be the document
that confers the power on the police; they have
20 either got it under some statutory authority or
under common law?

A. Of course.

Q. But this agreement wouldn't be effective in
25 conferring a power on police that they otherwise
didn't have; would it?

A. Of course.

Q. So if it is meaningful, it is meaningful in a
30 narrative way not in a conferring way?

A. Exactly.

Q. That perhaps brings me to the other matter.
When you referred to section 27, you were
35 referring to section 27 of the Emergency
Management Act and the various powers that are
there provided under a state of emergency to the
controller. There are a number of them which I
won't read. I know you are familiar with them,
40 Mr Murray. They are powers of the ability to
direct, to enter land, to excavate, to construct,
to turn off, probably to turn on, to contain, to
control, to shut off, to remove and so on.

45 Those powers by and large might well need to be
available to the relevant controller, might they
not, whether or not there was a state of emergency

declared or not; in other words, in particular
circumstances it is right, isn't it, that someone
in either your position or Mr Lucas-Smith's
position may need these powers well in advance of
5 the declaration of a state of emergency?

A. Yes.

Q. Is it your understanding that in fact some
powers such as those set out in section 27 are
10 available without the need for a declaration of a
state of emergency?

A. Yes.

Q. Would it be your view, based on your
15 experience, that the majority of these powers
should be available to a controller without the
need for a declaration?

A. Yes.

20 MR LASRY: Yes, thank you, Mr Murray. I have no
further questions, your Worship.

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

25

<THE WITNESS WITHDREW.

MS CRONAN: I call Sergeant Stephen Kirby.

30 MR LAKATOS: Would your Worship excuse me?

THE CORONER: Yes, Mr Lakatos. You are excused.

<STEPHEN SHADERICK KIRBY, SWORN

35

<EXAMINATION-IN-CHIEF BY MS CRONAN

MS CRONAN: Q. Please tell the Court your name,
rank and station?

40 A. My full name is Stephen Shaderick Kirby. I am
a sergeant of police. I am the planning manager
of specialist response and security in ACT police.

Q. You have made a statement in relation to your
45 participation in the January 2003 fires?

A. I did.

Q. If you could have a look, sir, at [DPP.DPP.0003.0218]. While that is coming up, have you had an opportunity to read through your statement recently?

5 A. I have.

Q. Before we begin, is there anything in that statement that you would like to alter or correct?

A. No, there isn't.

10

Q. During the week leading up to the 18th of January, you say in your statement that you had been the acting officer in charge of the specialist response and security team. Then on Thursday, the 16th of January, you were appointed by Commander Newton as the ACT policing liaison officer with the Emergency Services Bureau for all issues in relation to the bushfires surrounding the ACT. Is that a role prior to that week that you had performed before?

15

20

A. Yes. Actually since the implosion inquiry, I have been the liaison officer with ESB right through.

25 Q. Since the implosion inquiry?

A. That's right.

Q. So you were familiar with the layout and the people when you initially responded to that request from Commander Newton?

30

A. That's correct.

Q. You say then that you attended the ESB planning meeting at 1600 hours that day. What time did you actually arrive at ESB in that role?

35

A. I think it would have been close to the start time of the meeting.

Q. Sorry?

40

A. About 1600.

Q. What information had you been given before you attended ESB?

45

A. That the Chief Police Officer John Murray and Commander Newton had attended a meeting - they actually gave me a briefing in relation to the fires - that there was a need for a liaison

officer within ESB and that I was to fulfil that role.

5 Q. What did they tell you about the fires when they briefed you?

A. Basically that there was a fire front on - three fire fronts. It was a rural fire and that it may need some police coordination further down the track.

10

Q. Was that to be a full-time role for you over the next couple of days?

15 A. No, it wasn't; it was to be a liaison role. Most of that liaison would be to attend the twice-daily meetings and also be available for any further liaison required.

Q. As a contact point in the AFP?

20 A. That's right.

Q. Before you went to the afternoon planning meeting, were you aware that the urban fire brigade had been briefed in a similar fashion to Commander Newton and Mr Murray?

25 A. No, I wasn't. I was aware they attended a briefing but I wasn't sure who was at that briefing.

30 Q. Were you aware also that cabinet had been briefed that day in relation to the fires?

A. No, I wasn't.

35 Q. Can you recall now what was generally discussed at the planning meeting at 4 o'clock that afternoon?

40 A. Again, I attended a number of emergency meetings in relation to the fires. My general understanding - probably my statement better reflects it than my memory - the fires were in the rural area and there was a number of measures that were being taken to control those fires.

45 Q. In your statement you say in general terms that the fires surrounding the ACT could worsen and encroach further towards the rural areas of the ACT over the next few days; is that the extent of your recollection of what you were told?

A. It is.

Q. Did you have any further involvement at ESB that night after you attended the planning meeting?
5

A. No, I didn't.

Q. So your next contact with ESB was the next morning when you went to the planning meeting at 9.30; is that correct?
10

A. That's correct.

Q. You say in your statement you were advised that the conditions were worsening and the fire behaviour was erratic. You were asked to close Brindabella road at its intersection with Uriarra Road and you made arrangements for that to happen.
15

A. That's correct.

Q. Do you recall specifically at the morning meeting whether there was any discussion about what was happening with the McIntyre's Hut fire as opposed to the fires within the ACT borders?
20

A. Again, my recollection was that the fires were worsening - that's the terminology which I used when I was making my statement. There was talk of containment lines, that the fires were erratic. You know, there was the potential that they could overrun the lines. Again, without referring to notes, and I was relying upon the notes that ESB was taking for each meeting which I was given a copy of, that's the general terminology which I understood the meeting to be on.
25
30

Q. You didn't keep your own notes of these meetings?
35

A. No, I didn't.

Q. Perhaps if the witness could be shown [ESB.AFP.0110.0868] and go through to 0870. Did you, when you attended the meeting that morning, have a general awareness of where the McIntyre's Hut fire was burning?
40

A. I did. The meetings were well run. They gave predictions. They showed where the current fire situation was, predictions of where it might go and where it might lead, and the contingencies in
45

place to deal with the fire.

Q. Do you see the paragraph on your screen where it says:

5

"Mr Peter Lucas-Smith raised concerns regarding the aerial incendiary back-burn operations at McIntyre's fire. There is potential for many uphill runs, with spot
10 overs at potentially 10 kilometres, with a north-west wind impacting on the ACT."

Do you recall Mr Lucas-Smith's discussions in relation to those concerns?

15 A. I do recall that.

Q. Can you tell us what you do recall about that, what he did say at the meeting?

20 A. He was saying that the fire behaviour was very erratic. Conditions were conducive to fostering the fire and that the potential for spotting of fires was very substantial.

25 Q. Did you have an understanding of what that meant in relation to where the containment lines were being put in for the McIntyre's Hut fire?

A. I didn't really, no.

30 Q. So what was the impression or understanding of the risk to the ACT that you left that meeting with?

A. Again, I thought it was a rural fire solely in a rural area. No mention was made to the urban
35 fringe of the ACT.

Q. You go on in your statement at page 0219 to say that during the day you proceeded to draw up a contingency plan for the ACT policing response to the fire should they encroach further into the
40 rural areas of the ACT. Can I ask you to detail for her Worship what contingency plan you drew up?

45 A. Yes. Peter Lucas-Smith had obviously given a clear indication of the fires burning erratic and that it could encroach further into the rural community. So what I did was I drew up a contingency plan in relation to the police response to that. I established contact links

with New South Wales Police should we need to close roads or provide assistance there and, being across two jurisdictions, who would look after what area and we would look after other areas.

5

I looked at the activation of the POC, Police Operations Centre, and asked that oncall staff be asked to man that. I also contacted the duty officer and informed him, Superintendent Chris Lines, that he may be required. I contacted Sergeant Jason Byrnes and informed him that he may be required as a liaison officer at ESB, should the fires deteriorate in the urban area.

15 I put on standby members under my command within specialist response and security. All of these members were to use 4-wheel drive vehicles which are search and rescue vehicles. They could be utilised in the urban area and off road if
20 required to respond to any situation.

Q. Can I stop you there: What role did you envisage the SRS members to be performing? What role did you see them perform, if required?

25 A. SRS is a newly created area within ACT policing with core search and rescue skills. I presume what role they performed would be evacuations if required, doing road blocks if required, inner and outer cordons of areas if
30 required. Again, they had search and rescue skills. Their uniforms are fire retardant. They have training in relation to these sort of disciplines. I thought they would be the best people placed in that sort of rural environment.

35

Q. You say in your statement:

"At this stage there had been no information given that there was any chance of the fire reaching the suburbs of Canberra over the
40 weekend. However contingencies would be put in place for this possibility at a meeting to be held in the following week."

45 I take it from that there was some awareness in your mind at that stage that the fires could impact on the suburban areas of Canberra at some

distant time or in the future?

A. Yes, that was the first time - and in the email that I received and the telephone conversation I had with Commander Newton which
5 told me that I was to go to that meeting the following Monday or Tuesday - was the first time that it had occurred to me even that there was a possibility of the fires encroaching on the urban areas. But again, the email I received and the
10 conversation I had with Commander Newton was just about the possibility of evacuations.

Q. What conversation did you have with Commander Newton about the email?

A. That I was to attend the meeting. I don't
15 know whether it was the email she received or it was just notification she had received. But I was to attend a meeting the following week with - I think it was Frayne Prichard from ACT Fire
20 Brigade.

Q. That was a meeting of the evacuation working group?

A. Yes, it was.
25

Q. Did she tell you when that meeting was to be held?

A. No. I was told that I would be notified at some stage regarding that meeting and that it
30 would take place the following week.

Q. You understood at that stage that that was relating to evacuations within the suburbs of Canberra as opposed to rural evacuations?

A. No. It didn't make it clear whether it was
35 urban or rural.

Q. Just talking about any awareness you had that there was a chance of the fires reaching the
40 suburbs of Canberra at some stage, apart from that conversation you had with Commander Newton, was there any other information you were given that led you to that awareness?

A. That they might reach the urban fringe? No,
45 there was none.

Q. When you say you placed the members of the SRS

on standby to respond to the rural areas, were they actually given any briefing or were they just told to be stood up?

5 A. No, I gave their team leader a briefing in relation to what the expectation of their duties was.

10 Q. Now, you attended a planning meeting at ESB at 1600 hours - well you planned to attend it. It was postponed to 1800 hours. This is on the Friday evening. You were told that the fire conditions had considerably deteriorated, and more time was required to prepare an accurate update of the fire situation. You were told that by acting

15 district officer Phil Canham. Had you been at ESB throughout the day from the morning planning meeting to when you arrived expecting to attend the afternoon planning meeting at 1600?

20 A. No. I returned to my office where I was preparing a contingency plan.

Q. Had you been in contact with people at ESB over the telephone throughout the day?

25 A. I don't recall any conversations, no.

Q. Is it essentially the case that you arrived at ESB at 4 o'clock having received no further information than what you had at 9.30 in the morning?

30 A. That's right.

Q. In relation to what the fires were doing?

A. Exactly.

35 Q. What did Mr Canham tell you about the fire conditions specifically, can you recall that?

40 A. No. I think he was non-specific. I think he talked about deterioration in the fires and deterioration in the whole outlook of the fires.

Q. But following your discussion with Mr Canham you advised Commander Newton and duty officer Superintendent Lines of what you describe in your statement as the increased threat. Can you say as

45 precisely as you can what information you gave to Commander Newton and Superintendent Lines in those phone calls?

A. I had no formal briefing at that stage except from Phil. Again, I didn't know what direction that deterioration was taking, just that I couldn't give them a better update at that stage
5 because I was waiting for the 6 o'clock meeting.

Q. So essentially just gave them a heads up that it was worsening?

A. Also there would have been an expectation that I would have given them an earlier briefing at, say, 4.30/5 o'clock telling them that that briefing wouldn't be forthcoming because the meeting was put back.
10

Q. So did you remain at ESB until the briefing actually occurred?
15

A. No. I ducked back to the office again for a short period of time and then returned shortly after.
20

Q. At the bottom of page 2 of your statement, you say you were advised at that meeting that there had been a considerable change in the fire situation and there was potential for the fire to encroach on the urban fringes of Canberra on the Saturday. I take it from your earlier evidence that that was your first understanding that the fires may impact on the suburban areas over the weekend; is that right?
25

A. That's correct.
30

Q. You were given specific predictions - you have used the word "prediction" in your statement and, without taking you to them, I notice you used the word "prediction" in your handwritten notes. You actually took handwritten notes of that?
35

A. That's correct.

Q. The early prediction was that the fire would reach Uriarra by 1200 hours, the Cotter at 1600 hours and Stromlo by 2000 hours. When you used the word "prediction", had that been discussed at the meeting as a real possibility or a remote possibility? How was the prediction announced?
40

A. The word "prediction" in that case simply means as a worst case scenario or a possibility that this could happen. It wasn't a definitive
45

statement saying, "The prediction is this is how
it is going to happen" - probably a wrong choice
of word in my statement. It was a possibility.
It was a consideration that might occur, but it
5 was something that was predicted so, again, it is
a wrong choice of word in my statement.

Q. You were also informed in that meeting that
the weather conditions for the following day were
10 extreme in terms of fire level; weren't you?

A. That's right.

Q. Temperature was going to be high with
north-west winds gusting to - you said in your
15 statement 45 kilometres per hour?

A. That's right.

Q. You also heard Mr Lucas-Smith advise the
meeting that, if the fire reached the Stromlo
20 Forest, it would travel up checked as it would be
too dangerous to fight?

A. That's right.

Q. Was there any discussion to your recollection
25 at that meeting about warning the residents of
Duffy, which is next to Stromlo Forest, that the
fire may be coming?

A. No.

30 Q. No discussion about it at all?

A. No discussion at all.

Q. Following the meeting you advised Commander
Newton, Superintendent Lines and Sergeant Wynn
35 from SRS of the changed status of the fires. Can
you recall exactly what you advised Commander
Newton and the other police about what you had
just heard?

A. That for the first time there was a
40 realisation of a potential for the fire impacting
on the urban fringes and that obviously the
contingency plan that I had drawn up was in
relation to rural response not urban response. I
think I even mentioned for the first time that
45 there may be a necessity to activate the POC - not
that night but the next day. But I said that the
current contingency plan that I had in place and

the time delay we had or the time that we had before the possibility of it impacting on the urban fringe was plenty of time to increase policing resources if required.

5

Q. So are you aware of whether or not any additional resource planning was done overnight as a result of the information that you gave to Commander Newton and Superintendent Lines?

10 A. No, based on the information I had from the possibility of the fire reaching the urban fringe, I was satisfied that the plan I had put in place was adequate for that time.

15 Q. The plan you had put in place?

A. The plan that I had already put in place and the amount of people I had on-call was satisfactory.

20 Q. How many people did you have on-call through the SRS?

25 A. I had approximately 30 people. And then with the time delay that we had, I knew we had another 60 to 80 people that could be utilised from the day shift working on and the afternoon shift coming in early if required - being the changeover at 3 o'clock - and again the possibility for fires impacting on the urban fringe being 8 o'clock at night.

30

Q. It was envisaged that if the worse case scenario happened, you would keep the dayshift back and have a double shift working in the afternoon?

35 A. Exactly, yes.

Q. Were you involved in any way as a liaison officer during the Christmas Eve 2001 bushfires?

40 A. No, I wasn't.

Q. Are you aware that the police had some role during those fires in distributing or issuing warnings through a door knocking process talking to residents in areas that might potentially be at risk?

45

A. I'm not aware of that, no.

Q. Was there any discussion between yourself and any of the police officers you advised on the Friday night about whether or not the police should have any role in warning people, for example, in the suburb of Duffy or other suburbs near the Stromlo Forest?

5 A. Not on Friday night, no.

Q. So what did you do after you spoke to Commander Newton, Superintendent Lines and Sergeant Wynn?

10 A. I returned to the office where I think I contacted police communications, gave them an update in relation to what was happening and I remained in the office until about 8/8.30, then returned home.

Q. You were contacted at home then, I take it, by Superintendent David Prince from the fire brigade?

20 A. That's right.

Q. He advised you the weather conditions were still deteriorating and that a meeting would be held at ESB the next morning to discuss various aspects of the emergency services response and recovery to the fires?

25 A. He did.

Q. Can you be more specific or give any details about what he told you in relation to the weather conditions and the behaviour of the fires during that phone call?

30 A. I think it was that particular phone call. He might have been talking about the fires I think encroaching or being closer to Tharwa. And again I think he was basically just repeating what we had discussed at the earlier meeting at 1800.

Q. He essentially asked you to attend at ESB at 8 o'clock the next morning for an evacuation planning meeting?

40 A. That's right.

Q. He rang you again at 19 minutes past 10 and confirmed that the meeting would be held the following day. You then informed Superintendent Lines, the duty officer, of the current status of

the fires and of the meeting to be held the next morning. Can you recall now any detail of the conversation you had with Superintendent Lines?

5 A. I think it was a fairly brief conversation. Again, I received nothing much new other than the fact that that meeting would take place the next day.

10 Q. So there was no discussion about whether or not the police needed to have some sort of forward planning overnight for the eventuality of the evacuations having to take place the next day?

A. No.

15 Q. Superintendent Prince rang you again at 2311 and advised of the worsening fires at Tidbinbilla and Tharwa. You again advised Superintendent Lines and spoke to police communications Sergeant Tawton. You say in your statement that you
20 advised him that your preference was not to call out the SRS team as peak fire conditions would occur the next day. Was there some consideration given at 2311 about whether or not the SRS should be called out overnight?

25 A. There was. Consideration was to call out more police and I was aware of what the situation was around Tharwa with mostly grass fires et cetera, so I'd sort of said no I wanted them - we only
30 have about - at that stage we had around about 18 SRS tactical response people and a further 12 within SRS. I wanted them all on day shift.

Q. You wanted them available for --

35 A. Peak time, yes.

Q. -- fire conditions?

40 A. If I called them in during night shift, obviously they would have to stand them down during the day which is when we really want them there.

Q. You had been contacted throughout the night by Superintendent Prince who was the urban fire brigade superintendent. Was he appointed as a
45 formal contact liaison officer with you? Did you have somebody from the Bushfire Service that you contacted as well?

A. No. David, I believe, was appointed by ESB as the liaison officer with the police. He is my general contact. He is a person I have daily contact with, as well as Superintendent Quiggley
5 from the ACT Ambulance. The three of us are normal liaison officers. As I say, there is rarely a day goes by when I am not in contact with one of them. That was a common thread that we had for the information. He was supplying the
10 information based on all of ESB not just the fire brigade; he was giving information in relation to the whole of the ESB response.

Q. Were you told by Superintendent Prince then
15 whilst you were liaison officer with ESB that the urban fire brigade - on the night of the 16th and the day of the 17th - had been preparing their own incident action plan for the possibility that the fires may impact on the urban areas in Canberra?

20 A. No, I wasn't aware of that.

MS CRONAN: We are about to go on to the 18th, your Worship. Is that a convenient time?

25 THE CORONER: Yes. We will take the luncheon adjournment.

LUNCHEON ADJOURNMENT [1.00pm]

30 **RESUMED** [2.03pm]

MR PHILIP WALKER: Just before Ms Cronan resumes, this morning we received some handwritten notes by Sergeant Byrnes, and it appears they were provided
35 to Sergeant Barnicoat on 10 March. I'm not sure what happened thereafter. I rise because given these were served as late as they were, although it has been possible at least for me to deal with them, it is some concern that there might be a
40 bundle of notes provided for people next week in relation to New South Wales. I certainly would like to know whether that is the case, because it makes it extremely difficult to deal with these things on the fly. Somebody is likely to say at
45 some future occasion in relation to my client, "Mr Lucas-Smith was represented by you, why didn't you do something?" But if information comes this

late, the representation is in name only because of the difficulty in dealing with it. That is the first point.

5 One other matter, I haven't been able to check back but I at least gained the impression that, after your Worship had indicated we would sit a number of Fridays in an effort to make up some of the time lost by the need for late engagement of
10 legal representatives, I certainly gained the impression that we would go back to the usual situation where the inquiry would sit four days a week. I haven't had a chance to raise this with Ms Cronan but I have certainly heard mention that
15 the inquiry would sit this coming Friday. I am wondering if that is the case.

The final thing is: whilst I have been informed of the witnesses who are likely to be called next
20 week, I wonder if it also would be possible to get some idea on what days and times.

THE CORONER: I think that has been indicated.

25 MR PHILIP WALKER: If it has been indicated, I may have missed that - I withdraw that, if it has been circulated.

THE CORONER: It very much depends on how far we
30 get through the day.

MR PHILIP WALKER: I do appreciate that, but at least it gives us some bit of an idea of where we are at.
35

THE CORONER: I appreciate that.

MR PHILIP WALKER: My points being whether there are any notes for next week from New South Wales,
40 and the second being whether it was your Worship's intention to sit next Friday.

THE CORONER: It was at this stage. Does it present a difficulty for you, Mr Walker?
45

MR PHILIP WALKER: I sort of assumed that we weren't, but that might have been my mistake

rather than any others. I thought we were reverting to Monday through Thursday. I will see whether I can make some arrangements.

5 THE CORONER: I have a witness list here that talks about people next week: Julie Crawford on 3 or 4 May, which is Monday or Tuesday; then Tony Corrigan and Kevin Cooper on the 5th, which is Wednesday. That is as far as I have as well.
10 There may be some change even to that. I will ask someone, Ms Cronan perhaps, to get in touch with you to let you know whether there are any notes in relation to the New South Wales people.

15 MR PHILIP WALKER: There was one other matter and that is a couple of days ago I raised the question of your Worship having gone and had a look at some of these areas.

20 THE CORONER: I have a notation of that and I will make it available to you on Monday. There is a dialogue in relation to the field trip, if you like, and I just want to go through that because all you really need to know is the places that I
25 visited. I will just go through and make that available to you. You don't really need the dialogue, I don't think.

MR PHILIP WALKER: I will wait.
30

THE CORONER: It is just a matter of typing it up. It is not a very lengthy document, so Monday or Tuesday.

35 MR PIKE: While we are on the question of logistics --

THE CORONER: I would rather these matters be raised when there is no witness in the witness
40 box, perhaps at the end of the day's proceedings rather than interrupting a witness. But now that you are on your feet, go on.

MR PIKE: Can I indicate, mainly for counsel
45 assisting's information, that I have a matter which I am obliged to do in Sydney on the 26th, 27th and 28th of May. It is a long way away, but

I thought I would give that forewarning now.

THE CORONER: Thank you, Mr Pike, for telling us. I, too, hope we get back to four days a week
5 sitting because it is a bit difficult to try to catch up and keep up. I appreciate the difficulties that that causes. That is a difficulty for everybody. I will have a discussion with counsel assisting and just see
10 what the plan is for next week, and then perhaps we might revert to four days a week after that. That was always the plan. It was sitting for five days just to catch up. Having said that, most of the weeks since March have been four-day weeks
15 because of public holidays.

MS CRONAN: In terms of forward planning, can I indicate next week that the witnesses we propose to call are: Ms Julie Crawford, Bruce Arthur
20 Mr Rob Hunt, Mr Tony Corrigan will be on Wednesday; and they will be followed by Neil Cooper and then Kevin Cooper. The witnesses for next week are mostly being taken by Mr Lasry. I will pass my friend's concerns on regarding notes.
25

THE CORONER: And particularly if there are other notes. I think most of the information in relation to the New South Wales witnesses, if not all the information, is information that they
30 themselves provided to the New South Wales coronial inquiry that was conducted by Mr Milovanovich. I think that is the bulk of the information that is available, if not all

MS CRONAN: It may be that they may come with notes next week.

THE CORONER: If they come with notes, then I think we will all be caught by surprise, Mr
40 Walker. I am sure they probably will come with some notes. I hope they have read the protocol.

MR PIKE: I am not trying to tell my friend how to do it, but it occurs to me that perhaps if some
45 calls could be made this afternoon and, if people do have notes, arrangements can be made to get them here prior to them giving evidence.

THE CORONER: I don't imagine for one moment that that is going to be possible, Mr Pike, but we can live in hope.

5 MR PIKE: If some attempt could be made, we would certainly appreciate it.

THE CORONER: Yes, thank you. Yes, Ms Cronan.

10 MS CRONAN: Q. On Saturday the 18th of January you went to ESB at 20 to 8 in the morning in readiness for the evacuation planning meeting; is that correct?

A. That's correct.

15

Q. You got a briefing from Superintendent Prince with regard to the deterioration of the fires. Do you recall Superintendent Prince showing you a map at that stage?

20 A. I do.

Q. That showed the predicted rate of spread of the fires?

25 A. Yes, I think it showed where the fires were and predictions of where the spread might go.

Q. Superintendent Prince has said in his taped record of interview - there is probably no need to bring it up at this stage but for the record it is
30 [DPP.DPP.0004.0040]. He said:

"If I remember correctly, one of the main things I showed him when he came in at 7.30 or 7.40 on Saturday morning was a map. It
35 was a topographic map of the ACT with brown marks showing at certain times where the fire would be."

40 In fact the map referred to hitting Duffy at 1800. Is that consistent with your recollection of what he showed you?

A. It was. It was the first time I had heard in fact the fires could progress two hours in advance of what was considered the day before.

45

Q. I know at page 0221 of your statement you refer to a number of phone calls and conversations

you had from 1814, but did you actually attend the evacuation planning meeting in general?

A. The actual meeting was almost split in two in terms of there was one group sitting within a
5 very, very small meeting room or kitchenette type room, and then I think myself and Superintendent Prince, Tim Keady, Mr Tonkin - we sort of were talking outside the meeting. Obviously the
10 possibility of the fire arriving two hours earlier was raising some concerns in me in terms of establishing a POC, a Police Operations Centre, and advancing our contingency plans within ACT policing.

15 Subsequently I did go inside the meeting, which was addressing certain issues. Then because of the importance of the establishment of the POC, I then left the building. I asked for a liaison officer from the fire brigade who could come to
20 the POC to act as that liaison officer. I subsequently left ESB and arranged for Sergeant Jason Byrnes to relieve me at ESB to take my place.

25 Q. If we could just go back then to your initial discussion with Superintendent Prince, Mr Keady and Mr Tonkin, were all of those people present when Superintendent Prince showed you the map with the concentric lines indicating that the fire
30 would hit Duffy at 1800?

A. No, I don't think they were all present. Mine was more of a one-on-one, a small group presentation. He subsequently did go inside the meeting room after our discussions and he then
35 gave another briefing to all of those people within that group.

Q. You had your own discussion with Superintendent Prince in which he showed you the
40 map and then you had a small meeting outside the meeting room?

A. Yes. And then I subsequently moved inside the meeting room, which was around about 8 o'clock.

45 Q. What was discussed at this small meeting that you had outside the meeting room?

A. My thought process in relation to, I think,

general discussion on the possibility of me considering the activation of the POC, having a liaison officer, the importance of a liaison officer within the POC, generally the nature of the flow of the fire and the possibility of it reaching by 6 o'clock that night.

Q. Was that a concern to that small group of people?

10 A. It was - I mean obviously the potential for this to occur, and obviously that's why I recommended the raising or the establishment of the POC.

15 Q. When you say you recommended it, who did you recommend it to?

A. Well, I said to Superintendent Prince and also to Mr Keady that I was going to recommend it to Commander Newton and that, as soon as we finished our additional meeting, I was going to then phone her and recommend the activation of the POC.

Q. Was that recommendation in the context of the discussion you were then having about the fires reaching Duffy at 6 o'clock that night?

25 A. That's correct.

Q. Can you recall the response, if any, that you got from Mr Keady in relation to that recommendation?

30 A. Yes. Mr Keady did say - remembering that communications was very important and that the information flow between ESB and the POC should be maintained. I did say that's why we were establishing a liaison officer, that I would be sending additional police to ESB and that also we would take a liaison officer from ESB to the POC.

Q. Was there any discussion in this small meeting outside the meeting room, if I can put it that way, about warning the residents of Duffy about the predicted impact at 6 o'clock that day?

40 A. No, there wasn't.

45 Q. Was there any other conversation of any significance in that small group that you can recall now?

A. No, I can't.

Q. You say you then went into the main meeting. Can you recall who was present at the meeting at that stage?
5

A. Yes. There was a number of key agencies there, a lot of the people I was meeting for the first time and I hadn't met previously - various organisations, people from Chief Minister's, Justice and Community Safety. Again, I'm not sure of the exact names of a lot of those people.
10

Q. Did Mr Keady, Mr Tonkin and Superintendent Prince accompany you into that meeting at that stage?
15

A. They did.

Q. Can you tell her Worship what you recall being said in the meeting whilst you remained there?

A. I think it was a presentation by Superintendent Prince. I think at one stage Mr Tonkin re-affirmed to all of the people in the room that "the disaster plan is there and we stick to that disaster plan". I'm not quite sure why that remark was made, whether some people were reading other things or what have you. Certainly he made it clear that's the disaster plan and that's what we stick to. I'm not aware of why that comment was given.
20
25
30

Q. Do you recall anything else being said?

A. No, I don't.

Q. When you say there was a presentation by Superintendent Prince, did that include reference to the map that he had shown you earlier?
35

A. Yes.

Q. Can you recall generally what he said in relation to the map?
40

A. I think he was talking about the main threat coming from McIntyre's Hut. Again, I think he was basically re-affirming for all people in the room what we had received the previous day at 6 o'clock in that if fire lines were broken and had got into Stromlo Forest, Mr Lucas-Smith had said that it wouldn't be fought; it was too dangerous obviously
45

to do that; and that the fire would basically come through unchecked from there. I think that's the general text of what he was saying.

5 Q. Did he mention the foreshortened timing of the impact?

A. The likely timings - he did.

10 Q. What was your understanding of the purpose of that general evacuation meeting?

A. I think the most important thing was to look at the information flow in relation to evacuation protocols, looking at Canberra Connect, possible door knocks. Again, mainly to do with the information flow in relation to possible
15 evacuations.

Q. When you say the "flow of information", from where to where?

20 A. As part of the plan - obviously information flow is a crucial part of the emergency management plan. Again, I think Marika Harvey was at the meeting from ESB and talking about the flow of information through all the agencies and obviously
25 on to the public. That was something that Superintendent Prince was also sort of talking about.

30 Q. Was that generally in relation to warning the public about potential for the impact of the fire that evening or that afternoon?

A. I don't know that that was ever actually addressed inside the meeting. I think if we look at the minutes of the meeting, it had on there
35 something about door knocks and information flow, media strategy, something of that nature. But I don't know that it was actually discussed whilst I was there.

40 Q. How long did you actually remain at the meeting for?

A. I think I was only there for approximately 15 minutes.

45 Q. So it was still being conducted when you left?

A. It was. Some of the people, when he set about the activation of the POC, some of the people

actually did leave and subsequently went back to the POC.

5 Q. You say in your statement at 0814 you rang Commander Newton and advised of the deterioration of the fires and recommended activation of the POC. Was that before or after you attended the evacuation planning meeting?

10 A. That was after.

Q. Can you recall now what you told Commander Newton about the fire situation?

15 A. I said that the possibility of the fires reaching the urban fringe had actually come forward by 2 hours to 6 o'clock; that there was a continuation - sorry, a deterioration in the fires; that if we were going to put a consolidated response towards the fires it would be better to activate the POC.

20

Q. You had actually by this stage now been given the name of the suburb that was expected to impact. Did you indicate that to Commander Newton at that stage?

25 A. I'm not sure whether I used the name "Duffy" or "Stromlo". I probably did use the word "Duffy".

30 Q. Was there any discussion at that stage about warning or informing the residents of Duffy about the situation?

A. In my conversation with Commander Newton? No, there wasn't.

35 Q. At 0815 you rang Sergeant Byrnes and asked him to attend the ESB to fulfil the role of police liaison officer?

A. That's correct.

40 Q. Is that because you had decided to return to the POC and assist in setting the POC up?

45 A. That's right. It was already decided if the POC was activated, I would become the 2IC in the POC under Commander Newton, and Sergeant Byrnes would become the liaison officer at ESB.

Q. What does activating the POC actually involve?

A. It is a command centre within the Winchester police complex. It is a very large facility which is well equipped with computers, telephone lines and communications equipment. It is a centre used
5 only for major regional events or for events where there is a very, very large police response. It is not normally activated. It is only activated on very rare occasions. We considered that such was the event that we were facing, the fires and
10 the escalation of the fires, that it should be activated.

Q. By activating it, I'm assuming that you contact a number of police staff or members who
15 are specially trained to operate out of that?

A. That's right. The staffing - it is a graduated response. The POC can be activated with as small as five people but as many as 60, 70, 80 people. Again, it is a very graduated response.
20 What we have is the core functions within that POC as the nucleus or cadre for people who are trained in certain aspects and perform certain functions within that POC.

Q. If I could just take you back to something you said earlier about Mr Tonkin or Mr Keady mentioning a disaster plan?

A. Mr Tonkin.

Q. Did you have an understanding during that meeting about what the disaster plan involved?

A. Yes, I am conversant with the disaster plan yes. It wasn't a reference to me by the way. It was a reference to the general group, I believe.
35

Q. So he didn't need to outline what the plan involved when he was addressing that meeting?

A. To me or to - no.

Q. At 10 o'clock you met with Superintendent Lines and Commander Newton where the superintendent was tasked with drawing up contingency plans for the evacuation of Duffy. Can you say where that meeting took place?

A. In the POC at the Winchester Police Centre.
45

Q. Was the process of warning the residents of

Duffy in relation to the potential need to evacuate discussed at that stage?

A. No, it wasn't.

5 Q. Did you have some sort of expectation about who would be responsible for warning people in Duffy about what was expected to happen that afternoon?

A. I did. The lead agency in relation to this was ESB or the ACT rural fire service. Again within the plan they are the lead agency. There was an expectation, to me, obviously that they would do that - obviously in consultation with all the other agencies. The meeting I attended earlier that morning was talking about the flow of information, door knocks and what have you. So, again, I presume that the process for doing that was already being undertaken.

20 Q. So your planning was to conduct, if necessary, evacuations in what you thought might be an informed community - or residents in that suburb?

A. No. I think the plan was - primarily it was a tactical plan to look at if we got up there, worst case scenario, what would we do, how would we do it. It wasn't "this is what we are going to do"; it wasn't designed that way at all. It was more an appraisal of potentially what are we looking at when we get up there. But in that process, that was very much left to Superintendent Lines to do, which I paid no real part of.

Q. Did you at some stage receive a copy of that plan?

35 A. No, I didn't.

Q. Were you told what was in the plan?

A. No. And in terms of the word "plan", remembering the time constraints, the plan never ever was a formalised plan, I'm led to believe. If you have a lot of time you can prepare operation orders, tactical plans and that sort of thing. They are formal and they are presented in a formal manner. This was more "if you are confronted with this and we do have to evacuate, what are you looking at, where are you looking at it?" He went into a separate room to do that.

I'm aware they drew lines on a whiteboard, et cetera, but I again was not part of that process.

5 Q. So his planning was informing himself about what he needed to organise?

A. That's right.

Q. If different eventualities occur?

10 A. Exactly.

Q. At about 1140 Superintendent Prince gave a briefing to Commander Newton and you after you had asked him to come to the Police Operations Centre and give a briefing. You say in your statement:

15

"He warned of the great risks to residents and their homes in Duffy area from the radiant heat that would be generated from the pines burning. He agreed that the consideration should be given to preparation of evacuation plans for the residents in the Duffy area. He also stated that the fire in the area of the pine trees adjacent to Duffy could be in the vicinity of 60 feet high and there was a danger to residents from radiant heat.

20

25

When you say "he agreed that consideration should be given to preparation on evacuation plans for the residents of Duffy", can you recall more precisely what he said in relation to evacuations?

30

A. I think it was put to him, I'm not sure by whom, "We were in the process of preparing evacuation plans," do you agree with that or what do you think of it? Again his response was, "Look, it's something you consider"; that's all. He wasn't saying it was essential. He wasn't saying you need to do that. Again, it was more like, "I agree with you it's something we need to consider as a possibility".

35

40

Q. When you were making these plans at that stage, were you yourself familiar with the Australian Fire Authorities Council position in relation to go or stay in the event of a bushfire?

45

A. Yes, I am.

Q. You were at that stage?

A. Yes, I was.

Q. Do you know if Superintendent Lines was also
5 familiar with that position?

A. I'm not sure.

Q. If I could read to you again from
Superintendent Prince's record of conversation.
10 At question 197 he says this in relation to this
briefing:

"I recall that Superintendent Lines asked me
15 what firefighters, police and residents could
expect when the fire arrived. I answered
that the height of the flame would be double
the height of the material that was burning.
This was just a normal bushfire process. If
20 you've got 4 metres of grass, you have
8-metre flame height. Because 30-foot pine
trees were in that area then 60-foot flames
could be expected. We know on that day they
were probably around about 100 feet, if not
25 higher. Chris Lines then asked me if the
residents of Duffy should be evacuated. I
recall that I told the meeting the normal
response to fire if residents are prepared is
to stay with their houses and fight the fire.
30 That is the Australian Fire Council's
position, and that is having the people
prepared. I then told the group that this is
the case, in this case the residents were not
all prepared and I still believe that today
35 people were not prepared and they were not
going to do anything, even in a six-hour
period or a three-hour period, to get people
prepared."

Then going on:

40

"And because they were not prepared --

MR McCARTHY: I object. My objection might be due
later because what I am concerned about is a
45 question along the lines of whether or not
Sergeant Kirby agrees or has something to say
about this. In my submission, the more helpful

course for the Court is to ask questions about what Sergeant Kirby has to say on the issue rather than putting a full scenario to him in this fashion and then putting a question to him which
5 is essentially, I anticipate - I could be wrong --

THE CORONER: This is all part of a conversation, as I understand it. Sergeant Kirby is involved in this conversation.
10

MR McCARTHY: I don't disagree with that. In my submission, the Court is more assisted by asking Sergeant Kirby what he recalls about the conversation in terms, rather than simply putting
15 another person's account and then saying, "What do you think?"

MS CRONAN: I am not going to ask what he thinks.

20 MR McCARTHY: That was the difficulty I faced. That is what I was concerned might occur.

MS CRONAN: Q. Then it goes:

25 "And because they were not prepared that an evacuation should be considered. I didn't say to evacuate, what I did say is it should be considered, and I believe that is still the case today, that through a joint
30 approach, an immediate decision needed to be made, what we were going to do with that suburb."

Having heard that, sir, do you recall
35 Superintendent Prince giving you that advice during that meeting?

A. I do.

Q. At 12.30 you were directed by Commander Newton
40 to return to ESB and resume the role of police liaison officer. On arrival you say in your statement you were briefed by Sergeant Byrnes. Can you recall what Sergeant Byrnes told you in that briefing?

45 A. It was mainly in relation to what was happening at ESB where we were located, which was in a room within the centre of the building.

Q. What did he tell you was happening in ESB?

A. He was saying the flow of information was very slow or difficult to get. He was run off his feet and that we needed assistance there with more
5 police, if necessary. He was mainly involved, I think, in trying to get information from the control room back to the POC.

Q. Did he have an updated situation on the fire
10 and where it was at that stage?

A. No, I didn't ask him that.

Q. Is there any specific reason Commander Newton asked you to return to ESB? Did you have a task
15 to fulfil over and above general liaison duties?

A. It was obvious that Sergeant Byrnes had to much to do at the ESB and that he needed assistance. Also in my role as liaison officer with ESB over a number of years, I knew all the
20 key players within ESB. Commander Newton had asked me to look at the possibility of evacuation - the evacuation protocols and also the situation re state of emergency.

Q. She asked you to look at evacuation protocols?
25

A. No. Sorry, she asked me to actually talk to ESB about the evacuation process.

Q. You therefore went to Mr Lucas-Smith's office?
30

A. Mr Castle's.

Q. You say in your statement:

"Attendance in this office were Peter
35 Lucas-Smith, the ACT Fire Commissioner Ian Bennett, Mike Castle and Tim Keady."

Can you recall what they were discussing when you first went to the office?

A. No, I can't. I don't think it was a formal
40 meeting. I think it was just a gathering at that particular time.

Q. You say that you sought advice from that group
45 regarding the possible evacuation, what generally - or specifically as you can recall - did you say to the group about evacuating Duffy?

A. I talked about the briefing from Superintendent Prince about the danger from radiant heat, the magnitude of the fires, the height of the fires and were they providing advice
5 to me that in that particular scenario, which I was very concerned about obviously, are we still advising people not to evacuate?

Q. When you talked about radiant heat, what kind
10 of radiant heat were you expecting - from what Superintendent Prince had told you?

A. Well, he was saying that obviously the pines would radiate a lot of heat.

15 Q. Did he give you a distance?

A. I think he was talking about in the vicinity of 400 to 500 metres from most pines. I think I said at the meeting the impact - I was well aware of the AFAC policy in relation to evacuations and
20 understood those clearly but I just wanted to seek clarification from them, being the experts, that in this particular scenario at Duffy was that the recommendation we were still giving to the public and was that the message I was going to relay
25 through to the police officers in relation to evacuation.

Q. When you described what you had heard from Superintendent Prince in relation to radiant heat
30 and flame height, did anybody in that room disagree with your expectation of what may occur if the fire reached that area of the pines?

A. Well, I clearly articulated that this was Superintendent Prince's view and not mine. No, no
35 comments were made in relation to that other than that the AFAC policy would be adhered to, which was the main point I was raising - in this particular circumstance, is that the best advice or is that the advice they were giving me?

40

Q. You say in your statement that you said evacuation plans were being formulated by Superintendent Lines for that area. However you were advised by all members in attendance that the
45 decision to evacuate should be left with the residents. Did they say how they considered the residents would be in a position to make that

decision that day?

A. No, they didn't.

5 Q. They said it should be left with the residents?

A. Said it should be left with the residents, yes.

10 Q. You relayed that information back to the POC. Can you recall now who you spoke to when you called the POC?

15 A. I don't recall. But I would be surprised if it wasn't Commander Newton because of the seriousness of what I was talking about. Obviously the officers in the field needed to know what was expected of them, and I'm pretty certain it was Commander Newton I spoke to.

20 Q. So it was your understanding then that the officers in the field would be advising residents that the decision was up to the resident rather than trying to get people to evacuate; is that the case?

25 A. I'd imagine so, yes.

Q. At to 10 to 4 that afternoon Chief Police Officer John Murray attended ESB where Sergeant Byrnes provided a briefing?

30 A. I relayed to him the earlier meeting I had had with all of the ESB people about evacuations. I also was firmly of the belief that a state of emergency should be declared, that all of the necessary criteria within the Emergency Management Act had been met - you know, there is a lot of powers within the Act. There are about 18 powers within the Act which, if invoked, could be utilised but one of which was evacuations. And then I think we went into the room next door.

40 Q. Did you see it from the AFP's perspective as still desirable at that stage to have power to forcibly evacuate residents if police members thought there was a danger to those residents?

45 A. It was one of the things that was discussed the most. I did also talk about power of entry and some of the other powers that fall within that legislation that could be utilised. The main

focus was on evacuation.

Q. So you accompanied your Chief Police Officer to an informal meeting in Mike Castle's office?

5 A. Mmm-hmm.

Q. Can you recall who was present whilst you were in the office?

10 A. The Fire Commissioner Ian Bennett, Mike Castle, Peter Lucas-Smith, Mr Keady, Mr Tonkin, the Chief Minister and Sergeant Byrnes for a short time.

Q. What was discussed whilst you were present?

15 A. We went straight into the room. Mr Murray basically from the very outset stated that he saw the need for a state of emergency, that all the necessary criteria for the establishment or
20 declaration of it was met; and that he thought that police needed the additional powers that the declaration would give in relation to evacuations. He talked about a situation in Uriarra where he thought that those powers may have been utilised. That was a general opening address that he gave.

25

Q. At the bottom of page 5 of your statement you say:

30 "The Chief Minister joined the conversation and said, 'You are the experts. All I want is advice.' Mr Lucas-Smith stated historically the policy has always been people are advised to stay with their homes."

35 Did he qualify that in any way by mentioning that policy referred to people who were informed and prepared to stay with their homes?

40 A. Look, I think he might have said that. But I mean, again, Mr Murray and myself were well informed in relation to the policy so I don't think he needed to articulate that in great extent. We already knew that was a given.

45 Q. How long did that discussion go on for whilst you were present?

A. Oh, approximately 40, 50 minutes.

Q. Was there any discussion at that point in time about informing members of the public, and the residents of Duffy in particular, of the risk that they were facing that afternoon?

5 A. No.

Q. So you go on to say:

10 "About 1445 hours it was agreed that a state of emergency should be declared and the Chief Police Officer would be appointed as Territory Controller. The Chief Minister also stated that Peter Lucas-Smith would be appointed as the alternate controller and
15 remain in charge of the fires."

You then went to the ACT Fire Brigade control room where you performed duties as a liaison officer. Whilst you were at the control room, can you tell
20 her Worship what was occurring during that period?

A. It is a very small control room; it was very noisy. Basically they were run off their feet. We lost power at one stage and went on to
25 emergency power. At various stages through the afternoon communications became very difficult. Mobile phones ceased to work. Communications in and out of the centre became very difficult.

Q. At approximately 3.30 whilst you were in the control room, you heard the fires had reached
30 Warragamba Avenue?

A. That's right.

Q. That's when you started to hear the reports of the large amount of houses on fire in the Duffy
35 area?

A. That's right.

Q. Was there a dedicated radio channel between the POC and the ESB control room?
40

A. Not a designated channel, no.

MS CRONAN: Thank you. I have nothing further.

45 THE CORONER: Yes, Mr McCarthy.

MR MCCARTHY: A small matter.

<CROSS-EXAMINATION BY MR McCARTHY

MR McCARTHY: Q. Sergeant Kirby, you gave
evidence earlier about the meeting you had with
5 Superintendent Prince at 0740 hours on the morning
of the 18th of January and in particular
Superintendent Prince's opinion that the fire
might reach the suburb of Duffy by 1800 hours; do
you recall that?

10 A. I do.

Q. Did you gather from Superintendent Prince
whether that was his opinion or whether he had
gained it from somewhere else?

15 A. No. I'm sure he would have gained it from
somewhere else - I mean he would have been talking
to, I am sure, the planning officers or whatever.
I don't think it was a personal opinion that he
had come to.

20

Q. Did he indicate from where he obtained that
opinion?

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

25 Q. The activities that you took thereafter in
contacting Commander Newton and others
nevertheless flowed from what Superintendent
Prince had told you that morning?

A. Basically, yes.

30

MR McCARTHY: Thank you, your Worship.

THE CORONER: Thank you, Mr McCarthy. Mr Pike?

35 MR PIKE: Nothing, your Worship.

THE CORONER: Mr Whybrow?

MR WHYBROW: No questions.

40

THE CORONER: Mr Walker?

MR PHILIP WALKER: Just a couple of questions.

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

MR PHILIP WALKER: Q. Sergeant Kirby, there is a

reference in your statement on page 3 at the top where you say:

5 "Mr Lucas-Smith advised if the fire reached the Stromlo Forest it would travel unchecked and it would be too dangerous to fight."

10 Was there an explanation given as to why that comment was made? Was there any further elaboration?

A. No. I think it was a given. He was stating something that was --

Q. Fairly obvious?

15 A. -- pretty obvious. It was just too dangerous.

Q. There is nothing particular about Stromlo Forest that makes it especially dangerous as opposed to any other pine forest; is there, to your knowledge?

A. Well, to my knowledge they would all be the same.

Q. Could I suggest to you that Mr Lucas-Smith didn't specify Stromlo Forest and simply said, "They wouldn't fight the fire in pine forests or pine plantations," some words like that without putting his finger precisely on Stromlo Forest?

30 A. No. To my recollection he talked about the flow of the fire as the potential for it to flow. I thought he did say "Stromlo".

Q. The same would apply equally to Uriarra Forest though - I think we are in agreement on that; are we not?

A. Of course, yes.

Q. If I suggested to you that he said something more generally; and that is that the firefighters would not fight the fire in pine plantations, would you necessarily say that that did not occur in that fashion; or you are not sure?

A. No, I'm not sure.

45 Q. When you attended the briefing at 11.40 with Superintendent Prince and Commander Newton, did Commander Newton say something indicating - you

may have answered this - some agreement that residents of Duffy may have to be evacuated?

A. Did Commander Newton say it to the group of us who were meeting with --

5

Q. Did she express some agreement with the proposition that Duffy may have to be evacuated?

A. I don't recall at that meeting. But it was obviously something that we had looked at in advance that Duffy was an area under potential threat, that it is an area we should look at potentially for evacuations. I don't recall specifically if she said it at the 1140 meeting. It was something we had already spoken about in advance of that meeting.

10
15

Q. You say that you were warned by Superintendent Prince of risk to residents and homes in Duffy and there was a risk from radiant heat that would be

20

generated from the fires; he agreed that consideration should be given to preparation of an evacuation plan for residents of the Duffy area. At the conclusion of that meeting, do I understand that your understanding was that consideration would be given to just that evacuation occurring?

25

A. No. It was the potential for an evacuation. There was no discussion ever about going into the suburb and just telling everyone to leave or whatever. It was very much a consideration of what we were looking at and when we get up there we know the lie of the land; we know where the threat might come from; we are not flying blind; we are going up there with a view of an actual plan and how we might do it.

30
35

Q. And somebody was to at least get those plans in place in case they were needed?

40

A. Again, the plan was not a tactical plan nor an operational plan. We didn't have time for that. What plan I'm talking about is basically put in the words of a plan of attack: "When we get up there what are we looking at; what are the potentials?" It is basically a "what if/what if" appraisal of the situation they are going to. And if evacuations, consideration of how we would do it.

45

Q. When you attended the meeting at 1230 with Mr Lucas-Smith, Mr Castle, Mr Bennett and so forth, you say in your statement you sought advice from the ESB group about the possible evacuation of Duffy. Did you say some words about evacuating Duffy yourself?

A. No, certainly not.

Q. Then how did you seek advice from the group regarding the possible evacuation of Duffy? What did you say?

A. Again, I said, "I have concerns about the radiant heat, the size of the fire. I am aware of the AFAC policy in relation to evacuations. Does this still apply to this situation at Duffy with all of that heat and everything else?" I needed to clearly know what the experts' view was in relation to evacuations. I wasn't talking about a mass evacuation at Duffy; I was just talking about an evacuation policy at Duffy.

Q. I think you said you relayed the response you received to somebody and you said you were pretty certain it was Commander Newton. What did this person say in response to that information?

A. Well, it was a given. There was nothing else I could do. I am aware that that information was relayed to the uniformed police who were forward.

Q. At the meeting with the Chief Minister, there was substantial discussion about possible evacuation; was there not?

A. About possible evacuations, yes.

Q. Are you able to tell us who participated in that discussion - did everybody or was it largely a discussion between a limited number of people?

A. No. Everyone had input into the meeting.

Q. Was the view expressed that evacuation should occur during the course of that meeting?

A. Sorry?

Q. Did somebody say, "We should evacuate" or some words like that?

A. No.

Q. Are you saying that it was entirely at a theoretical level; there wasn't anybody suggesting there should be an evacuation?

5 A. No. The discussion was that, if the state of emergency was declared, it would give police additional powers under that Emergency Management Act, and one of those powers would be the power to evacuate.

10 Q. You are suggesting nobody was actually advancing the view at that point in time that there was a need to exercise that power?

15 A. No-one was saying that in the Duffy situation we will go up there and evacuate. It was purely the case of if we needed those powers, they could be utilised.

Q. Yes, but that doesn't --

20 A. We were not recommending the evacuation of Duffy.

Q. It doesn't quite answer the question. Was anybody suggesting at that point in time during this meeting that, right then and there, there was a need for some exercise of those evacuation powers?

25 A. We were saying that there was a need for those powers and Mr Murray had stipulated that those powers could have been used or may be used in the evacuation of residents at Uriarra.

35 Q. May be so, but you are not answering my question, Sergeant. My question was: was anybody saying "We need to exercise this evacuation power now"?

A. No.

Q. Not potential, not past - there is a need now for this power to be exercised?

40 A. No, no-one was saying that.

Q. Was anybody saying that?

A. No.

45 Q. Did Mr Lucas-Smith express a view that he was against large-scale evacuations in the course of that meeting?

A. Look, he could have, yes. I don't recall it, but he could have said that, sure.

5 Q. Just one other thing, you have given us some brief description of the POC, could you just give us some indication of how the facilities available to the Australian Federal Police at the POC compare with the facilities and environment at ESB in Curtin?

10 A. I could say from the outset that the facilities at ESB are terrible. They are not conducive to command and control at all; they are very small; they are almost claustrophobic, to be quite truthful. It makes life very very difficult
15 to work under that environment. The venue is not purpose built; the POC is purpose built. All the linkages of the building and the whole format of the building is designed around command and control where the --

20

Q. What does that mean, Sergeant? Just tell us?

A. What it means is all the linkages within the POC all eventually link towards where the operation commander sits. The operation commander
25 is in one central location. Offset from that they have their deputies. Offset from that they have all of their task commanders. Offset from that we have all the other agencies involved. So there is a common thread all going back to the POC
30 commander.

That's the reason why we activated the POC because of that. It is purpose built for that command and control operation. It is well rehearsed on a
35 regular basis in counter-terrorism exercises, which I facilitate. Whereas at ESB, I'm afraid it is a building that just was never designed for a command and control operation.

40 Q. I think you have probably well illustrated the difference in building. Is there a difference in technical capacity in terms of communication, telephone lines or anything?

A. Most certainly --
45

Q. Again if you could give us an illustration, as you did in answer to the previous question.

A. I mean, I'm not quite sure how many telephone lines we have in the POC, but they have always been adequate for every major operation we have encountered there and I've run --

5

Q. You have never encountered them jamming or clogged up effectively?

A. I think during the fires they did, the telephone lines. But, again, the whole facility is well supplied with computer links, with the IT and the phone lines.

The communications room is adjacent to it. There is a bubble next to the POC where we have the communications officers - that's the people using the radios - which is then linked to our command centre. So they are all interlinked all in the one location.

20 Again, at ESB, it is a building which was a school. It is not a command centre.

Q. Radio communications, is there any obvious difference there in terms of capacity of which you were aware?

A. Very small, very noisy.

Q. This is at ESB?

A. ESB. They are all sitting on top of each other. Not helped of course when the lighting goes down and the air-conditioning goes out. It is just not a facility that is purpose built.

Q. In terms of volume of traffic with radio, are we looking at the same sort of capacity there or not?

A. We are. Again, they suffer from the same problems. I think at various stages - it was commendable - I saw Superintendent Prince and others within the area trying to pull it altogether in very, very difficult circumstances.

MR PHILIP WALKER: Thank you.

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

MR ARCHER: No questions, your Worship.

THE CORONER: Ms Cronan?

MS CRONAN: A couple of things. I am not sure they strictly arise.

5

<RE-EXAMINATION BY MS CRONAN

MS CRONAN: Q. You have given evidence about a prediction for the fires to hit Mt Stromlo by 2000 on the evening of the 17th. When you arrived at 10 20 to 8, Superintendent Prince informed you that that had been brought forward to 1800; is that right?

A. That's correct.
15

Q. Were you at any stage throughout the morning or before 3 o'clock on that day informed about a prediction that was made that morning that the fires may in fact reach Mt Stromlo by 3pm that day? 20

A. No.

Q. So all your planning throughout the morning and the early parts of the afternoon of the 18th of January was on the basis that you faced a possible impact still at 6pm that night? 25

A. That's right.

Q. I take it that was your understanding therefore when you were having discussions about the declaration - or you were listening to discussions about the declaration of the state of emergency? 30

A. I was involved in those discussions as well.
35

Q. In relation to the radio channel, is there a dedicated radio channel between AFP communications and ESB COMCEN?

A. I believe, yeah, the whiskey net, yes.
40

Q. Was that activated at all that day?

A. I don't think there it was I'm not sure.

Q. Do you know of any reason why it wasn't? 45

A. No, I don't.

MS CRONAN: That is all.

THE CORONER: Thank you, Sergeant Kirby. You are excused. You are free to leave if you wish.

<THE WITNESS WITHDREW

5

MS CRONAN: Can we take a short adjournment?

THE CORONER: We will take a short adjournment.

10 **SHORT ADJOURNMENT** [3.06pm]

RESUMED [3.14pm]

15 MS CRONAN: I call Sergeant Jason Byrnes.

MR WHYBROW: Before Sergeant Byrnes takes the box, and so that I am not interrupting somebody whilst they are there, these notes that we were provided with this morning, I initially thought there has been six weeks that they could have been provided. It is not really good enough to get them on the morning.

25 As it turns out it would appear that these notes of Sergeant Byrnes were made available on 10 March 2003. Your Worship, they were dropped on the Bar table by counsel assisting at 5 past 10 this morning. I know this is unfair on Ms Cronan. Sergeant Byrnes takes extensive notes consistent with his experience as a police officer of doing such things about at least one of the planning meetings of which my client, amongst others, have been examined up hill and down dale and taken to various people's notes.

35 THE CORONER: It would have been useful to have these notes beforehand.

40 MR WHYBROW: In my submission, these sorts of materials should be provided well before the day the witness is to give evidence - and indeed well before. For example, there is reference to the Parkwood Power Station, which has become a bit of an issue. Other witnesses apart from this witness might have been asked questions about these notes.

If those notes were provided in March 04 there

might have been, amongst everything else that was running, an explanation as to why they hadn't been provided. They were apparently provided to the head of the coronial investigation in
5 March 03. To wait until 30 April 2004, the day that Sergeant Byrnes is in the witness box, to provide them to us today in my submission is quite unfair. I ask that there not be a repeat for any other witnesses.

10

THE CORONER: Thank you, Mr Whybrow.

MS CRONAN: I call Sergeant Byrnes.

15

<JASON ALEXANDER BYRNES, SWORN

<EXAMINATION-IN-CHIEF BY MS CRONAN

MS CRONAN: Q. Please tell the Court your name, rank and station?
20

A. My name is Jason Alexander Byrnes. I am a federal agent with the Australian Federal Police and am currently undertaking coordinative duties with the AFP's International deployment group, deploying personnel overseas on peacekeeping missions and I am currently based at the Mildura Training Complex.
25

Q. You have provided two statements to the coronial inquiry team. Could I firstly take you to [AFP.AFP.0085.0151]. Is that a statement that you made on 3 May 2003?
30

A. That's dated 9 May.

Q. Sorry, 9 May 2003. I am going to be asking you a number of questions about the information contained in that statement. Before I do, is there any corrections or alterations you wish to make to it?
35

A. In relation to the 9 May statement, just that your Worship consequently I added some extra information into that statement which is a statement that I signed on 7 October 2003. It has also come to my attention in the last couple of weeks in both statements incidents that occurred on the bottom of page 1 and top of page 2 of both my statements I have stated that that occurred on
40
45

16 January. It has become apparent that the conversation between me and Mr Tony Graham that I refer to in that occurred on the 15th. I incorrectly recorded the date that that conversation took place.

5
10 Q. You prepared your statement of 9 May 2003 with 7 October 2003, and it appears to have the same information in it with a couple of additional paragraphs; is that all that is --

15 A. That is correct. I did not delete anything from my first statement. I included some extra information that I subsequently recalled into the second statement to give a more full and complete account.

Q. I take it there is nothing you want to correct in the 7 October statement either?

20 A. No. As I say, except for that bottom of page 1 and top of page 2.

Q. You say in your statement during the fortnight leading up to the 18th you were the acting officer in charge of Tuggeranong patrol in the absence of the substantive officer in charge?

25 A. That's correct.

Q. You go on to say on the afternoon of the 16th of January you were informed by New South Wales Police that a series of bushfires to the west of the ACT may pose a threat in the coming days. Was that conversation also on the 15th or was that after you spoke to Mr Graham?

30 A. No, that is what prompted my involvement in that paragraph, so that would have occurred on the 15th, not the 16th.

Q. Can you recall now who you were speaking to from New South Wales Police?

40 A. I can't, your Worship, I apologise. It was a New South Wales inspector of police from Tumut or Cooma. I was actually out attending to work at the time. I didn't record any details in my notebook. I didn't have access to my notebook at the time.

45 Q. In what capacity were you acting whilst you

were discussing the bushfires with that police officer?

5 A. I was the officer in charge of Tuggeranong Patrol. My recollection of that conversation was that in essence he had a look at which was the most southern police station in Canberra and rang that police station to speak to whoever the officer in charge was.

10 Q. Did he specify what fires he was referring to?

15 A. He indicated to me and certainly my recollection was that the fires to the west of Canberra that were occurring may pose a threat in the next couple of days and I should really contact the local, both New South Wales and ACT, fire services to get a briefing or just get some information from them as to what the developments are. It was a courtesy call on his part.

20 Q. Did he identify for you what kind of threat he was referring to?

25 A. He seemed to indicate that they were serious fires and they would impact in the ACT - well, there is strong potential they would impact in the ACT. I should at least be aware of it and ask questions.

30 Q. So you came away from that conversation with just an understanding that there were fires somewhere to the west of the ACT?

A. Correct.

35 Q. That may impact into the ACT in the coming days, and you needed to look at that?

A. Correct.

40 Q. So as a result of that you forwarded an email to Detective Superintendent Quade?

A. My recollection is I briefed her verbally.

45 Q. Can you recall now what you said to her?

A. What she said to me?

Q. What you said to Superintendent Quade?

A. In essence what I have conveyed to you. She said, "Well, okay, continue to run with it and contact. and then get back to me". It was a very

simple courtesy call again on my part to her.

Q. Was it as a result of that that you then contacted Sergeant Kirby?

5 A. No. My recollection, again having listened to some of the evidence that has arisen and has been made available to me by counsel, I recall the events that I then contacted the New South Wales Rural Fire Service at Queanbeyan and then also
10 contacted Tony Graham from the ESB.

Q. Who did you speak to at Queanbeyan?

15 A. Again, because I was out and about, I didn't record the name. It was a group captain or of that rank within the New South Wales Rural Fire Service, somebody who played a relatively senior co-ordinative role.

Q. What were the terms of that discussion?

20 A. Me just seeking some advice, where were the fires in general, should we go to one of their briefing sessions. Very mindful of the jurisdictional issues not only between us being police and firefighters but also New South Wales
25 Police, AFP, ACT and New South Wales fire services. His response was that in general, general response as I recall was that I should contact ACT bushfire brigade to get some further advice. We were certainly welcome to attend their
30 briefing sessions if we wanted to but that, yes, they were large fires; they were serious fires; but there were joint efforts to extinguish them. I didn't get any great level of depth in terms of the location of the fires.

35

Q. Or what level of threat they might have presented then.

A. No, that's correct. That's why I also contacted Mr Graham.

40

Q. If we could have a look at the transcript of your conversation with Mr Graham. It is at [DPP.DPP.0006.0099]. Would you have a look at that document - if we could scroll down the page
45 so you can read it all. Can you say from looking at the transcript if that is the conversation you refer to in your statement?

A. That's correct. That's the document I've seen, and that is the conversation that I referred to in my statement with Mr Graham on that day.

5 Q. If we could go back up to the top. You tell him about getting a phone call from Queanbeyan bushies and that they are back-burning up at Brindabella Road. You ask him whether the police need to be involved in traffic?

10 A. That's correct.

Q. Was there some conversation with Queanbeyan about you getting involved in traffic, blocking the roads or anything like that?

15 A. Any bushfires that in my experience that the police has been involved with has been from a cordon and contain perspective, crowd control or road traffic control. I don't recall if New South Wales expressly said, "We might need police to do
20 road blocks." But to me it seemed the logical development. If the fires were as serious as the New South Wales Police were saying, we may need to assist as we traditionally do supporting the
25 Bushfire Services with traffic road blocks, if required.

Q. You appear to have been told by Queanbeyan that they were going to do some back-burning on their fires?

30 A. Yes.

Q. Did they tell you which fire they were planning to back-burn from?

35 A. No. That probably would have been another reason why they told me to contact the ACT. I was of the understanding there were some joint efforts. I didn't know the exact location. Again, because of the fact that ACT services were involved, I figured that it was good for AFP to
40 contact ESB.

Q. If we could continue down the page. Where it says JG that is you talking:

45 "We have been invited to their briefing tomorrow afternoon."

A. That's correct.

Q. Did you actually attend that briefing?

A. No.

5

Q. If we could keep going. You don't actually ask Mr Graham during that conversation about the fires to the west of Canberra and what level of threat they might constitute to the ACT. Is there some reason why you didn't ask him about that?

10 A. I can't recall some of the words I used - yeah obviously I said them. I can only assume that I came out of that call and also the call with the Bushfire Service in Queanbeyan comfortable in the knowledge or the belief that the ACT Bushfire Services had the matter in hand.

Q. Sorry?

20 A. Had the situation under control or at least at a stage where they were satisfied that they weren't needing urgent police - or police assistance at that time.

Q. If we could go over to the next page. You say to Mr Graham, in fact we listened to this one yesterday:

30 "No - good. Fantastic. Yeah so what we'll do is I'll touch base with you again tomorrow. Obviously our bosses are a little bit concerned now. They're sort of worried that Canberra's going to burn."

Who were you referring to when you were saying "our bosses"?

35 A. "Bosses" - my recollection was Superintendent Quade, the Tuggeranong OIC - not Tuggeranong - the Woden OIC had also been involved in the conversation that we had had. So it was a general statement.

Q. Who was the Woden OIC at that stage?

40 A. I recall that being Sergeant Budworth, I believe.

45

Q. Were they worried as a result of information you gave them after your telephone call?

A. As I was after the New South Wales police officers call, I was obviously concerned there may be a situation here. After I spoke to the New South Wales and ACT authorities and, as I stated
5 before, satisfied that they believed that they had the situation in control, that assuaged our concerns.

Q. Mr Graham goes on to tell you, "It is not
10 beyond possibility on Saturday or Monday"?

A. That's correct.

Q. You responded by saying, "I hear there's some pretty high temperatures coming"?

15 A. Mmm-hmm.

Q. Did you, following that conversation, consider the possibility that Canberra was going to burn on Saturday or Monday?

20 A. Well, obviously I stated that - and obviously I considered that as an issue. Again, I can only say I came away from that and the other conversation satisfied that the situation was in hand and that if it was going to be a critical
25 incident the fire brigades would come back to the AFP and seek - formally advise and then seek our involvement. Certainly, my recollection and account of this conversation, and the other one, by the end of them I was satisfied that the matter
30 was at a stage that they were comfortable and satisfied with organisationally as being under control.

Q. Mr Graham was telling that you it was not
35 beyond possibility that Canberra was going to burn?

A. Yes, that's right.

Q. Did you relay that to Superintendent Quade?

40 A. I don't recall those exact words if I relayed them to her. But, yes, the nature of emergency planning I would have - if Mr Graham had said words to the effects of "therefore we are going to need some assistance," I would have proceeded
45 further with it. I was satisfied on the basis of that and the other call that the matter is in hand and if it is going to get out of control they will

notify us.

Q. So you were concerned at that stage with the issue of whether or not there needed to be a
5 police involvement?

A. At a tactical operational level appropriate with my position in the organisation at that time.

Q. So it is the case that you just took that
10 information on board and waited to see if there was going to be a request for police involvement?

A. Yes. They are the experts. They are the subject experts in bushfires. we are a supporting agency. ESB and fire brigades are the lead combat
15 agencies and they control these types of situations.

Q. You also, according to your statement, advised Sergeant Kirby, in his role as planning sergeant
20 for the specialist response and security teams, of the information that you gained from New South Wales Police; is that correct?

A. I wrote that, your Worship; I am subsequently told that Sergeant Kirby doesn't recall me
25 contacting him on that day. I can only say when I wrote the statement that's what I believe to have occurred. It might not have occurred on that day. I certainly did talk to him on a couple of occasions before the 18th in relation to issues
30 arising.

Q. Why would you contact Sergeant Kirby?

A. It would have been as a tic tacing with just giving him a heads up, so to speak, of my
35 involvement in this issue. I am certainly aware at some stage, I've got on this day, but it apparently occurred on this day, he was formally given responsibility to co-ordinate the AFP response. Obviously from an information flow
40 perspective I would have contacted Sergeant Kirby to advise him of my involvement in the situation and also to see if he needed my assistance or my performance in any other role.

Q. Is it your recollection then that you
45 contacted him in his role as ESB liaison officer or head of the SRS?

A. Head of the SRS.

Q. Was that because if there was to be a police response it would be likely to be the SRS team?

5 A. That's correct. If it is a major regional response SRS tend to have the lead coordination role.

Q. On the 17th of January, on page 2 of your statement, you say you received notification from Sergeant Kirby that bushfires to the west of the ACT may pose a threat to the ACT over the weekend of the 18th and 19th of January. Was that in terms of a phone call from Sergeant Kirby?

15 A. That's what I recall - a phone call. I didn't physically meet Sergeant Kirby until the morning of the 18th, so it would have been a phone call.

Q. Did he indicate any specifics about the threat that was perceived to be to the ACT at that stage?

20 A. He stated it would be a serious - obviously a serious threat. If it was a worst case scenario we would activate the POC. We discussed the contingency plans that he was putting into place in terms of staff deployments. That impacted upon my patrol in my role as acting OIC from Tuggeranong in that some resources from Tuggeranong patrol were allocated to initial and secondary response roles. Yes, it was a briefing, in effect.

Q. So were those members of yours ordinary members or SRS members?

35 A. No, they were rural patrol which are based out of Tuggeranong. And also in the case of the worst case scenario, we would have rediverted general duties patrols that were on duty.

Q. He asked you to be on-call as a liaison officer, if required, over the weekend?

40 A. That's correct.

Q. At 5 minutes past 8 on Saturday the 18th, you had another phone call from Sergeant Kirby. He told you that the fires were posing a serious threat to the ACT and that it was feared that they would reach suburban Canberra during the day?

A. That's correct.

Q. Was that essentially what he told you that you can recall?

5 A. Pretty much it in a nutshell. It was a very short call because we both knew there was a possibility that the call was pretty much "It's on. Come on in. Come in to the Emergency Services Bureau. Be there by 9.30 in time for the
10 meeting".

Q. You arrived at ESB that morning and was informed by Superintendent Prince and others the weather conditions would make danger levels
15 extreme and there was a strong possibility that fire could reach suburbs such as Duffy, Holder and Chapman later in the day. Can you recall what time in the morning you received this briefing from Superintendent Prince?

20 A. It was very much probably 5 minutes before the meeting - sorry 9.25am - 9.20, I got out of the vehicle, walked in. Dave Prince was one of the first people I saw. He showed me to the room that was going to be allocated to police for the day.
25 In that conversation which lasted 3, 4 minutes, because he was in a rush getting ready, as I recall it, to go up to the Winchester Centre to provide some briefings to the POC, he just gave me a very quick guide to his understanding of the
30 situation.

Q. Did he have time to give you any indication of what you might expect when the fires reached the suburbs?

35 A. No.

Q. What kind of fire behaviour?

A. Apart from those general statements of fire, no, he didn't go into great detail. It was a
40 quick briefing. He quickly showed me on a map where the fires were, because I didn't know the exact location of those fires. Then it was he very much he excused himself because he had these other duties to attend to.

45

Q. You have put down your recollection of what happened at the 9.30 operational briefing?

A. Yes.

Q. The second last dot point you have said:

5 "The predictions were that the Williamsdale
area was under possible threat as crews were
unable to hold the fires west of the
Murrumbidgee River. If the McIntyre's Hut
10 fire travelled south-east then it would hit
Weston Creek and Greenway. If it travelled
west then it would hit western Belconnen or
William Hovell Drive. The Tidbinbilla fire
was threatening southern Tuggeranong.
15 Uriarra would be under threat by midday,
Cotter by 1500 and Stromlo by 1800."

A. Yes.

20 Q. You have referred to what was being said as
predictions. Can you recall whether there was any
sort of level of risk that was being discussed; or
was it being discussed as if it was going to
happen --

A. No.

25

Q. -- as a prediction?

A. My context of it was there were the
predictions of worst case scenario this is where
the fire would be at these times. There was, as I
30 believe I recall - I certainly recall at one stage
someone said they did not know exactly where the
fire was that morning. So there was an element of
prediction about the whole situation, such as fire
planning.

35

Q. You have got down that you were informed that
there was a prediction that it would be at Stromlo
at 1800. Were you ever at any stage during that
day informed of a prediction that Stromlo would
40 potentially be impacted at 1500 hours that day?

A. I don't recall necessarily that. Those times
are what I wrote as this was being said in the
briefing. I don't necessarily at this stage
recall whether the time of impact would be brought
45 forward.

Q. You don't recall having that information?

A. Not off the top of my - not at the moment without referring to my notes, no.

Q. You have also said in your statement that the
5 Parkwood Power Station was at risk?

A. Correct.

Q. You telephoned Commander Newton with the
10 contents of the briefing. Can you recall what her response was?

A. She thanked me and got on to her duties. I
hung up and got on to mine. My role with that
phone call was to brief her up on what had
15 occurred, the salient points, and then let her go attend to her other duties.

Q. Did she give you any directions?

A. Not at that time.

Q. Was there any discussions at that stage about
20 warning the residents of the areas that had been identified as being at risk?

A. It was not raised with me directly at that
time. I was subsequently aware that later on in
25 the morning there were discussions going on between other people within ESB as to aspects of evacuations and what had been done on previous days or the previous day in rural settlements. At that time in the morning, no-one directly raised
30 with me the issue of evacuating people or property.

Q. I am not talking about evacuating. Did you
35 have any discussions in your conversation with Commander Newton about issuing warnings to the residents of the suburbs that we have identified?

A. Not with Commander Newton, no.

Q. Continuing what you have just said, you became
40 aware, you say, that other people at ESB were working on the issue of warnings and/or evacuation?

A. It was an issue of discussion - I refer to it
later on in my statement - on a blurb in relation
45 to what information was being given to residents to advise them of the fire risk. That was the type of conversation I was subsequently aware of

being going on.

Q. So you had a general awareness that that issue was being dealt with at ESB by some people?

5 A. Yes.

Q. At page 4 of your statement you say:

10 "The headquarters was hectic at that time.
In addition to my other duties I had to
routinely liaise with Canberra Connect staff
who were updating road block information. I
also had or overheard several discussions
15 about the speed of the fire and possible
evacuations."

You relayed these concerns to Sergeant Young. Can you recall any details of the discussions you heard about the speed of the fire and the possible
20 evacuations that morning; and can you try and put them in a time frame please?

A. Sure. First up for the first hour or so that I recall, the exact location of the fire at that time was unknown to many people present because of
25 the overnight, and it would take some time to analyse the data image.

Q. Is that the McIntyre's Hut fire you are referring to?

30 A. Yes. As the morning started to move on, increasingly up to 3pm it obviously became even more hectic as the fire started to plot faster than they had predicted or had expected. I certainly drew that impression from the
35 conversations I was having with many people that it was getting more and more serious. The fire was travelling faster.

Q. Can you recall any more detail than that?

40 A. Initially, as I said before, the discussions about evacuations or information to provide people to make their decisions was very generic. As the morning started to go on and the fire started to spread, particularly down to the south in the Naas
45 valley and that part of Canberra, the issues of evacuations were asked and considered in that we were seeking "is it possible to evacuate people if

they want to be evacuated?" By that stage in the morning the advice I received in many occasions is "It's too late. The fire's there." That was the state, the reality of the situation.

5

Q. We will just go back to the morning and try and piece it together. At 1104 you faxed to the POC a pro forma blurb that the ESB had given its volunteer door knockers to give to residents to enable them to consider whether to evacuate or not?

10

A. Correct.

Q. You followed that up with another fax at 11.32 containing a list of all the rural properties that the ACT Emergency Services Bureau had tried to contact the previous day, highlighting concerns about the fires. We haven't been able to find that list of rural properties that you faxed to Sergeant Young. What was the purpose of sending the fax of the blurb and a list of residents to Sergeant Young; was there to be a police role in contacting people?

15

20

A. There was a discussion between the AFP media team and ESB media team as to the consistency of the message that would be faxed out. I was asked to, so that Commander Newton and the AFP media team knew what was being said by ESB to fax that blurb through. And given that in the previous couple of days or day that ESB people had contacted these rural lessees or property holders, I was asked to get a copy of that list to fax it through again so the AFP could have that so that they knew who had been phoned and who hadn't.

35

Q. Did that list have a crossing-off process on it of who had already been contacted?

A. That's correct. It was a spreadsheet of people, address and whether they were contacted or not and what was their views, if anything out of the usual.

40

Q. You mentioned that ESB had given to its volunteer door knockers this blurb. Were you aware at that stage whether or not people were in fact door knocking?

45

A. That was the blurb that was given to the ESB

workers the previous day. No, I wasn't aware at that time whether there were ESB workers out. This was very much in the context of from the police perspective "Well, what had you said to these people on the previous day? What information was being given? Can you advise us?" My role as a liaison officer in that situation was to obtain that material and then organise for it to be faxed through.

10

Q. You say you also held some urgent discussions with firefighting controllers such as Mr Graham about the need for police or evacuations in the Naas Road area?

15

A. Yes.

Q. Is that following on from what you had heard about the speed of the fire accelerating?

20

A. Correct. At that stage there was concern that the fire would jump the highway at Williamsdale and cross over to the other side.

Q. And impact on what area?

25

A. I think it - I can't recall what they call it. It was down around the Williamsdale area, that Naas Road area. We were liaising to establish an effective road block system.

30

Q. I think you were effectively told that, due to the rapid progress of the fire, there wasn't much to be done about evacuating people at that stage?

35

A. Particularly in that part of the territory I was told there was only one road in and one road out type situation. Some of the back roads for instance, although on a map looks like another artery for people to enter the ACT, that the volume of traffic we wouldn't need the road blocks there, this is where we needed the limited police resources to block roads.

40

Q. Now page 5 you say:

45

"At 9 minutes past 12 Mr Graham made an urgent request for the police to evacuate if necessary the Casuarina Sands area of the Cotter."

A. Correct.

Q. As the fire was sweeping in and if people were still in that area they were in grave threat. Did you make arrangements? You did. You immediately relayed that request to the POC. Were you aware
5 at this stage of whether or not any other warnings were being given out to the residents of any areas in Canberra, apart from the police being sent to evacuate people?

A. No, your Worship. Ma'am, I was not aware of
10 any other evacuations being so undertaken. That is all I was aware of.

Q. I am not talking about evacuations; I am talking about warnings.

A. Warnings, no. That is all I was aware of at
15 that time. It was very hectic for me. It was difficult to get a broader appreciation of what was occurring in other parts of the territory.

Q. Now you have got a new paragraph in your
20 statement of 7 October, where you remember that:

"At around 1220 Commander Newton telephoned
me and asked me to find Mike Castle
25 urgently."

You say:

"I remember looking for Mr Castle and
30 locating him in his office with other senior officers. I cannot now recall my conversation with Mr Castle nor how long the telephone call lasted."

You were since advised the call went for some
35 minute in total. Can you recall now hearing any of that conversation between Commander Newton and Mr Castle?

A. No. What occurred was everything was starting
40 to build up to a frantic level in terms of workload. There was literally a call from Commander Newton, "Can you find Mike Castle?" I found him; I handed him the phone. I immediately left the room to attend to other people. At times
45 there were literally two or three people lining up at the door of the police room wanting to speak to me and to pass on information or seeking advice.

Q. For the assistance of Mr Whybrow, can I indicate to the Court that there is from my reading of your notes no mention of that incident in your handwritten notes?

5 A. That's correct. The timing of that has come from my subsequent examination of phone records.

Q. Is that why it wasn't in your first statement, because you hadn't included it originally in your notes?

10 A. That's correct. As I stated, there were two or three issues that subsequently came to memory after I submitted my initial statement; that's why I supplied a second statement.

15 Q. You were present when Chief Police Officer John Murray arrived at 1.52 that day?

A. Correct.

20 Q. What briefing did you give him?

A. Sergeant Kirby had returned to ESB by that stage. We both quickly briefed him up on the tactical and operational situation that we were aware of as to the fire's progress, the situation from the information.

Q. What did you tell him?

30 A. Basically the fires were racing towards Canberra. We were starting to evacuate - being requested to evacuate these areas. Fire in the south. Road blocks. Sergeant Kirby spoke specifically about his concerns for evacuation - state of emergency to provide an evacuation capability for police. Mr Murray - it was 35 virtually about two to three, maybe 4 minutes briefing. Then we went into Mr Castle's room.

Q. Can you recall what was occurring when you went into Mr Castle's room?

40 A. There was a meeting between senior ESB personnel plus the Chief Minister and also senior ACT public servants.

Q. You were present when there was a debate or discussion about whether or not a state of emergency should be declared?

A. Correct - for the first part of that

conversation, yes.

Q. What can you recall about the conversation that you heard whilst you were there?

5 A. Chief Police Officer Murray outlined his experience in the Ash Wednesday fires, words to the effect that it was his belief that police may need the power to forcibly evacuate people if they were not readily able to fight the fires. The
10 only way for us to get that power was to declare a state of emergency and that there are also other powers under that Act and that we, being the AFP, were seeking that declaration of a state of emergency.

15

Q. Mr Lucas-Smith indicated it was the current practice for fire authorities to support the concept of people remaining in their homes if they did not want to leave; did you hear him say that?

20 A. Yes.

Q. Did he mention that the practice or protocol related to people making that decision if they had been warned --

25

MR PHILIP WALKER: Your Worship, perhaps my learned friend might ask what he said rather than make a suggestion and invite agreement.

30 MS CRONAN: I am asking him if he mentioned this, your Worship. I don't know if he said it or not.

MR PHILIP WALKER: That is the point.

35 THE WITNESS: I don't recall Mr Lucas-Smith citing the protocol, the AFAC protocol. If he did, it wasn't when I was there. He did mention people should stay if they are prepared and able and that the practice was people stay with their homes.

40

MS CRONAN: Q. Did he say whether or not the people who lived in Duffy were indeed prepared?

A. That wasn't raised in my presence. It was certainly my assumption from the Chief Police
45 Officer that it is a real possibility that some people may not be prepared; that's why we need the declaration in case of such situations.

Q. He actually said that in the meeting; did he?

A. No. That was the impression I got from that meeting. From his conversations he was very adamant that a state of emergency should be
5 sought.

Q. Is there anything else that you recall being said whilst you were present?

A. No. I was called out a short time after that
10 to attend to other requests for evacuations.

MR WHYBROW: I am sure it will be corrected. It changes the entire meaning. At 4401, line 8 Sergeant Byrnes' answer was:

15 "No. That was the impression I got from his conversations ..."

Not that it was actually said in that meeting.
20 Perhaps if it could be re-asked.

THE CORONER: It is the conversation, not the meeting, I think. It says, from that meeting. From the conversations.

25 MS CRONAN: That doesn't sound ambiguous to me.

THE CORONER: It says meetings and conversations. I think that is what Sergeant Byrnes did say.

30 MR WHYBROW: If nobody wants it cleared up I will wait until I ask questions, your Worship.

MS CRONAN: Q. At 2.45pm you made arrangements
35 with the POC for the police to deploy to Black Mountain tower and advise people on evacuations. What advice was to be given to people on Black Mountain tower?

A. To get off Black Mountain Tower, to leave the
40 mountain because of potential fire risk. I was asked to, if possible, block the roads, get the roads blocked. No-one up. Everyone out.

Q. You don't say at any stage that you made
45 arrangements for police to deploy to the suburb of Duffy to advise the residents of Duffy in relation to the possible need to evacuate. Do you know if

that was occurring at that stage?

A. I'm not aware. The first I was aware that Duffy as a suburb had been hit or was under imminent attack was about the time when it was.

5 No-one raised with me explicitly at this stage of the morning or early afternoon that we should be looking at Duffy in the same way that we should be looking at Kambah Pool Road or anything like that.

10 I was very task responsive at that stage of the day.

Q. So people at ESB would give you an area and you would make the arrangements for police to go and clear it or advise people?

15 A. Literally, a senior ESB official would come in and say, such as the case with Black Mountain or earlier with Kambah Pool Road, or Kambah Pool, "It is under attack, it is under threat of attack. Get the people out."

Q. At the bottom of that page you say at about 3.05pm you attempted to make arrangements for specialist firefighting clothing to be issued to police at the front line. Had that need for specialist clothing not become apparent to you earlier than this?

25 A. It had become apparent. However, what it was was a generous offer by the ESB themselves to say, "We've got some reserve equipment in stock, uniforms in stock. If you want them this is where it is." That's why I made the arrangement.

Q. That is the clothing you were distributing at that stage?

35 A. That's correct. There was actual firefighting tunics and stuff like that which they had in their stores that they were offering to us.

40 Q. On page 7 at about 3.35 you were told by firefighters that Allchin Circuit was under immediate threat and you relayed that to the POC with advice to begin immediate evacuations. Can you recall who authorised those particular evacuations?

45 A. No, I cannot. There were several senior ESB officials there that I did not know the names of.

By this stage in my estimation there were well over 100 people in the building. While I wasn't taking obviously advice from anyone, I knew if they were senior officials or not, that it was, as
5 I said, at some stages I literally had two or three people waiting at the door of our room to pass on a request or advice.

Q. You describe in the next number of pages what you were doing after 3.30 that day. I don't think I need to ask you anything further about that.
10 Thank you.

THE CORONER: Yes, Mr McCarthy.
15

MR McCARTHY: I have no questions.

THE CORONER: Mr Pike?

20 MR PIKE: No, thank you.

THE CORONER: Mr Whybrow.

<CROSS-EXAMINATION BY MR WHYBROW

25 MR WHYBROW: Q. Sergeant, on page 3 of your statement, I am sure it was an oversight, you made reference to your finding of the ESB headquarters in terms of its set-out that day. Was that your
30 first visit to ESB headquarters?

A. No.

Q. You had some previous experience with it?

A. Yes.
35

Q. You say:

"It is a converted school with a layout that is not conducive to efficient command
40 management practices. A series of corridors separated the essential command sections, often winding past courtyards. I found that throughout the day the layout of the building hampered me in the swift conduct of my
45 duties."

A. Correct.

Q. In terms of issues that her Worship needs to consider as to factors that may have hindered the overall response, in your mind was the appropriateness of that headquarters as a command centre for such an emergency one of the issues that should be looked at?

A. Yes.

Q. You put in a second statement that you have given evidence about. Can I suggest that the changes appear to be the reference to the handing the phone to Mr Castle at the request of Commander Newton?

A. That's one of the amendments, yes.

Q. All the references to what happened on the 19th of January and afterwards have been deleted from your second statement - at least in the copy I have. It seems to end at page 11?

A. No, my copy goes for 15 pages.

Q. Can you point out what the other amendments were then, other than the addition of that?

A. It is my recollection, for example, the layout of the building. I don't recall putting that in the first one. The rumour at one stage that yet another helicopter had crashed. Again I could only recall that after I prepared the first statement. That seemed to focus our attention for a short while at a pretty critical time. I can't recall anything else. There might be.

Q. They are the main ones that you can recall?

A. Yes.

Q. When you arrived were you provided with some area to work from or a room?

A. It was a small converted classroom or office space with a small meeting table in it. That's correct.

Q. The purpose of you being there was to be the liaison for the AFP back to the Police Operations Centre at Winchester?

A. That's correct to provide advice from ESB to Winchester and relay advice, if required, the other way.

Q. Given the nature of that ESB building, was it the way it worked that you had a mobile phone so people could call you or you could call them rather than relying on any particular landline?

5 A. I had a landline but I had to leave the room for quite a bit of the day. That was one of the issues, I think, and it is also in the second statement, that we needed more police there because of the layout of the building. There was
10 no way for me to do a comprehensive thorough job by myself.

Q. In relation to the statement you make about you remember the conversation with Commander
15 Newton, you had access to some telephone records. Who provided those records?

A. They were provided by - are we able to reveal? - they were provided by the AFP.

20 Q. You understood those to be Commander Newton's phone records or records from the police operations centre?

A. I was provided with a series of phone records of certain phone numbers and calls that were made.
25

Q. Did you attend the noon or thereabouts media briefing?

A. No, I did not.

30 Q. Were you aware of generally where such briefings took place?

A. Yes.

Q. You are aware now, I take it, that there was a
35 major briefing at or about noon or shortly afterwards that morning?

A. I was aware there was a media conference at around about that time, yes.

40 Q. The records indicate that there was a phone conversation - there was a call to your mobile at 1219 and that it went for about 12 minutes.

A. Yes.

45 Q. As Ms Cronan has pointed out, it didn't appear in your notes?

A. That's correct.

Q. It was in the middle of a fairly hectic period of a fairly hectic day?

A. That's correct.

5 Q. Are you able to recall now how long it took you to find Mr Castle from the point that you were requested to find him?

A. I recall that at that time I happened to be in the police room, for want of a better phrase. I
10 recall him being in his office and I handed him the phone there. They were next door to each other more or less.

Q. If those records are correct, that phone
15 call - you didn't stay around while that phone call took place?

A. No.

Q. You can't say how long Commander Newton and
20 Mr Castle spoke on the phone?

A. No, I cannot.

Q. I take it you wouldn't be able to say whether
25 the midday, if we call it that, media conference had already been completed by that stage or not?

A. I'm not aware.

Q. If this phone conversation preceded until the
30 records indicate the call was terminated, that would suggest that that conference could not have started until after 1230. Would that be consistent with your records?

MR ARCHER: I object to it because it is
35 completely out of the knowledge of this witness. He has already said he doesn't know when the press conference was. My friend has put a proposition to him which he can't be in a position to comment.

40 MR WHYBROW: He has gone through the records. He can see if a call has started at 1219 and finished at 1230. There is nothing unfair about it.

THE CORONER: I suppose it is more a fact.
45

MR WHYBROW: One would have thought we were concerned with facts.

MR ARCHER: The proposition my friend is putting is not in relation to the length of the call but is whether or not the press conference has started or finished. The witness has said he wasn't there
5 and he doesn't know. My friend puts by way of a submission a question that this witness cannot answer.

MR WHYBROW: The question was: if this phone
10 conversation proceeded until the call was terminated - which would indicate 12.30 or thereabouts - that would suggest that that conference could not have started until after
15 12.30. If of the two possibilities, before or after, which we have Mr Castle on video during it, it is a simple question that this witness is able to answer, I would have thought. The answer might be almost rhetorical. It doesn't mean that the question is not able to be asked, your Worship.

20 THE CORONER: Yes. But it is still a question of fact, isn't it? I mean whether or not Sergeant Byrnes agrees or disagrees with it, or whether he can or can't answer it, is a fact of what was
25 happening at that time; is it not? It is really what you are putting, isn't it? It is the logical conclusion given the accuracy of the times that things were happening and people were available.

30 MR WHYBROW: That's right. If nothing else, it sets out the general circumstances in which this occurred. It may be that the facts cannot be established; it is entitled to be asked, in my submission.

35 THE CORONER: You can ask it - if you remember it.

MR WHYBROW: I will ask it again.

40 Q. If the records are accurate and that call proceeded until the conclusion of that time - from 12.19 to 12.31 - that would suggest, would it not, that if that call took place before the media conference the media conference must have started
45 after 12.30?

A. I have seen the records when the call occurred. As I stated, I wasn't there when the

media conference started or not so I can't offer a comment, your Worship, from a position of knowledge. I really don't know how to answer it.

5 Q. Your notes that you do have about this time - you have got something "12.15 - meeting with Tim Keady re" something. What are the first two words?

A. May I refer to it?

10

THE CORONER: Yes, certainly. What page are you talking about?

MR WHYBROW: They are stamped on the bottom 003.

15

THE WITNESS: What time again?

MR WHYBROW: Q. 1215.

20

A. "NSWP contact" - New South Wales Police contact.

Q. Finally, Sergeant, you were asked some questions earlier about conversations that took place in relation to the declaration of a state of emergency?

25

A. Mmm.

Q. You were asked some questions by Ms Cronan about whether one of the subjects specifically raised was the preparedness of residents of Duffy for a fire, something of that nature. Do you recall that conversation - and then I stood up at some stage?

30

A. The generalities of it, yes.

35

Q. Was it your understanding from your briefing from Commander Newton and Mr Murray that their belief was that there were people who were not prepared and that was why they were urging a state of emergency to be declared?

40

A. As I stated before, Duffy as a name, as a suburb itself, was not an issue to me at that time. The request from the Chief Police Officer was about giving the state of emergency declared powers to evacuate because we may need to have that power. Mr Lucas-Smith stated quite clearly that the preference was for people, if they are

45

prepared and able, to stay and defend their properties. That's my recollection of that general issue such as it was discussed before I left the room.

5

MR WHYBROW: Thank you.

THE CORONER: Mr Walker?

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

MR PHILIP WALKER: Q. Sergeant, at page 6 of your statement you record the Chief Police Officer saying at the meeting which occurred with yourself
15 and others:

"Police need the legislative support of a state emergency in order to enforce evacuations, if needed."

20

A. Correct.

Q. Did the Chief Police Officer say anything about what would be the touchstone for the
25 exercise of that power?

A. In that conversation, no.

Q. When he said "in order to force evacuations if needed," he gave no indication of what would be
30 regarded as sufficient need in order to exercise the power for people to be forcibly evacuated; is that right?

A. It was not expressly stated when I was present. But there are some assumptions behind
35 what he was saying, some emphasis about what he was saying.

Q. I am interested in what he said rather than any assumptions

40 A. That is fine. He did not expressly mention at this particular point in time when police or other emergency service personnel would force an evacuation - not in my presence.

45 Q. Did you say when you thought there would be a sufficient need to warrant the exercise of a power for forcible evacuation at that meeting?

A. I was there as - by that stage as an assistant to the CPO, Mr Murray, so I didn't contribute anything to that conversation.

5 Q. I understand. Did you hear Sergeant Kirby say when he thought the need would have arisen which warrant the exercise of forcible evacuations?

A. Not while I was present in the room, no.

10 Q. Did Mr Lucas-Smith indicate his opposition to what I will broadly describe as "widespread" or "general" orders to evacuate areas?

A. I've stated what I heard Mr Lucas-Smith saying which was that the preference is for people to
15 stay if they are prepared.

Q. I am just asking: did he say anything in addition to that along the lines - you have no recollection?

20 A. Not that I heard.

Q. When at 3.30 you said you were told by firefighters that Allchin Circuit was under immediate threat, can you recall as closely as
25 possible what it was you were told by the firefighter in relation to Allchin Circuit - in as close to an "I said/he said" fashion as you are able.

A. The officer came in and said, "The fire is
30 about to hit at Allchin Circuit. You'd better get people out".

Q. Your view was the fact that fire was approaching was enough to evacuate an entire
35 street?

A. My view was that a senior firefighter expressed to me that we had to save people's lives - yes.

40 Q. You didn't actually say that when you told us what the firefighter was supposed to have said. You said that he said the fire was approaching the street?

A. It was about to hit the street, yes.

45

Q. Well, which was it, Sergeant? Did he say you were supposed to be saving people's lives or just

that the fire was about to hit the street?

5 A. The fire was about to hit the street, and I had interpreted that to mean that we had to get people out of there for their safety and to save their lives.

Q. So if fire was approaching a particular area, your view was that was enough to warrant the evacuation of the entire street?

10 A. On the advice of a senior firefighter, correct.

MR PHILIP WALKER: I have nothing further.

15 THE CORONER: Thank you. Yes, Mr Archer.

<CROSS-EXAMINATION BY MR ARCHER

20 MR ARCHER: Q. In relation to the calls with Tony Graham, just so we have the chronology of that right, there were two calls, one of which you have been taken to today, which is a call that occurred on the 15th late in the afternoon?

25 A. Correct.

Q. You listened in my chambers this morning to a further call that occurred on the 16th of January?

A. Correct.

30 Q. At 11.23.19, it seems --

A. Yes.

Q. Between you and Mr Tony Graham --

35 A. Yes.

Q. Where there was some discussion about SES performing the road block duties up in the Brindabellas rather than the SRS?

40 A. Correct.

Q. Having heard that this morning and not in court today, did that ring a bell, having heard that?

45 A. Yes, I recall that at that stage we were looking at - obviously the fire was starting to pose more of an issue in that we were looking at deploying actual resources to commence road

blocks. It was a question of which agency was the most appropriate given the circumstances to undertake road blocks in remote areas with light traffic.

5

Q. Going then backwards to the phone call that happened the day before - you were taken to it and you saw it on the screen - there was a mention there of you saying words to the effect that

10

"Canberra's going to burn" in reference to concerns that your bosses had expressed?

A. Yes.

Q. So far as that was concerned, what did you mean by that expression "Canberra's going to burn"?

15

A. Your Worship, as I stated, that's one of the statements I don't recall exactly saying but obviously I did say it. All I can say is that if I thought it was going to mean the actual city of Canberra in that statement, I would have stated so and continued to push on that issue. The difference is Canberra means the areas around Canberra city as well.

20

25

Q. If it had been your intention to convey that the urban area was under threat and that was your operating assumption as at that time on the 15th, what activity would you have been undertaking as the OIC of Tuggeranong?

30

A. I would have briefed straight up the line through my chain of command up to Winchester Centre. At a tactical patrol level, I would have been preparing all my rosters and staff for duty and also liaising with other district resources and assets to prepare personnel.

35

Q. Did that happen as of that time on the 15th?

A. On the 15th, no.

40

Q. You refer I think perhaps inelegantly to a blurb that was doing the rounds --

A. Technical term, I'm told.

45

Q. -- on the 18th. Can I suggest to you that blurb, as you have described it, was actually a blurb that had been prepared in respect of

evacuations from rural areas that had occurred the night before on the 17th?

A. Yes.

5 Q. It was that document that was faxed over to the POC?

A. Yes.

10 Q. Do you know why it was thought advisable to send that document - that was in a sense historical - over to the POC?

15 A. It was a question of consistency to ensure that because we have two agencies in effect - the AFP and the ESB with media teams and media capabilities - obviously from an AFP perspective we needed to see what the ESB exactly had said. That was my understanding of it. Our media team wanted to see what they said. So it was trying to reduce any inconsistent message that would have
20 been sent out to the public.

MR ARCHER: Thank you, Sergeant.

25 THE CORONER: Thank you, Mr Archer. Ms Cronan?

MS CRONAN: No re-examination.

THE CORONER: Thank you, Sergeant Byrnes. You are excused to leave.

30

THE WITNESS: Thank you, ma'am.

<THE WITNESS WITHDREW

35 THE CORONER: Ms Cronan, are you able to say of the witnesses for Monday - being presumably Julie Crawford, Bruce Arthur and Rob Hunt from the New South Wales parks fire services - which of those officers or those persons is the first witness?

40

MS CRONAN: My understanding is that it is Ms Crawford. We expect those three witnesses between them will take Monday and Tuesday.

45 THE CORONER: But your expectation is Ms Crawford first, followed by?

MS CRONAN: Mr Bruce Arthur and then Mr Hunt.

THE CORONER: Followed by Mr Corrigan, Neil Cooper and Kevin Cooper. Are they all locked in for the
5 5th? The note I have here is the 5th.

MS CRONAN: Mr Corrigan is locked in for the 5th because of some difficulties on the 6th and 7th. I don't know if we will finish with Mr Cooper on
10 the 5th. From there, we have Mr Kevin Cooper and Mr Neil Cooper, followed on by Mr Taylor and Mr Lhuede.

THE CORONER: I do take Mr Walker's point. It
15 would certainly be useful if a list of witnesses for the following week and, if it is foreseen, for the weeks after that was published and sent to everybody, including the dates - particularly the dates that are locked-in dates.

20

MS CRONAN: Yes, your Worship.

THE CORONER: As you would appreciate yourself, Mr Walker, it is difficult to exactly say when
25 because it depends on the progress. But at least if you have an indication as to the group of witnesses, you can certainly prepare for those. It is quite valid for you to be concerned about that.

30

MR PHILIP WALKER: I understand that.

MR McCARTHY: Just a small matter in terms of timetabling for next week, I think there was an
35 expectation that we might have reached some more of the telephone recordings. Is there anything on the agenda as to when that might occur next week?

MS CRONAN: Well, we were hoping to get through
40 the bulk of them this afternoon actually I don't know if there is any plan, apart from utilising time, as it becomes available, for the telephone calls.

THE CORONER: I think that seems to be the plan. If, say, we run out of witnesses or finish early on a particular afternoon, then we will use that

time to play the tapes.

MS CRONAN: The New South Wales witnesses are fairly locked in because of their legal counsel, I think. But if anybody feels that they would like to hear the rest of the tapes before we continue with the ESB-type witnesses, we could consider doing that.

10 THE CORONER: That might be useful to do that, actually.

MR McCARTHY: I am obviously in the hands of counsel assisting, it is a question of whether they had any thoughts on the matter we could respond.

MR PHILIP WALKER: On those tapes, a great many of them are between the liaison officer in Queanbeyan and the ACT. There was some reference yesterday to having a transcript made up. I wonder if your Worship might use the influence I know you have to see if that transcript could be made available as soon as possible. It does occur to me that it might be very important in relation to the New South Wales witnesses themselves. Mr Whybrow and I listened to some more of the tapes last night. It appears to me that there are some matters in them that might be very important for the forthcoming week.

THE CORONER: I don't know at what stage that transcript is at. I gather from what Mr Lasry has said that it hasn't even been started as yet.

MS CRONAN: I understand from something said outside of court yesterday that Mr Kelly was looking at approval of the expenditure. I could have misheard that but I will chase it up.

THE CORONER: I take your point. It certainly would be better if we had a transcript because some of the conversation is a little bit difficult to understand.

MR PHILIP WALKER: Yes, indeed.

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 45

Monday, 3 May 2004

[10.05am]

MR LASRY: As your Worship knows, we propose to start with some of the witnesses from New South
5 Wales. Just before I call Ms Crawford, who will be the first witness, I should note that the material relevant to these witnesses includes - I am not sure this is necessarily an exhaustive list - the incident controller's report for the
10 Yarrawlumba section 44, which is document [RFS.AFP.0093.0219]; the submission by the New South Wales Rural Fire Service and New South Wales National Parks and Wildlife Service to the New South Wales coronial hearing is
15 [RFS.AFP.0093.0002]; and also the material from Mr Cheney and also the transcript of proceedings before the New South Wales coroner, which I assume the first page is the document number [DPP.DPP.0001.0338]. They are proceedings which
20 commenced on 25 August last year.

Your Worship, in many respects I am taking those matters as read, particularly in relation to the transcript of the proceedings in New South Wales.
25 These witnesses gave evidence at that hearing on oath and, although no doubt I will touch on some of the issues that arose, and other counsel might also, I certainly don't propose to repeat that proceeding. It can in effect stand as the
30 statement or the material of each of the witnesses who were called.

THE CORONER: Yes, the record of that proceeding.

35 MR LASRY: If your Worship please, would you call Julie Crawford.

<JULIE NARELLE CRAWFORD, SWORN

40 **<EXAMINATION-IN-CHIEF BY MR LASRY**

40

MR LASRY: Q. Ms Crawford, your full name is Julie Narelle Crawford?

A. That's correct.

45 Q. Are you the area manager for the Queanbeyan area for the National Parks and Wildlife Service?

A. Yes.

Q. Did you hold that position in January of 2003?

A. Yes.

Q. Ms Crawford, did you give evidence to the New
5 South Wales coronial hearing on Wednesday
27 August 2003?

A. Yes.

Q. Do you remember giving that evidence?

10 A. Yes.

Q. Have you had an opportunity to read the
evidence that you gave?

A. Yes.

15

Q. I take it the evidence that you gave is true
and correct?

A. Yes.

20

Q. Despite what I just said, I will repeat
briefly the introductory part of that. You gave
evidence on that occasion that you had been
involved with fires, as you describe at page 1 of
that evidence, since the summer of 1979. So your
25 fire experience is something of the order of 24
years?

A. That's correct.

30

Q. You said you started off with remote fires as
a firefighter in remote areas and also the urban
edge. You said:

35

"I then moved into mixing on-ground
firefighting with IMT roles. I have been
with the New South Wales National Parks and
Wildlife Service for the last six years.
With them I have been mostly involved with
IMT - Incident Management Team - but last
40 fire season I also went back onto the fire
ground to refresh my fire ground skills."

40

Is that right?

A. That's correct.

45

Q. You, in the course of that evidence, described
the beginnings of the fire with which you were
concerned, which was the McIntyre's Hut fire, on

the 8th of January of last year. You describe also in the course of that evidence being aware - being at I think a workshop, not a workshop as in a discussion, a workshop workshop --

5 A. That's right, a depot, yes.

Q. -- where work is done, and being aware of increasing radio traffic and then becoming aware of the fact that there was a fire in the
10 Brindabella Ranges and at McIntyre's Hut; is that right?

A. That's right. When I was aware of the phone calls - the radio calls from the McIntyre's Hut fire, I moved from the depot to my office. The
15 radio traffic was increasing so I moved to where I could concentrate more on it.

Q. At a bit after 4 o'clock, according to your evidence, at about 6 minutes past 4 you heard the
20 tower at Mt Coree calling in the McIntyre's Hut fire and you asked the field supervisor to dispatch a category 9 tanker to the area; is that right?

A. That's correct.
25

Q. Who is your field supervisor?

A. Graham Todkill. He was up at the depot so I rang him.

30 Q. A category 9 tanker is a small vehicle, relatively, in firefighting terms?

A. That's right. It is a Toyota trayback with, I think, a 400-litre water tank on the back.

35 Q. Do you know who was dispatched, who was driving the vehicle?

A. The two people in the vehicle, one was Peter Mallard, one was Ken Everleigh.

40 Q. They didn't get to the McIntyre's Hut fire; is that correct? The nearest they got to it was to the Mt Coree tower?

A. That's correct. I dispatched what we call a divisional commander, which in the ACT system I
45 think is what you call an incident controller. It would be the on-ground fire boss. I had dispatched that person separately in a separate

vehicle. He was with the unit and as close as they got was to the Coree tower.

Q. Who was that other person?

5 A. It was Rob Hunt.

Q. The Mt Coree fire tower is about how far from where the fire was at the time they got there?

A. As the crow flies about 7 kilometres.

10

Q. Are you aware as to what time it was that they got to the Mt Coree fire tower?

A. It was around 6 o'clock or 6.30; somewhere around that time.

15

Q. By then did you have a report on the size of the fire?

A. No, I didn't have a report on the actual size of the fire. While they were driving there, I was still monitoring the Coree tower. The Coree tower seemed really interested in the McIntyre's Hut fire more than the other fires. The others were columns of smoke. For the McIntyre's Hut fire it was "Did I tell you it was big?" when they calling back to control. "It is yellow. It is thick smoke". Then he said, "It's like last year" - I am sure he said something like, "It's like last year". To be that reminded me of the 2001 fires, which is a big fire.

30

Q. I will come to some documents in a moment. A later incident controller's report for this fire suggests that at about 5 o'clock on 8 January, the McIntyre's Hut fire was something in excess of 200 hectares. Are you able to say now whether that is likely to be an accurate assessment of the fire at 5pm?

35

A. Yes. Because I put another ranger up in an aeroplane, a light plane, to tell me what was going on up there. We had strikes as well to the eastern side of the ACT. I couldn't talk to him directly while he was in the plane. When he came back he said 200 hectares.

40

45 Q. Now for the purpose of doing these things - that is sending people to the fire and putting planes in the air - is to get the best information

you possibly can, I take it?

A. That's right.

Q. So an approach to the fire can be planned?

5 A. That's right. Also the sending is for initial attack. We wanted to direct attack.

Q. Although apart from the category 9 tanker, which carried, as you said, 400 litres of water, what were the other possible avenues of direct attack - if that had been possible at that stage?

10 A. There could have been Rural Fire Service units come in as well. There were rural fire services at Fairlight, at Brindabella Valley and around the area. Once you go in and know what you have got, you can call those in.

Q. Had you alerted either of those, Brindabella or Fairlight?

20 A. No, I wouldn't deal with those direct into calling them out. I would go through Rural Fire Service at Yarrowlumla. I did have phone calls from the Fairlight brigade. That is another important part. We put planes up and we have our people go out as well. It is also neighbours ring in and tell us what is happening as well.

From the Fairlight brigade, we were getting reports there were embers and ash flying over the Brookvale property. McIntyre's is about 30 6 kilometres from the Baldy fire. The Baldy fire is about 6 to 8 kilometres from Brookvale. You are looking from McIntyre's to Fairlight station about 12, 13 kilometres in a straight line, which is a long way away.

Q. You have in front of you the submission made to the New South Wales coronial hearing. I don't want you to open it. I want to refer you to the photograph on the front.

40 A. Yes.

Q. The photograph on the front of the document [RFS.AFP.0093.0002] is a photograph taken by Mr Cutting apparently at about 5.30 or 1730 hours on 8 January 2003; is that right?

A. That's right.

Q. Are there aspects of that photograph to which you were referring a little while ago about the colour of the smoke, the convection column and all the rest of it?

5 A. That's right. The colour of the smoke; the thickness of it; the amount of it; it is moving really strongly to the east; strong wind behind it.

10 Q. Is that suggestive, looking at that photograph of the fact that the fire at that time was making some sort of uphill run?

A. Yes. In the terrain it is in, that is what you would get from it. It has had a huge run. In
15 that sort of terrain it is a definite uphill run.

MR LASRY: At some point I want to come to Mr Cheney's Powerpoint presentation and some of the photographs that appear in that. There is
20 going to be a short delay in setting that up because I gave the Court operator short notice that we need it.

Q. Ms Crawford, as you are getting information
25 relayed back to you, do you keep a record or a note of what you had been told?

A. I was writing handwritten notes, plus there were other people in the room and we have a logbook where various things were logged - not
30 everything was logged but some things were logged. We don't tape phones or radios.

Q. Now, the aerial surveillance that you referred to I think occurred at about 10 past 5. That
35 involved Mr Seymour going up to have a look; is that right?

A. That's right.

Q. Aboard a plane from Brindabella Airlines?

40 A. That's correct. The one we would normally use we would have radio contact, install a National Parks radio in it. Because other fires started before we had fires, in Jindabyne and Tumut, the plane we would usually use was gone. We had to
45 use a plane that was satisfactory but did not have our radio. So we couldn't have direct contact.

47

Q. Am I right in saying, in any event, one of the difficulty that was confronted by Mr Seymour was being able to ascertain where the eastern flank of this fire was at the time he went up and had a
5 look?

A. It was the eastern flank, but not so much the eastern flank of the McIntyre's fire. There were 3 other fires to the east. He said you could work out from the terrain that it had got to the top.
10 The smoke had been pushed strongly across to the east. He never seen the two Mountain Creek ignitions nor the Baldy spot fire.

Q. Mr Hunt had been sent into the area and the original plan, I take it, for him was that he would make some observations on the ground as close as he could get to the McIntyre's fire; is that right?
15

A. That's right. I had hoped he would be able to get right into it but, from the time of sending him to the time they even got to near the park, it was looking highly unlikely.
20

Q. Did you have a map in front of you as you were giving him instructions to indicate where you wanted him to go; and did you have a rough idea as to where the ignition point of the fire was?
25

A. Yes. In my office - that's why I returned to the office from the workshop - I have a large
30 1:100,000 map on the wall with the towers. You can plot the bearings from the towers with the smokes. You can mark whether it is in your park or just outside, depending on how accurate the distances are. The map was on the wall. When I
35 was talking to Rob on the phone, he was reporting how big it was, where a safe area was to go, we both knew that there was a Coree tower operator still in the tower and things were safe around there. It was a good vantage point and also a
40 safe area to go to.

Q. How far from the fire front would the Coree tower be?

A. It would be 6 to 7 kilometres in a straight
45 line, which is a long way.

Q. It is too far away to get some of the

information that you need, isn't it?

5 A. It's far away to get a lot of detail, but it's not too far away to say if you can see this smoke on the front of this submission at that distance from Coree tower, it is much bigger than what you would normally do under direct attack. It is a large fire. It has taken a large run. This is the sort of thing that, when you send crews in, it is after a day or so the fire have been going. It is not what you would usually expect from a lightning strike ignition.

15 Q. But apart from the size of the fire, in order to make a judgment about whether or not some form of direct attack was appropriate, you would want to get a little bit closer to see exactly the topography in which the fire was burning and whether in fact, for example, the uphill run that was giving rise to that convection column shown in that photograph was likely to dissipate and whether there are trail or tracks from which some direct attack might be started; don't you need that kind of information as well?

25 A. I'm very familiar with Brindabella National Park. Brindabella is very steep terrain, extremely steep terrain. When I marked on the map where it had started from in the McIntyre's Hut area and it had run up a steep hill, I didn't know exactly where at that stage, the trails are on the ridge tops. There was no real point of sending the crews in when there were also other things happening. It wasn't only McIntyre's. We knew we had another fire 6 kilometres, 7 kilometres to the east at Baldy. We knew there were lots of other lightning strikes. It was reported from the tower that the Baldy fire 6 kilometres away was from embers from the main fire, which makes you think there are lots of other fires possibly in the area. We also had a phone call from a person living to the east, another 6 kilometres further to the east, reporting embers and smoke over their house. There could have been numerous fires anywhere between that.

45 Q. What time was that phone call?

A. It is in the submission, I think it was around 6 or 6.30, sometime around there. The accurate

time - I can't remember now - is in the submission. That is building up a picture that, yes, we can see there is a big fire to the east; there is another one 6 kilometres to the east;
5 there could be numerous ones in between. There were numerous lightning strikes being called around the area, not only in Brindabella but around the area.

10 I also had a phone call of a lightning strike at Yananumbeyan National Park which is to the east of ACT. So I had another fire there. I had all this information. If I sent them in, I knew at least one of the fires was huge. I didn't know how many
15 other fires there were. There was gale force winds. There are lots of big trees up there. Under gale force winds, you could send people in on tracks but you can't drive around big trees because the terrain is too steep. If they had
20 driven in, they could be trapped. I couldn't guarantee them a safe refuge area, I couldn't guarantee them an escape route. I am the incident controller; I am responsible for the welfare of the crews that I send in; under those conditions I
25 just didn't send them in; I told them to come back.

You have to weigh up, even if you do get in, what are you going to do? It's a huge run up steep
30 slope. It is mountain goat country. You just can't have people working on those edges. Night is coming. When are you going to be far more effective? You are going to be far more effective the next day when you know exactly what you have
35 got.

Q. I wanted to ask you about that. Once night occurs, inevitably the fire activity is going to reduce, isn't it?

40 A. It will reduce. But I know from my experience being on the fire line in November/December 2002, I was night shift on the fire line and I was really surprised with the activity of the fire at night. So it may reduce, but it can still be
45 quite severe.

Q. Do you agree with the general proposition that

the first night of a fire - I don't say it is completely safe, but the first night of a fire is probably the night at which that fire is at its most benign and probably the safest time to attack a fire?

5

A. I would agree that it is the best time to attack it. That's usually because the fire hasn't had a chance to make a big run. You get it while it is a small size. That's what that is based on. This fire wasn't a small size; this fire had already taken a big run.

10

Q. Once the night came on 8 January, I think as you have agreed, the fire activity was likely to reduce. To what extent of course at that stage I suppose you weren't sure because you hadn't been close enough to see what was next in line to burn, perhaps. But it was likely to reduce; wasn't it?

15

A. Likely to reduce. Also we still didn't know how many fires we had. We were still getting gale force winds. I can't remember up to what time the towers were still calling in gale force winds. You don't send people in to conditions like that. But we could --

20

25

Q. I think the evidence does suggest that by 8 o'clock that night the fire behaviour had subsided and the wind speed had reduced and obviously the relative humidity increased. I am only asking about this because I was wondering whether you were interested in the possibility that, once conditions subsided, to some extent it was probably a good opportunity to make perhaps a closer examination of the fire, even at night and to have people going in there to see what the best preparations were that could be made for the following day?

30

35

A. What we did that night was McIntyre's was furthest to the west. There were no properties in its direct line where McIntyre's was heading. It was within Brindabella National Park. The closest assets for that one was to head into ACT and into the pine forests in the direction it was going. The fire furthest to the furthest, Baldy Range fire, once it had crossed that track, and it had crossed that track, we got confirmation that night, once it crossed that track there was no

40

45

containment line between the Baldy Range fire and the houses to the east of that fire. That wasn't that far.

5 So our emphasis that night was not on McIntyre's Hut fire, it was on the Baldy Range fire which was also in Brindabella National Park. I got dozers moving as soon as we got fire in Brindabella. I sent crews. One of the first things we do is call
10 dozers in. We got the dozer to go to the area where the house was where the Baldy Range fire was heading to. Also the Fairlight fire crews that were there were at Baldy fire.

15 Everyone is concentrating on McIntyre's the first night. There were a number of other fires in the park. We were concentrating on life and property, which is our priority, and life and property where the Baldy spot fire.

20

Q. I wasn't meaning you concentrated only on McIntyre's. I understand the Baldy Range fire was important, particularly with the view in the slightly longer term as to whether that might
25 become the eastern containment line. But if there was going to be an indirect attack on the whole complex of fires, then it was important to establish appropriate containment lines; wasn't it?

30 A. That's right.

Q. As soon as you could?

A. Yes.

35 Q. That would include containment lines not only to the east but of course to the west?

A. Yes. And the north and south.

Q. And the north and south.

40

MR LASRY: I am sorry to do this, but there are some photographs that I would like to show to the witness. I think the only way I can do it is by using Mr Cheney's Powerpoint display. I fear that
45 may require the Court operator to take a couple of minutes. There are other things I could do but I think it is probably more sensible to do it this

way. If your Worship could stand down for a short period of time.

5 THE CORONER: I will leave the bench. Tell me when you are ready.

SHORT ADJOURNMENT

10 MR LASRY: Thank you, your Worship.

Q. Ms Crawford, I will just show you a couple of photographs, one of which you have already seen because it is on the front of that submission. These are photographs that were produced by
15 Mr Cheney in the course of his presentation. This first one, as it says, is taken at 12 minutes past 5 from Uriarra Road. If we just go to the next one, which is the one we have looked at, as that also says it indicates a time of 5.30. If we go
20 to the next one, that appears to be a photograph taken at a bit after half past 6 the same day. Have you seen that photograph before?

A. Yes. It should be in the submission, I think.

25 Q. Do you agree what that photograph shows is a couple of things: first of all, it suggests that the original convection column, which was so obvious in the photograph taken at 5.30, has to some extent collapsed and that suggests whatever
30 was happening over there, the chances were that the fire by then had finished its uphill run, which was likely to be the cause of the convection column and the smoke that you described earlier; would you agree with that proposition?

35 A. The smoke has definitely changed. It may have got to the top of something but it may not be to the top of the end of the definite uphill run. There is a lot of smoke to the east. You don't know what is in behind that.

40 Q. But all I am really asking you is whether you accept that what that photograph shows is a less active fire at 6.37 from that which was obvious at 5.30?

45 A. To the one to the east, yes - sorry to the one to the west. It also shows that there is another fire --

Q. I was coming to that. The smoke over on the right-hand edge of the photograph tends to suggest, doesn't it - I think Mr Cheney's evidence was that was the smoke probably from the Baldy spot fire?

5
A. That's right. This photograph taken by Jeff Cutting was at the top of Mt Coree where my crew had actually picked Jeff Cutting up on the road and taken him to there. The tower operator had called - that is the Baldy spot - that in when my crew got there. The tower operator explained to them he also called in this other fire to the east. Which, as you can see, as I said earlier, the tower operator called that the fire to the east looked like it had started from embers from the main fire.

You can see in that photograph there that is a long distance to be spotting. That is another thing with fire crews, you send them in to attack, if it is spotting that far ahead of itself, which fire are you going to attack?

20
Q. Look, Ms Crawford, I haven't got to the point yet of wanting to put to you that you should have sent crews in for direct attack; do you understand that?

A. Yes.

30
Q. At the moment I am simply trying to establish what information you had available to you. The fact is - if we jump forward an hour or two - the meeting that determined the strategy for this fire was held at about 8.30; am I right about that?

35
A. That's right.

Q. By the time that meeting was held, am I right in saying that no-one who was giving you any information was any closer to either of those fires than the photographer in that picture?

40
A. No. The landholders at Dingo Dell and Fairlight were much closer to the Baldy spot fire to the east than we were. They were only a couple of kilometres away. They had reported embers going over their house. They reported significant fire on Baldy Range, so they were much closer than we were. That's where we sent the dozer for

property protection to there. That's where the units on standby then went into those properties for property protection. The one to the west, no-one was closer than what we had got there.

5

Q. You had some information coming from residents in relation to the fire to the east?

A. That's right. We had information from our fire crews, information from the air, information at the meeting from ACT, from their air observations as well, and information from landholders on the ground.

Q. The reason I was asking you the questions earlier about the subsiding fire activity in the evening is because I wanted to know whether you thought it was important to have people get on the ground as close as they could to either of those fires. Let's deal first of all with the Baldy spot fire because you have concentrated on that, and understandably, it was on the eastern edge and more likely to be threatening at that stage than the McIntyre's Hut fire at least with a westerly wind?

A. That's right.

Q. Did you think it was important to have someone get as close as they could to the Baldy fire in order to assess the topography in effect and its size and other information on the ground that might assist you to make a judgment about how to deal with it?

A. That's exactly right. When the ACT arrived - the ACT actually arrived at 8 o'clock to the control room for the meeting - Neil Cooper from ACT Forests had just received a phone call from some crews he had on the ground who were in the Brindabella. He said they were on the Baldy fire trail and heading out. I said, "Has it crossed the trail? Tell me what is happening." He said they didn't go that far down. I asked, "Could he send them down to the Baldy spot fire, confirm it was over the trail". We believed it was. "Confirm that." He rang them back. He came and told me, "No it is across the trail and they are getting out of there." I said, "Isn't there something they can do?" He said, "No, they are not even in

a fire unit," so some-one had --

Q. The best thing they could do is look before they leave?

5 A. That's right. Someone had been on the ground. I took from that that there was nothing they could do. We had lost that as a containment line, as well. And that with what the landholder was saying --

10

Q. You lost the Baldy trail as a containment line?

A. Yes, as well.

15 Q. That would depend to some extent, wouldn't it, on the way conditions prevailed overnight, and of course it would depend on wind direction, wouldn't it?

20 A. That's right. That night at the meeting, the eastern containment line was further to the east than Baldy Range. But the next day we went back and attempted that Baldy Range was certainly worth a try to try and hold it as our eastern containment line.

25

Q. By the time of the meeting did you know which way the wind was blowing out there? Did you have any sort of weather information?

30 A. We get the tower reports from Coree. They call in every hour, except when there is lots of activity. They wouldn't have called in every hour when there was lots of activity happening. The latest we had, I can't remember what time it was, it was still from the west, the north-west.

35

Q. I think the information certainly available to Mr Cheney was that by 7 o'clock, I don't think this is contentious, the wind had changed to the south south-east in the southern and eastern part of the ACT. Does that accord with any recollection that you have?

40

45 A. When we did the flight, there was a big difference between the weather being experienced in the north-west - the gale force winds and the lightning strikes - to the weather on the eastern side of the ACT. We had two other fires, one in Yananumbeyan National Park which was reported by

RFS to us. The flight also picked up another fire further to the east in Tallaganda National Park.

5 From Scott's report from that flight, it was
totally different weather conditions on the
eastern side of the ACT. There was a change
coming in from the coast, and cloud rolling in up
over the escarpment. The effect on the fires was
totally different. They weren't suffering gale
10 force winds.

Q. That was the information you had about the weather, I take it?

15 A. Yes. Scott was at the meeting. He could relay that to us as well.

Q. Did you have at the meeting the weather outlook for the following few days? Did you believe you understood what the weather was going
20 to be doing on the 9th, 10th, 11th and 12th as far as the Weather Bureau was concerned?

A. No, I don't think we had that at that meeting.

25 Q. In making the decisions that were being made at that meeting, wasn't that fairly important information to have?

30 A. The main thing at the meeting was that we all agreed that we had lost direct attack. Direct attack was out of the question because of the size of the fire, where it actually was, it was the terrain. Experience from the last two seasons where it is not only drought conditions, but fuel moistures of both the fuel and your live fuel moistures are very low. We had just learned from
35 lots of experience that even small fires with direct attack, you didn't always get them and people were being forced further and further back.

40 So because of the size and terrain, McIntyre's was lost to indirect attack. We then knew at the 8.30 meeting that we had two spot fires in Mountain Creek and they were quite remote to get to. We had the fire on Baldy Range.

45 Q. Let me ask the question again because I am not sure, with respect, whether you actually dealt with the question I was asking. What you were

doing at that meeting was making judgments about how best to approach these fires?

A. That's right.

5 Q. As you have said a number of times, it was apparent to you and the people around you that direct attack was out of the question?

A. That's right.

10 Q. As you say because of the size of the fire and so on. So the decision was made for what was effectively a broad containment policy as far as the fires?

A. That's correct, yes.

15

Q. In determining the containment policy and in particular determining the containment lines, wouldn't you have needed to have up-to-date weather information at the time and forecast weather information which would assist you to make those judgments about containment?

20

A. The containment lines were far enough back - in Brindabella, the roads were only where they can be because the terrain is so steep. It is a very good network of roads, but they are only along the ridge tops. To fall back to lines that were already existing, the lines were a reasonable distance from the actual fires on the ground anyway.

30

So having the exact weather for that day wasn't all that important because we were still working under worst case scenarios, so still north-westerly winds. The containment lines were giving us sufficient room to put them in place before we started the back-burn and the winds weren't the worst case scenario. The winds actually were much milder - but we had the weather from the next morning. Next morning we got special weather forecasts from the Weather Bureau, and right throughout all the fire we got special weather forecasts. For that meeting, they weren't that critical.

35

40

45

Q. Let me go back a couple of steps to before the fire started. Ms Crawford, were you conscious in January of 2003 that that particular fire season

had the potential to be significantly worse than other fire seasons because of the pre-existing weather, drought and all the other issues that contribute to such a bad fire season; were you
5 aware that that was a possibility?

A. Yes, and the fire season before had been very similar in the surrounding areas. My area of responsibility doesn't include just around Canberra. I go up as far as Crookwell and Young
10 and down to the Bredbo River. The fire season was actually more severe outside the Canberra area the year before.

Q. Is there any policy that you are aware of, either in your organisation or in the Rural Fire Service, in dealing with a fire such as the McIntyre's Hut fire to have on bad days or on potentially bad fire days units including tankers and/or bulldozers strategically placed in order
20 for swift direct attack, if that is possible?

A. What we have within the National Parks and Wildlife Service, we produce an incident action plan for every season. Within that, there are state standards that on high fire danger staff, equipment, people rostered off for that day follow certain procedures, and staff who are rostered on follow certain procedures. Then there is very high and above, what they do. That might be that they maintain radio contact, equipment is ready to
25 go, they have got their gear with them. That's what we have.
30

Apart from that, no, we don't pay to have dozers on standby. If you pay to have a dozer on
35 standby, I could have a dozer on standby in Queanbeyan but the fire could be in Young or Crookwell Shire.

Q. I appreciate that. It is always a problem of
40 estimating where trouble might arise. In any event on this day, as far as you were aware there were no units, either dozers, tankers or anybody else actually stood up, which I think is the appropriate phrase, in case something occurred on
45 8 January; is that right?

A. They weren't officially stood up. We didn't have dozers. I have an arrangement with soil

conservation of New South Wales. We have the gentleman who runs the machines for around the Queanbeyan area, I have contact numbers for him and his organisation for 24 hours a day. As soon as we get a fire, I call him and he can organise them for wherever they are within my area. If they are local, he will do it or he will get straight on to people for Young or Crookwell Shire, or whatever. That's the arrangement I have for machines.

With tankers, what it is, it is scaled up. It is based on your fire danger indices. I use the ones from the ACT on their daily weather reports. That is, if it is low or nil, people can be anywhere within our area. But when it is on very high or extreme - this was a very high day - but also our problem is severe thunderstorm warnings. When you get severe thunderstorm warnings, that's when you really expect something to happen. You don't know where it is going to happen. I was quite happy that day, because we had a meeting, I had all my staff that were rostered on that day were all within Queanbeyan area. All my fire units were within the Queanbeyan area. We could be dispatched quickly for fires on that delay.

Q. I want to ask you about the meeting at 8.30. You called that meeting; is that right?

A. Yes.

Q. A number of people were present including yourself. Was Mr Arthur present?

A. Mr Bruce Arthur?

Q. Yes.

A. Yes.

Q. And Mr McRae from the ACT, Mr Lucas-Smith from the ACT?

A. Yes.

Q. And a number of other people from New South Wales Rural Fire Service and from your organisation?

A. That's right. Would you like me to tell you who was there?

Q. Yes, I would.

A. There was myself as incident controller, then from National Parks was Rob Hunt and Scott Seymour. Rob Hunt was then doing operations.
5 Scott Seymour had been up in the plane and did a report back on the plane. Tony Fleming who was the director of southern at that time. From RFS was Bruce Arthur and Jim Lomas; and from ACT was Peter Lucas-Smith, Rick McRae, Neil Cooper and
10 Tony Bartlett.

Q. And did you chair the meeting?

A. Yes.

15 Q. How did it begin?

A. The meeting first off was split into two where myself, Peter Lucas-Smith, Tony Fleming and Bruce Arthur met in my office and we talked about the broader issues as to will we apply for a
20 section 44, who will be incident controller immediately and where would we run the incident from.

The operational people, all the other people who
25 had come for the meeting, were working over a map, a large operational map of Brindabella; they were putting down what each other had seen; what they should be doing; they were brainstorming control lines.

30

Q. The meeting that occurred in your office as to where it should be run from and so on, I take it that occurred involving Mr Lucas-Smith because, among other things, you immediately saw the
35 potential threat to the ACT?

A. That's exactly right. We were right on the ACT border. Whenever we have fires in Brindabella, the first thing we do is talk to the
40 ACT.

40

Q. So you sorted out those issues and it was obviously determined that it would be run from New South Wales from Queanbeyan?

A. That's right. From the Queanbeyan National
45 Parks works depot initially.

Q. And then a section 44 would be applied for?

A. Yes.

Q. Then did the two meetings combine for the purpose of discussing how the fire should be
5 handled?

A. That's right. Then we finished meeting in my office. We walked out, got the other people together, walked into the conference room and had the official meeting where we developed the
10 strategies further.

Q. Did you chair the official meeting?

A. Yes.

15 Q. Did you call on people to provide potential strategies which were then up for discussion?

A. It was more a brainstorm meeting of everyone sort of saying what they knew, and Rob as the operational officer marking on the map where the
20 best containment lines were. Because the roads, there are only so many, and it was the ones that were closest to the fire, they were still quite a way from the fire, so we agreed on the broad containment line and the broad containment
25 strategy that it would be in direct and we would commence from the workshop the next morning at 6 o'clock. Scott would stay behind and do a situation report, an incident action plan. We put in a request for aircraft from state operations.
30 We knew the next morning we would have to be chasing dozers.

Q. I don't want to cut you off. I want to come back to the meeting because I think we have jumped
35 to the next morning?

A. No. That was decided that night.

Q. I wonder if we could go forward until I say stop. Stop there, please. Have you seen that map
40 before, Ms Crawford, or that representation?

A. A similar one - McIntyre's run, yes.

Q. It says that it is slide 45 in Mr Cheney's presentation. As far as you can tell, does that
45 reasonably accurately portray the situation as at about the time of the meeting that you are describing? Do you see the red area in the centre

of the photograph?

A. Yes.

5 Q. Which depicts the size of the McIntyre's Hut fire?

A. Yes.

Q. What that doesn't show is the fire on the Baldy Range track on the eastern side?

10 A. It's hard to pick where the Mountain Creek ones are there - are they there?

Q. That particular slide only shows the McIntyre's Hut. I am really interested in this because it shows the tracks.

15

A. Yes.

Q. The ignition point for the McIntyre's Hut fire was slightly to the west of the McIntyre's Hut trail, which I think becomes the Lowells trail; is that right?

20

A. Lowells is further south.

Q. Where you see a little bit of red to the west of that track, is that actually McIntyre's Hut trail at that point?

25

A. Yes.

Q. The trail running north of the fire area, am I right in saying that is the Waterfall trail?

30

A. Yes.

Q. And the trail that runs down more or less in the middle of the slide is the Webbs Ridge Trail?

35

A. Yes.

Q. It appears on that depiction of the fire that it has crossed the Webbs Ridge Trail?

40

A. Yes, and Waterfall.

Q. Which was consistent with the information that you had?

A. Yes.

45 Q. And then over on the right-hand side there is the Baldy Range and also the Baldy track, which doesn't show in this particular slide where the

Baldy spot fire was but it was across that track as you point out?

A. Yes.

5 Q. Perhaps if we go back a slide. Do you see on that slide, which is slide 43, Mr Cheney's depiction of McIntyre's Hut fire as at 8 o'clock on 8 January? It shows obviously the ignition point. It shows a number of what appear to be
10 spot fires and the furthest one east is on the Baldy Range and across that track?

A. Yes.

15 Q. Is that the sort of information - I realise you didn't have this information - you had available to you at the meeting?

A. That is right. It was a combination of what Scott had seen. But he couldn't see the fires to the east. Peter Lucas-Smith supplied us with grid
20 references for the other three fires.

Q. If we just go forward again to the slides. In any discussion about containment lines, as you said, there are only so many tracks in the area?

25 A. That's right. They are based on terrain.

Q. They are based on terrain, yes. What this meeting was looking at was if we first of all look at the eastern containment line, am I right in
30 saying that the Baldy track at least at the meeting was determined not to be an appropriate containment line for the eastern containment line because the fire had straddled the track?

A. That's right. That was based on Neil Cooper's
35 report and also the landholders' report from one side.

Q. At that stage at that meeting, was there discussion about sending crews out the following
40 morning to see whether in fact the Baldy spot fire could be controlled, whether a containment line could be put around the eastern side of that fire in order to use the Baldy track as an eastern containment line?

45 A. It wasn't discussed at the meeting. But some group captains were sent out first thing the following morning to assess what the fire was

doing on Baldy Range.

Q. For a period - we will come to the documents
in a little while - for some period of time until
5 the Baldy Range fire was in effect lost, the Baldy
track became the eastern containment line, didn't
it?

A. We decided on the 9th to give it a go. We
thought it was certainly worth a try. We were
10 quite confident we would be able to hold it to
Baldy. It didn't happen. It was the same as what
had happened at numerous other fires in the last
two years. We fell back to the one we worked out
that night. Then after we lost Baldy we fell back
15 to Fire Break trail to the east.

Q. That is shown in purple on that map?

A. Yes.

20 Q. Much of that had to be constructed, didn't it?

A. No, there is an actual fire break trail. If
you follow the purple up, there is a yellow line.
There is an actual Fire Break trail. The night
the dozer went to Dingo Dell property, they put a
25 dozer line to the east of the property to try and
protect as much stock feed and that - it was
drought. Everyone is really desperate for stock
feed and stuff. The dozer pushed a line between
the timber and the clear country, and that was
30 what that purple line is.

Q. How long would that purple line be? How far
would it be from Two Sticks Road up to Dingo Dell
or up to Doctor's Flat Road, I suppose?

35 A. I would be guessing.

Q. Well, it has got to be at least 7 or
8 kilometres, hasn't it, something like that?

A. But not all of that purple line was pushed in,
40 as far as I believe. Part of it - some of the
road was there. It was just where they went
around in the cleared country and pushed the new
dozer line in.

45 Q. Let's come back to the Baldy Range for a
minute. Was there no discussion at the meeting on
the night where somebody suggested in the course

of it that first thing in the morning, even if not
sooner, someone should go to the Baldy Range and
see immediately whether that fire was able to be
contained so as to be able to use the Baldy track
5 as an eastern containment line. Was that an
option that was discussed?

A. No. Baldy Range - my recollection of the
meeting was that Baldy Range, based on the
information we had, was just wiped as even
10 consideration for an eastern containment line.
Bruce must have gone away and thought about that
and he organised his guys first thing the next
morning to go up and check that and then told us
he had people out there checking Baldy Range fire.

15 Q. How long was it before there was any attempt
to contain Baldy Range or deal with it directly?
When did that first happen?

A. They went out first thing in the morning. I
20 think they probably dispatched from Queanbeyan at
6 o'clock or so in the morning, the group
captains. We also had sent to McIntyre's - we had
to put a rake hoe line in from end of the
Powerline down to the river.

25 Q. Yes.

A. They were there I think on site at about
6 o'clock in the morning. They checked it out.
They just called back and said they weren't going
30 to go ahead with the rake hoe line. They needed
the dozer to push in. In retrospect, that would
be better.

35 Q. This is at Baldy or at --

A. No. This is part of Baldy. So we weren't
going to use the crews that we had putting in the
rake hoe line. They were no longer required. In
the meantime, the two group officers that were
checking the Baldy fire checked it and said, "This
40 is definitely worth a go." They called the crews
that were no longer required for rake hoe lines to
go to the Baldy spot fire, and they were ready to
go in. By that time we had an aircraft. It takes
a long time to get equipment - there was something
45 like 72 fires throughout New South Wales --

Q. I understand that.

A. So we got aircraft at about 10, 10.30. First thing we did was put our operational officers up to tell us what was happening on the fire ground. They flew over Baldy Range when these ones were
5 going in to attempt it. The message from the aircraft was "It's much bigger than it looks from the ground. In the air it's much bigger. You won't be able to get to it with the crews you've got". Those group captains came back to
10 Queanbeyan. They were quite certain we could get it. They asked for permission from the incident controller to organise crews for the following morning. I think they met at something like
15 6 o'clock Friday morning, about 30 people with units, they put in a wet line and rake hoe lines around the eastern side of Baldy Range fire trail.

Q. In discussing the western containment line, ultimately the Goodradigbee River itself was
20 settled on?

A. It was a western containment line, yes.

Q. Was there any discussion at all about what use could be made of McIntyre's Hut trail or Lowells
25 trail as a western containment line?

A. Not that I can remember. We agreed on the Goodradigbee River. It was there without any work to be done on it. We could keep anything that spotted over the Goodradigbee - we had lots of
30 aircraft working on the fire and they would be picked up by aircraft. We were allowing the fire to burn slowly downhill to the river rather than us at that stage when we had a lot of other containment lines put in. Rather than burning
35 from the river up, it was slowly burning down.

Q. If you could have contained the area in which this fire was to be dealt with, if you could have reduced the area, the more you did that, obviously
40 the better - the smaller the area, the better the area; is that right?

A. That's right. That's what you always try for.

Q. Was any thought given at all to attempting
45 some suppression on the Lowells trail area, particularly where the ignition point for McIntyre's Hut is?

A. Yes.

Q. Do you see that little kink in Lowells trail?
A. No. Lowells trail is where the --

5

Q. Is that further south?
A. Yes.

Q. Sorry, McIntyre's?
10 A. It's McIntyre's, that one.

Q. You see where "Goodradigbee River" is written?
A. Yes.

15 Q. Coming down McIntyre's Hut trail to the area
of the McIntyre's fire itself?
A. Yes.

Q. The road turns left and in a sort of a hairpin
20 and then turns right again?
A. Yes.

Q. Did it occur to anyone that a good idea would
be to try and, as it were, cut off the ignition
25 point of McIntyre's Hut fire itself by perhaps
putting a trail across that kink - straightening
the road, if you like - and then using McIntyre's
Hut trail as the western containment line?
A. We didn't discuss it that night. There are
30 problems if you did do that because you have got
to put a line in behind the fire. Then you've got
a road which is - you would then be treating that
the same as you were the other containment lines.
You would have to burn off it; you would have to
35 time that burning off really critically. As soon
as you burnt off that, you could be putting your
northern containment line under pressure. It
would be much harder to patrol that than how we
did the river. The river was easier to patrol.
40 The fire was burning downhill to the river. Got
to the river. If it spotted across the river, we
could look after it with aircraft.

Q. There were parts of the river burning that
45 weren't patrollable, weren't there?
A. You could see it with the aircraft.

47

Q. What I have just put to you, which is the possibility that was raised by Mr Cheney in his evidence, that wasn't discussed at all; no consideration was given at all to using McIntyre's Hut trail as a possible western containment line?
5 A. Not in the discussions that I can remember.

Q. Ever at all?
A. I don't think anyone had any problems with using the Goodradigbee River.
10

Q. In relation to what occurred during the meeting, you said Mr Cooper was present.
A. Yes.
15

Q. Do you recall that he, I think, received during the course of the meeting some information from a Mr Bretherton who was actually in the vicinity of the fires?
20 A. That's the person that I earlier said that Neil had contact with by phone. I asked them to go down and check the Baldy fire.

Q. In relation to that bit of information at that stage of the meeting, Mr Cooper has made a statement, Ms Crawford, although not yet given evidence. I want to put to you what he says about this in his statement [ESB.AFP.0110.1112] at 1119 paragraph 24. He is talking about the meeting generally. He says:
25
30

"The initial strategy was for indirect attack given the inaccessibility of the country. I had already sent two of our people, Simon Bretherton and Tony Mennen, out that evening to gather field information on the exact location of the fire front. I called Simon during the meeting at Queanbeyan (20:23) when he was near the top of Mt Coree and he advised me that the fire was exhibiting low flame height however had crossed Baldy Range Road. He felt it was containable with ground crews at that stage although the country was steep and he could not get all around the fire as the track was blocked with fire and he was unsure of how deep the flames were. I suggested to him that he should not try to
35
40
45

drive further down the track given that he had no firefighting capacity on board."

5 I take it from what you have said a little while ago that is consistent with the information that was provided by Mr Cooper to the meeting?

A. Consistent - I don't remember at the meeting anyone saying the fire on Baldy was containable. My memory of the meeting was, "They are there. It is across the track and we're getting out." When someone says "we're getting out" - I said, "Isn't there something they could do?" and they couldn't, I would have expected through that meeting for that information then to be that Baldy should have been included, and Baldy was not considered because, from my point of view it was, it was lost. That was from the information that we were provided.

20 Q. I wonder if I could have the first of the documents [NRF.AFP.0001.0001]. The document is a situation report form for the McIntyre's fire which I think was prepared by Mr Seymour?

A. That's correct.

25 Q. But nominating you, of course, as the incident controller. It seems to be a situation report as at midnight on the 8th of January 2003; is that right?

30 A. That's correct. Scott would have been the only one left in the control room by that time. Everyone else had gone home to be ready for early start next morning.

35 Q. I take it that the document effectively summarises what was agreed at the meeting. It is a bit hard to read on the big screen but under "control details" the document says:

40 "Objectives, to contain the fire within control lines, west - Goodradigbee River, south Powerline fire trail; east fire break and Doctor's Flat trails and Webbs Ridge Trail to the north."

45 They were the containment lines that were agreed on; is that right?

A. Yes.

Q. The strategy identified is:

5 "To complete control lines day shift of
9 March - sorry it should be 9 January
obviously - and back-burn from them in the
evening of 9/03" --

10 What am I missing, why does it say "9/03"?

A. I think what you are missing is the one for
9 January 03. That is a typing error.

15 Q. The idea was to complete the control lines on
the day shift of the 9th of January and back-burn
from them on the evening of the 9th of January to
be consolidated with aerial incendiaries on the
10th; is that right?

A. That's what it says.

20

Q. Do you agree that's the strategy that was
agreed?

25 A. No. The objectives are correct. The control
lines are correct. I have no recollection at that
meeting of talking about specific time-frames. It
was we need to do it and we need to do it as
quickly as possible. I have no recollection of
specific time-frames. Whether the operational
30 people discussed it while we were talking about
section 44 declarations and things like that, but
for the meeting that I chaired when we were
altogether, I have absolutely no recollection of
specific time-frames.

35 Q. Wasn't there some level of urgency about this,
bearing in mind all the circumstances, it needed
to be done as quickly as possible?

A. That's right. That's correct. That's what it
was, to do it ASAP.

40

Q. What do you say the total area was of the
containment area?

A. Oh, 5,000 hectares.

45 Q. I suggest to you it is a fair bit more than
that; I suggest to you it is closer to
10,000 hectares?

A. 10,000 hectares.

Q. It was a very large area, wasn't it?

5 A. It was a very large area. That's what we were always concerned about. It was a huge area.

Q. Obviously with Canberra or the ACT to the east, in the course of this discussion there had been concerns raised, hadn't there, by Mr McRae and by Mr Lucas-Smith - concerns, if you like, generally raised on the part of the ACT that this fire was already obviously a threat to ACT assets?

10 A. That's why we called the meeting. That's why we invited ACT. We also were very concerned about the threat it posed to the ACT assets.

Q. And an important part of all of this is for reasons that you say you had no choice about, you, the group, have determined to deal with these fires in a very broad containment area?

20 A. That's correct.

Q. And as soon as possible?

25 A. That's correct.

Q. How could it be at a meeting where that decision is made there is no discussion about time-frames; in other words, how could it be that people aren't being asked and aren't offering some estimates as to how long all this is going to take?

30 A. I think it was that we would get in and do it as quick as possible and hopefully it would be the next day, but I don't remember specific time-frames being pinned down. It was just get in there and do it as quick as possible.

Q. But obviously, Ms Crawford, you are subject to the weather; aren't you?

40 A. And the resources, what resources you have got to put it in.

Q. Of course. Let me deal with the weather first. I accept your point about resources. At that time of the year, inevitably at some point the weather was going to become difficult again?

45 A. That's correct.

Q. We had some evidence in this inquest about 4- and 5-day cycles, but certainly over the next week the chances were that hot north-westerly days were likely to occur?

5 A. That's correct.

Q. There was a constraint. There was an urgency for that reason alone, wasn't there?

10 A. Not only that reason. Also the broad containment lines are to keep the fire within the containment line. If you don't get your broad containment lines in quickly, you have lost your containment line and you have to fallback further. It is not only the weather; it is where the fire
15 is going.

Q. But is it your evidence that you can't recall at any stage during the course of that meeting any discussion occurring about realistically how long
20 it would take to establish these containment lines and commence back-burning from those lines?

25 A. Not specifically. But what was, I think the overall assumption was that we would get in there, get the containment line done and light up as quickly as possible. That might be lunch time the next day or the next day.

Q. Mr Lucas-Smith or Mr McRae did not ask how long it would take?

30 A. No-one asked how long it would take. I think we were all coming from the point of view we need to move on this quickly; we needed to get it going as quickly as possible. There were no specific time-frames put down.
35

Q. So the time-frames that are set out in this situation report by Mr Seymour, as far as you can recall is in error, are they? There was no
40 deadline for the completion of the control lines and the commencement of the back-burning?

45 A. Not set at the meeting that I chaired when we were altogether, but it may have been decided between the operational people who were brainstorming control lines while we were meeting separately.

Q. This document also refers to the possibility

of the use of aerial incendiaries.

A. Yes.

Q. Was that discussed at the meeting?

5 A. We may have talked generally about - because
the big broad containment lines, to help the burn
quicker is to use aerial incendiaries. Then the
next day I remember requesting through logistics
to organise aerial incendiaries. It was while we
10 were at the workshop, so it would have been
Thursday or Friday.

Q. What response did you get when you made that
request?

15 A. For aerial incendiaries?

Q. Yes?

A. It is just a normal use; it is a fire
management tool --

20

Q. Sorry what I am interested in is were you told
how long it would take to make those facilities
available? Before you answer that question, am I
right in saying if you want to use aerial
25 incendiaries you need of course the incendiaries
themselves?

A. Yes.

Q. Aircraft to fly the mission, as it were, to
30 drop them?

A. Yes.

Q. You need people who are experienced in
locating them?

35 A. That's right. You also need a plan.

Q. And a plan?

A. Someone who can write a plan for where you can
drop them.

40

Q. Who was going to be doing that?

A. The planning officer wrote the plan. Scott
had experience in dropping aerial incendiaries -
in using aerial incendiaries. He had a navigator
45 organised. By the time we started the back-burn,
we had sufficient aircraft to do it. The aircraft
wasn't a problem.

Q. It didn't actually happen until the 17th of January?

A. We weren't ready to use them until the 16th. We wanted to use them on the 16th. They were
5 always coming, they were coming and then they were guaranteed at lunchtime on the 16th. I was in a phone conference after lunch on the 16th. I walked out of the phone conference into the operation room and said, "Right, aerial
10 incendiaries," only to be told they still hadn't arrived. Logistics had got on to the supplier of the aerial incendiaries. They had all been dispatched but there wasn't sufficient to go around. We had been dropped off the list.

15

Q. This is on the 16th of January?

A. The 16th. I then looked at what our options were. Other fires - other people who had incendiaries didn't want to let them go because
20 they needed them. The logistics or planning officer got on to Tumut to say, "We are really desperate. We need them." They said, "All right. We will give you some." We sent an aircraft to Tumut to pick up aerial incendiaries to brought
25 them back.

Q. We will come to that when we deal with the 16th. Going back to the meeting, was any record at all made of the meeting and the decisions that
30 were discussed and then reached?

A. No.

Q. No minutes?

A. No.

35

Q. No record at all?

A. No.

Q. Is that a usual procedure that a meeting like that, which discusses issues of this moment, wouldn't be recorded in some way?

A. It didn't happen then, but I won't be doing a meeting like that again in future without records.

45 Q. You have seen the shortcomings of not having made a record?

A. That's right. I would have everyone sign off

on the minutes of that meeting.

Q. And nobody was making any notes, it was just really a formalised conversation?

5 A. Yeah, yeah. And it was more - it wasn't a formal meeting. Everyone participated. It was a brainstorming meeting. We were developing strategies.

10 Q. Ms Crawford, have you for the purpose of preparing to give evidence had an opportunity to see any of the evidence given by Mr Cheney?

A. I wasn't present at his presentation, but I have seen some of it. I haven't seen all of it
15 but I have seen some.

Q. I want to refer you to some of the evidence he gave and ask you to comment on it. This is on 10 October last year at page 344. There is a written report. Have you seen his written report?

A. Not a final, no.

Q. At the time Mr Cheney was giving evidence about actions that could have been taken on the first night, and he was dealing with some of the slides that you have just seen. He says at line 10:

"I was at the point of saying from a
30 firefighting point of view, at 2100 hours - that is on the night of the 8th - there were a number of actions that could have been taken if firefighters had been there and the principal action was the control of this part
35 to the west of Lowells fire trail, and that was really a critical action in this fire because there is no accessible road between Lowells fire trail and the Goodradigbee River where it goes to the gorge."

40

He refers to that - we will be looking at that in a couple of slides in his presentation - and then he says:

45 "Likewise, Baldy Range fire up here was accessible and small and control of that fire, because it was on both sides of this

fire trail, was also a critical spot fire from the fire suppression point of view. I don't believe that systems of forecasting fire behaviour are not good enough to say what the fire behaviour will be at this time. And because of the interaction between fires and the topography and the weather, it's essential that you get people onto the fires at the earliest and safest opportunity to assess the actual fire behaviour and whether or not there is suppression that can be undertaken. The coalition of this fire was known. Its position in relation to the fire trail was known, and actions to suppress this small portion of the fire, which was in dry forest, the fuels were relatively light, easy access, the shrub was not high, and there is approximately 400 metres of fire perimeter which could have been controlled by a rake hoe team between 1 and a half and 2 hours."

That is a long passage I have read to you. The first part of it in a sense I have already dealt with because I have asked you whether anyone discussed the possibility of the Lowells fire trail being used and you said nobody --

A. Lowells is the wrong name, which is only a technicality.

Q. It should be the McIntyre's Hut trail?

A. That's right.

Q. I am sorry. You simply don't agree with Mr Cheney's conclusion in relation to that; I take it?

A. No, not on that night, no.

Q. And in relation to what he says about the Baldy spot fire, what do you say about the portion that I have read to you? I will read it to you again, if you would be assisted by it.

A. The Baldy spot fire is - we were worried where the fire was going. The reports we had, it was a significant fire, they were getting embers and ash over the properties which were not that far to the east. Our priority was life and property. Resources were at the properties, and that's where

the dozer was as well. We were concentrating on where it was going.

5 Q. Could I have please [NRF.AFP.0001.0003]. This is the incident action plan for McIntyre's Hut for the period between 6am and 6pm on the 9th of January; is that right?

10 A. That's right. It was done by Scott Seymour the same night he did the situation report.

Q. And signed by Mr Arthur. It appears that it was done by Mr Seymour at 2.45 in the morning, in the bottom left-hand corner there?

15 A. That's right. It is signed off at 6 o'clock in the morning.

Q. 6 o'clock the following morning. That does indicate, doesn't it, in the general outline in the top section of the document that the
20 containment lines which have been agreed on were to be prepared during the operation period. I take it that means during that shift between 6 and 6?

25 A. Yes.

Q. With dozer operations in Dingo Dell area and along Follies and Mitchells Ringings trails. But clearly am I right in saying this, clearly the document indicates that during that 12-hour shift
30 the containment lines were to be completed - that was to be the plan?

A. Does it say the word "completed"? It says "containment lines to be prepared" --

35 Q. It doesn't say "completed"?

A. It doesn't say "completed".

Q. What does that mean to you?

40 A. Prepared means they would commence on them and hopefully get them completed but that may not happen.

Q. Where it says "containment lines to be prepared", do you read that to really meaning
45 containment lines to be commenced?

A. Yes, and hopefully completed. It doesn't say completed.

Q. Is that something about the way in which fire people speak to each other that makes it clear that "prepared" really means "commenced"? I just don't understand how they could be the same thing
5 Ms Crawford, that's all.

A. Commenced and prepared --

Q. You say in that document where it says "containment lines to be prepared" that that
10 really means "containment lines to be commenced"?

A. It may, if you get it finished in the shift - they may be finished but they may not be finished.

Q. The next portion of the document says,
15 "Back-burning to secure lines to be carried out in the evening of the 9th of January"?

A. And that gets back to the same issue of time frame here.

Q. I understand that. But this is the incident action plan for the 9th of January. Now, as I understand your evidence, what you are saying is what this document proposes is that containment lines will be commenced during that period and in
20 the evening of the 9th of January back-burning will be carried out to secure lines?
25

A. Yes.

Q. Now where would those secure lines be?

30 A. Sorry, I don't understand.

Q. I am trying to understand what this document actually portrays, what it is describing. That's why I am asking you the questions. You say what
35 this incident action plan suggests or stands for is that during the shift from 6 until 6 on 9 January containment lines are to be prepared but you say that means commenced. In other words, during that 12-hour period work will commence on
40 containment lines; is that right?

A. Yes. And it will continue. So if you use the word "prepared" is they are working on the containment lines.

Q. Then it says "back-burning to secure lines to be carried out that night"?

A. That's right. That would be - the secured

lines would be the containment lines that they had the dozer working on.

5 Q. So the secure containment lines would be in the Dingo Dell area and along Follies and Mitchells trail; is that what that means?

A. No. The back-burning was to go along the southern containment line.

10 Q. The Powerline edge?

A. Powerline. We also had - yes, I see what you mean. It is talking about there that containment lines are being prepared in that area and back-burning to secure lines to be carried out in 15 the evening. Secure lines are those that are ready to go. Secured ones are ones that are ready to go.

20 Q. On your evidence am I right in saying or putting to you the proposition that as at the evening of the 9th of January there wouldn't have been any containment lines that were ready to go?

A. Not on the 9th, no because we changed the southern containment line from the rake hoe line 25 to a dozer line. We couldn't - the D5 tried to push it in, but could not push it in. He tried on the Friday morning. The D6 operator looked at it. He couldn't do it. We had to organise a bigger machine. The southern containment line was not 30 secure to go ahead.

35 Q. Is what is in this document as at either the time Mr Arthur signed off on it or at the time that Mr Seymour prepared it, what is in this document is really unrealistic, isn't it, as far as the times are concerned?

A. As far as times are concerned, it is unrealistic. But it does show you what we are 40 doing.

45 Q. I realise that. I appreciate there is other information in the document that tells you what is going on, but I just want to understand whether or not the times are realistic. It would appear that they are not, at least as at the time this document was completed?

A. Yes. Then as the day went on - like the

morning of the 9th, myself, Neil Cooper, Rob Hunt, we were all on the phone trying to organise dozers. Dozers were very hard to get because of the amount of fires occurring in all the other areas. Time-frames were being blown out because to get equipment was really hard. But also the time frame is unrealistic there that is there.

MR LASRY: Is that a convenient time your Worship?

THE CORONER: Yes. We will take the morning adjournment.

SHORT ADJOURNMENT [11.30am]

RESUMED [11.54am]

MR LASRY: Q. Ms Crawford, I just want to refer briefly to some evidence that you gave during the course of the New South Wales coronial inquest. I will come back to that.

Can I ask that [NRF.AFP.0001.0011] be brought up, please. Again I think I have a spare copy of that that I can show you, Ms Crawford.
A. Thank you.

Q. The document that I have handed you, which will be on the screen shortly, is a situation report form signed by Mr Arthur, I think, and dated 9 January as at 8.30 in the morning; is that correct?
A. Yes.

Q. This document, of course, indicates that you are the incident controller as at that stage?
A. Yes.

Q. In the document Mr Arthur has, apart from providing other information, included a threat analysis which, as it recites, about halfway down the page:

"Current - New South Wales Parks and Wildlife Service estate. Potential - property and plantation forest. Crossover into ACT."
A. Yes.

Q. Then under "control details" it has:

"Objectives - contain fire within established control lines.

5

Strategies - consolidate control lines and improve where necessary. Back-burning and direct attack. Resources will increase over next 24 hours".

10

That is signed by Mr Arthur, and of course we can ask him about that, but do you agree that is a correct statement of the position as at 8.30am on 9 January?

15 A. Yes. It is saying what our strategies will be.

Q. What does "consolidate control lines" mean? What does the word "consolidate" mean in the context of this document?

20

A. Consolidate is have them so they are ready to be burnt off. So it could be like what we were doing with the southern control line which was taking the tops of rollovers off so the bigger tankers could get along the lines. It could be removing some trees that might be really close to the edge that the fire could then spotover from with the dozers, taking those out.

25

Q. I don't want to waste time arguing about particular words, but does "consolidate" in this context really mean "complete the preparation of control lines"; is that what that really means?

30

A. Yes.

35

Q. And "improve where necessary", I assume means improve over the pre-existing condition of the control line; in other words, a containment line might be an existing road or existing track which already operates as a containment line but it might need some improvement, perhaps some widening or some clearing. Is that basically right?

40

A. That's correct, or put in refuge areas.

Q. At the last part of that description of the strategy it says "back-burning and direct attack" - obviously I want to ask you about direct

45

attack. Does that refer to the Baldy Range fire?
A. I would assume so because that's the only fire
that we considered direct attack on - that we
actually considered it and said that we would do
5 it. With the others we looked at - you set your
strategies and then you review them. We reviewed
all our strategies right up to Saturday morning.
Once you light the back-burn, you can't turn back
after that.

10

Q. This is a document prepared by Mr Arthur. Its
purpose is as at 9 January what; what is the idea
of this document; is it circulated to all people
in senior position who are dealing with this fire?

15

A. It is an internal document that goes into the
system, and people know what we are doing.

Q. Were you consulted before the document was
completed? Would you have contributed any of the
20 information in this document?

20

A. Not that I can remember, but it sums up the
situation as to what we were doing.

Q. The idea was that back-burning therefore would
25 commence, as you have said, as soon as possible.
This of course doesn't say when the back-burning
would commence; does it?

25

A. No, but we wanted to do it as soon as we
could.

30

Q. On the 9th of January, do you agree that the
weather had changed fairly significantly in the
sense that the conditions which prevailed on the
8th had tempered, the wind direction had changed
35 and the temperature was lower?

35

A. Definitely.

Q. And presumably the relative humidity was
higher on 9 January than on the 8th?

40

A. Yes.

Q. I take it you would agree that such weather is
conducive to back-burning in the sense that part
of the exercise of the back-burning is being able
45 to keep control of the back-burn that you start?

45

A. That's right.

47

Q. Do you agree that it was conducive to back-burning on 9 January?

A. The weather was, but the containment lines were not ready.

5

Q. In his statement for the purpose of this inquest, Mr Cooper, who was I think by this stage operating as the liaison officer for the ACT?

A. That's correct.

10

Q. -- says in his statement at paragraph 28 - [ESB.AFP.0110.1112] at 1120:

15 "On the morning of January the 9th, the forecast was for reasonably good weather over the next few days. (cooler conditions with predominantly east to south-east winds with high humidity. Conducive to achieving good results from back-burning)."

20

Just pausing there, do you agree from your recollection that that was the weather that was forecast for that period?

A. Yes.

25

Q. So back-burning operations were commenced. Is it right that back-burning operations were commenced on the morning of 9 January?

A. No.

30

Q. So he is wrong about that?

A. There was no back-burning on the 9th.

Q. He says:

35

"However, the New South Wales authorities were concerned about the southerly winds pushing the fire north towards Yass before northerly containment lines were established."

40

Again, is that something that you or others around you were concerned about?

A. No, not in the way that he is talking about it. We were concerned about getting our containment lines in.

47

Q. We will deal with it in a bit more detail. Let me basically put the broad proposition as Mr Cooper's statement summarises it. He will perhaps give this evidence, perhaps he won't. As
5 I understand it, his view was that the weather was now to a point where the conditions were much better, much more conducive to back-burning.
A. Yes.

10 Q. There was a large area to be back-burned?
A. Yes.

Q. The back-burning needed to start as soon as it possibly could?
15 A. Yes.

Q. And even if the northern containment lines or some containment lines were completed, nonetheless it was worth commencing the back-burning because
20 there was so much to do. Do you understand?
A. Yes but --

Q. What do you say about that?
A. No, it wasn't the northern containment lines
25 that we were worried about; it was the southern containment lines. The fire was also heading to the southern containment lines. The northern containment lines were not under as much pressure of the fire reaching them. We had to get the
30 southern containment line in. The biggest issue with the southern containment line was the far western part of it and pushing that dozer line down to the river. We had to get the southern containment line in before we started burning the
35 fire.

The dozer couldn't get in. A dozer was organised on Friday, came in on the Friday night, pushed the line down on the Saturday morning and the burn
40 commenced on the Saturday morning. It wasn't the completion of the northern control lines because we still had some days up our sleeve before the fire got close to those containment lines.

45 Q. But you were obviously conscious of the fact that, even though you had some time, there was a large area to be burnt?

A. Exactly.

Q. By the morning of the 9th of January, as I think you were describing before the break, the possibility of using aerial incendiaries starting on the 9th, 10th, 11th really wasn't going to be as straightforward as you might have first thought?

A. The aerial incendiaries would have been used once we got the containment lines in to burn out the centre of it.

Q. Let me go on with Mr Cooper's statement and ask you to comment on it. He says:

"All burning out operations were halted while the trails were upgraded."

I take it - well you don't agree with that because you say no back-burning was actually started?

A. That's right. They hadn't commenced and they weren't commenced.

Q. Was that the subject of discussion at a meeting on the morning of the 9th of January?

A. It was discussed on the 9th. I'm not sure what time of day it was. Yes, it was discussed.

Q. Mr Cooper says, continuing that paragraph:

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

Now I take it you disagree with that, Ms Crawford, because, as I understand your evidence, Mr Cooper has misunderstood the reason for the back-burning not commencing?

5 A. That's right. It was to get the containment lines in. It was the containment lines along the south. I would agree what was happening up north was not really a worry for the southern containment line.

10

Q. The evidence that we have seen seems to suggest that there was a meeting at Queanbeyan at about quarter past 9 on the morning of the 9th of January, which was attended by Mr Lucas-Smith among others. And his evidence I think indicates that, by then, it was proposed that a section 44 would be declared for the whole of the Yarrowlunla Shire; is that correct?

15

A. Yes.

20

Q. The ACT were asked to provide assistance for the back-burning operation that was proposed for McIntyre's Hut?

A. Yes. We had discussed that the night before on the 8th.

25

Q. Is it right the assistance being sought was something of the order of 8 tankers and 15 light units?

30

A. I can't remember the exact numbers.

Q. At this stage New South Wales National Parks and Wildlife Service was still in charge. I think the section 44 declaration took effect at 1 o'clock on 9 January; is that correct?

35

A. That's correct.

Q. Then the Rural Fire Service obviously takes over. Did you have a number of discussions or did you have any discussions particularly with Mr Cooper about the way in which the operation was proceeding; and did he raise issues with you about the way the operation was proceeding?

40

A. Neil was in the control room as the liaison officer. I knew how he felt at the meetings; he made that quite obvious. You have to look at all things that you are doing --

45

Q. I will cut you off there. What do you recall him saying at the meetings that made his feelings obvious?

A. He sort of stood up, what I can remember he stood up in the meeting and waved his arms around and said he was worried about the pine plantations. He wanted the burn to start because the pine plantations were under threat. He wanted it to start in the south-east corner.

Q. Did you, for example, provide a response to that obviously animated request?

A. Other people were saying things as well. It was quite an active meeting. People were adding, "We should start now. We should burn from here." Others were saying, "No, we should burn from there." There was a number of meetings that day and this is the one I can remember that was most active about that.

My memory is it was later in the day, more like after lunch or so, but then we had other people who had been to a number of fires in the last two seasons and they are saying, "Look at what you are doing. Don't light up until your containment line is ready and don't light up too much at once. Light up and contain as you go. The last two years have shown if you light up too much at once you will lose it." We knew it was a big back-burn. We knew once we started to light it, there was no turning back and we had to contain it.

Q. Mr Cooper doesn't give a time but he describes another meeting that was called with Mr Lucas-Smith and Mr Castle. Were you present at that meeting on 9 January?

A. I would have been.

Q. Let me read his description:

"Eventually another meeting was called with the Chief Fire Control Officer from the ACT (Peter Lucas-Smith) and Mike Castle, executive director of ESB. While the NSW concerns about first putting in the containment lines before doing any burning

were acknowledged, we were anxious to make them aware of our concerns about our significant assets, being the Uriarra and Pierce's Creek pine plantations, and the need for early positive action to ensure their survival and take advantage of the cooler weather. I was particularly concerned about the south-eastern corner of the McIntyre's Hut fire boundary as this was where the pressure point would be for the fires entering the ACT under a hot northerly wind."

Does that fairly describe the tenor of the things that were being said to you by those representing the ACT?

A. I remember Neil saying at the meeting where they weren't present, but I don't remember - everyone was concerned about the pine plantations and the ACT assets. I don't remember other members at that meeting reinforcing that we needed to be reminded of those concerns. That's what we were all working towards.

Q. Was Mr Roger Good from National Parks and Wildlife at that meeting?

A. He would have been at the meetings; he was our planning officer.

Q. Did he contribute to the discussion about particularly the issue of burning off from the Powerline Break?

A. He would have.

Q. Mr Cooper says in relation to Mr Good:

"Major issues were being raised by Roger Good at that meeting saying we should not be considering burning off from the Powerline Break due to the large amounts of money that had been spent on the rehabilitation of these areas after the TransGrid saga."

Do you recall him raising that issue at the meeting?

A. Mr Good had other issues as well. The TransGrid power line is a very windy road following the terrain. If you can burn off the

power line easement, you have a much straighter line, therefore a much quicker burn and a much easier burn. That's where Roger was coming from, from that straight line, less area to burn. He
5 also had the issues of TransGrid. But everyone - that's why I said it was an active meeting. That's what we encourage - everyone to say how they feel, put your cards on the table. But if there is no agreement, the incident controller
10 makes the decision. That's how it is. Be up front and say what your concerns are.

Q. What is being referred to there in relation to the TransGrid saga? I don't understand what that
15 refers to.

A. TransGrid was very much out in the media a couple of years ago in that there was some clearing by dozers underneath the power line easement. A lot of money had been spent in
20 rehabilitation under the easement, and Roger had been involved with that rehabilitation. It wasn't an issue. It was sort of like we burnt from whichever was the best one to burn off. It might have been an issue for one officer in the team
25 where Neil had issues, other people had issues, but the incident controller makes the final decision. So it didn't make any difference.

Q. It appears that on that day, the 9th of
30 January, there were a number of meetings about how this would all happen and what resources were available and what the ACT would contribute to. Before I come to that, I think you agreed with the proposition before the break that one of the
35 important factors in a back-burn, particularly of a burn of this size, was the weather and the importance of getting the area burnt out before bad weather arrived.

A. But with the proviso that once you light it,
40 you can hold it. There was no use rushing and putting it in because you had good weather. If you're going to lose it, you've lost it. So there was other issues to consider as well.

45 Q. The other issue that you raised as I was asking that question, as I recall, was the question of resources.

A. Yes.

Q. Was there any sort of resource issue or resource problem that you were dealing with on the 5 9th of January which affected the ability to start that burn? Did you have everything you needed, in other words?

A. No. The morning of the 9th, a number of us were ringing up trying to get other dozers. It 10 was taking a long time to actually have people who had dozers to get them in. For the burn, we needed more aircraft than what we had. We were trying to get more aircraft. You need to have crews on the ground so that you can actually 15 contain the burn. So it was trying to get enough crews to do it as well.

Q. Now, while all this is going on and while you were attempting to get the resources and make the 20 arrangements you have to make, of course the fire continues to burn?

A. That's correct.

Q. Was there any circumstance or any aspect of 25 the fires that were burning, either the McIntyre's fire itself or the Baldy spot fire - while that was happening, while there was this down-time waiting for resources to be assembled - that could have been dealt with at all by way of some kind of 30 attempt at direct suppression?

A. Yes, there was. And we were on the Baldy fire, like we've discussed earlier, there was the attempt with the crews. And then when we didn't have the crews on the 9th, the aircraft that we 35 had, once they did the surveillance flight and we then sent one to Tallaganda. I had a fire at Tallaganda as well that we had crews and sent one aircraft there as water bombing and surveillance for that fire. We still had two aircraft at 40 McIntyre's. So we put those on Baldy, water bombing the Baldy fire, so that it would halt the spread of Baldy fire until the next morning when we could get ground crews on.

45 Then on the 10th we had about 30 people on Baldy. They were putting the rake hoe line around the edge of the eastern side of Baldy fire. We also

had aircraft working with them to help get that fire out. So we were doing the direct attack on Baldy on the 10th, and the aircraft were on it on the 9th.

5

Q. Was the water bombing of Baldy on the 9th?

A. The afternoon of the 9th after we finished surveillance.

10 Q. Helicopters doing water bombing?

A. Yes.

Q. Lifting buckets out of the dam and then dropping it on the fire?

15 A. Yes.

Q. What size buckets were they carrying, any idea?

A. I couldn't tell you.

20

Q. 300 or 400 litres something like?

A. I wouldn't like to guess.

Q. They were doing that without anyone on the ground; there was no ground crews at that stage?

25 A. That's correct. What it was was to stop the eastern spread of the fire, to keep it smaller.

Q. What's the tactical or operational approach to that sort of water bombing; where is the water to be dropped and who was controlling the way in which it is approached?

30 A. The aircraft operators were doing that, their helicopter pilots and that. What you would normally do, the preference is to have crews on the ground and use your choppers more strategically by dropping it where you want it. Because we didn't have crews on the ground, but it was certainly to our advantage to wet in front of where the fire was going so you restrict the spread of the fire. But you also don't want - the downdraft of the helicopter can actually spread your fire more than you want. It was to dampen the area in front of the fire, stop the easterly spread until we could get crews onto that. It would just assist so that there was much less area the next day to round up.

40

45

Q. I will go to another one of the incident
action plans. If we could have
[NRF.AFP.0001.0014]. This appears to be an
incident action plan for the night shift of
5 9 January. That is from 6pm to 6am. Do you see
that?

A. Yes.

Q. Do you recognise the document? It appears to
10 be prepared by Amanda Sullivan from the planning
section on 5 o'clock on 9 January and approved by
Mr Arthur an hour or so later?

A. Yes.

15 Q. Would that appear to be right?

A. I can't see the bottom; I would assume so.

Q. Take my word for it. This is a document which
provides some information. The general outline
20 says:

"Broad containment lines identified as
Goodradigbee River to the west, the fire
break trail and Doctors Flat trails to the
25 east, the Webbs Ridge and Folly trails to the
north, and the 07 power line easement and
access trail to the south."

Then under "tasks":

30

"Direct attack on the spot fire at Baldy
Range fire trail by RFS."

So this appears to be, am I right about this, the
35 first occasion on which, as part of an incident
action plan, a direct attack on the Baldy spot
fire is settled upon?

A. In the paperwork, yes.

40 Q. As at the commencement of this shift at
6 o'clock on the night of the 9th, there hadn't
been any direct attack apart from as you have
described some helicopter water bombing; had
there?

45 A. There was an attempt when the group officers
had gone up on the morning of the 9th and then
redirected the crews who had gone in to do the

rake hoe line. They were going to attempt to do it, but the air surveillance report was that it was much bigger than what they had resources to do.

5

Q. Obviously that had been discussed and considered and, for the purpose of preparing this incident action plan, it was determined that that Baldy Range fire trail would be the subject of direct attack?

10

A. Yes.

Q. I take it the idea was, although it is perhaps not clear from this document, that instead of using the Fire Break trail and Doctors Flat trail to the east, if this fire could be controlled then the Baldy track would become the eastern containment line?

15

A. That's right. Reducing quite significantly the area we had to burn and also moving it back away from the assets.

20

Q. If I can take you, just as a progression to the next one of these incident action plans for day shift on 10th January. It is [NRF.AFP.0001.0018]. I think in this case, Ms Crawford, as the incident controller you have actually approved this incident action plan. If we can go back to the bottom of that page, do you see that is your name and signature?

25

30

A. That's my signature.

Q. Again prepared by Amanda Sullivan in the planning section. If we go up to "general outline" the document identifies various information about the fires. In particular notes:

35

"The Baldy Range fire continues to spread very slowly to the south-west.

40

Hand work and helicopter water bombing is being undertaken on the eastern front of the Baldy Range fire to suppress fire east of the ridge to keep all active fire within the planned containment lines.

45

Once the Baldy Range fire, east of the Baldy

Range fire trail is suppressed, the Baldy Range fire trail will replace the Fire Break trail (which is further to the east) as the new containment line."

5

A. That's correct.

Q. I take it by 10 January the possibility of this fire, the McIntyre's Hut fire or if you like this complex of fires - McIntyre's Hut, Baldy fire, any others that had merged into that group of fires - the possibility of that fire burning into the ACT was a real and genuine prospect wasn't it?

15 A. It was a real and genuine prospect on the night of the 8th of January.

Q. Certainly, if you like, still a real and genuine prospect by the 10th?

20 A. That's correct.

Q. Insofar as you held an opinion to that effect, that was no secret from people from the ACT who came to meetings and discussed the way in which this fire would be handled?

25 A. That's correct.

Q. In your presence, did anyone at any stage in the first three or so days in the progress of the McIntyre's Hut fire discuss the consequences beyond the fire burning into the Uriarra pine plantation or the Pierce's Creek pine plantation?

30 A. There was also the rural residents, the neighbouring rural residents.

35

Q. Who referred to that?

A. Well, it was just part of the discussion that the assets that we were looking at - the pine plantations were the ones that were most vocally mentioned, I suppose. We were very aware of our neighbours that we had both in New South Wales and rural residents in the ACT. I don't know whether anyone specifically said it. It was more that everyone knew they were the close-by assets. It was obvious.

40

Q. Up to 10 January, had you heard anyone discuss

the possibility that, if the fire went that far, it might well affect the Canberra suburban area?

A. No.

5 Q. Had it crossed your mind?

A. No. Canberra was a long way away. Canberra - it was more than 10 kilometres to Belconnen; it would be more than that. There was cleared paddocks. We were in drought. There was no fuel
10 in the paddocks. And even to Duffy from McIntyre's was more than 15 kilometres. You have got rivers, major bitumen roads, drought, paddocks - no.

15 Q. When was the first time that it occurred to you that this fire might actually hit the suburbs of Canberra?

A. Probably - I suppose there's a difference when it might hit the suburbs of Canberra, which might
20 be the surrounds of the suburbs --

Q. No, I mean --

A. -- but not damaged. I never thought of damage to houses in the suburbs until it was late in the
25 Saturday when it was actually happening.

Q. So --

A. To the actual urban edge probably earlier on the 18th - but not damaging the houses. Canberra
30 has had fires to the urban edge before, and experience has shown they have an excellent record of holding fires on the urban edge. And 2001 was a perfect example against an arsonist of being able to hold them on the urban edge.
35

Q. So on these days around the 9th, 10th, 11th and even 12th of January, the possibility of Canberra suburbs being directly affected by fire hadn't crossed your mind?

40 A. No.

Q. And it hadn't been discussed with anyone?

A. No.

45 Q. As far as you are aware or as far as you can recall?

A. No.

Q. By midday on 10 January, no back-burning had started; had it?

A. That's correct.

5 Q. In fact, do you agree that, as at midday on 10th January, it was still the position as far as you - I say that in a corporate sense - you, Mr Arthur, other people in control of the fire, you were not satisfied that the control lines were
10 sufficiently prepared?

A. On the southern containment line that was because of the dozer pushing down to the river.

Q. No burning had actually commenced at all?

15 A. No, that's correct.

Q. That persisted I think - perhaps from your recollection, when was the first time that any burning actually started?

20 A. Saturday morning, the 11th of January. And the dozer line completed the containment line on the Saturday morning as well.

Q. Do you recall a meeting on the Friday the 10th
25 at 6.30 at Queanbeyan? I will prompt your memory by reference to the statement of someone who was present and then ask you about it. You know Mr Tony Bartlett, of course?

30 A. Yes.

Q. He also has not yet given evidence, but in his statement [ESB.AFP.001.1140] at 1153 he says the following - I will ask you some questions as we go
35 through it because there is a fair bit here:

"Later that evening - he is referring to the 10th of January - at approximately 1830 hours I attended the New South Wales Incident Management Team meeting with Mike Castle as
40 arranged, noting they had already declared the fire as a section 44 emergency under their legislation. I recall some vigorous debate during that meeting about the implementation of the previously agreed
45 control strategy and in particular the commencement of back-burning operations. In particular I recall discussions about the

5 need to complete all the control lines before the back-burning commenced (they were particularly worried about the link from the TransGrid line to the Goodradigbee River and the potential for the back-burn along the southern control lines to burn to the north towards Doctor's Flat where the control lines were very poor)."

10 So far pausing there, do you recall that being debated at a meeting on the night of the 10th of January?

15 A. No, I can't. I'm not sure whether I was at that meeting or not. I was in the control room the evening - is this the 9th or the 10th?

Q. The 10th.

20 A. I was in the control room the evening of the 10th. We had already set up rosters so that the night shift would commence because we had expected we would be burning. That's what we were planning to do. So my replacement had already arrived.

25 I can't remember active debate by Tony Bartlett at a meeting so I'm not sure whether I was there or not. But I would have been in the control room. What might have happened is my replacement was at the meeting. But I might have been there; I can't remember.

30 Q. What I have put to you so far hasn't jogged a memory?

35 A. No, I don't remember any meeting with Tony Bartlett saying those things.

Q. He goes on to say:

40 "A New South Wales Rural Fire Service officer - who is not identified in the statement - argued with the incident controller (Bruce Arthur) and said he didn't want to use volunteers to implement difficult back-burning operations deep in the forest."

45 Do you recall that being an issue on the night of the 10th?

A. No.

Q. It doesn't mean anything to you at all?

A. No.

Q. He goes on:

5

"The issues discussed also included the lack of people experienced in implementing large scale back-burning operations, to the availability of heavy plant resources and the progress with track preparation."

10

I take it, in view of your last answer, you don't recall that being raised as an issue either?

A. No.

15

Q. Generally speaking in relation to this particular back-burn, was there an issue about having enough people who were sufficiently experienced to take part in this back-burn?

20

A. Not that I'm aware of.

Q. Have you ever heard that proposition put before? Is this the first time anyone has raised that with you?

25

A. No-one has raised it with me. I have read it in a statement, but no-one has raised it with me.

Q. That's the first time that you have become aware that he said it was an issue?

30

A. That's right.

Q. He goes on repeating the issue Mr Cooper referred to:

35

"A strong view (which I disagreed with) was being expressed that no back-burning should commence until the whole perimeter control line was completed. I remember interjecting many times because from my own experience, I was quite passionate in my belief that things should have been happening, given the mild weather, the favourable easterly winds and the inevitable return of more severe fire danger conditions. I expressed my concern about the potential for the fire to threaten the ACT's pine plantations and rural/urban assets if the necessary control works were

40

45

not implemented quickly. I offered to provide an experienced senior officer (Neil Cooper) and ACT Forests' resources to assist with the implementation of back-burning operations."

5
That is an issue you are familiar with. If you weren't there you can't comment whether that was discussed or not?

10 A. What makes me think I wasn't there was if someone as active in that, I would remember.

Q. You would recall that?

15 A. That's right. The other thing that we had on - we still had a fire at Tallaganda National Park which I was still working on as well. We had got the one at Yananumbeyan out but we were still working on Tallaganda. I may have handed over to the person who came in to relieve me and spent a couple of hours on Tallaganda before I went home.

20
I would normally be at those meetings and I am sure I would remember someone acting, especially interjecting into a meeting and stuff, but I have no recollection of that at all.

25
Q. Perhaps I will put the remainder of this description in a summary form to see if you have any knowledge of it at all. If you don't, I will save the detail for Mr Arthur. Mr Bartlett suggests that during this meeting Mr Arthur was called out of the room and, after he returned, he indicated he had spoken to Mr Koperberg and that additional resources had then been allocated to the McIntyre's Hut fire for the next day. Is that information that is familiar to you?

30
A. No.

35
Q. So, again, beyond reading it in this statement, you were unaware of that?

40 A. That's right. Until the next day I knew that we were getting an Ericsson crane, we were getting more air resources. So I knew the results of the meeting but I don't remember the meeting.

45

Q. You weren't in the meeting. I won't ask you any more questions about it, in view of that.

There was perhaps one other matter that I should ask you about that he does refer to. Mr Bartlett suggests in paragraph 50 of his statement:

5 "It was apparent to him that New South Wales
resources for the back-burn would not be in
place until midday the following day, which
in my experience is not a good time to
commence back-burning operation. I offered
10 experienced ACT Forests crews to be in place
early in the morning to commence the
back-burning but the incident controller was
not happy with this arrangement. He would
only agree for the ACT Forests crews to work
15 alongside the New South Wales crews under
their control."

Do you recall that being an issue?

A. Not from that night, no.

20

Q. That is an issue of who would be in charge?

A. It wasn't an issue to me of who would be in
charge. It was our fire and we had very
experienced people. We had the best person for
25 the job.

Q. What about the timing of the commencing of the
back-burning?

A. It's news to me saying it wouldn't be until
30 lunchtime, because the crews were to be organised
to get on the fire line early. They had to be
briefed by the fire boss on the ground. They had
to be briefed by TransGrid because they were
working under power lines. That was a safety
35 issue. They had to have that briefing. It is a
long containment line. The southern containment
line is long and very windy. It takes a while to
get crews into place.

40 Q. When was it intended that the burn would
start?

A. As soon as they came in the morning once the
aircraft arrived. My memory is that the Ericsson
crane was held up because of fog where it was
45 coming from, so it was delayed a little bit. But
we were ready to go as soon as we could.

47

Q. What does "as soon as you could" mean, does it mean 6 or 7am, something like it?

A. It would be more like 9 or 10.

5 Q. When did it actually start?

A. I think it was about 11. I'm not sure. But the crews were on the ground for quite a while.

10 Q. About 11.30 on the 11th, the ACT task force that was going to assist with this burn arrived; does that sound right to you? Are you able to recall?

A. No.

15 Q. The burn itself, Ms Crawford, started as you say at about 11 and lasted until when?

A. We burnt then continually or when conditions were right on the ground all the way through until we finished - the containment lines were around
20 the southern, eastern and northern containment line by 8 o'clock on the Wednesday the 15th, and then we continued to deepen burn --

25 Q. I just want to ask you about the 11th. Was there burning going on on the night of the 11th?

A. There was. There was a gap in the burning because there was a crew changeover, and also there was a lot of area lit up. We lit the bottom three sectors - charlie, bravo and alpha sectors -
30 there were a lot of areas alight. People had to change over on the line because we couldn't pull crews off because they had to contain the fire that was already lit up.

35 There was a long road for them to travel along and there was a long time to change over. Then you also have to leave it - you in the incident control room would say, "You will burn all of your shift and you will get from here to here," but you
40 have to leave it to the crews on the ground that, if they have a wind directly behind where the burn has been lit up, they have to hold what they have lit up before they light any more. So that may have been an issue. But I know there was a gap on
45 the night of the 11th. They did commence burning - it is in the logs - from the morning of the 12th from about 1 o'clock/1.30 on the 12th.

Q. Again Mr Cooper refers to this, and I should ask you to comment on what he says in paragraph 44 of his statement. He made contact with Mr Simon Katz at about 1 o'clock on the morning of
5 12 January to determine how the ACT task force that was involved in this burn-off was going. Mr Katz apparently told Mr Cooper that active burning had ceased at the shift changeover at about 5 o'clock on the night of the 11th and there
10 was no burning activity since that time. I suspect, based on what you said a minute ago, you would probably agree with that.

A. I don't know whether it ceased at all sectors at 5 o'clock. It would have been as they replaced
15 crews. Crews could be replaced on the line. It may have been, if it was too hard to hold what they already had, they wouldn't have lit up any more. If what they were holding was all right, they may have lit up more. It just depends where
20 the ACT crews were in relation to - there was three sectors being burnt at once.

Q. Can I show you another of these documents [NRF.AFP.0001.0046]. This is a situation report
25 form as at 11am on 12 January, prepared by Amanda Sullivan, approved by Roger Good. Have you seen that document before?

A. I would have, yes.

30 Q. In relation to the threat analysis, the document indicates the current threat analysis:

"Fire burning within national park inside
containment lines in rugged terrain.
35 Potential threat analysis: private property to the north and east, and pine plantations to the south and state forests to the west if strong south to south-west winds were to prevail."

40

The objective is to:

"To contain the fire within the established
45 control lines."

I won't go through the details of those again. By this stage, that is by the 12th of January at late

morning, was anyone thinking about the potential threat to property if in fact the winds were from the west to north-west; are you able to say?

5 A. The only potential is the private property to the east, and pine plantations to the south.

Q. It says:

10 "Private property north and east, and pine plantations to the south and state forest to the west if strong south to south-west winds were to prevail."

15 A. That's right. That is to state forests because we had state forest to the west as well in New South Wales.

20 Q. But there was a significant chance, wasn't there, that in the next few days there would be a change of wind direction to the west and to the north-west?

A. That's right.

25 Q. There doesn't seem to be - I am not suggesting that it necessarily should be in this document, but was somebody - yourself or anybody else - considering the possibilities if and when that happened?

30 A. Yes. That's what our concern was right from the 8th that, if the wind continued in the direction it was and then after when it was from the east, as soon as we got strong fire weather winds, as we would call them, they would be from that north north-west west direction and that
35 would put the ACT pine plantations right in the direction of the fire.

40 Q. Let's go to the next one of these documents which is at 4 o'clock on the 12th. It is [NRF.AFP.00001.0048], again prepared by Amanda Sullivan and approved by Roger Good. This is the afternoon of 12 January. If we go down to the threat analysis you will see it says:

45 "Current threat: fire no threat to life and property at present time while in containment lines. The fire still poses a threat to the

ACT, if it escaped from the current
containment lines.

5 Potential threat: major pine plantations in
the ACT and to the ACT water catchments.
Private property to the north and east, and
pine plantations to the south, and state
forest to the west."

10 I take it that accords with your assessment of
what the threat was as at that stage?

A. Yes, that is covering all the assets
surrounding the fire ground.

15 Q. I take it by the middle of the 12th of January
it hadn't crossed your mind, had it, that this
fire would reach the suburbs of Canberra as you
said earlier?

A. No.

20

Q. Mr Koperberg has given evidence that, on the
12th of January, he had a brief discussion with
Mr Arthur. This is at page 2091 of the
transcript. Rather than try to summarise it
25 perhaps I should read it to you. Are you familiar
with this piece of evidence? Were you here when
Mr Koperberg gave his evidence?

A. Yes, I was.

30 Q. I was asking some questions of Mr Koperberg
about the potential implications of the fires. On
page 2091 at line 25, I asked.

35 "Q. You say in your statement you express
concern about the potentially serious
implications for the western suburbs of
Canberra. I'd like to know as accurately as
you can portray how those concerns were
expressed. What did you actually say?"

40

He is there referring to a conversation with
Mr Lucas-Smith:

45 "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
5 McIntyre's Hut fire particularly breaching
its containment lines."

Now, just pausing there, had you by the 12th of
January considered the way the weather was
10 developing over the following six days?

A. We knew the winds had to change. When we got
the winds we did on the 9th, we couldn't believe
the change we got. We were luckier than the ACT
in that Brindabella was buffeted more from the
15 easterly winds than the ACT fires. The ACT fires
were affected quite a lot by the easterly winds.
The forecast was only for them to be there for a
few days and then for it to get worse. But each
day the forecast extended the easterly winds, and
20 we knew that had to change.

Q. Did that mean that you recognised that the
McIntyre's Hut fire breaching its containment
lines was a probability?

25 A. We always knew there was a possibility under
strong winds that the McIntyre's Hut fire could
breach its containment lines. Even when we were
putting the back-burn in, there was continual
spotting. The fuels were just so dry they were
30 spotting over. That's why we needed so much
aircraft to hold it. We were trying to keep it
within the containment lines, but it was
continually breaking those containment lines by
spotting. But we were able to hold those either
35 with ground crews, aircraft or dozers.

Q. You said possibility. Mr Koperberg appears to
have seen it more in terms of a probability. Did
you as at 12 January share his view that it was a
40 probability, subject of course to the way the
weather developed?

A. Possibility.

Q. You wouldn't put it as high as probable?

45 A. No.

Q. He went on to say:

"It was conceded that not only was that possible but it was more than likely. In fact, as far back as Sunday the 12th."

5 I should just pause there and make it clear, this is a conversation Mr Koperberg is describing as having with Mr Lucas-Smith on the 15th. In answering my question, he then says:

10 "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
15 fires not be suppressed. It was generally conceded that the fires would reach the suburbs of Canberra. The forecast at that stage was a week in advance, and many things change in a week, particularly weather
20 forecasts. So at that point, in the absence of confirmation about the weather, there was no reason to suppose that any particular fears were going to be realised."

25 Then he goes on to refer again to the situation as at Wednesday the 15th. But did anyone make you aware that, on the 12th of January, Mr Arthur and Mr Koperberg were at least discussing the possibility that the McIntyre's Hut fire might
30 affect the Canberra suburbs?

A. No.

Q. Mr Arthur never expressed that opinion to you?

A. Not the Canberra suburbs, no.

35

Q. I want to move forward a little, if I can, please, Ms Crawford, to the 15th of January and in particular to the situation as at 15 January in relation to the use of aerial incendiaries. As we
40 saw a bit earlier, the question of the use of aerial incendiaries had been discussed as far back as I think the 8th or 9th?

A. That's right.

45 Q. There were difficulties about obtaining the incendiaries themselves?

A. That's correct.

Q. Possible difficulties about obtaining aircraft?

A. Not aircraft for the incendiaries, no.

5 Q. Also no difficulty in obtaining services of people who knew how to land them?

A. That's correct.

Q. That was all arranged?

10 A. That's right.

Q. The problem was simply the aerial incendiaries themselves?

A. That's correct.

15

Q. Just remind me at least, the original plan for the use of those was to use them in what circumstances; if you had no problem of access to the incendiaries, when would you have first used them?

20

A. Once we got these containment lines in place, the back-burning and a deep enough depth on the back-burn, the next step is to take out areas of unburnt country that is behind the back-burn area between the main fire and the back-burn, to burn it out so that you don't get the runs under severe weather conditions, runs uphill and spotting off the tops of ridges outside the containment lines.

25

30 Q. Having understood all of that, when would that have been - as soon as the containment lines were completed?

A. That's right. The containment lines were completed on the Wednesday night, the 15th?

35

Q. The 15th.

A. The 16th was spent deepening the containment lines to the east because in some areas it hadn't gone in that far; it was patchy. We had organised to do the aerial incendiary drop on the afternoon of the 16th. I had organised for the person who was to do it to change shifts from what shift they were on to be able to come in and do it on that afternoon. The aircraft organised, everything else was organised, but no incendiaries turned up.

40

45

Q. I will just ask you to look at

[NRF.AFP.0001.0101]. This is an incident action plan for the period 6am to 6pm on 15 January. This identifies Andrew Moore as having prepared this and P. Gooley as approving it?

5 A. Gooley.

Q. What is the first name?

A. Paul.

10 Q. Paul Gooley, he was the deputy incident controller?

A. That's right.

15 Q. This document seems to be prepared at 3.45am on the 15th?

A. Yes.

Q. It indicates among other things in the course of the general outline:

20

"Consideration will be given to aerial incendiary work on the east of the Baldy Range in the eastern division once back-burning are firmly established to limit fire intensity and reduce risk of spot overs."

25

A. That's correct.

30 Q. Is that the first point at which it was determined that the aerial incendiaries would be used?

35 A. We talked about aerial incendiaries right from the start that they would be part of the management tool to burn out the big area. We didn't get the three - north, south and east - containment lines in until the Wednesday night. This would have been probably the first time that it was actually realistic for to us actually
40 undertake them.

45 Q. Were you concerned by the 15th that the original broad containment plans were set on the 8th of January, a week earlier, that a very large amount of area still hadn't been burnt and that conditions must inevitably change to severely adverse over the next couple of days; were you

concerned that you had fallen behind - when I say you, I mean as a group?

5 A. We were concerned in that we had to keep going and had to finish it. By the 15th, we knew we would hopefully be joined up by that evening and we were - we had joined up the north-east and south containment lines. But that wasn't going in as deep as we had hoped it would on the eastern containment line there.

10

Q. But again no choice by that stage, you were absolutely committed to the strategy; there was nothing you could do about it.

15 A. Once we lit up on the 11th, we were committed. On the 9th and 10th we did discuss amongst the IMT, "Can we do direct attack?" Through the discussions it was just, "No, it was not a possibility. We had to stick with the indirect." Once we lit up on the ground, that was it. We were committed.

20

Q. Mr Koperberg came to Queanbeyan and attended a briefing with Mr Gilligan, Mr Simmonds and possibly others present on the 15th. Were you at that briefing?

25

A. Yes.

Q. It was also during that meeting I think that Mr Lucas-Smith made it clear that he was on his way and wanted to speak to Mr Koperberg; do you recall that happening?

30

A. I do remember us getting a message to say that Peter was on his way and Peter did arrive.

35 Q. Were you part of the process of briefing Mr Koperberg? Did you take part in the discussion and provide information?

A. I was present while others presented information.

40

Q. Who presented information to him?

A. It would have been the incident controller and the operations area, and I think planning were there as well, but I can't remember the detail.

45

Q. What was Mr Koperberg told? What did they tell him about McIntyre's Hut?

A. They would have stood in front of the operational map in the operations room, talked about the containment lines and exactly what we were doing.

5

Q. Was there some discussion about the viability of what was happening; that is, would it be successful? Would the fire be able to be contained and controlled?

10 A. I can't remember that being discussed in detail at all. I think it was more on what we were doing, what the current situation was and what we were doing.

15 Q. Mr Koperberg obviously had no personal involvement operationally in any of this. He was there to be informed about what was going on; is that right?

A. That's right.

20

Q. Did he not ask or was he not provided with information about the probability of this broad containment being successful before the onset of bad weather?

25 A. He may have talked to the incident controller about that. I can't remember any of that.

Q. Do you not recall any information being sought or being provided to him about the possibility of success?

30

A. There was questions being asked back and forwards. It was a briefing session. But I can't remember any on the possibility of success of containment.

35

Q. By the late morning of the 15th of January, was it being discussed within the Incident Management Team that it was getting to the point where success was going to be a problem in this whole operation?

40

A. No.

Q. You were still optimistic?

45 A. Yes. We were still working hard and optimistic that, if we could get those containment lines deep enough - that's why we did the aerial incendiary on the morning of the 17th, to help us

hold it - that we would be able to hold it.

Q. Well, the important concept was not only whether the fire could be contained because it is
5 right to say, isn't it, that the fire was contained as long as it is burning within the containment lines?

A. That's correct.

10 Q. So effectively until late on the 17th, the fire was contained for the entire period?

A. That's correct.

Q. The real question is control of the fire or
15 suppressing the fire; isn't it?

A. If you are asking if we were going to have -
by suppressing having the fire out, there was no way we were going to have the fire out by the
18th. What we were going to do - it was a big
20 area we were burning. No matter what the weather was going to do, the attempt was to contain it within control line and then either burn it out or like what normally happens after a few weeks you actually get some rain. But there was no rain.
25 The only thing we could do was keep it within containment lines, keep deepening those containment lines and it burns itself out. So it wasn't going to be out on the 18th.

30 Q. Did you see Mr Koperberg's press conference given after his briefing with you --

A. I wasn't part --

Q. Have you seen it; have you seen what he said?

35 A. Only since as part of this coronial.

Q. He was by then expressing concern for the western suburbs of Canberra or feeling concern for the western suburbs of Canberra if the fires
40 weren't controlled by 18 January. That is effectively his evidence. Was that a subject of discussion in the briefing session that he had at Queanbeyan that you were present at?

A. Not to my recollection, but he may have had
45 that with other people.

Q. In his evidence and in his statement and

indeed to ABC television, he said:

"The fire threat was the worst threat in many decades itself."

5

He certainly intended to convey the impression, although I think he may have mixed Canberra with ACT, that Canberra itself was at risk. Do you recall that being discussed at any stage of this briefing on the 15th?

10

A. Canberra, as in the pine plantation assets, the rural residents, but I don't remember it being the suburbs.

15

Q. He also expressed the opinion that he thought it was unlikely that the fires would be suppressed before the onset of bad weather. Was anything like that discussed during the course of the briefing with yourself and others at Queanbeyan?

20

A. Could you repeat the first part, sorry?

Q. He expressed the view that it was unlikely the fires would be suppressed before the onset of bad weather?

25

A. As I said before, if suppressed means out, there is no way. We knew that.

30

Q. All right. It may mean out; it may mean controlled to a point where it could be held even in bad weather. That is really the test; isn't it, Ms Crawford?

A. It depends how bad the bad weather is.

35

Q. You were aware, I take it, by the Wednesday that the weather that was coming was bad fire weather - high temperatures, low humidity, north north-westerly winds?

40

A. That's correct, and that was for the 18th. Then there was also very bad weather again and possibly worse for the Monday. So we knew we were going into very bad weather.

45

Q. You are of the view that, even with that risk, you thought that the fire could be controlled - held, if you like?

A. Yes, but there was a possibility of it breaking. If it broke the pine plantations and

the rural assets were the assets that were under threat.

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

THE CORONER: Yes. We will adjourn for lunch.

10 **LUNCHEON ADJOURNMENT** [1.01pm]

RESUMED [2.06pm]

15 MR LASRY: Q. Mrs Crawford, before we continue chronologically, there are two other matters I want to ask you about while I have them in my mind. You referred earlier at page 4439 to a dozer that was sent to the Dingo Dell area on 9 January?

20 A. Yes.

Q. What size dozer was that?

A. The night of the 8th of January, it was either a D5 or 6.

25 Q. Where did that come from?

A. It came from Soil Conservation in New South Wales.

30 Q. The other matter is: to your knowledge in New South Wales in any of the organisations that are required to respond to bushfires, is there an aerial fire retardant capacity; in other words, any facilities for dropping fire retardant?

35 A. Yes, there is.

Q. Who controls the operation of that; is that Rural Fire Service?

40 A. I think Rural Fire Service have some retardant bases, mobile ones. There is also one based in Jindabyne which National Parks have used. I think it is based at the Rural Fire Service shed. I'm not sure. They can be called in.

45 Q. Was that capability used at all during the course of this fire?

47 A. No.

Q. Why not?

A. We never even discussed the use of retardant. We were going to do indirect attack and back-burn. The last thing we wanted to do was stop the fire -
5 we wanted the main fire to meet the back-burn.

Q. What about in relation to the Baldy spot fire, just on that, would that have been an option as far as a direct attack on the Baldy Range fire?

10 A. It could have been an option, but we were quite confident when we got round the eastern side with the rake hoe line we were able to hold it. It wasn't until the first day we would be confident that we would have it by 4/5 o'clock
15 this afternoon, but it would then pop up again. It would keep coming back.

Q. Anyhow, the use of aerial fire retardant wasn't discussed at any stage during the course of
20 this particular fire?

A. Not with me, no.

Q. Well, was it discussed with anyone as far as you are aware?

25 A. No.

Q. We were at the 15th of January and I was asking you before lunch about the briefing that Mr Koperberg was given when he arrived at
30 Queanbeyan. Did you also remain for the meeting that took place with Mr Lucas-Smith present?

A. Yes. The briefing was held out in the operations room and walking around the main office. You continually having people disrupting
35 while you were going around and that, and you were standing in front of boards and briefing that disrupted you. The meeting - when Peter arrived, my recollection was that we had already moved into the incident controller's office. Peter came in
40 when we were in there. As soon as Peter came in, everyone stood up and shook Peter's hand because we hadn't had contact with Peter since the helicopter crash. Everyone shook his hand and congratulated him for his heroic efforts in the
45 helicopter crash.

Q. In the course of the conference that followed,

am I right in suggesting that a number of people, including Mr Koperberg, made it clear to Mr Lucas-Smith that they were extremely concerned for the western suburbs of Canberra?

5 A. I can't remember clearly the western suburbs of Canberra, no.

Q. Well, do you recall Mr Koperberg expressing his views on what might be described as a worst case scenario; that is, what would happen if the predicted weather occurred and the McIntyre's Hut fire broke its containment lines?

10 A. There was general discussion. The meeting started off and it got straight to the point where Peter had come to ask for resources. It was a very professional but very quick moving meeting. It was a discussion of resources, what sort of resources should it be. The clarification of what a task force meant. I think Peter was asking in
15 unit numbers and RFS issue them in task forces. The room was part of that. Then it got down to very much a conversation between the Commissioner and the Chief Fire Control Officer about the actual nitty-gritty detail. I suppose for part of
20 it I wasn't listening all that closely as to what was being said.

Q. Mr Koperberg has given evidence that during the course of that meeting some emotive colourful and emotive language was used - not by him and not by Mr Lucas-Smith but by others present. The language included somebody, he doesn't identify who it was, saying, "As a result of the fire we are going to be in deep shit." Do you remember
30 that being said at that meeting?

35 A. No.

Q. Do you recall ever hearing at any stage in the discussion, while Mr Koperberg and Mr Lucas-Smith were present, Mr Koperberg expressing his view that there was a very real threat that the fires could affect the Canberra suburbs?

40 A. Not the Canberra suburbs. I do remember the threat if the fire left its containment lines of burning into the ACT, and I think Canberra is often used. But what I understood "Canberra" to be was the pine plantations and the rural assets.

Q. I have a summary in front of me. In order to be clear I should put the actual evidence. At page 2104 I asked Mr Koperberg this question:

5 "Q. I don't want to derail the evidence by a long discussion about 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 said to Mr Lucas-Smith about the threat to Canberra as close as you can and the words you actually used?

10
15 "A. There were present at that meeting a number of people, all of whom expressed various views on 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."

Just pausing there, we can add you to that list obviously?

25 A. That's right.

Q. He continues:

30 "We discussed the fires in general terms. We expressed grave concerns about the Bureau of Meteorology's prediction for three days hence."

35 Pausing there, do you recall grave concern being expressed for the weather forecast of the next three days?

A. The weather that was being predicted was extreme fire weather.

40 Q. So you agree with that proposition?

A. Yes.

Q. He continues:

45 "We talked in very general terms if that weather were to eventuate, given the fact that suppression of the fires would not under

any circumstances have taken place by then, containment might have been completed but not suppression. Given the fuels, given the pine forests, given a whole range of
5 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
10 language which was being used."

Do you recall that being said during the course of the meeting?

A. Not to that detail, no.
15

Q. I think it is clear Mr Koperberg is describing things that are being said in the group, not in a private conversation between he and Mr Lucas-Smith. So if that was the case, you
20 would have been present?

A. Yes.

Q. Do you say that it was said in those terms or it wasn't said in those terms or can you not
25 recall?

A. I can recall discussing the weather and the weather that was coming for the weekend; the fact that Peter Lucas-Smith was there to ask for resources for their own fires - that's about it.
30

Q. Well, importantly, do you agree that it was said while everybody was present, either by Mr Koperberg or by somebody else, that suppression of the fires would not have taken place in the
35 next three days and therefore the escape from containment lines was inevitable?

A. I don't remember that being said, but that doesn't mean that it wasn't said.

40 Q. Would you agree with that proposition?

A. We were not going to have them out. The fires would not be out. And the rest of it?

45 Q. The rest of it was that Mr Koperberg expresses the view as part of the group that we consider it inevitable that the fires would break their containment lines and would make a major run into

Canberra. That was the type of language that was being used.

A. I don't remember the word "inevitable" being used.

5

Q. Now sometimes people's memories allow them to say that they are of the view that it wasn't used or they simply don't recall; which category are you in?

10 A. I can't recall. One of the issues I have now is that I've heard so much in the media that I don't know now what I can clearly remember and what I think I might remember.

15 Q. Let me put the converse proposition: at any stage during any discussions between Mr Lucas-Smith and Mr Koperberg that you were present for, did you at any stage hear anyone say on behalf of New South Wales - that is Mr Gilligan
20 on behalf of your organisation or Mr Arthur on behalf of the Rural Fire Service - that they were confident that the McIntyre's Hut fire had been contained and that it would not be an issue for the ACT?

25 A. No.

Q. Are you confident that wasn't said?

A. I don't recall anyone saying that at any time.

30 Q. It wouldn't be right, would it?

A. I never had that confidence.

Q. As I think you said before lunch, the McIntyre's Hut fire was going to be an issue for
35 the ACT from the 8th of January onwards?

A. That's correct.

Q. Certainly at the 15th of January it was clearly an issue for the ACT?

40 A. It was still an issue.

Q. There was then a discussion about resources and, as you say, Mr Lucas-Smith was there because he was seeking resources. Mr Koperberg indicates
45 that the offer he made in effect was an open-ended offer; in other words, as much as Mr Lucas-Smith thought he needed. First of all, did you hear the

offer being made?

A. Peter asked or said that's what he was here for. My memory is Peter said he was here to ask for resources. The Commissioner said, "What do
5 you want?" Peter went through ground crews of what he wanted, and then my memory is the Commissioner said, "Is that all you want? Do you want any IMT members?" The meeting continued
10 along those lines as to what other resources apart from ground crews.

Q. What was the answer to the question, "Do you want IMT members?"

A. My memory is that Peter said yes and that he
15 needed to think about what he required.

Q. Do you recall at any stage during the course of the meeting anybody in the room saying in the presence of Mr Koperberg and Mr Lucas-Smith and
20 the rest of you "Canberra's going to get hammered"?

A. I can't remember where I heard that comment. I do definitely remember that comment because it was said very forcefully. It was very different
25 to any of the normal language used in any of the fire control rooms that I have been in. I remember the way it was said it sort of gave me a shudder. It was sort of like that was something that I hadn't thought about. I remember my
30 reaction --

Q. Sorry, what do you mean by that something --

A. A sort of a shudder. It was something
35 different to what I had been used to in any of the control rooms. I do remember the comment being said but I cannot remember where it was said.

Q. But was it said seriously?

A. It was said very forcefully and very
40 seriously.

Q. Not humorously or flippantly; that is, as you took it, whoever said it said it seriously?

A. Yes, but I can't remember where it was said.
45

Q. I am being prompted to ask you - I am assuming from what you said so far you actually have no

idea who said the words?

A. Only that it wasn't someone I normally work with. It was someone in the control room who wasn't there on a day-to-day basis and it wasn't
5 someone I would normally work with.

Q. But someone on the New South Wales side of the discussion?

A. Yes, I am sure it was definitely New South
10 Wales.

Q. I want to go back, if I can, to the aerial incendiary issue briefly. I want to show you a document which is [NRF.AFP.0001.0122]. Before I
15 ask you about the document, a number of documents later in this period - that is 14th, 15th, 16th and onwards - none of them seem to involve you directly, well at least not many of them. This one, for example, is prepared by Scott Seymour,
20 who is in the planning section, and signed off by Russell Knutson; is that correct?

A. Yes, Knutson.

Q. He is then occupying the position of incident
25 controller at the time that he signs it?

A. That's right, they are the night shift ones. The ones that are prepared for the day shift are done by the previous night shift and signed off by the controller for the night. The ones during the
30 day are done the following night and signed off by Bruce Arthur. If Bruce Arthur was on a standdown day, I then was incident controller and that's when you would see my signature on it - like on the one for the night-time of the 16th.

35

Q. In this document dealing with the use of aerial incendiaries, it is noted in the general outline among other things:

40 "Weak points remain in Charlie and Quebec sectors that would require early air observation. Consideration will be given to AI work - aerial incendiary work - on east of Baldy Range in eastern division once
45 backburns are firmly established to limit fire intensity and reduce the risk of spotovers."

A. That's correct.

Q. On the previous day - perhaps I will just ask you to take my word for this at the moment - in a similar document dated 15 January for the day shift, signed off by Mr Gooley, a similar note appears in relation to aerial incendiaries. That is:

10 "Consideration will be given to aerial incendiary work to the east of the Baldy Range and eastern division once back-burn is firmly established to limit fire intensity and reduce risk of spotovers."

15 That is in [NRF.AFP.0001.0101]. The entries for the 15th and 16th are pretty much identical. It is the same consideration?

A. Yes.

20 Q. I take it the fact that it is still being considered on the 16th, when it had already been referred to as being considered on the day shift of the 15th, means that is reflecting the problem of access to the incendiaries; is that right?

25 A. No. On the 15th, it was highlighted that we need to look at it but it was when the containment lines were finished or completed when they said "secure". I can't remember the exact words it uses here.

30 Q. On the 15th --

A. Once they are firmly established. On the 15th we didn't complete the control lines until that night, the Wednesday night. They still needed to be deepened. That's why the aerial incendiary was delayed to the afternoon of the 16th. Again, the aerial incendiaries weren't there on the 15th. That's why they were then promised at lunchtime on the 16th.

40 Q. By this stage you were aware that the weather forecast over the next three days was poor from the fire outlook?

45 A. Yes.

Q. And I take it you were also conscious of the

fact now that there was no way known that the area that you were seeking to burn out was going to be burnt out in time?

5 A. That's where the aerial incendiaries were going to be used, that's correct.

Q. There was a large area that was going to be left unburnt?

10 A. That's correct.

Q. The idea of burning that out before bad weather is to stop it in effect burning in bad weather and causing runs and spotovers; is that correct?

15 A. That's right. Stopping the runs up the hills for then it to spot off the ridge tops.

Q. I wonder if I could ask the operator to go back to Mr Cheney's Powerpoint presentation. I need to go to slide 57. That's on Mr Cheney's evidence his estimation of the situation as at 4.38 on the afternoon of the 15th. At that stage the burning from the containment lines hasn't been completed?

25 A. That's right, if that's 4.30 on the 15th. By 8 o'clock we had joined. That's a long area to cover, which I assume we were probably a bit further ahead than what that is.

30 Q. Go over two slides please. That is his estimation of 8 o'clock on the 16th, 8pm?

35 A. No, I would say that would be 8 o'clock on the 15th because we have completed the containment lines at 8 o'clock on the 15th. The 16th, we were deepening the containment lines and hoping to do the aerial incendiary work.

40 Q. But on that particular diagram it is clear, isn't it, that the containment lines are complete and back-burning is occurring from all the containment lines?

A. Yes.

45 Q. You can see the eastern containment line west of Doctor's Flat Road?

47 A. Yes.

Q. That's where that was?

A. Yes.

Q. In any event, by the night of the 16th, there
5 was an area of some significance that remained
unburnt?

A. Yes, especially the big triangular area to the
north.

10 Q. Did you have any idea how much area was
unburnt?

A. We would have had. It would have been part of
the aerial incendiary burn. You have to know the
area you want to burn to work out how many
15 incendiaries to drop.

Q. Is it correct to say the idea of these aerial
incendiaries, if they can be used at night, is to
drop them into the bottoms of valleys in effect so
20 that even at night they will burn in an uphill
run?

A. You wouldn't be dropping them at night. You
wouldn't have the aircraft to do it in the dark.
What you would do is try and burn them out in the
late afternoon, which is what we were trying to do
25 on the 16th. You drop them on the ridge tops.
They burn out the ridge tops. You work out how
quickly you want to burn it out. In your plan you
put how long you want it to take to burn out; you
30 want to do it in as quick a time as possible. You
drop them along the ridge tops, they burn out the
ridge tops and then they work their way downslope.
So it is a backing fire downhill. Once that stops
any run of fire uphill, the hills are already
35 burnt out.

Q. I want to put to you Mr Cheney's opinion as
appears in his report as opposed to the oral
evidence that he gave. This is at page 20 of the
40 report. In this part of his report Mr Cheney is
dealing with Thursday the 16th and says, among
other things, in the course of it:

45 "In my opinion, the construction of
containment lines and the burning out
operations had proceeded too slowly to allow
sufficient time to complete the burning out.

Large areas of unburnt fuel within the
containment line."

5 That's true, isn't it? For whatever reason, you
were at a stage now where you had the onset of bad
fire weather and a significant area still unburnt?
A. That's right.

10 Q. He says:

"At this stage the only option left to the
incident controller was to undertake
judicious aerial ignition late in the evening
with the spot fires placed around the
15 westerly aspects so these fires would link up
overnight without creating too much
convective interaction."

A. That's what we wanted to do. That's what we
20 planned to do, what we organised to do, but we
couldn't do it.

Q. You couldn't do it because?
A. We didn't have any aerial incendiaries.
25

Q. So the next and the only other alternative, I
take it, that opened itself up as far as you were
concerned was to do it the following day?

A. That's right. We went and then borrowed
30 aerial incendiaries which we would replace once
ours arrive from a neighbouring section 44. But
previous requests for them from other 44s was that
they didn't have aerial incendiaries to spare
either, apparently.

35 Q. Did it cross your mind to leave that area as
it was rather than try to ignite it with aerial
incendiaries on the 17th?

A. We had a very - I don't know the right word --
40

Q. Animated?
A. No, not animated. We had a very serious
discussion very early on the morning of the 17th
between myself, the incident controller, the
45 operations officer and the planning officer on:
"Do we do it or don't we do it?" It was a very
hard decision. We knew if we didn't do it, there

was a real chance of the fires running up those steep hills, spotting and we would lose the fire.

5 If we did do it, there was a problem of not being able to get it all burnt in the time frame that we had, because you have set weather parameters to do it in as well. If we did do it, what if we lost it then? We looked at all the options. We said, "No, we have got to go ahead. We've got to give it a try." It looked like we had sufficient weather to burn it out, a number of incendiaries and so we decided to go ahead. It was a really serious discussion.

15 Q. What position did you take? Did you want to do it or not do it?

A. Well, it was - I don't think we had any option but not to do it. We had to give it a try. It was going to take runs and jump if we didn't do it. So by doing it, all we were doing was trying to stop that happening. We weren't going to be any worse off.

Q. Who was opposed to doing it?

25 A. No-one was opposed to doing it.

Q. Perhaps that is not an appropriate way to describe it, but a discussion was taking place where the pros and cons were being put of doing this; is that right?

30 A. It was more is it too late; it wasn't whether we should or shouldn't do it. It was more we should do it but is it too late. The decision was, "No, we have to give it a go."

35 Q. Does the question arise as to whether it is too late because, in fact, if it is too late, the use of aerial incendiaries in that area will simply add to the intensity of the fire rather than achieve the purpose that you set out to achieve?

40 A. That's right. Through the discussion it was looked at, "Well we have got till the afternoon to get it done." By dropping the number of incendiaries and burning it out in quick time, you would burn the ridge tops out and it would be on its way downslope. If any runs did take, they

wouldn't get to the tops of the ridges.

Q. It started at 11 o'clock on the morning of the 17th and it was stopped at 1.45; is that right?

5 A. That's what it says in the report.

Q. Is that when it was stopped? That's what it says in the report; that's what I am reading from.

A. Yes, that sounds like it.

10

Q. The section 44 report [RFS.AFP.0093.0219] at page 12 says in relation to this dealing with the 17th:

15

"The IMT again considered aerial incendiary operations and an AI plan was prepared. The aim of the plan was to reduce potential spotting from unburnt ridge tops within the containment lines under the extreme fire weather forecast for 18 January. The AI was commenced at 1100 hours in accordance with the AI plan and was restricted to the area between the northern containment line and the northern extent of the fire edge. The operation was ceased at 1345 hours due to the prescribed cut off parameters (increasing winds, erratic fire behaviour and deteriorating flying conditions) being reached."

20

25

30

Did you participate in the decision at 1.45 to cease the operation?

35

A. No. That would have been left to the person dropping the incendiaries as to once those parameters have been reached they stop.

Q. What was the effect of the incendiaries that were dropped, to your observation, or to the knowledge that you had?

40

A. They would have burnt out the ridge tops but the aerial incendiary program did not get completed. They did not do all the area. As the aerial incendiary report that was done said, by the time they had finished there had already been large smoke put up from areas that had not been treated and runs up towards the tops of ridges had already started in those areas that weren't

45

treated.

Q. Just for the sake of completeness, I wonder if I could have [NRF.AFP.0001.0132]. The document
5 that I am about to show you is a situation report, Ms Crawford, on the afternoon of the 16th at 4 o'clock. You are described as the incident controller?

A. Yes. Bruce was on a standdown day on the
10 16th.

Q. If we go down the page to the "threat analysis":

15 "Current fire threat: no threat to life and property at present time while in containment lines. The fire still poses a threat to the ACT, if it escaped from the current
20 containment lines."

20 It describes the potential threat. Down the bottom:

25 "Ground crews have been supported by aerial surveillance and water bucketing. Aerial incendiary operations planned for tonight have been suspended due to weather and logistical considerations."

30 A. Logistical considerations were that we did not have the incendiaries. The weather was - I said, "We will go to Tumut, pick them up and we will do it when we come back." Planning advised that by
35 the time they got back, the weather would not be suitable to do it and it would be getting too dark.

Q. I don't suppose it matters but, if the logistical considerations were that they weren't
40 available, why not say so in the situation report?

A. They could have said that.

Q. Is this a document you prepared or is this a document someone else prepared?

45 A. No. It is prepared by the situations officer and signed off by the planning officer.

47

Q. This is again to some extent for the sake of completeness: Mr Jeremy Watson, you would be familiar with him?

A. Yes.

5

Q. He was in effect playing a liaison role at Queanbeyan?

A. Yes.

10 Q. He attended a meeting, I think, first thing on the 17th. It seems from his statement that the meeting at which the use of aerial incendiaries on the 17th was discussed occurred at about 6.30am in the morning?

15 A. It was very shortly after we had shift handover.

Q. Mr Watson's statement is [ESB.AFP.0108.0049]. At 0053 he refers to arriving at Yarrawluma fire control at Queanbeyan at 6.30 and attending the planning meeting and he describes the discussion that then followed. He says:

25 "There was a large section right in the middle of the McIntyre's Hut area that was unburnt. The representatives of the operations and planning teams of the NSW Rural Fire Service indicated they were going to conduct some aerial incendiary work on
30 that section that morning so that when the fire conditions deteriorated and that centre area ignited, there might be less chance of the fire jumping containment lines. The weather forecast was pretty nasty and
35 everybody had deep concerns about what the day might bring."

That would obviously accord with your recollection of that discussion in the broadest of terms.

40 A. (witness nods).

Q. I think the only other thing I wanted to ask you about, Ms Crawford, was the 18th of January and only one matter in relation to that. I wonder
45 if we could go back to Mr Cheney's Powerpoint presentation. I am looking for slide number 65. If I could run forward to that McIntyre's Hut fire

on 18 January at 1300. Ms Crawford, that is Mr Cheney's depiction of the McIntyre's fire at 1 o'clock on 18 January.

A. Yes.

5

Q. If you go over to the next slide, do you see there it was obvious that the fire in the vicinity of Doctor's Flat Road at least gives the impression on that pattern that a burn-off or a back-burn was being commenced off Doctor's Flat Road; just compare the two slides? It looks as though if you take the eastern section of the fire and then the northern part of that eastern section, do you see the way the fire borders Doctor's Flat Road?

10
15

A. Yes.

Q. Are you aware of whether any personnel lit a back-burn from Doctor's Flat Road in the early afternoon of the 18th of January?

20

A. Not on the early afternoon of the 18th of January. The only burn I knew that took place on the 18th, and I only found out about this after the event, was that on the morning of the 18th when we went into property protection. Everyone went into property protection.

25

If we can go back to the previous slide at 1300, they were still trying to contain - and it hadn't crossed the ACT border - the area that had spotted to the east. They were trying to hold that; they were just trying to contain that. They attempted to light up part of it, but it was of no hope at all. So everyone then went into property protection. But that was before lunch - that was morning, not afternoon.

30

35

Q. I presume you would agree there would be no utility in lighting a back-burn - or perhaps you wouldn't agree - given the conditions and the fire as it was burning at that stage and the weather conditions, would there be any utility at all in lighting a back-burn off Doctor's Flat Road at that stage of proceedings?

40

A. Not on the 18th at lunchtime, no. That may have just been movement of fire due to the winds.

45
47

Q. Yes. No-one is telling us that anyone in particular lit the back-burn from that road, but it gives an impression of being lit from the road. I simply ask you whether you have any knowledge of it?

A. No, not in the afternoon.

Q. Ms Crawford, in the course of the evidence that her Worship has heard during this inquest, there has been a lot of debate about warnings particularly to the people of Canberra and the ACT more broadly. In particular, warnings about the possibility that this fire might reach Canberra and have an effect on the suburbs or the outlying rural areas in the ACT.

From the point of view of the National Parks and Wildlife Service, do you accept that in your role as incident controller from time to time there was any obligation on you or some obligation on you to ensure that the ACT residents and the Canberra residents particularly were warned of the risk they faced from this fire?

A. That's why, as soon as I knew what we had in Brindabella on the 8th of January, I advised the ACT ESB as to what we had and to get them involved in the strategies.

Q. So insofar as you felt that there was some obligation on you, are you saying that you regarded yourself as discharging that by keeping ESB informed?

A. That's right, and that's why we have the liaison officers. That's an excellent way of getting communication between the two control rooms. As a New South Wales person, we couldn't warn or tell the ACT residents what to do because we are not dealing with the ACT police; we are not dealing with the ACT Emergency Services or with any of the other agencies that were involved. We don't know what is in place. All we would be doing is confusing the situation.

We were busy warning New South Wales residents on the 18th. On the 18th, the fires through the southern end of the ACT were then threatening to come back into New South Wales. So on the night

of the 17th, we had put crews on the south-east
end of the ACT. We had to deal with New South
Wales Police and talk to them about what were we
going to do with Michelago, Burra and all the
5 other rural subdivisions down there. We had to
look at would we evacuate or whatever. So we were
looking at warning New South Wales residents. But
with the ACT, it was initially telling the ACT
what they had and then ensuring that the
10 communication lines were open. That was through
the liaison officers.

Q. What the ACT had for most of the 10-day period
between the 8th and the 18th were its own fires in
15 the ACT.

A. That's correct.

Q. They didn't have the McIntyre's fire, did
they, except in so far some ACT personnel were
20 involved in assisting you?

A. That's correct.

Q. So liaison was the critical thing?

A. That's correct.
25

Q. Did you regard it as a requirement on you or
on Mr Arthur or generally the incident controllers
to indicate to the ACT at what point you felt that
they should start issuing warnings to residents of
30 the ACT and Canberra?

A. No.

Q. How would they make an assessment as to what
they should do if they weren't getting some advice
35 from you about it?

A. The ACT would have their own protocols in
place as to when they would warn residents and
what they would warn residents about. Our role is
to inform the ACT so that they knew about
40 McIntyre's fire, exactly the same as they informed
us that from Bendora their fire spread west. We
knew the fire was there, and then it was ours to
pick up. We had to warn the Brindabella Valley
residents. We picked up the property protection
45 in Brindabella Valley.

So it would work the same way. That's the same as

on the night of the 17th. The fires were coming
back into New South Wales from the ACT. We get
the phone call to say, "It is on Mt Tennant. We
know it is threatening New South Wales." We then
5 go into our own protocols, which are we send our
crews there; we talk to the police; we talk to the
Emergency Services; and we work out what we are
going to do with our own New South Wales
residents. You can't tell someone else's area
10 what to do if you are not the ones working with
the Emergency Services.

Q. In your experience, assuming that the language
that was used on the 15th of January during the
15 discussions with Mr Koperberg and others at
Queanbeyan was as he described it, would it have
been appropriate some time thereafter to begin to
advise residents in the ACT and Canberra that at
least a potential existed for some effect from
20 this fire on them?

A. Is that New South Wales letting ACT residents
know?

Q. No, I am asking you for an opinion as to
25 whether as far as ESB was concerned some time
after the 15th, in view of what Mr Koperberg says
about what was discussed on the 15th, would it
have been appropriate for warnings to begin to be
issued to residents of the ACT and Canberra?

30 MR PHILIP WALKER: I object. First, the witness
has not confirmed at all what Mr Koperberg has
said. That is the first point. Secondly, we have
not been made aware of what the witness actually
35 knows about the situation pertaining at ESB at a
particular point in time. Really the lady is
being asked to almost give an opinion out of the
air, in my submission. The question is not
sufficiently well based on the facts to call for
40 an opinion of that kind.

THE CORONER: I don't agree with you, Mr Walker.
This witness is a professional person. She is
being asked to give an opinion on a scenario that
45 has been put to her on matters that are within her
knowledge; so she can answer the question.

47

MR PHILIP WALKER: If your Worship please.

MR LASRY: Q. Do you want me to repeat the question?

5 A. Yes, if you could, please.

Q. The evidence that Mr Koperberg has given, some of which you appear to agree with and some of which I think you say you don't recall, indicates that a position had been made reasonably clear to Mr Lucas-Smith on the 15th that there was a possibility at least, given the predicted weather, that suburbs of Canberra would be affected by the McIntyre's Hut fire, assuming it broke its containment lines. I think in a broad sense at least you agree that was a topic that was raised at that meeting and discussed; is that right so far?

15 A. Yes.

20

Q. Perhaps before I go to the question I originally asked you: do you recall any discussion from Mr Lucas-Smith, Mr Castle or anyone else around that time in which they were informed that they should consider warning residents in the ACT and suburban Canberra about the potential of the McIntyre's fire?

25 A. That's for the agency to decide based on all the other information that they have. The ACT has always had an excellent reputation in holding fires on the urban edge. 2001 was an excellent example, and there have been other examples right throughout. They have very good setbacks, very good management around the urban edge of Canberra. I think only those who are within the ACT ESB that have the full picture know when it is appropriate to warn the residents.

30 Q. Is it right to say, though, that you don't warn residents at a point where the damage to be done by a fire is imminent; you warn them well before that, surely?

35 A. I don't know whether - when you do know when it is imminent. It is actually happening then. So you have got to tell them something then. You don't want to panic people. There is always an issue of - we would often promote people stay with

their houses because they have got a much better chance of protecting their property if they stay with their house.

5 But there are other people who come from the point of view that, yes, people are all game. They are going to save their house. But once they start choking on the smoke and things get dark and they get scared, then they ring the police and say,
10 "Come, quick, come and get us out," and it is too late then.

Q. I was less interested in that stage of proceedings and more interested in, for example,
15 the situation as it was back on Wednesday the 15th or Thursday the 16th where the threat clearly wasn't imminent, wasn't about to occur, but nonetheless the potential for an effect on the suburbs and other rural dwellers in the ACT was
20 being recognised. I am simply asking you whether, based on your experience, the sort of information about that potential is information that people who are possibly going to be affected by it are entitled to have at that early stage?

25

MR JOHNSON: Could I object at this stage: I think the witness earlier said that she didn't think damage would be done to houses in the Canberra suburbs until either late in the morning
30 or early in the afternoon of the 18th. Indeed, she said that it wasn't until the 18th that she thought that the fire would reach the urban edge, that it was effectively in her mind. I don't think I am misquoting the evidence. I think it is
35 at page 4470 and 4471.

What is being done now is an attempt to use the current witness, who clearly has considerable experience in the area, as a general commentator
40 of the evidence of other people. It has not been clear whether she is being asked to assume that the evidence of other people is correct and whether she is asked to speak in terms of what she knows now or she knows then. It is important in
45 those circumstances to go back to what she did say were her own thought processes as they were in the days leading up to and in particular on the 18th.

With that in mind, I would object to this question.

5 If what is being sought is a type of hindsight commentary, then it should be made clear what it is. But if it is something else based on what this witness herself thought at a particular time, then one needs to keep carefully in mind what her own evidence is in that respect, I would submit.

10

MR WHYBROW: Could I just add to that: I presume there was an acceptance by Ms Crawford that there was a recognised risk to the suburbs on Wednesday the 15th or Thursday the 16th. The actual evidence on that is at page 4491 where the question was asked:

20 "Q. Do you recall ever hearing at any stage in the discussion while Mr Koperberg and Mr Lucas-Smith were present Mr Koperberg expressing his view that there was a very real threat that the fires could affect the Canberra suburbs?

25 "A. Not the Canberra suburbs. I do remember the threat that if the fire left its containment lines burning into the ACT, and I think Canberra is often used. But what I understood 'Canberra' to be was the pine plantations and the rural assets."

30

There was an assumption in the question that that discussion revolved around Canberra suburbs, and that was not accepted in this witness's evidence. In that sense, I submit it is an unfair question to put because it is based on a premise which has not been accepted by this witness.

35

MR PHILIP WALKER: I join in that objection. I have notes of at least two other places where the lady disclaimed any reference to discussions about the suburbs on the 15th.

40

MR LASRY: Let me see if I can simplify the process before I lose interest in this question altogether, seeing it is such a sensitive topic.

45

MR PHILIP WALKER: The facts.

MR LASRY: Q. Ms Crawford, let me ask you hypothetically as a fire professional given your experience: once circumstances have been identified where, as in this case, there is a
5 genuine though potential threat to an area such as Canberra from a fire such as this - is there a point at which the fact of that potential threat, albeit not imminent, is entitled to be
10 communicated to the people who are likely to be affected by it, in your opinion? I am now asking you as a professional, simply asking you your opinion.

A. Yes.

15 Q. At what point is it appropriate to provide that information to the people who are likely to be affected by it?

A. It is different for each different situation. It depends where it is; it depends on all the
20 other agencies as well. Really it is not one single person can decide it, it is based on a meeting between people. If you warn people, you can't just say it is coming. You have got to give them directions, "Are you going to evacuate; are
25 you not going to evacuate. If you are going to stay, what are you going to do?" If you are going to evacuate, where are they going to go? The worst thing you can do if put everyone out on the roads with nowhere to go. It is a huge decision.
30 It has to be based on all agencies agreeing.

Q. Yes. One of the benefits, I take it, of early warning to people who are residents and potentially affected by a fire is to be able to
35 give that warning in circumstances where you know there has been some education as to what they should do with the information?

A. Yes. And also you don't want to cry wolf either. You don't want to go too early. I mean,
40 then by the time the fire comes, everyone is sick of it - it is coming; it is coming - and everyone ignores your warning. You have to time it. The timing is very critical.

45 Q. And obviously, it almost goes without saying, you don't want to leave it too late either.

A. That's right.

MR LASRY: Thank you, your Worship. I have no further questions.

5 THE CORONER: Thank you, Mr Lasry. We might take a brief adjournment.

SHORT ADJOURNMENT [3.00pm]

RESUMED [3.10pm]

10

THE CORONER: Mr Archer, do you have any questions for this witness?

15 MR ARCHER: No, your Worship.

THE CORONER: Mr Johnson?

MR JOHNSON: No, I have no questions.

20 THE CORONER: Mr Whybrow.

MR WHYBROW: Thank you, your Worship.

<CROSS-EXAMINATION BY MR WHYBROW

25 MR WHYBROW: Q. Perhaps if we could put up the presentation again that you were last shown, Ms Crawford. I think it was slide 64 or thereabouts that showed Mr Cheney's assessment of the fire position at 1 o'clock on 18 January. Do you remember being shown that before?

30

A. Yes.

Q. You were asked a number of questions by counsel assisting about the position of when you warned residents about they may be at some risk of fire approaching. You gave evidence of what would appear to be a difficult decision as not going too early and not going too late?

35

A. Yes.

40

Q. This may be very difficult but, in the absence of hindsight, if you were aware that that was the position of the fire at 1pm on 18 January, do you have a view as to whether or not that would be a time that reasonably persons within ESB could have given any advice or evacuation advice to the residents of suburban Canberra?

45

A. It's a difficult question to do in hindsight, because there has been so much about the fires and everyone has an opinion. In hindsight it is very difficult. If I try to cast my mind back to the morning of the 18th when this was happening, that's where the fire was at 1 o'clock. People doing the planning in ESB would have been doing their rate of spread under their worst case scenario to work out when it would hit the suburbs. You would try to time in to that.

They also would have the fact that the ACT has had an excellent reputation of holding fires on the urban edge of Canberra. They have really good setbacks. I can remember right back in the early '90s where we actually evacuated some people from O'Connor but, from my memory, no residences actually burnt down. People snuck back anyway. You can't stop that. You get them out and they go over the back fences and head back into their properties anyway.

I think the ACT worked out that it wasn't going to hit until 6 o'clock that night. But if you just look at it, there is the Murrumbidgee River to cross, there is a huge amount of rural paddocks which were in the middle of drought. There were no fuels in them. A lot of them were just dust bowls.

The night of the 17th, Dr Cheney was out there on the fire ground at that area. He spoke with my divisional commander. My divisional commander said, "What do we do? It is in the timber". The advice I got back through my divisional commander was "There is nothing you can do once it is in the timber. Once it gets out in the cleared country, that's when you hit it." That's what you would expect. When it came out into the cleared country is when you would attack the fire and when you would be able to get it. At least the rate of spread would drop.

What happened when it came out into the cleared country, from discussions I had with people who were there at the time, they couldn't believe it - it hit the cleared country and just took off. It

was a wall of flame across paddocks that had nothing in them. The rate of spread was far more excessive than what people expected. You were also then having where fires were combining and things so you get this much more erratic fire behaviour. You would have to work out, "Well, it is there." What are you going to tell the people of Canberra? That it is coming and, yes, you will get it in the cleared paddock, which is what everyone was hoping would happen.

When it crossed the border, we stayed with it. We were doing property protection. Once the fire front would go over - it didn't go over in one wall. It came across in fingers. So they would then stay and protect the property from the embers that were left after the fire front. Some other crews followed it down. There was nothing they could do with it. It just moved so quickly.

It would be a really difficult decision because you have got big roads, you have got rivers, you have got open paddocks. I don't think anyone expected the fire to get to the urban area in such a short time. When it did get there, I think we all had the same confidence that we have had for a long time, which is the ACT fire services have such a fantastic ability to hold it on the edge.

Q. This may be covered in your last answer, what would you - again without an expectation or now the knowledge as to what it did after it came out of forests - suggest would be the type of warning you would or could give at that time to residents around Canberra?

A. At this time here?

Q. Yes.

A. Which would be that the fire has now - McIntyre's fire has now entered into the ACT. We now have X amount of fires. At the same time fires are also moving out into New South Wales from the ACT and that we will keep you up to date with what is happening.

45

MR WHYBROW: Thank you, no further questions.

47

THE CORONER: Mr Walker?

MR PHILIP WALKER: Yes, just a very few.

5 <CROSS-EXAMINATION BY MR PHILIP WALKER

5

MR PHILIP WALKER: Q. Ms Crawford, just a couple
of simple questions first of all. You obtained a
great deal of equipment, aircraft, helicopters,
dozers and so forth. I just wonder if you are
10 able to tell us how far afield you had to go to
get some of that equipment?

A. With the aircraft, we go through state
operations which is run through Rural Fire
Service. They can access aircraft from all around
15 the state and I think right across Australia.
They work out all the fires; they prioritise the
fires; you can request what you like but you will
get what fits in with the priorities across the
state. So we just put the paperwork in and they
20 work out what we get.

With the dozers, through Soil Conservation he can
go right through the local area to get dozers.
You are competing with other people, like there
25 were a lot of fires in Kosciusko and that to our
west. The dozer, the D8 that did the control line
on the night of the 17th - on the morning of the
18th for us, he was actually a private contractor
who was contracted to schools I think in the ACT.
30 He had a commitment there but he could fit it in
by going up there Friday night, doing the line for
us Saturday morning, be with it Saturday, all
weekend if we needed him for anything else, then
he had to be back to whatever the contract was in
35 the ACT schools on the Monday. That was a local
one. Others would have come from quite a distance
away.

Q. Are you able to give us some idea to gauge how
40 difficult it was to get some of these resources to
fires? You may not know because they are
centrally organised. If you know where you got
aircraft and dozers from, please let us know.

A. The New South Wales system of state operations
45 is fantastic because you work out what you want,
you send it to the a central location --

47

Q. They organise it. There was some evidence about somebody looking for equipment from Orange in the ACT?

A. Yes.

5

Q. Did you go that far to get equipment?

A. We wouldn't ourselves, but the gentleman that I called from Soil Conservation could easily have gone that far.

10

Q. But you are not sure?

A. No. One of the problems is with ourselves and Jindabyne and Tumut, and on the 18th there were fires that started in Yass - we had a section 44 up there further - everyone was after equipment.

15

Q. I may have missed it but can you tell me when the section 44 declaration was made and you became deputy incident controller. Can you give us a brief description of what your responsibilities were?

20

A. As deputy?

Q. Yes.

25

A. As deputy you work directly to the incident controller. The incident controller has a huge list of tasks to do - from authorising purchases and request for resources, working with all the liaison agency reps who are there, like police, ambulance, ACT ESB, a whole range of things. As deputy, you work to the incident controller; you try to take that load off him, the things that you can take.

30

I could also sign for purchases. Logistics would often deal with me. All the smaller stuff, I was a bit of a buffer to take control of while the incident controller could deal with the bigger issues. Also whenever the incident controller was either on a standdown day or out in the aircraft looking at the fire or away at meetings, I would step into that role. I had to be present at the majority of meetings and know what was going on so I could step into the incident controller's shoes.

35
40
45

Q. Did you have a particular area that you operated in or were you frankly operating across

the range of the responsibilities of the incident controller?

5 A. Across the full range. That's the role, you have to be across the full range. As an incident controller, you have the planning unit, the operations unit, the logistics unit. I worked across all of those making sure systems were working and things were happening, people were turning up to IMT meetings, and IPs were being
10 done on time - across the whole lot.

Q. Could we bring up [MLI.DPP.0005.0190]. The first page I have is 0192.

15 THE CORONER: What is the document, Mr Walker?

MR PHILIP WALKER: It is the incident control section 44 report. It may be under the cover of a minute from Mr Koperberg to Mr McLeod. That was
20 [MLI.DPP.0005.0190].

MR LASRY: I thought I announced a couple of times the number for the report is [RFS.AFP.0093.0219].

25 MR PHILIP WALKER: I thank Mr Lasry. I am after the page that has the 14th on it. It is page 10.

Q. Ms Crawford, could I direct your attention to the dot points about the middle of the page.

30 A. Yes.

Q. You will see in the first dot point a little over halfway through the paragraph that the site of the Stromlo camp - it was the considered
35 opinion that that location would not come under any threat from fire. Do you see that reference?

A. Yes, that's the situation. I was out at the base camp on the morning of the 17th and never felt any threat to the base camp.

40

Q. On the 17th?

A. On the morning of the 17th.

Q. Were you part of the decision-making process for the establishment at the base camp at Stromlo on the 14th?

45 A. Yes. We looked at a number of locations.

That was the most suitable.

Q. Is it fair then to assume that you shared in the confidence on the 14th that the camp would not
5 be affected by fire?

A. Yes.

Q. You said you completed containment lines on the south-eastern side, I think, of McIntyre's Hut
10 on the 15th; is that right?

A. That's correct.

Q. You had intended to commence aerial incendiary work on the 16th had the logistics held up for
15 you?

A. That's correct, yes.

Q. Was it fair to say that, on the 15th, you were reasonably confident about holding McIntyre's on
20 the south-east corner?

A. Confident - always a possibility that it could have broken but confident that we were containing it.

Q. Mr Lucas-Smith, in his evidence of the meeting that he had in Queanbeyan on the 15th, said at page 998, after saying Mr Koperberg, Mr Arthur was present:
25

30 "They extended to me confidence that their fire was going through a main contain."

Firstly, did you hear any suggestion of confidence being expressed about the containment lines at
35 McIntyre's on the 15th?

A. McIntyre's was being contained as planned; things were going as planned; but there was always the possibility of it breaking.

Q. Yes, of course. Is it again fair to say from what you have just said that, as far as one can foresee and one can control these things, you were reasonably confident that things were going well and you expected that McIntyre's would remain
45 contained?

A. Things were going to plan.

47

Q. To plan?

A. To plan. There was always the worry of spotovers, but we were staying with it and keeping it contained to the best of our ability.

5

Q. You were present at that meeting. You heard the conversation which went on. Would you say that Mr Lucas-Smith was entitled to say that there was some confidence that the fire was going to remain contained; could that be a fair interpretation?

10

A. Depending what happened with the weather on the weekend.

15

Q. All right. If everything goes bad, different story?

A. Yes, right.

20

Q. Is that a fair interpretation of the meeting, do you think?

A. Yes, because we said it was contained but it was really depending on what was going to happen on the 18th, and then also again on the Monday.

25

Q. Could we bring up [NRF.AFP.0001.0171]. If you could just have a look at that document. Have you seen the document before?

A. The situation report, I would have, yes.

30

Q. Did you agree with it as at 1100 hours on the 18th of January?

A. Is there something specific or are you looking at the whole?

35

Q. There is indeed. Potential threat, just below halfway down the page. Where it says:

40

"Potential threat: rural holdings in the ACT between the pine plantations and Canberra urban area."

A. Yes, I can see that. Yes.

45

Q. Firstly, when did you come to know of the document?

A. From the 18th?

47

Q. Yes.

A. I would have seen it. If it was produced in the morning at about 11 o'clock, I would have seen it by lunchtime.

5

Q. Do you recall looking at this paragraph "potential threat"?

A. No, you just really quickly look at them; you are so busy; and you put it away.

10

Q. Are you able to say whether you agreed with the report when you saw it or not?

A. In what --

15

Q. In particular that paragraph.

A. Yes, I would agree with that because the pine plantations are in the current threat:

20

"Specifically in Uriarra pine plantation in the ACT and a small commercial pine plantation in New South Wales in the area of Two Sticks Road".

25

They were the immediate concern. The potential threat following on from those is the rural landholders, and it is again those drought paddocks, the paddocks that have very little in them.

30

Q. You mentioned that there is what I broadly summarise as an element of judgment in the warning question. Do you recall the answer you gave to Mr Whybrow?

A. Sorry, could you repeat that?

35

Q. You gave an answer to Mr Whybrow where you indicated there was an element of judgment and timing in the warning issue.

A. Yes.

40

Q. When New South Wales commenced warning rural landholders of concerns from fires, when was that judgment made in New South Wales?

45

A. On the morning of the 9th, the ranger for the area rang a few rural landholders around where McIntyre's Hut was just to let them know what was happening. Once we got the fire to the

south-eastern area of the ACT from Mt Tennant then threatening back in the ACT - that was the night of the 17th - the morning of the 18th the incident controller met with the police liaison officer.

5 It was agreed to give warnings to the residents in Michelago, Burra and some of the other rural residential areas. They were going to use both media to do it and I think drops off at people's houses. What was done, the Shire provided all the
10 addresses so that they could cover them all.

Q. That commenced on the 18th?

A. That's right, the 18th. What we were worried about, our predictions were that the fire from the
15 ACT was going to cross by lunchtime, cut off the Monaro Highway. If the wind continued strongly and we couldn't hold it, it would hit Michelago. If it was like the 1983 fires and we got a sudden wind change, it would then burn out all those
20 areas. There are a lot more timbered areas once you cross the Monaro Highway as well. We were really concerned for that.

Q. I want to read a paragraph to you from
25 Mr Cheney's report and ask you to indicate whether you think it is factually correct or not. It comes from page 20. It concerns Thursday, the 16th of January, in relation to the McIntyre's Hut fire. Mr Cheney says:

30 "In my opinion, the construction of containment lines and the burning out operations proceeded too slowly to allow sufficient time to complete the burning out
35 of large areas of unburnt fuel within the containment lines. At this stage the only option left to the incident controller was to undertake judicious aerial ignition late in the evening with spot fires placed around the
40 westerly aspects so that these fires would link up overnight without creating too much convective interaction.

45 I believe if the agencies had been trained in and practised precision prescribed burning using aerial ignition, they could have conducted this operation safely before the

containment lines had been back burnt. The
lack of aerial ignition experience meant the
operation was delayed until all the following
day when the weather conditions were
5 unsuitable."

Do you agree with that paragraph?

A. No. I disagree with that. We couldn't do the
aerial incendiaries on the 16th because we didn't
10 have the aerial incendiaries. If Mr Cheney is
saying we should have done the aerial incendiaries
before we got the containment lines in, you may do
that under normal situations. This fire season
was different - extreme drought, very dry fuels
15 and very dry live fuels. So even your live trees
and shrubs, the fuel moisture in them is very dry.
You can easily lose the fire.

People were saying the containment was going slow.
20 It was going slow because we had a long way to go.
It was a very windy track to go off. We had to go
slow to contain it. It was no use lighting up a
huge area and you lose it. All you have done is
add more wildfire to the environment. So we had
25 to go slow. Our decision was the best opportunity
to keep the fire contained was to get the
containment lines in and then do the aerial
incendiary. We had a buffer area between the
containment line. So where the aerial incendiary
30 was there was area burnt out before you got to the
aerial incendiary area.

Q. Was there any lack of experience in that sort
of work?

A. No. I had a very experienced planning officer
who did the aerial incendiary plan. He has been
round a very long time. He has a lot of
experience in it. The person who did the drops
was experienced and the navigator had done it
40 before as well.

MR PHILIP WALKER: Thank you, your Worship.

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

MR WATTS: Thank you, your Worship, I will be

brief.

<CROSS-EXAMINATION BY MR WATTS

MR WATTS: Q. Can I ask you about the night of
5 the 11th of January?

A. Yes.

Q. Back-burning was proceeding at that time out
at McIntyre's Hut fire?

10 A. On the 11th and --

Q. On the evening of the 11th.

A. There was some gaps in the evening of the
11th, as we discussed earlier. We started the
15 burn on the morning of the 11th. Then in the
afternoon, it happened every afternoon, you would
get spotovers. Often the lighting up would slow
down or stop while we contained the spotovers.
The fire was very active - that afternoon when you
20 have got the peak weather conditions, the fire is
getting out of control. The night of the 11th we
were burning but there was a gap. There was a gap
at shift changeover time. The logs show we
continued to burn from 1 or 1.30 the next morning.

25

Q. All right. During the evening of the 11th or
the morning of the 12th, the ACT crews were
withdrawn; were they not?

A. They were taken off the fire line at midnight,
30 I believe.

Q. Am I correct that the intention was they would
stay for a 24-hour shift?

A. That's what we were told at first, but then
35 the ACT withdrew their crews.

Q. Did those crews come back the next morning at
about 6 o'clock?

A. We had ACT crews the next morning. I don't
40 think they would have been the same people. They
may have been the same fire units; I'm not sure
whether they were the same people or not.

Q. Would it be true to suggest to you that the
45 withdrawal of the ACT crews unexpectedly was a
cause of interruption to the back-burning process?

A. With less crews, you can do less. We still

continued with the burn.

Q. If they had been there, you could have achieved more; would that be correct?

5 A. If conditions were right. But if it was that the conditions were such that you had strong wind behind the back-burn and crews may have decided on the line it was too risky to light up any more anyway, and they were just maintaining what they
10 had. It depends what the conditions were.

Q. That wasn't the case on the night, was it, there were no strong winds which made it impossible to carry out the back-burn that night?

15 A. I don't know why it wasn't until 1 or 1.30 that they recommenced. I'm not sure what the reason being. You usually leave that to the crews on the ground to decide whether they can hold it or not.

20

Q. Can I ask you about the meeting of the 8th which was attended by four people from the ACT?

A. Yes.

25 Q. Do you recall being asked questions about that - two of those people were Mr Cooper and Mr Bartlett, were they not?

A. Yes.

30 Q. A map was shown to everybody, was it not, setting out the proposed containment lines?

A. It would have been our fire operational map, which is part of the New South Wales submission to the New South Wales coronial. What we did at that
35 meeting was mark on it which lines, use a texta over the top of the roads that were there, which ones would be the containment lines.

40 Q. I think you told Mr Lasry that you knew the area pretty well?

A. Yes.

Q. Had you been the one who proposed the containment lines?

45 A. No, the operational people did that. I met first off with Bruce Arthur, Peter Lucas-Smith and Tony Fleming. And more operational people who had

been out - like Rob, who had been out to see the fire; Scott, who had seen it from aerial incendiaries; Neil Cooper; Tony Bartlett; and Rick McRae - all worked over the operational map and I
5 assume would have done that themselves there.

Q. I take it that part of the containment lines required no work; in other words, they were already cleared. Would that be correct?

10 A. The majority of containment lines were existing roads. We had to push in a dozer track from the Powerline track down to the river. Also the morning of the - we worked out broad
15 Neil Cooper actually came up with some good suggestions on how to take off some sharp corners we had by linking two trails. That created more effort with the dozers but from a back-burning point of view was a much better way to go.

20

Q. On the evening of the 8th and the morning of the 9th, had you or anybody to your knowledge done a calculation of the dozer tracks needed to be put in - the actual distance required?

25 A. No.

Q. Had you worked out a time schedule of when those dozer tracks might be completed?

30 A. No. The majority of the dozer tracks were only short distances. The dozers were also used - we had gale force winds on the 8th. The dozers were also used to remove trees off tracks so we could use them. The tracks were in good
35 condition. It was to clear them. It was to put in passing bays. It was to remove some trees where the canopy might be touching that when we lit up the back-burn you didn't want them there. It wasn't just a fact of measuring the distance of
40 trails.

40

Q. Do you take it there was no calculation done at about the time that might be required and the resources required to achieve the result within a certain time?

45 A. No. But there are so many things that are unknown, like we sent the D5 to push in Charlie sector. D5 started but couldn't do it. You can't

calculate that time frame. The D6 driver went down to do it and he said no way he wasn't going to do it. It was pointless putting hours on those sorts of things.

5

Q. Am I correct that, from your own point of view, the time taken to put in the containment lines was longer than you had wished or had anticipated?

10 A. To put in the containment lines for Charlie sector, where we pushed the dozer line in and to prepare - it wasn't to put them in, but it was to get them prepared to do the burn-off from. It was longer than we wanted. But the thing was, we had
15 to get a third machine to do it. That was bringing in a D8.

Q. What I am putting to you, did it all take longer than you had originally anticipated?

20 A. Yes.

Q. And was that a function of the lack of some resources to achieve that task?

A. We had resources but then the dozers we
25 thought would be able to do it couldn't do it. We had to re-assess and get bigger dozers. First of all, we were going to do a rake hoe line. From the crews on the ground it was decided no, a dozer line. That was a much better way to go in
30 hindsight anyway, because a rake hoe line wouldn't have held it. Also, because it was a big burn, we had to get sufficient aircraft as well. All the aircraft didn't arrive until Saturday morning.

35 Q. So it was the delay in achieving the result the function of a lack of resources in your opinion?

A. A lack of resources to finish off the
40 containment lines and to get the aircraft to hold it.

Q. Yes. Is that so?

A. It delayed things, yes.

45 Q. I think it can go without saying the sooner you had commenced the back-burning, the better the chance of ultimately containing the fire?

A. Only if we were certain we could hold the back-burn. There was no point in lighting up if we did not think we could hold the back-burn and, until we had the southern containment lines in, we were not guaranteed to hold the back-burn.

Q. As a general principle when you have such a large area of containment lines, there is no rule that you can't start some back-burning before the whole of the containment lines are put in. That's true, isn't it?

A. We did. We started back-burning before the northern containment lines were finished. We wanted to finish the southern containment line because that's where we were commencing the burn. That's where we had to because the wildfire was heading to the south. It was going to put that containment line under pressure. If we didn't get the burn started, we would have lost the fire to the south.

Q. I think Mr Cooper was suggesting to you, was he not, that you could use Webbs Ridge Trail as a temporary containment line and burn from that as an anchor point?

A. Which end of Webbs Ridge?

Q. The start.

A. We still didn't have charlie sector, which was further to the west, finished. If we had started lighting up along the southern containment line, we then had to bring this huge dozer past them. It is very steep terrain. Some people might think you can just push a dozer around units working on a fire, but in parts of Brindabella you can't. You are on the tops of ridges. You would have interfered with your crews lighting up to get the dozer past. Our most critical part was the charlie sector because that is where the wildfire put our containment line under pressure first. That was the critical point.

Neil was concerned about the ACT pine forests but we were concerned that, once we started, we had to be able to hold it and we had to make sure the southern containment line held. That was by getting the furthest western end in first on the

charlie sector before the fire burnt over that part of the containment line.

5 Q. Finally, the decision was made to use the Powerline Trail rather than the power line easement as the southern containment line, is that so?

A. That's correct.

10 Q. Do I take it from something you said to Mr Lasry that you would have preferred to use the easement as an easier and better containment line?

15 A. In theory what you do is your back-burns are along the straightest edges that you can possibly get for as short a distance.

Q. That is certainly far straighter than the windy trail; isn't it?

20 A. That's exactly right. The practice was the vehicles would still be on the road but the people would be on the easement. The easement was downhill of the road. So you would have your vehicles up here and people downhill lighting up here (indicating).

25 If the fire spotted over, it would spot over the people and have a direct run up to their vehicles. It was dangerous from a firefighter point of view, and you have to support your firefighters. If
30 they are not comfortable doing that, you have got to go with them and you have got to watch your firefighters.

35 That's why we went back to the road. First of all, we thought we were going to use the road. Then it was decided the easement was much straighter. But vehicles can't go along the easement. There were still gullies which, as the gullies started to burn, the dozers would have to
40 push cleared lines through the gullies. So in theory it would have been nice, but in practice it could not be implemented.

45 MR WATTS: Thank you, your Worship.

THE CORONER: Thank you, Mr Watts. Mr Pike, do you have any questions?

MR PIKE: Thank you, your Worship. I have nothing.

THE CORONER: Mr Brett Walker.

5

<CROSS-EXAMINATION BY MR BRETT WALKER

MR BRETT WALKER: Q. At transcript 4463 you referred to the last two years experience in explaining to Mr Lasry some aspects of your thinking concerning the back-burning strategy. Could you just elaborate on that, please?

10
15
A. The last two years experience has shown that your fuels and your fire behaviour have been very different to a normal season. Not only were you in drought, your soil moistures were really low, your fuel litters were really dry - that is the dead fuel on top of the soils - but also the live living vegetation, the fuel moistures in those were really dry as well.

20

People who had been away to fires would come back and say, "We were working on a containment line and all of a sudden the fire was behind you. We don't know how it got there. It was racing up trees." Things seemed to be just igniting because the air, the humidity was low and everything is so dry. It was just igniting.

25

I know from experience with the Woomargama fires where there were a number of lightning strikes in a very small area. Each lightning strike was only a very small area, and there was a number of them. In normal seasons, you would just send your crews in. They would get a rake hoe around it. You have got your helicopters water bombing and you get it out. But they just won't go out. The ones at Woomargama just would not go out. They were getting slowly bigger and bigger, until we decided to do a much bigger burn as an indirect attack.

30

35

40

That was what was showing through most of the fires - if you didn't do a direct attack and get them out straight away, you kept falling back and falling back. That's what we felt with McIntyre's. We had a number of fires, one was already really big and in very steep terrain. It would have been really hard to do anything on the

45

flanks of the fire, so we went to the big
containment line. But then reading it, looked at
doing Baldy as direct attack. It just fitted in
with exactly what has been happening in the last
5 two years. No matter how hard you try, they just
don't go out.

On the night of the 17th, the crews going into
charlie sector were driving past a lot of other
10 sectors to get in. They had been driving past for
days and those areas had been burnt out for days.
As far as we were concerned, they were what we
call blacked out; they were out. When they drove
out on the night of the 17th, areas that had been
15 blacked out for days were all starting to put
smoke up and pop up. They were still sitting
there just simmering.

Q. When you said "big burn" and "big containment
20 lines" in that last answer, do I take it by that
you mean containment lines to which back-burning
can be done which are more remote from the
wildfire than would otherwise have been the case?

A. They were the closest lines to the actual fire
25 because --

Q. They were big, relatively speaking in that --

A. Very big, yes.

30 Q. -- more remote from the wildfire than you
would, all other things being equal, prefer to
have; is that right?

A. Yes, but the terrain dictates where they are.

35 Q. In relation to terrain, could you pull out the
fire operations map from the pocket, which is
appendix 4 of the joint agencies' submission to
the New South Wales coronial inquiry. That's the
fire operations map which had been prepared before
40 the fire for use by firefighters in case of fire;
is that right?

A. That's right. Yes, operational map from the
ground.

45 MR BRETT WALKER: Does your Worship have that at
the back of the --

47

THE CORONER: I don't have the particular submission.

MR BRETT WALKER: May I hand you a copy,
5 your Worship. I am using this paper because you can actually see things on it that you can't see, and also it was the one that was available to the firefighters.

10 Q. I think you can pick up, can't you, the conjunction of Lowells Flat Trail and McIntyre's Trail?

A. Yes.

15 Q. Immediately to the west of that conjunction is the position which is known as the McIntyre's Hut weigh point; is that correct?

A. With the --

20 Q. Immediately to the west on the river?

A. Yes, yes.

Q. If you go over to the key section, the information part of the map on the right-hand
25 side, the first of those boxed tables includes the McIntyre Hut weigh point in an entry that attributes to it steep access; is that correct?

A. That's correct.

30 Q. These are 20-metre vertical separation of contour lines on this map; aren't they? Down next to the north --

A. Oh, right, down there, yes contour lines 20 metres.

35

Q. I may be doing him a wrong, for which I apologise, but I think Mr Lasry referred to a kink in McIntyre's trail; do you recall that?

A. Yes, where the word "trail" is.

40

Q. If I am reading the map correctly, that shows in this steep access the trail coming up from the river and following a ridge line along a contour and then down a ridge line?

45 A. Yes.

Q. I think what was proposed to you in terms of

ironing out a kink was in effect instead of going up a ridge along a contour and down a ridge, to cut straight across?

A. That's correct.

5

Q. Again, correct me if my map reading skills have deserted me over 30 years, but those contour lines and the little blue line down the middle of them bisecting three or four of them suggests there is a gully there and a natural water course and a vertical drop of between 60 and 80 metres; is that right?

10

A. Correct.

15

Q. That, as I understand it, is the terrain across which is proposed the kink be ironed out by a bulldozed road for access; is that right?

A. That is correct.

20

Q. For the purpose of firefighting with tankers and the like; is that correct?

A. Yes.

25

Q. That's as you understand it the proposal from the Bar table this morning?

A. Yes.

30

Q. That came from Mr Cheney. That map, which was put together before these fires for the purpose of firefighting, has I think a legend just north of the region I have been asking you about which reads "no tankers"; is that correct?

A. That's correct.

35

Q. That is presumably because of the nature of the terrain rather than simply a prohibition for the sake of it?

A. That's right. All we would let down there is light tankers. For the big tankers, it is too steep.

40

45

Q. What do you think of the practicality of the suggestion that that kink be ironed out by a bulldozed road for the access of tankers so as to make McIntyre's trail rather than the Goodradigbee River the control line in that area?

A. I just think it is impractical. You can do it

but it would just be really hard to maintain it because you are restricted to light units down there. So sort of only low water accessing units. It would be very difficult to hold. The river
5 worked much better and it is just so steep.

Q. Can I take you to map 4, which you will find towards the back of the joint agencies' Queanbeyan submission. Again, the paper reveals perhaps a
10 bit more than Mr Cheney's slide does. It does have the contours on it as well.

Now map 4 - does your Worship not have one?

15 THE CORONER: I will return this one to you, Mr Walker.

MR BRETT WALKER: Q. You will see there on map 4 the ignition point is actually partway down that
20 gully feature that you identified from the fire operations map; is that correct?

A. Yes.

Q. Within the area to be excised as it were by this kink straightening approach; do you see that?

25 A. Yes.

Q. Now, Mr Cheney's slide that you were being asked about this morning didn't have the other
30 ignitions - I think Mr Lasry pointed that out to you a couple of times.

A. Yes.

Q. There are two there, I think, labelled
35 Mountain Creek ignitions; is that right?

A. That's correct.

Q. And Baldy Range ignition; do you see that?

40 A. Yes.

Q. Do you know whether they are spotovers or lightning strikes?

A. I believe from the tower on the first night that Baldy was from embers from the McIntyre's
45 fire, but later on it was suspected it was actually a separate lightning strike. As for the two in Mountain Creek, I don't know. It doesn't

really matter; they were all fires we had to deal with, no matter what their ignition was.

5 Q. If you go back to map 2 within the joint agencies' submission, it is a couple of pages before, your Worship. I am not sure I can read that. Does that attribute Baldy as a lightning strike or not? I can't tell.

10 A. Lightning strike data - all the red circles are ones from lightning strikes on the 8th of January. The others were active fires that were burning before the lightning storm on 8 January.

15 Q. Those are the lightning strikes of which McIntyre's Hut was one; is that correct?

A. That's right. The four across the Brindabellas.

20 Q. Those strikes led to fires?

A. Yes, yes.

25 Q. If you would turn between pages 18 and 19 in the printed copy, the legend to that figure 7 doesn't describe precisely the advantage point the photographer was occupying. From your knowledge can you tell us, please, is it in the broad looking east?

A. Yes, the way the fire ran.

30 Q. We are looking, are we not, at part of the gully and steep formation which is the terrain across which this kink straightening track is postulated as being constructed; is that right?

35 A. This is to the east. The ignition point would be --

Q. Where the photographer is or below; is that correct?

40 A. Yes, and you can see the gully is going down.

Q. So this is the kind of terrain in question; is that right?

A. That's correct.

45 MR WHYBROW: I am not meaning to interrupt but there is a number. It can be brought up on the screen for at least the people in the other court.

THE CORONER: Mr Whybrow, you don't have a copy of this?

MR WHYBROW: No, I don't. It can be brought up on the screen for people who don't have a copy. It is [RFS.AFP.0093.0001] at page 25.

MR BRETT WALKER: Thank you, your Worship.

10 THE CORONER: I will return this to you.

MR BRETT WALKER: I have no further questions.

MR WHYBROW: I apologise for interrupting.

15 THE CORONER: Mr Lasry, any re-examination?

MR LASRY: Yes.

20 **<RE-EXAMINATION BY MR LASRY**

20

MR LASRY: Q. Ms Crawford, I think in fairness to Mr Cheney, kink straightening was more my terminology than his. Looking at his report, as I understand it, what he was proposing was that in effect a crew using hand tools would endeavour to put a line around the fire and control the fire on the western edge of Lowells fire trail?

25 A. McIntyre's.

30 Q. I am sorry, McIntyre's, yes. For the purpose of dealing with an area that is apparently, according to his calculations, about a hectare in size and about 500 metres of hand line.

35 Now, insofar as any suggestion was made that the kink in the road be straightened, I think that is a product of my misunderstanding of what he was suggesting. As I understand what he was putting in his report, the idea was that that small section of the fire which had crossed McIntyre's fire trail potentially was able to be controlled. And if it was, it opened up the potential to the McIntyre's fire trying to be a possible western containment line. I think the question I asked you originally about that was whether that was discussed on the night of the 8th, and I think your evidence was that it wasn't discussed.

45

A. That's correct.

Q. Do you accept that that is a possible action which could have been taken - that a hand line
5 could have been put around that portion of the fire west of McIntyre's trail and some consideration given to using that road as a western containment line?

A. It could have been but it was not my preferred
10 option. The Goodradigbee River gave us the option of letting the fire burn slowly down to it. We had to have less resources to monitor it. We had plenty of aircraft monitoring it from the air.

15 By doing what Mr Cheney suggested, that then added more area that we had to patrol by vehicle. As soon as you put in a hand line or even with dozer lines, you then have people walking it. It's not as safe, and also it is just so much harder to
20 keep an eye on it and it can break away. Also it then created - we were being pushed then to light off that containment line. We could easily compromise the northern containment line, depending on when we lit off from it. So it just
25 would have added a lot more complications.

Q. I want to make it clear that experienced views vary according to particular points of view - insofar as there were disadvantages, the benefit
30 of doing it was that it would have made a reasonably significant contribution to reducing the total area to be contained; wouldn't it?

A. It would have but it would have taken more resources to manage it. It would have reduced the
35 amount of area to burn but it would have taken a lot more people and resources to look after it.

Q. But a reduction in the area to burn is obviously a desirable outcome, if you can do it.

40 A. Yes, but you don't want to tie up more people to do it. It just would have been a lot more intensive area to look after.

Q. Ms Crawford, you've made a point of saying, no
45 doubt correctly, that you were dealing with unusual and critical circumstances?

A. Yes.

Q. Because of the condition of the fuel?

A. Yes.

5 Q. Because of the general drought conditions that we have discussed in some detail?

A. Yes.

10 Q. That does make the reduction of the area to be burned a desirable target, if you can possibly do it; doesn't it?

A. If you can do it efficiently, yes.

15 Q. Insofar as the Goodradigbee River was the western containment line, of course, that wasn't able to be patrolled by fire crews at least to some extent. That is also correct; isn't it?

20 A. You could get vehicles either side. There were vehicle tracks on the opposite side of the river, and in the middle section we were doing it by aircraft. We had plenty of aircraft because they were getting water from the northern and southern sides of the Goodradigbee.

25 Q. So if there was a spotover to the west over the Goodradigbee River in the area where fire vehicles couldn't control, would that mean that that spotover to be controlled would depend on aerial attack?

A. Yes.

30

Q. And not ground crews?

35 A. You could then winch ground crews in. All our crews are winch trained. You could winch ground crews in if the helicopters could hold it. Because we had such really good observation of that area by aircraft, we could easily winch people in and we could get around it.

40 Q. So aircraft of course is a resource?

A. Aircraft is a resource, yes.

Q. And aircraft is a resource in relatively limited supply?

45 A. Yes, but we had quite a lot of them.

Q. I just ask you to look at slide 65 of Mr Cheney's presentation. Mr Whybrow asked you

some questions about that. We are looking for
18 January, 1300 hours, please. Mr Whybrow asked
you some questions about this slide in relation to
the question of warnings. You have made the point
5 several times about what lay between the eastern
edge of that fire and the metropolitan area of
Canberra, particularly Duffy.

A. Yes.

10 Q. What we see on the eastern edge of that fire
is a fire which is exiting the forest, don't we?
That's in effect what is happening at 1 o'clock on
18 January; it is burning under the influence of a
north-westerly wind.

15 A. Yes.

Q. It is burning, if you like, strongly,
ferociously - I think the fire term is burning
well - which probably means burning really badly
20 because it is burning aggressively.

A. Yes, yes.

Q. It is burning to the south-east.

A. Yes.

25

Q. So it is by this stage a very intense fire?

A. The breakaway to the east was quite intense
all the time, yes.

30 Q. You made the point that, back on the 8th of
January, one of the things that struck you about
the McIntyre's fire as it was obviously burning up
that ridge was that it was throwing spot fires or
throwing firebrands, whatever the correct
35 terminology is --

A. Under the gale force winds --

Q. -- for some 5 to 6 kilometres --

A. Yes.

40

Q. Inevitably that was going to happen in these
circumstances as well, wasn't it, because the wind
was strong, the fire was intense and in the path
of the fire was the balance of the Uriarra pine
45 forest and, of course, just to the north-west of
Duffy the Mt Stromlo pine plantation?

A. Yes.

Q. On the scale on that plan, that would be probably a distance, as at 1 o'clock, of obviously in excess of 5 kilometres but probably not as far as 10 kilometres?

5 A. To Duffy?

Q. To Duffy, yes.

A. I think from the border to Duffy is about 15 kilometres as the crow flies.

10

Q. But the intervening features, as you pointed out, included the Murrumbidgee River?

A. Yes.

15 Q. And the eaten-out grasslands?

A. Yes.

Q. They also included the Uriarra pine plantation?

20 A. Yes.

Q. And the Mt Stromlo pine plantation?

A. Yes.

25 Q. And both well within range of spots being thrown by a fire so intense as this one was?

A. Yes.

30 Q. Guessing, so that anyone reading this transcript knows, from that fire edge to Uriarra at that stage would be perhaps about 2 kilometres, perhaps even less. It depends where the forest starts, I suppose, and another 4 or 5 kilometres to the Mt Stromlo pine forest. Would that also be correct?

35

A. The distances are hard to work out on this scale.

40 Q. They are because they show roads rather than plantations.

A. Yes.

45 Q. Certainly Mt Stromlo is within less than 10 kilometres - according to this, anyway - of the fire front; isn't it? Perhaps the document speaks for itself. The fire was close enough to be throwing spots into pine plantations in effect all

the way from where it is in this map at least to Mt Stromlo; isn't it?

A. Could do.

5 Q. I think this is clear from the evidence we have had so far in the course of this inquest: it is absolutely clear, isn't it, that a fire which is contained does not mean it is a fire which is controlled?

10 A. That's correct.

Q. This fire, the McIntyre's fire, was never controlled in those terms, was it? It was --

A. Contained.

15

Q. Contained.

A. Yes.

Q. It was contained because it was within the containment lines?

20

A. Yes.

Q. I think you have already agreed that it is not your recollection that on the 15th of January either Mr Gilligan or Mr Arthur expressed great confidence to Mr Lucas-Smith that they had the fire contained and that it was not going to be an issue for the ACT. That's clear, isn't it? You don't agree with that proposition.

25

30 A. It was not controlled. It was within containment lines and going as per plan.

Q. Yes. But it is not correct to say, is it, that either Mr Gilligan or Mr Arthur expressed the view that the fire would not be an issue for the ACT?

35

A. Could you repeat that?

Q. Yes, certainly. What I am quoting from is Mr Lucas-Smith's statement which is referred to at page 1031 of the transcript. Mr Lucas-Smith says:

40

"I then asked him - I think that's a reference to Mr Koperberg - what his level of confidence was in relation to the McIntyre's Hut fire, and he, Mr Gilligan and Mr Arthur expressed great confidence that they had the

45

fire contained and that it was not going to be an issue for the ACT."

5 A. It was within containment lines.

Q. That part you agree with?

10 A. Yes. But I don't agree with that it was not going to be an issue, because it always depended on the weather and whether it broke containment lines.

Q. You first of all don't agree that that was said to Mr Lucas-Smith?

15 A. I don't remember that being said.

Q. And if it was said, it would be something you would disagree with?

20 A. Yes, if it was within containment lines. Never was it not an issue if it broke containment lines.

Q. And as I think you said earlier, as far as you are concerned, the McIntyre's Hut fire was always a threat for the ACT from the time it started?

25 A. Yes, it was always an issue for all of us.

Q. Hence their involvement?

A. Yes.

30 MR LASRY: Yes, thank you, Ms Crawford. I have no further questions.

THE CORONER: Thank you, Ms Crawford. You are excused. You are free to leave.

35 MR LASRY: I assume that is a convenient time.

THE CORONER: We will adjourn until tomorrow morning at 10.

40 <THE WITNESS WITHDREW.

**MATTER ADJOURNED AT 4.13PM UNTIL TUESDAY
4 MAY 2004.**

45

47

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 46

Tuesday, 4 May 2004

MR LASRY: I call Bruce James Arthur, please.

5 <BRUCE JAMES ARTHUR, SWORN

<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Arthur your full name is Bruce James Arthur?

10 A. Correct.

Q. What is your present professional address and occupation, Mr Arthur?

15 A. At this time I am the zone manager for - correction, team manager for the Lake George rural fire team. That comprises the former Yarrollumla Queanbeyan districts and the former Tallaganda Shire.

20 Q. What's your professional address?

A. My professional address is PO Box 2234 Queanbeyan.

25 Q. Mr Arthur, throughout what might be described as the relevant period at least from 9 January onwards, you were the incident controller for the Yarrollumla section 44 fire?

A. That's correct.

30 Q. Which included the McIntyre's Hut fire; is that right?

A. Correct.

35 Q. You have in effect a career in firefighting in one form or another?

A. For a long time, sir, yes.

40 Q. Your Worship, a detailed CV has been provided to me just before court but I will just refer in part, if I might, to parts of the overview.

Mr Arthur, the story really starts with the Australian Army Corps of engineers in 1965 which you entered as a field engineer; is that correct?

A. Correct.

45

Q. You saw service in Vietnam twice?

A. Correct.

Q. Were awarded a number of citations or awards in relation to your service over there?

A. Yes, sir.

5 Q. Including the infantry combat badge, the Vietnamese Cross of Gallantry with Palm Leaf Device Citation, Vietnam Campaign Medal and Service medal and other Australian service medals; is that right?

10 A. That's right.

Q. In 1973 you retrained as an army firefighter, and then, you say in this document restreamed, I take it that means in effect re-entered the army service?

15 A. Changed trades.

Q. You served there until you retired from the defence forces in 2002?

20 A. Correct.

Q. In that career you held various positions, including crew commander, officer in charge of station, inspector and things of that kind; is that right?

25 A. That's right.

Q. When I say "things of that kind" I don't mean to demean the summary, I am trying to do it very briefly. After leaving the defence forces in 2002 what was the next actual step for your career; what was the next thing that you did?

30 A. I left the Defence Force in 2002. I worked for the Chubb fire company for a year as a training manager and then entered the Rural Fire Service.

Q. Your appointment to the position of district fire control officer for Yarrowlumla and Queanbeyan rural fire district occurred I think in May of 2001; is that right?

40 A. Yes. Sorry, I left the service in 2002. In '91, '92 correction, 2000.

45 Q. That's why I have left it to you because the dates were confusing me. When did you actually leave the army?

A. 2002.

Q. When were you appointed to the position that you occupied at Queanbeyan in January 2003; when did you first hold that position?

A. No, that's not correct. I left the army in 1992 and joined the Rural Fire Service in 1993. And I came to Queanbeyan in 2002, I think May.

Q. Now, apart from your military career, in your civilian career you have attended a number of significant wildfire incidents?

A. Yes, sir.

Q. In the capacity in some cases as incident controller or in other senior positions; is that right?

A. Yes, sir.

Q. Are you able to indicate on how many occasions you had been in a senior position either as incident controller or otherwise at what we have been describing in this case as a campaign fire?

A. As incident controller two or three times; as a deputy incident controller the same; and as our operations, air attack supervisors, task force commanders a dozen or more at section 44 size events and then numerous lesser events.

MR LASRY: I will tender the document, which is simply described as the career summary of Superintendent Bruce Arthur.

THE CORONER: Summary of Mr Arthur's experience will be exhibit 0044.

EXHIBIT #0044 - MR ARTHUR'S SUMMARY OF EXPERIENCE TENDERED, ADMITTED WITHOUT OBJECTION

MR LASRY: Q. You were present in court and present through Ms Crawford's evidence?

A. That's correct.

Q. I don't want to go over all the issues that arose with her again in that level of detail necessarily, but there are some things I need to ask you about. If I can start with just one minor

matter that didn't come out of the evidence
yesterday but I think did come from some evidence
you gave at the New South Wales coronial hearing
and I think also appears in the incident
5 controller's report. Perhaps before I come to
that, the incident controller's report is a
document essentially prepared by you, obviously
with assistance?

A. It's prepared by the incident controller but -
10 yes, it uses the input from the senior people
involved in the incident.

Q. The document itself is described as the
incident controller's report and it has your name
15 on it as the incident controller?

A. Under our system, section 44 system, it is a
mandatory report.

Q. Just dealing with the 8th of January at about
20 4 o'clock - I think you were asked some questions
about this at the New South Wales coronial
inquest. You gave evidence that at about
4 o'clock the Yarrowlunla rural fire department
dispatched a tanker from Fairlight; is that right?

25 A. Correct.

Q. To the McIntyre's Hut fire. And in the course
of your evidence you have described what happened
to that tanker. I will read you to the evidence
30 which is [DPP.DPP.0001.0338] at 0389. It is
actually page 34 of 26 August. You were asked:

"Q. What sort of a tanker was sent from
Fairlight?

35 "A. It was a category 4 water tanker.

"Q. What's a category 4?

"A. It's a five ton Dodge with a 3,000 litre
tank and a pump.

40

"Q. Do you know where that crew went to?

"A. Sir, they went to Pig Hill which is a
feature in the vicinity and they observed the
fire from there. And then they attempted to
45 get closer and they wound up on the
intersection of the Baldy fire trail and the
07 power line trail. They came across the

fire there and they thought that that was the main fire.

5 "Q. So it would appear that they never got onto the McIntyre's Hut trail?

"A. Quite correct. Quite correct."

That's your understanding of what happened, Mr Arthur; is it?

10 A. Yes, sir. Correct.

Q. Is that information that comes to you from members of that crew describing what happened?

15 A. That was information that was recorded at the fire control that afternoon and passed by the crew.

Q. Does that information include information about the way in which the fire was burning; that is, the intensity with which it was burning or an opinion about its --

A. It may have. But I don't see it recorded so I can't recall at this time.

25 Q. Well, they were dispatched at 4 o'clock, I think, according to your evidence. Do you know from your recollection of the information you were given what time they actually would have got to the Baldy fire?

30 A. Not from recollection. But that distance and that travel would probably take them the best part of an hour.

Q. So perhaps some time after 5 o'clock possibly?

35 A. (witness nods) I do recall they said there wasn't much they could do with it.

Q. Do you recall why they formed that view?

40 A. They were a single truck and that particular truck is only a 2-wheel drive unit. It wasn't particularly suited for that area.

Q. Again, testing your memory, if I can, did the information disclose whether at that stage the fire was on either side of the Baldy fire trail?

45 A. I can't recall, sir.

47

Q. I want to come to the meeting at Queanbeyan on the night of the 8th and the discussion that occurred. You sat through Ms Crawford's evidence yesterday and heard her account of it. Do you
5 have a clear recollection yourself as to how that meeting was conducted?

A. Oh, I was at the meeting and I have a recollection, yes.

10 Q. I wonder if I could trouble the Court officer for slide 45 of Mr Cheney's presentation, please. It is the containment map. Doing the best you can, Mr Arthur, what I am interested in is the larger part of the meeting; that is, when everyone
15 was present, people from the ACT. I take it Ms Crawford has indicated that she convened the meeting, she called the meeting. The idea of the meeting was to determine an approach to the fire?

A. Correct. If I may recap the afternoon. There
20 were a number of other fires burning to the south and east. We had already put about 10 units and quite a number of people onto those. I realise that is not part of this, but we were focused to some degree on that. I received a call some time
25 in the afternoon from Ms Crawford relative to the meeting that evening because we now have a western front as well.

Q. Mr Koperberg gave evidence that there was
30 something in the order of 72 fires all told that were ignited that day?

A. I don't know the number, but there was certainly a large number.

35 Q. In relation to what you knew about as at 8.30 on 8 January, from your point of view where did this particular incident fit into the priorities?

A. What I knew about that night was that we had
40 two or three fires to the south-east and down around Captains Flat which we were already in attendance at; we had fires in the vicinity of McIntyre's Hut; and we were aware then that the ACT had a number of fires, although we didn't know exactly at that time of the afternoon.
45

Q. At the time of the meeting which started at 8.30 had you been briefed by anybody else,

Ms Crawford for example, as to the circumstances of this fire?

A. We had spoken on the telephone. So you might say I had a telephone briefing.

5

Q. You had some information?

A. Yes.

Q. What information did she give you, can you remember?

A. The approximate location, the fact that she was sending people up there to have a look. I think somewhere around that time we also had been talking to Fairlight. Their concern was the amount of smoke and debris coming over the top of them.

Q. You were able to see that clearly enough?

A. At some stage in the afternoon, it was well before dark, we walked out on to the back verandah of the Fire Control Centre. We could see the column from the McIntyre's Hut area, I stress "the area". I measured a distance on the map. Line of sight was 54 kilometres. That indicated a fairly major event.

Q. As soon as you became aware of the location of this fire, I take it you realised that it was a fire of significance for the ACT?

A. Certainly we looked at the map to see what the proximity was. We were aware that at that point, even though it was over near the Goodradigbee, yes, it was certainly in proximity of the ACT border. So, I mean, you do contingency on any of these things. We looked at it, yes.

Q. Well, there were very flammable pine forests in the ACT which obviously were in line from this fire under a westerly or north-westerly wind?

A. I would suggest at that point of the afternoon - I mean, the pine forests in the ACT, we didn't know their exact boundaries. So perhaps at that early point in the afternoon, more the ACT may have been a concern rather than pine forests. Certainly later in the day after I had spoken to Mr Lucas-Smith, it was made clear that they were a high priority.

Q. In your section 44 report, which I perhaps will ask you about this before we come to the detail of the meeting, which is [RFS.AFP.0093.0219] at 0225. Do you have that?

5 A. I do, but it is in my briefcase.

MR LASRY: Might the witness retrieve the copy and anything else that you might be assisted by, Mr Arthur.

10

THE CORONER: Yes.

MR LASRY: Q. Page 5. It is the daily operational summary that you set out in relation to Wednesday the 8th of January. You say in the second paragraph under that heading:

15

"It was observed that the fire reported at - you give a grid reference - (the main fire) had taken a significant run to the east up a mountainside and this, combined with several other identified ignition points in the same general location, (one adjacent to Baldy Range fire trail and two others adjacent to Mountain Creek), the steep terrain, rapid fire spread and the deteriorating fire weather and travel distances and time to access the fire made a direct attack impractical at that time."

20

25

30

The time you are talking about, I take it, is approximately 4 o'clock in the afternoon?

A. It would have been a little later than that, sir, more like 7. Bearing in mind this report was written post the event and this is a re-cap of what we saw. The decision was actually made later in the evening. At that stage between 1700 and 1835, we were still trying to get intelligence off the ground of what this thing was doing. We were well aware it was a very large and fast moving fire.

35

40

Q. The document creates the impression, and it may be in view of the evidence you have just given the wrong impression, that some attention was paid to whether or not there should be some direct attack on the fire between 4 o'clock and

45

5 o'clock. Is that a wrong impression?

A. No. I would suggest, sir, as a firefighter the first line on any fire, if you can work it, is to do a direct attack and try and suppress it.

5 However, you don't do that until you are aware of what you have in hand. I go back to my point, we could see the smoke column from 54 kilometres away. That indicated that this was not a small fire and was probably well outside of direct
10 attack at that time.

Q. Those factors listed there - the steep terrain, that is perhaps self-evident from the information we have of that area. It is a rugged
15 area?

A. Yes.

Q. The rapid fire spread - I take it that comes from observations made particularly in relation
20 to --

A. That came from the observations made and also the calculation between what we thought was the time of the lightning strike and the time the fire was seen, it had expanded exponentially at a huge
25 rate.

Q. Deteriorating fire weather, in what respect?

A. Extremely high winds at that time that
30 afternoon.

Q. And travel distances from the nearest brigades to the scene of the McIntyre's Hut fire, first of all?

A. There was a travel penalty no matter what way
35 we came from into that area.

Q. The Fairlight brigade, as it turned out, went to the wrong fire. It is no criticism of them.

A. I would disagree with that, sir. They set out
40 to go west to find the fire. They found the fire. None of us --

Q. I agree with that; I am not making a criticism; I shouldn't have put the question that
45 way. They went to the Baldy fire and they believed they were at the McIntyre's Hut fire?

A. At that stage we weren't clear just how many

fires. We are now talking somewhere between 4 and 5 in the half hour.

5 Q. What sort of time distance would it have taken them to get to where they were?

A. I can't say exactly, but from Fairlight station where they are into that area was probably at least an hour, three-quarters of an hour.

10 Q. And does Fairlight only have one tanker or were there other units there that were being used for other purposes?

A. They had two. They are a very small brigade. They could only probably crew one.

15

Q. Is that a usual procedure to send one tanker alone to a fire to investigate?

20 A. Yes. It is not an uncommon procedure, no. I guess the situation, because we are a volunteer organisation, you send what you can get a hold of.

25 Q. In the hours between 4 o'clock and say 6 or 7 o'clock, as far as you know, was consideration given to a possible direct attack by somebody and, if you know, by whom?

30 A. Our first consideration for any fire is direct attack. That is based on what we find out about the fire. Generally we will dispatch units. What we wait for is a call back from the first unit on site to give us some indication of what this thing is doing, is it possible. So it is a reconnaissance issue. In the interim, National
35 Parks and Wildlife Service had people going in and aircraft going in. We gathered all of the intelligence from that and, in the end, that evening formed a plan based on that.

40 Q. Let's come to that meeting. At the time of the meeting you had one discussion with Julie Crawford; that was the extent of the information you had apart from what you had observed yourself?

A. I believe it was one, yes.

45 Q. Can you give us, as best you can, an account of how the discussion progressed that led to the decision to deal with the fire in the way that it was decided by the use of broad containment

strategy?

A. We are talking about the meeting now?

Q. At the meeting, yes, with everybody present.

5 A. Generally these forms of meetings, they are not a formal meeting. This is an operational planning meeting. The people involved are operationally orientated. First of all, we gathered what intelligence we had. That was from
10 the Fairlight people, from whatever source we could gain. We don't use one source of intelligence.

Q. Let's just pause there. You had sources of
15 intelligence from, as you say, the Fairlight brigade?

A. The Fairlight brigade.

Q. Who else had provided intelligence?

20 A. We had the reports from National Parks and Wildlife Service; the report back from Mr Hunt, who had been up as far as Mt Coree; the aircraft that had overflown it; Mr Lucas-Smith brought some intelligence with him; I believe we had also
25 spoken to Mr Smith over in the Brindabella Valley. He had seen the fires from where he was or the back of them. We had a number of different bits of intelligence.

30 We also had our visual sighting, my own visual and my deputy's visual sighting from the back door of our centre in Queanbeyan. You put all of these things together and you make a judgment.

35 Q. And that's what you did?

A. We did.

Q. What you didn't have in those particular
40 circumstances was any reconnaissance from anyone who got closer to the fire on the ground, I think, than the tower at Mt Coree; is that right?

A. That's correct, sir. I don't believe we
45 needed any more than that. The photographs taken at that time, again I point out we could see the smoke column from 54 kilometres away. The over flight information - effectively this is a battle scene and a reconnaissance indicated that we had a

major running fire and that that fire was beyond direct attack at that point of the day.

5 Q. There doesn't seem to be much argument that at least in the broad that is right. So a broad containment policy or a containment policy had to be settled upon?

A. Yes, sir.

10 Q. That policy was dependent on the features that were available to the people making the decisions?

A. Yes, sir.

15 Q. As we saw yesterday there are some choices to be made in this particular case; is that right?

A. (witness nods).

20 Q. I wonder if we could go back to slide 45. Perhaps while that is coming up, I will ask you some preliminary questions. As I asked Ms Crawford yesterday, you were conscious I take it of the pre-existing conditions - conditions of drought, conditions of dryness?

A. Yes, sir.

25

Q. You hadn't been in the area that long but did you have any understanding of the fuel loads in that area at various places?

30 A. I was aware from anecdotal evidence, if nothing else, that it was believed to be high, depending on who you spoke to and on what day as to how much was there. I tend to be a little more objective and I like to see some evidence. But I believe there was a reasonable amount.

35

Q. Was the weather over the next few days something that was part of your intelligence that you had before you on the night of the 8th of January?

40 A. We started to make inquiries about what the weather was going to be indicating, yes.

45 Q. By the time you made your decision about the containment policy, did you have information about the outlook for the weather?

A. I cannot recall if we did that night or not - probably not. We probably would have sought that

that night starting the next morning.

5 Q. Bearing in mind that you were discussing a broad containment policy, the weather conditions which would prevail over the next cycle, as it were, the next four or five days would be the critical piece of information; wouldn't it?

10 A. The weather conditions would certainly be an influencing factor.

Q. So at the time at least that you made the initial decision, you say you didn't have anything definite about the weather?

15 A. Could I say, sir, that the decision we made on Wednesday night was a strategy. The strategy was one of broad containment. To some degree I had a fair amount of input into that, as did my deputy.

20 We had spent the last two summers in the Shoalhaven where we had seen some absolutely massive fire runs. I was down there when 40 houses went in one afternoon. We had had consistent failures with direct attack over the preceding two and three summers. When we moved in
25 the Shoalhaven to containment strategies, we were more successful. That was also an influencing factor.

30 Q. But you didn't have at that stage any detailed information about the weather?

A. I would suggest, sir, at that stage that afternoon we probably had that day's weather forecasts.

35 Q. Certainly that day being a bad day?

A. It was a fairly bad day, yes.

40 Q. As other witnesses have said, the winds from the west during that day were, I think in parts, gale force and were driving this initial run that McIntyre's fire made; that's clear?

A. Clear.

45 Q. I am sure you would agree, the fact that it was throwing a spot as far as 6 kilometres away meant it was a fire of significant intensity?

A. Correct.

Q. Given that, and given the surrounding
circumstances and the pre-existing dryness and the
drought and all the rest of it, whatever strategy
you settled on as a broad containment strategy,
5 you realised there was a degree of urgency about
it; I take it?

A. Yes, sir.

Q. Is it right to say generally that the smaller
10 the containment area, the better?

A. That would be the preferable choice, yes.

Q. Of course inevitably you are governed by the
natural features in the country you are dealing
15 with?

A. The natural features and the trail system,
yes.

Q. Did the discussion about the containment lines
20 evolve by in effect dealing with possibilities and
alternatives and ultimately settle on a particular
strategy?

A. Yes.

Q. Because a definite containment strategy was
25 settled that night, wasn't it?

A. The strategy was settled that night, but
nothing more.

Q. Well, the boundaries of the strategy were
30 settle, weren't they?

A. The provisional boundaries. They were subject
to reconnaissance on the ground. I mean, we did a
map reconnaissance. You can't pull a map
35 reconnaissance and guarantee that that is going to
work. What we did that night using the
information provided by the rangers who were
familiar with the area, and by people who had over
flown it, is that we sent provisional boundaries
40 for the containment lines. They were subject to
ground reconnaissance the next morning to see if
they actually were suitable. Something on a map
may not necessarily be suitable on the ground.

Q. It was clear on the night, wasn't it, that
45 some work had to be done, as Mr Cheney's diagram
discloses, to some parts of the containment line

to make them in effect ready to be used as a containment line?

5 A. We set the strategy well aware that we would probably have to do - the fire trail, if I may explain, sir. The access trails, there are more access trails than fire trails. I mean there is this generic term "fire trail". They are fire access trails. They are put in by the land manager to get access into those areas. If we have to go to that situation where we actually have to use them to defend a major fire, they may not necessarily be immediately suitable to put a large number of heavy tankers on them.

10 15 For instance, we may need to put in passing bays, refuges, all of these other issues. They are not normally incorporated into the trails for a whole range of reasons - environmental erosion and all of those issues. They are issues that have to be dealt with there and then on the spot.

Q. Of course, because the containment lines have to be able to be patrolled in both directions?

25 A. They have to be patrolled.

Q. And by heavy vehicles?

A. The vehicles have to be able to pass, turn around and escape, if necessary.

30 Q. All that work has to be done and in this particular case it was work that was being done around the perimeter of a very large area; wasn't it?

35 A. Correct, sir.

Q. Had you previously seen a broad containment strategy that included an area as large as this area in your experience?

40 A. I've seen areas almost as large as that up in the far north of the state - Washpool and places like that.

45 Q. Have you ever seen a broad containment strategy employed in mountain country for an area as big as this?

A. Yes, sir, in the Washpool National Park. That's up behind Coffs Harbour.

Q. You said it was almost as big as this. How big was that area?

A. We are going way back into the '90s. I was in Dorego in 1995 and we had some major containment
5 lines in place there.

Q. Do you agree that this area is, by most standards, unusually large for a containment area?

A. No, I wouldn't say unusually large but it is
10 large. It was certainly a large area.

Q. Am I right that it is an area of about 10,000 hectares?

A. I would have to accept your word, sir.
15

Q. That is Mr Cheney's calculation, you don't know?

A. I'm sorry, I don't know off the top of my head, no.
20

Q. Dealing first of all with the eastern containment line, was there any discussion at all during the meeting on the night of the 8th about whether or not it was going to be at all possible
25 to use the Baldy Range fire trail as an eastern containment line?

A. My recollection is that we looked at all of the north-south lines because, as you have already pointed out, the aim was to try to contain the
30 area as small as possible. We looked at the east-west lines and the north-south lines to try and bring that area down.

Q. Did you look at that one, did you look at the Baldy trail or the Baldy trail?
35

A. I have no distinct recollection of it. I am sure we would have discussed it because it was a north-south trail. The fact is the intelligence already indicated the fire was on and over that.
40 Information back from ACT sources indicated that that possibly wasn't a realistic realisation at that point in time.

Q. So was the selection of the eastern containment line - have you got Mr Cheney's map on screen in front of you, Mr Arthur?
45

A. I do - the Dingo Dell line.

Q. The purple line.

A. It was the initial line we settled on for a number of reasons. One was we were already in a property protection mode there and there was
5 already earthmoving equipment working there. At that point that night, and we are three or four hours into this now, that seemed to be the logistical choice given the intelligence that the Baldy trail may already be lost.

10

Q. I take it from your evidence that selection was a provisional selection in the sense that it might be able to move west of the eastern containment line, depending on what was seen the
15 next day; am I right?

A. I would suggest to you the only firm lines we set that night were the 07 Powerline Trail because we had nowhere else to go and the Goodradigbee River because we had nowhere else to go. The
20 north and the eastern lines were provisional.

Q. Did that mean that there was an agreed urgency about getting people out to the Baldy trail as soon as possible to see how feasible it was going
25 to be to control the fire that was on that trail and use that as the eastern containment line?

A. I have no recollection of what urgency we put on that that night. My own sense of urgency and the others at that night was probably our priority
30 would be concentrated on the south-eastern corner and along the 07 Powerline Trail.

Q. To slice off that portion between the Baldy track and the Dingo Dell line, if you were going
35 to be able to, would be to slice off a reasonably significant portion of the containment area?

A. Correct.

Q. Was there a discussion - or wasn't there - at
40 this meeting about the importance of verifying as quickly as possible the utility of the Baldy track as the eastern containment line?

A. My recollection of the meeting is that night we had probably given up on the Baldy trail. It
45 wasn't until the next day that I had a clear recollection that one of the group officers that was doing ground reconnaissance thought there was

a good chance of holding it. That's my recollection - when we left that meeting we set the Dingo Dell as the eastern boundary.

5 Q. That meant that work was going to start more or less straight away?

A. Work had already started.

10 Q. The western containment line, Ms Crawford told us yesterday, was immediately or fairly straightforwardly settled as the Goodradigbee River and that no alternatives were discussed in relation to that; am I right about that?

15 A. We did look at other alternatives but we, for a number of reasons, decided to stick with the Goodradigbee.

Q. What were the other alternatives that you recall were discussed?

20 A. Just to try and - we looked at coming down some of the other tracks as a possible method of again reducing the area but we didn't consider them practical.

25 Q. Which ones did you look at?

A. Off the top of my head, sir, I can't recall. If I may explain, when we do a planning meeting like this or an operational planning meeting, you discuss a whole range of options. You do a number of assessments on them and you come up with best options, positives, negatives and a preferred option. In the end, the preferred option was the Goodradigbee. It had some advantages for us at that time because we had the ability to be able to patrol it by air; it was accessible by road from the western side and from the north-west; it worked for us at that point in time.

40 Q. Well, do you have any recollection at all of anyone discussing the possibility of using the McIntyre's trail, which I incorrectly kept calling the Lowells trail?

A. No. I don't have a recollection. I'm not saying it didn't but I don't have a recollection.

45

Q. I think Ms Crawford said yesterday it wasn't ever discussed to her recollection?

A. I don't have a recollection.

Q. You see on that particular map that you are looking at, the fact that the ignition point for the McIntyre's fire was to the west of the
5 McIntyre's trail in the kink that I have referred to, which has caused so much amusement, or just to the west of the kink. You recall me yesterday putting to Ms Crawford Mr Cheney's suggestion what
10 could have been done in that area was to isolate the ignition point of the McIntyre's Hut fire with a hand crew line, which I think he estimated as being an area of about a hectare. If that could be controlled, it made the McIntyre's Hut trail a
15 viable western containment line.

I think in subsequent slides we might look at in a moment, you will see in fact although that wasn't the containment line, the trail for a period of
20 time at least did hold the fire on the western edge even without being used as a containment line by the fire service. First of all, do you agree with her that that proposition was never discussed at the meeting?

25 A. Yes. I have no recollection.

Q. If it had of been discussed, it is likely you would remember it?

30 A. I think I would have.

Q. I don't suggest that people at the meeting had the foresight to realise that months later Mr Cheney would suggest the way in which the ignition point could be dealt with. But I take it
35 what you are saying is that that trail as a western containment line was never ever considered?

40 A. No, sir. I have no recollection of that. At that stage with the intelligence we had available, we didn't believe that was an option.

Q. The following day, as you have said, it was thought by some - and I suspect you included, Mr Arthur - that another look should be taken at
45 the Baldy track. Is that correct?

A. My recollection is that was feedback that came back from one of the group officers on a ground

reconnaissance.

Q. The Baldy track suffered from the disadvantage - as you describe, they had a fire straddling that track. Because of the benefits of reducing the area by using that track as the eastern containment line, it was obviously considered by some worth while to see whether direct attack on that spot fire might achieve a result which would utilise that track as the eastern containment line?

A. The sum, sir - it was the IMT; it was a group agreement.

Q. A similar approach was never taken in relation to the McIntyre's Hut fire?

A. No, sir.

Q. Indeed, do I understand that the western containment line was never rethought by anyone, as far as you are aware?

A. No. To this point I don't see why we needed to.

Q. One of the difficulties about the Goodradigbee River was, as you say, that it was patrollable to an extent but not completely?

A. I wouldn't agree with that.

Q. It was completely patrollable; was it?

A. It was completely patrollable by air --

Q. I am sorry, indeed I take your point. It wasn't patrollable by ground?

A. It could have been because we could get from Wee Jasper down one side. If necessary, we could have pushed dozers up.

Q. If spot fires were thrown across the river, do you agree with Ms Crawford that crews could have been winched in?

A. Crews could have been winched in, and crews could have come in from Tumut side. But that never occurred until the 17th - the 18th.

45

Q. It broke --

A. On the 18th.

Q. -- on the western containment line, didn't it?

A. Mmm.

Q. In quite a dramatic fashion?

5 A. As it did everywhere else that day.

Q. Given the circumstances, do you recall any discussion at the meeting about how long this strategy was going to take to implement?

10 A. No. Our aim was to get it in as quickly as was practical. I don't have a recollection of us setting a specific time frame. We set objectives and in those objectives we set, if you will, provisional times on it. They were objective
15 driven, not time driven.

Q. You had the pressure of time, didn't you, at the time this was being set?

A. We did have a pressure of time. We did, sir.
20 But setting we are going to do this in six hours - a good example if I may was what we called the Charlie sector, which was the far western end of the 07 Powerline. That from our reconnaissance didn't look to be a particularly difficult task.
25 In fact, I made a note somewhere that that was probably the most expensive piece of ground in the fire because of the effort we had to put on about 700 metres. It defied everything we did to it.

30 So firefighting is objective driven, not time driven. There is a time penalty on it. If you don't do things in certain times, the situation may well get worse but you have to achieve the objectives. Now we try to do that within a set
35 time. But a whole range of factors will alter that - bulldozers that can't do tasks, men who can't complete the task in enough time, different issues.

40 Q. But the part of that that I am having difficulty with, Mr Arthur, is simply this: you recognised there was a time pressure because inevitably the weather was going to change for the worst at some stage in the cycle?

45 A. Yes, sir.

Q. The cycle might be four or five days, but as

it turned out it was quite a bit longer in this particular case?

A. Yes.

5 Q. Before the weather changes, given the change of weather conditions that occurred on the night of the 8th of January, you for a period of time which you could only estimate had conditions which were more favourable to the strategy that you
10 wanted to implement; that's right, isn't it?

A. Yes.

Q. You knew it was going to change?

15 A. We were aware it would probably cycle around, yes.

Q. I understand you can't timetable these activities for the reasons you have given. But surely experienced people such as yourself and
20 others would be interested to discuss, at least by way of estimate, how long all this was going to take because the consensus might in the end be that it was going to take too long and there was no way the weather would hold for the time this
25 project would take?

A. We certainly did discuss it, sir. And by recollection we had hoped to be well into the burning on Friday. For a number of reasons beyond our control that got setback. If I may go back,
30 there was a large delay caused by the difficulty of getting a line down to the Goodradigbee River on the far west. We had to make some changes to our plan off the power line easement because we discovered the easement wasn't continuous,
35 although we had information to the opposite. When the actual fire boss went out to reconnoitre the ground, he found there were re-entrance through it which would carry the fire back up the hills behind them. That forced us back on the 07
40 Powerline, which cost us more time and preparation. Sorry, back on the 07 Powerline access trail.

Q. In the situation report I showed Ms Crawford
45 yesterday which perhaps you might recall - it is [NRF.AFP.0001.0001]. Would you have seen that before, Mr Arthur, the document prepared by

Mr Seymour?

A. This was on the night of the 8th?

5 Q. I think this is at midnight of the 8th of
January.

A. Yes, on the 8th.

Q. It would reflect the discussions that were
held at the meeting at 8.30 obviously?

10 A. It would purport to, yes.

Q. The strategy set out in that document down
under the "control details" was to:

15 "Complete the control lines on the day shift
of the 9th of January and back-burn from them
in the evening of the 9th of January."

20 Does that reflect what was discussed and settled
upon at meeting that night?

A. Not to my recollection, sir. As I said, we
set a strategy. Within the IMT system once a
strategy is set, the planning set about developing
that strategy. Mr Seymour was the planning
25 officer and he signed this off at midnight. Most
of us had left by then. This may be well --

Q. Sorry to interrupt your answer. Was he at the
meeting?

30 A. Yes.

Q. Sorry I interrupted.

A. Given all things working, this may be what
Mr Seymour saw as achievable the next day.

35

Q. Did you think that that was achievable on the
9th of January, to complete the control lines
during the day shift and back-burn from them in
the evening of 9th of January?

40 A. I think it may have been a little ambitious.

Q. I should have added to the reading, I won't
hand it hand back to you but I will read you the
sentence again:

45

"Strategies: to complete control lines on the
day shift 9 January and back-burn from them

in the evening of 9 January. Back-burning to be consolidated with the aerial incendiaries 10 January."

5 Was that part of what was discussed at the meeting?

A. It may well have been, if it was written in SES, yes.

10 Q. So on the night of the 8th of January, it would follow from that the need for aerial incendiaries had been discussed and had formed part of strategy that was going to be employed?

15 A. It would have been either on the 9th or early the next morning, yes.

Q. Indeed, I think Ms Crawford said yesterday that she made a request on the 9th or 10th of January for the incendiaries. Did you understand at the early stage, that is on the 8th or 9th of January, there was a problem about the availability of aerial incendiaries?

20 A. I don't have a recollection if there was. At that point, because we hadn't completed the containment lines, it wasn't a factor at that point.

Q. It is referred to in the situation report. Presumably it was part of the plan.

30 A. That's right.

Q. Albeit that you hadn't completed the containment lines, if part of the strategy that is then to be employed is to back-burn with the use of aerial incendiaries as part of that process, you would want to know you had them so you could do it, wouldn't you?

35 A. That's correct, sir. We now had a little bit of time in hand because we were still completing the containment lines. The aerial incendiaries can't be used until the containment lines are completed, until the burn is put in and it is deep enough so that once we started using the incendiaries, they don't come out. We needed considerably deep back-burn lines before we started dropping aerial ignition devices.

47

Q. I appreciate that, Mr Arthur, I am not quarrelling with that. I am putting to you the proposition bearing in mind there was a time pressure in this particular circumstance - as I am
5 sure there is in a lot of others - that once you got to the point of being ready to use them, then you want to know you have got them?

A. Yes, correct. Absolutely.

10 Q. If we can just go to another document, which is [NRF.AFP.0001.0003]. This is an incident action plan is for the day shift of 9 January prepared by Mr Seymour and I think signed by you, Mr Arthur; is that correct?

15 A. Yes.

Q. As the incident controller?

A. Correct.

20 Q. You note in the general outline that the original size of the fire is given as 200 hectares. The containment lines which were agreed on at the meeting are summarised. Then the general outline indicates the containment lines to
25 be prepared during this operation period, which I presume is during the day shift of the 9th of January, and then back-burning to secure lines to be carried out in the evening of the 9th of
30 January.

A. Correct.

Q. You would appear to have signed off on this at 6am on 9 January?

35 A. Yes, sir. That was the objective for the day.

Q. But at that point is it relevant to your decision whether or not to approve this plan to consider whether in fact the plan is feasible or unrealistic?

40 A. It is, yes.

Q. Did you consider that when you were presented with this document to sign off on?

45 A. I did. On the information that we had to hand, we thought we would be able to do it. At that stage we hadn't encountered the problems we had on charlie sector.

Q. So you were of the view at 6am on 9 January that you would be able to complete the containment lines and start burning in the night shift of 9 January?

5 A. That was the objective for the day, yes.

Q. Did you think it could be done?

A. Did I think it could be done?

10 Q. At the time you signed it.

A. I thought we had a good chance of doing it, yes. Sir, any objective driven thing is first achieve the objective. I'm not trying to be difficult, but we set objectives and we try to
15 achieve them. There are a number of things that may intervene in that. Sometimes it goes very well --

Q. I understand that. I am just wanting to know
20 whether at the time you signed off on this incident action plan you did have misgivings about whether the objective could be achieved in the time frame that is referred to?

A. No. When I signed off on the objective plan,
25 the indicators were that we could achieve that.

Q. Because I said I would show you this, I wonder
if I could have Mr Cheney's containment map back
on the screen and go to slide 47. I don't know
30 whether you have seen this before, Mr Arthur. You may in the end feel you can or you can't comment on it. This is Mr Cheney's assessment of the McIntyre's fire at 20 to 3 on the afternoon of 9th
of January.

35 Do you see on the western side in particular the McIntyre's trail has held a portion of the fire, albeit not the portion that I was suggesting to you earlier might be controlled by a hand line.
40 Did you have any access to any sort of information of that kind at the time as opposed to now looking at it in a diagram after the event; did you have any intelligence?

A. Not of this quality, no. We were reliant on
45 the ground and aerial observation.

Q. To take that period of time as an example, in

the afternoon of the 9th of January, how close to the fire were any personnel getting?

5 A. On the afternoon of the 9th of January, people had been all along the 07 Powerline; people had been up through Dingo Dell; people had been up to the Baldy fire; people had been in along the Goodradigbee River; and people were coming in to the north from Yass. We had been all around the fire at that stage.

10

Q. Did you have anybody that had sought to observe the fire either from the McIntyre's Hut trail or from Webbs Ridge Trail?

A. No.

15

Q. I take it, particularly as to the second of those, from evidence you gave in the New South Wales coronial, your view was that the Webbs Ridge trail was not a trafficable trail?

20 A. I don't believe Webbs Ridge was ever a viable trail.

Q. I am not putting it to you as a containment line option; I am simply asking whether --

25 A. It was not trafficable to large units. Sir, the point I made in the other inquiry - this was quite a long drawn-out argument - was to put people on Webbs Ridge Trail was to put them with the fire on either side of them where they stood on top of a hill and had fires to their east and to the west with uphill runs. You do not do that, sir.

30

Q. I appreciate that. If I am right, what was being put to you in that questioning was that that trail might have been used as some form of containment line. I am not suggesting that. I am simply asking you whether those trails, either Webbs Ridge or McIntyre's were used as some access to the fires for the purposes of surveillance and observing fire behaviour?

40

A. No. By that stage we had gone hard on the containment strategy, and all of our efforts thereafter were into putting a containment in.

45

Q. I will just show you one other document in relation to the Baldy fire. It is

[NRF.AFP.0001.0018]. This is an incident action plan signed by Ms Crawford on 10 January. Although the signature isn't timed, it is prepared by Amanda Sullivan at 10am, I think, and it is for
5 the day shift for 10 January. Does that sound right to you? Perhaps we will go to the top first. I will make sure I have the times and chronology right. This appears to be an incident action plan?

10 A. It is a day plan.

Q. For the day shift of 10 January?

A. Yes.

15 Q. Going down to the bottom, it is prepared by Amanda Sullivan it looks like at 10am on the 10th of January?

A. Yes.

20 Q. It may be that it is an amended plan or something of that kind. Let me check the previous one. But in any event, going back up to about the middle of the page, at the top of the screen, Mr Arthur, you see the description:

25

"Once the Baldy Range fire, east of the Baldy Range fire trail is suppressed, the Baldy Range trail will replace the fire break trail (which is further to the east) as the new
30 containment line."

A. Yes, sir.

35 Q. That's familiar to you on the 10th of January that was the date on which that became viable, at least in the opinion of those who led to the creation of this incident action plan?

A. I was not present during the morning of the 10th; I was attending a meeting of incident
40 controllers in Jindabyne where we were trying to source additional aircraft in particular. By the end of the 9th or midday on the 9th, somewhere around that time, we believed then that the Baldy trail was a good chance. Okay, so the plan was
45 formed to deal with it as of the 10th, yes.

Q. If it was thought during the day of the 9th

that the Baldy trail was a good option, it meant obviously that the sooner the people got to it, the better. Was any consideration given to putting crews on the Baldy fire on the night of
5 the 9th for direct attack?

A. I don't have a recollection. As I said, sir, all I can recall is on the 9th we decided we would try Baldy. I don't recall the exact time. As I
10 said, it could have been the afternoon - no, I don't.

Q. It was certainly before the end of the day on 9th of January?

A. Yes, I believe it was, yes.
15

Q. Would there be any reason why, if that was the view the IMT had, that they wouldn't put crews on that fire that night?

A. There wouldn't have, no.
20

Q. You don't know why that wasn't done?

A. No.

Q. Mr Arthur, yesterday during the course of
25 Ms Crawford's evidence, you will recall no doubt that I was asking her questions about what I think witnesses describe as "vigorous conversation" about back-burning not commencing as quickly as possible in New South Wales. As I took her
30 evidence, it was that you just simply can't start back-burning until the containment lines are in and ready to, as it were, receive the back-burning. Is that right?

A. You are referring to Mr Cooper's --
35

Q. Mr Cooper in particular, yes. Do you recall that Mr Cooper did at various meetings he attended in a liaison capacity express considerable concern that the weather was conducive to back-burning and
40 that containment lines did not need to be completed before that burning was commenced?

A. That's an opinion I don't necessarily share, sir.

Q. No, no, the question was whether you recall him putting it.
45

A. I recall he had some vigorous points to make.

Q. Is that what they were --

A. I don't have a clear recollection, but he says so in his statement.

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

A. I have, yes.

Q. So any recollection you have about what he was putting comes from his statement rather than a
10 recollection of the meetings?

A. At this point. I recall he took a somewhat active part in the conversation, yes.

Q. His point in general terms was that the
15 weather at the time was appropriate for back-burning. I assume he means by that appropriate in the sense that, because the weather was relatively benign, the back-burning could be controlled and that the urgency was to get the
20 burn under way of course to reduce the flammable fuel before the onset of bad weather. Do you not agree with that as a general proposition?

A. The weather may have been conducive but the ground situation wasn't ready.

25

Q. In what sense?

A. In the sense that the trails weren't ready for that. The primary concern, sir - I mentioned earlier I went to a meeting in Jindabyne on the
30 morning of the 10th specifically to request aircraft - and I spoke to the Commissioner directly on that - the 07 Powerline Trail was a high risk strategy. It always was. I stated it at that meeting and I stated it several times
35 thereafter that, unless we had sufficient aircraft, we were placing a lot of people in jeopardy. We really had no option than to use that 07 access trail. But to place men along that trail, it is a serpentine trail on an extremely
40 steep set of hills. Any fire above them or below them could be tantamount to a death sentence to them. Unless I had the resources to support and back those men, I was not prepared to start any burning whatsoever along that trail. That was my
45 responsibility, sir, not Mr Cooper's.

Q. I appreciate that. No doubt, I suspect he

does as well. He expressed that opinion?

A. He may have.

5 Q. He was expressing the opinion presumably on the basis that, after two days, he had a concern that time was, in a sense, running out before the weather turned. I take it that was something you were also conscious of?

10 A. Certainly, sir, we were conscious of it. If I may just to widen that a little further: as I said earlier, we set objectives, but there were issues that would come along that would slow down the achievement of those objectives.

15 Q. Jumping forward to the 12th of January, it appears that at some time on the 12th of January you and Mr Koperberg had a discussion?

20 A. I believe we did speak on Sunday evening, sir. I think that's the Sunday you are talking about possibly.

25 Q. That's right, it is. It was a Sunday. Up to the 12th of January, had the risks to ACT residents, whether rural residents or the western edge of Canberra, occurred to you from this fire?

30 A. Up to Sunday our primary concern was and remained the prevention of the fire going into the pines - in fact, prevention of fire crossing into the ACT border. Our primary concern was the pine forests and then the adjoining rural properties.

35 Q. Let me ask the question another way and see if I can get the information I want: were you turning your mind by the 12th of January, bearing in mind the variables in the strategy, some of which were beyond your control such as the weather, were you turning your mind to the consequences of this fire breaking its containment lines?

40 A. Sir, when you set a strategy of indirect attack, you always have in the back of your mind that there is a possibility that this thing will break containment lines, yes.

45 Q. You turned your mind to that in this case?

A. Constantly. That is a contingency.

Q. What conclusion did you come to about what the

consequences of the fire breaking its containment lines, particularly to the east, were?

5 A. I guess on the 12th - I'm working on what I may have thought at the time - if it went over the containment lines it would cross the border and be into the pine forests. From there, it would probably descend down along the Murrumbidgee River and onto the flatlands. Our consideration at that time was that, if it hit the grasslands, given the
10 degree of overgrazing and the bareness of the paddocks, we had a very good chance of dealing with it once it came down off the hills.

Q. If I could ask you to put up slide 46, please.
15 Mr Arthur, this is Mr Cheney's three-dimensional depiction of the McIntyre's Hut fire as at 8 January looking south-east, so you see the line under a north-westerly wind. Do you see the line that potentially a fire of this size would follow?

20 A. Yes.

Q. In the direct line of course, particularly in the fire expanding - as in the end McIntyre's Hut fire did - Uriarra and the pine plantations of the
25 Uriarra and then of course the Stromlo pine forest and then a short distance beyond that the Canberra urban area. Did the possible combination of circumstances that would at least take the fire from where it was through the Uriarra to Stromlo, had that crossed your mind by 12 January?

30 A. Not the Stromlo, sir, no. Can I say at that stage when you enter into these things, you don't enter into them to lose. You do make contingencies for worst cases. We believed we had
35 a strategy and we believed we could do what we set out to do.

We believed the failure of that strategy was the possibility of the fire going across the border
40 and then into the grasslands and into the Uriarra pines. We believed then that, if that occurred, our next fallback was into that flat country.

Q. When you say "we believed", at what point in
45 the process were you turning your mind to these contingencies?

A. With regard to the eventuality of it spotting

outside the containment lines, the very moment you draw a containment line on a map you look at the next step back. So from day one we were looking - you have a contingency plan or at least you are
5 looking at contingency plans if this spots other what is our step? If it spots over, the first thing is we attempt to attack it and knock it down. If it doesn't then you have to look at what the next set of containment lines may be.

10

Q. You say you don't enter into these strategies to lose. I can tell you as a longstanding supporter of the St Kilda Football Club, I am sure they take the same view, but for the last 20 years
15 or so it hasn't worked out that way. Although this year is a good year. The point I am trying to make is that of course you don't, but you do have to, as Mr Koperberg has said, deal with the worst case scenario, as he called it?

20

A. You do, of course.

Q. The worst case scenario is that the containment strategy doesn't hold; the fire spots significant distances, as it already had on the
25 8 January; it spots into pine plantations. The last of those, as that diagram shows, is that Mt Stromlo is within a short distance of the western edge of the Canberra urban area. Now, you would agree with all of that obviously?

30

A. I agree.

Q. Koperberg says that very possibility was discussed with you on the 12th of January. I will put the material to you again, if you wish.
35 Conscious of his evidence, do you agree the conversation ran as he described it?

40

A. I don't have a clear recollection of that. He may have asked me what the ultimate worst case scenario was. I may have said it could go as far as Canberra.

Q. Perhaps I will read his evidence and then I will ask you some questions about it. It is at page 2091. I won't bother you with my question
45 except to say I was asking him to describe, as accurately as he could describe it, what was said. I should also make it clear that what he is

talking about at this stage in his evidence is a conversation on the 15th of January and referring back to a conversation with you on the 12th of January.

5

In describing what is happening on the 15th, he says:

10 "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
15 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
20 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
25 generally conceded that the fires would reach the suburbs of Canberra."

30 I think that's probably the extent of his account of the conversation with you. Do you accept that that is a reasonably accurate account of the discussion?

35 A. I have to say, sir, on the 12th, which was Sunday, I don't have a recollection. I don't personally recall that I believed that it would go as far as or into the suburbs of Canberra. I had in the back of my mind that a containment break could take it into the ACT.

40 Q. It is not absolutely clear from Mr Koperberg's evidence as to who is making the concession. What is clear is that the suburbs of Canberra are the subject of discussion between you. Do you say that didn't happen or do you say you can't
45 remember it?

A. No, I don't say it didn't happen. I say I don't have a recollection of that, sir. And I

don't believe I had a personal belief that it would go to the suburbs of Canberra. I did have it in the back of my mind that it could go into the ACT.

5

Q. Did you at any stage discuss with Mr Lucas-Smith the worst case planning or the worst case possibilities at any stage leading up to the 15th of January? I will deal with that separately.

10

A. Mr Lucas-Smith and I spoke on average at least once a day, sometimes more. Our conversations were as IC of one event to IC of another event. I guess they encompassed a whole range of general things. I don't have a clear recollection of talking about, again, the suburbs of Canberra specifically. The primary concentration at this stage - are you referring to any particular time?

15

20

Q. No, I'm not. Perhaps I will rephrase the question. It might assist you. Ms Crawford gave evidence yesterday that, as far as she was concerned, the McIntyre's Hut fire was always an issue for the ACT from the time it started?

25

A. Okay. I would concede it was always an issue for the ACT.

Q. You would?

A. Yes, certainly. Because --

30

Q. I am just introducing the question. That's what she said. She said, as a result of that view, that's why the ACT were involved in the meeting on 8 January and were kept informed as to what was going on. So I take it that you agree with that. From your point of view, this fire under a worst case outcome was always an issue for the ACT and something they needed to be aware of and conscious of?

35

40

A. Given its proximity to the ACT border, sir, yes.

Q. Would you agree that, in all the circumstances prevailing between at least the 8th and the 15th, the McIntyre's Hut fire was not something that could simply be ignored by the ACT?

45

A. No.

Q. On the basis that, for example, it was being managed by New South Wales, that wouldn't be an appropriate attitude to have; would it?

5 A. No. There was constant liaison between the two agencies on that the whole time.

Q. If I could hypothetically - I always do this with a degree of trepidation - if I could reverse the circumstances and ask you to assume you are
10 the incident controller in New South Wales in an area threatened by a fire, which is a large fire burning in the ACT which the ACT fire services are dealing with and managing, and you are also
15 dealing with other fires in your area, but the major threat - assume for the purpose of the question - is coming from the fire in the ACT. Would you expect your planning section to be dealing with the potential threat from the ACT
20 fire, albeit that it was at the time burning in another state?

A. That's not a hypothetical; it occurred on the 17th.

Q. Yes, well, indeed.

25 A. We did straight away change - shift our resources and commence planning for a break-out from the ACT.

Q. So the answer I take it to my question is yes, of course?

30 A. Yes.

Q. It is an important factor for a planning section to be dealing with?

35 A. It also occurred when the fire crossed Mt Franklin Road into the Brindabella.

Q. Just in general in relation to that topic, if we can look at document [NRF.AFP.0001.0048].
40 Mr Arthur, this is a situation report form as at 12 January at 4pm, 1600 hours. If you go down to the "threat analysis" you see that reads:

45 "Current threat: fire no threat to life and property at present time while in containment lines. The fire still poses a threat to the ACT, if it escaped from the current

containment lines.

Potential threat: major pine plantations in
the ACT and to the ACT water catchments.
5 Private property to the north and east and
pine plantations to the south and state
forest to the west."

The question I want to ask you about this is this
10 appears to be a new threat analysis; that is, the
threat analysis seems to have changed for this
situation report.

My question is in effect: do you know on what
15 basis the threat analysis was altered or
increased? The answer may be that we should ask
either Amanda Sullivan or Roger Good. As at 12
January, do you have any understanding of how that
threat analysis came to be formed?

20 A. No, but I can explain the logic, if you will,
behind it. Threat analysis is just that - it is
based on the intelligence that is coming in, what
the fire has done. If I could just explain, sir,
sitreps are a precis of what has occurred in the
25 past 12 hours. We send them in twice a day to
state operations. It is so state operations, and
I guess last summer was a good example where they
have many fires going, they can get a quick brief
from all of the fires and those that analyse this
30 stuff can look at what their projected planning
may be. This is an encapsulation of what has
gone. Therefore, something may have occurred in
that 12 hours within the fire that would change
the threat analysis. Threat analysis is a
35 continual update.

Q. Is this threat analysis the sort of
information that, as a matter of course, would be
provided in this case to the ACT, bearing in mind
40 the ACT is affected by the opinions held?

A. The sitreps would have been available to the
liaison officer, yes. There were many, many
copies made and circulated throughout the IMT.

45 Q. Would he get them automatically or would he
have to ask for them?

A. I honestly can't answer the question, no. I

would assume so. If I could just finish on that. Every key person in the IMT is given copies of these.

5 MR LASRY: I am about to go to the events of the 15th. If now is a convenient time, it might be easier to do it after the break.

10 THE CORONER: We will take the morning adjournment.

SHORT ADJOURNMENT

[11.25am]

RESUMED

[11.50am]

15

MR LASRY: Q. Mr Arthur, I know before the break I said I was going to go to the 15th and I will shortly, but just a couple of questions in relation to some evidence you gave before the
20 break. I was asking you before the break questions about your thinking about the worst case possibilities and your acknowledgment that, although you are in it to win it, as it were, you allowed for the possibility that if that didn't
25 happen, those containment lines could be broken and the fire could burn into the Uriarra and into the Murrumbidgee area?

A. It was always a consideration.

30

Q. A consideration. I don't think you accepted that at that stage you were thinking about the possibility of Mt Stromlo being affected?

A. No, I wasn't personally.

35

Q. Although logic no doubt now would demonstrate that that was clearly a possibility. But insofar as you had in your mind that worst case possibility from the 10th, 11th, 12th January onwards, would that be fair; that was something
40 you were conscious of?

A. Of breaching the containment lines?

Q. Yes.

45

A. Probably from day one. As I said, sir, whenever you go into an indirect strategy, you go into that strategy - I won't say with an expectation of the containment lines being broken

but that's always a possibility.

Q. The obvious point to make perhaps is that you need to plan for that eventuality; is that right?

5 A. Correct.

Q. What was the planning if that happened?

A. The planning section itself had developed a number of plans for fallback lines. I am just
10 trying to think now - I have not looked at this stuff for some time - certainly we went back as far as Mountain Creek Road, which is back down towards the flatlands. We developed a number of plans to use some of the other trails to the south
15 of the 07 Powerline - that's available but, without accessing it now, I couldn't give you a definitive.

Q. So these are plans being prepared by your IMT?

20 A. These were contingency plans in the event that we could not contain it where we wanted to.

Q. And contingency plans included the way in which your IMT would deal with the fire burning
25 into the Uriarra and burning at least as far as the Murrumbidgee; is that right?

A. Yes.

Q. Those documents are available somewhere, I
30 take it?

A. I imagine they would be.

Q. Could I ask you or ask those assisting you, assuming that we don't have those documents and
35 there is no reason at this stage necessarily why we should, to make some inquiries to see whether they could be produced?

A. I can make some inquiries. I couldn't verify how deep in detail - sometimes they are as simple
40 as "This will be our next fallback". But there was some thought given to it.

If I may, sir, just add now: you asked me earlier about the issue with the suburbs of Canberra. One
45 of our major problems was logistics support into that area, particularly in terms of travel times. That's when we decided to put a base camp in --

Q. At Mt Stromlo?

A. At Mt Stromlo. We considered a number of options. One of the primary driving factors was whether or not that site might be affected by fire.

Q. Your view was that it wouldn't be?

A. That was our conclusion.

10 Q. That was your conclusion as at 14 January, I think?

A. We actually started to plan the base camp around the 12th or maybe before. It was certainly a factor that we considered. We simply didn't want to lose our base camp.

Q. The planning that you are talking about, is that also likely to be planning that was done in conjunction with ESB in the ACT, bearing in mind that those contingency plans involved this fire burning into the ACT?

A. I couldn't state. The planning section - contingency planning like that is generally something that the planning section takes on as a secondary task to the primary one of dealing with what we are doing at the time. But they were starting to develop plans for the worst case or next case scenario. I couldn't answer that question.

30 Q. But as a matter of course you would expect, wouldn't you, that any planning that was being done which involved a New South Wales fire burning into the ACT would necessarily have to be done to some extent in conjunction with the ACT's fire responsibility?

A. I would expect that perhaps the planning officers may speak with each other. Sir, on IMTs working alongside each other, and we did this with Tumut, Cooma and Yass, there was a lot of individual discussion between the functional officers and their counterparts. Not necessarily everything was recorded or at meetings.

45 Q. I also want to ask you a couple of other things about the Goodradigbee River as a western containment line. You have expressed in the

course of your evidence significant confidence that was the right choice. I suspect your view is it was the only choice. That's the impression I get from your evidence; is that fair?

5 A. It was the most practical choice.

Q. The obvious issue that arises - I asked you a question or two about this before about what happens if the fire spots over that river at any stage. Your answer was that significant parts of it were trafficable so resources could be applied to it --

10 A. Sir, we had quite a considerable number of aircraft.

15 Q. I was coming to that.

A. Sorry.

Q. Let me ask the question, it might save you some trouble.

20 A. My apologies.

Q. And also it could be dealt with by air. Resources on the western side of the Goodradigbee River, assuming a spot fire on that side of the river, would come from where? I am talking about ground resources.

25 A. At that point of the operation, depending on what date, we either had or were feeding a lot of resources into the Brindabella Valley. So we had, although it was to the south, a pool of resources there. We could also have tapped Tumut and we could have tapped Yass.

30 Q. Perhaps deal with Yass first. Yass is to the north, obviously?

A. Correct.

Q. How far to the north is Yass from that area of the Goodradigbee?

40 A. Sorry, when I say Yass, we are talking about Yass district, and the border of the Yass district actually came down into this fire. At one stage I had my section 44 across the bottom one-third of Yass Shire. So Yass rural fire district was under my direction at that time.

47

Q. Let me try to understand how it would work. Let's take at this stage a date at random but during the period when the wind was blowing from the east or south-east, which is the bulk of that first week, if a spot fire had started on the western side of the Goodradigbee River, as soon as it was known, what is the next step in getting ground resources or fire suppression resources on to that spot fire?

5
10 A. Had we become aware of that, we would have shifted aircraft on to it straight away, relevant to the degree we considered. Then the immediate resources we had available, provided they weren't otherwise committed. If we can only be hypothetical, we would have contacted the divisional commander in the Brindabella Valley and seen what he could have released. Depending on that, we could have approached the Tumut, although again they had fires in Tumut. We could have approached the Yass fire controller to divert some of their resources out of Wee Jasper. We could have also dispatched road resources across the ranges but that would have been a long-term option.

15
20
25 Q. Are all of those possibilities a less desirable possibility than having a western containment line that was a trafficable trail which had been set as a road or as a track and as a containment line which was being patrolled?

30 A. We would still have had to get the resources to that point.

Q. But they wouldn't have had to cross the river and they wouldn't be coming from --

35 A. They would have crossed the river at some point.

Q. No, if the western containment line was on the east of the Goodradigbee River, then the resources would be the resources you have applied, wouldn't they, to patrolling the containment line?

40 A. Not necessarily, because we probably have had to take them either off Brindabella Road and down the 07 Powerline. So we would have been in amongst - people would probably have still preferred to come from the west.

Q. The other question I wanted to ask you because I am not clear on how this would work - you also said aircraft. Now I take it that you envisaged that a spot fire on the western side of the
5 Goodradigbee River would be at least potentially attacked by aircraft water bombing; is that right?
A. With the use of aircraft - aircraft are never used alone. They are put in initially to hold and then, secondly, to support.
10

Q. Are we talking about helicopters or are we talking about fixed wing?
A. We were using rotary wing throughout.

15 Q. Okay, so helicopters, carrying a bucket of about what capacity?
A. Well, we have up to and including the Ericsson, which is 9,000 litres.

20 Q. When was the Ericsson on the scene?
A. We had the Ericsson on the Saturday morning, I think.

Q. The 18th?
25 A. I think so - no.

Q. On the 10th - or the 11th, I am sorry?
A. The 10th, yes, because conditional to the 07 Powerline was that I got one of the Ericssons.
30 There was only two available and I said that we couldn't successfully do that without the Ericsson.

Q. Was the Ericsson skycrane available at any
35 time in that week, for example, to deal with a spot fire on the western side of the Goodradigbee River?
A. Absolutely.

40 Q. Were there any outbreaks or spot fires over the Goodradigbee River?
A. I have a recollection that there may have been one on the 17th, but it was dealt with. I would need some further reference. I thought there was
45 something perhaps towards Wee Jasper but I am not terribly clear.
47

Q. I want to ask you some questions about the 15th of January. Just before we leave that map, to your knowledge is this a correct summary as at the 15th that personnel on the ground had been at the Baldy Range spot fire and attempted to suppress it?

5 A. On the 15th, we had abandoned it on the 15th.

Q. By then, I mean. In the period up leading up to the 15th, you had had personnel on the ground dealing with the Baldy Range spot fire with the assistance of air support?

10 A. That's right.

Q. As you say, you lost it, and the eastern containment line became the one shown on that map.

15 A. Correct.

Q. But apart from that and apart from personnel who were engaged on either completion or construction of the containment lines to the south, to the east and in the areas that are marked there to the north where new work needed to be done, am I right in saying that by the 15th no personnel had actually been in the immediate vicinity of the McIntyre's Hut fire itself?

20 A. No. There was no requirement given the strategy we were employing.

Q. I wasn't putting to you there was a requirement. I am wanting to make sure I understand by the 15th no human being had been on the ground anywhere in the vicinity of the McIntyre's Hut fire?

25 A. Not that I'm aware of.

Q. On the 15th there was a briefing to Mr Koperberg at Queanbeyan, and I think you participated in that, Mr Arthur; is that right?

30 A. Yes, sir.

Q. In fact, did you provide the briefing to Mr Koperberg; were you doing the talking?

35 A. I provided an operational briefing to Mr Koperberg, in the sense that I took him to the various functional areas and he was briefed by the functional officer in charge of that area.

Q. Can you remember what you told him?

A. About the situation?

Q. Yes.

5 A. It was an overview of what had gone before,
where we were up to and what we anticipated to
achieve that day. The 15th was the day that we
had hopefully we were going to achieve the full
containment that afternoon, that evening. He was
10 being briefed in those terms.

Q. In other words, that was the day in which you
hoped to complete the containment line so you
could continue the operation. That of course
15 didn't mean, by any means, that by the 15th the
fire would be controlled?

A. No, sir. On the 15th the containment lines
were in and the 15th was the day we hoped to join
all the burning.

20

Q. I am so sorry, you are quite right. In the
course of the briefing, I assume there was some
discussion with Mr Koperberg about the worst case
possibilities for this fire?

25 A. Yes, there may have been. I'm sure we would
have talked about fallback positions and things.

Q. You are familiar with the evidence that
Mr Koperberg has given about this meeting?

30 A. Yes, sir.

Q. Can I ask you in the broad: do you agree with
his description of what happened at that meeting?

35 A. In general, yes. In that we discussed -
Mr Lucas-Smith came in. It was predominantly a
meeting between Mr Lucas-Smith and Mr Koperberg.
It was conducted in my office, and I was present.
I would point out that I was also the incident
controller so I was dealing with other issues at
40 the same time.

Q. Mr Koperberg gave evidence at page 2104 and
said at line 16 dealing with that meeting:

45 "There were present at that meeting a number
of people, all of whom expressed various
views on various issues. I was not the only

5 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 the fires in
general terms."

Do you agree so far?

10 A. Yes, sir.

Q. He says:

15 "We expressed grave concern about the Bureau
of Meteorology's predictions for three days
hence."

Do you agree with that?

20 A. We were certainly concerned with the forecast
weather, yes.

Q. Is Mr Koperberg's terminology a fair
description, "We expressed grave concerns about
the bureau's predictions"?

25 A. That's his terminology. I was certainly
concerned about it.

Q. He continues:

30 "We talking in very general terms if that
weather were to eventuate, given the fact
that suppression of the fires would not under
any circumstances have taken place by then,
containment might have been completed but not
suppression."

35 A. That would be a correct assessment. We did
not expect - suppression is the extinction of the
fire. We never looked like achieving that by the
weekend.

40 Q. But containment simply means that the fire is
within the containment line?

A. Within the set containment lines, yes.

45 Q. He says:

"Given the fuels, given the pine forests,

5 given a 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 used."

Do you agree with that?

10 A. I never considered it inevitable; I considered it possible. I made a statement earlier and I will stand by it that I didn't go into this to lose, and therefore we had a plan in place and it was coming the way we wanted. I believed on the 15th that we would achieve containment and we were going to work very hard to try and contain it. It was possible that it could come out.

20 Q. Insofar as Mr Koperberg seeks to speak on behalf of those New South Wales people present by using "we", you take issue?

25 A. I don't take issue. I said my comment to you was that I believe it was possible it could get it out. But I didn't believe it was inevitable on that day.

30 Q. What I am interested to know is whether in fact it was said: "Given the fuels, given the pine forests, given a whole range of circumstances, there was a real possibility that the fires having broken their containment lines would make a major run into Canberra." Whether you thought that was going to happen or not happen, was that said as Mr Koperberg describes it?

35 A. I can't recall specifically.

40 MR PHILIP WALKER: Your Worship, just before there is an answer, that seems to have changed its wording somewhat to a "real possibility" from the use of the term "having broken containment lines which we considered inevitable." Just so that the gentlemen knows precisely which form of words is being put, the quote in the transcript seems to be somewhat different to the way the question has now been slightly reworded.

45

MR LASRY: Mr Koperberg's evidence, Mr Arthur, was:

5 "Given the fuels, given the pine forests,
given a 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 used."

10 Now, my question to you, Mr Arthur, is whether you
agree with Mr Koperberg that was the type of
language being used at the meeting?

A. It wasn't my language, sir.

Q. I'm sorry?

15 A. It wasn't my language.

Q. That is not an answer to the question, I am
afraid. The question was: do you agree that was
the type of language being used?

20 A. No. I don't have a recollection of that, sir.

Q. You can't say?

A. No.

25 Q. Do you accept that it may have been or are you
saying he is wrong about that?

A. It may have been. I can only reiterate my
point was that I believed there was a possibility.
I believe we would have --

30

Q. Mr Arthur, I don't want to cut you off
unfairly. At the moment, with respect, I am not
interested in what you thought. I am interested
in what you can recall being said. Do you
understand?

35

A. Yes, sir.

Q. What I am concerned to know is whether or not
you accept Mr Koperberg's description of what was
being said to Mr Lucas-Smith at this meeting,
which I have now read to you?

40

A. All right, sir. In those terms, no, I don't
recall that.

45 Q. You don't recall?

A. Not those specific words, no.

47

Q. He may be right; he may be wrong; you can't remember?

A. I cannot recall.

5 Q. An alternative position is you do not agree?

A. No. I cannot recall.

Q. Do you agree that the consequences for the ACT
10 as an area, as a territory, and/or the
consequences for Canberra as a city were topics of
discussion?

A. Certainly the ACT was a topic and, as I said
earlier, we recognised that from early on there
was a potential.

15

Q. What do you remember being said? I don't want
to know what you thought; I want to know what you
remember being said at this meeting about the ACT.

A. I have a clear recollection of the discussion
20 over resources, which was the primary reason for
the meeting. There was then some general
discussion over whether or not we would contain
the fire that day and what we thought our
prospects were of containing it. My recollection
25 is of general discussions of what possible
outcomes could be, and that included possible
outcomes that if the fire breached what may happen
thereafter.

30 Q. Were they identified, the possible outcomes?

A. I don't have a specific recollection other
than we knew that, if it did breach, it would be
into the pine forests and the threat would step up
from there.

35

Q. Did you tell Mr Lucas-Smith that?

A. Mr Lucas-Smith and I had been discussing the
pine forests every day since the 8th of January.
We were well aware of what the potential was. We
40 may well have discussed it on that day but we
certainly discussed it a number of times.

Q. Mr Lucas-Smith's account of being told that
the McIntyre's fire was contained and that it
45 wouldn't be an issue for the ACT; do you recall
that being said to him?

A. I can't agree with that, sir. We didn't

achieve containment until somewhere near 2000 hours that evening. We anticipated it was going to be contained. Our expectation then was we would maintain it there.

5

Q. Were you aware of Mr Koperberg's interview with the ABC after this meeting, shortly after this meeting was finished?

A. I was.

10

Q. Were you present when he was interviewed?

A. I was, yes.

Q. Did he express views you agreed with?

15 A. He expressed a view that there was a potential for Canberra, yes. Did I agree with that? There was a potential, yes.

20 Q. What he said was - I will bring up the transcript, which is [DPP.DPP.0005.0005]:

"This is probably the worst threat to this part of the state in many, many decades."

25 Did you agree on the 15th of January that that was true?

A. I think it was a fair assessment, yes.

30 Q. It goes on:

35

"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. The weather is going to deteriorate again at the weekend and possibly quite severely. The job is still ahead of us."

40 You agreed with that?

A. Yes, sir. I had no argument.

45 Q. Arguably, I think on Mr Koperberg's evidence what he did in the course of giving that response was to intermix the words "Canberra" and "the ACT". In other words, what he meant was not the least being some mature pine forests on the border

of the ACT and indeed Canberra itself, although he had them around the other way?

A. He might have meant that, sir, but that's not what is said.

5

Q. Whichever version is in fact what Mr Koperberg intended, I take it you agreed with it?

A. No, sir, I agree with the term "ACT".

10 Q. Did you wonder what he meant when he said, "There are mature pine forests on the border of Canberra"?

A. No, sir, I'm sorry.

15 Q. I am sorry?

A. No. I knew exactly what he meant by the pine forests.

20 Q. You said a moment ago - I want to be clear - the question I asked you was:

"Q. Did you agree with the views he expressed?

25 "A. He expressed a view that there was a potential for Canberra. I did agree that there was a potential, yes."

That's correct, isn't it?

A. Yes, there was a potential, yes.

30

Q. There was a potential for Canberra. The other aspect of Mr Koperberg's evidence about this meeting - which in part comes from a subsequent television interview that he did with the ABC on 'Stateline' in May of 2003, the detail of which can be found in [DPP.DPP.0004.0049] - was that in the course of the meeting language was used which he described as "colourful". In particular he said in the course of that interview:

40

"I'd rather not go into the realms of what I privately believe - it was on the topic of whether or not the resources requested by the ACT was sufficient - suffice it to say we were very concerned about the threat to Canberra and hence our open-ended offer."

45

47

Pausing there, do you agree that in effect an open-ended offer was made to Mr Lucas-Smith for whatever resources he felt he needed?

5 A. Yes. I do believe that the offer was made that there were resources available and were there to ask for.

Q. And a limit wasn't imposed. In other words, he could within reason have whatever he needed?

10 A. Not that I recall - there was no limit within the bounds of practicality.

Q. Then Mr Koperberg went on to say:

15 "There was fairly colourful language used during the - when I say 'colourful', I mean emotive language used during the meeting on the part of several people at it, certainly not by Peter Lucas-Smith or I or my senior
20 staff.

"Q. Like what? What kind of emotive comments?

25 "A. Well, 'Canberra's going to get hammered,' for argument sake."

Do you recall that?

30 A. No, I don't. I've heard this several times but I don't have a recollection of that.

Q. Ms Crawford seems to have quite a vivid recollection, but you don't?

35 A. No, I don't. I'm being honest, sir; I don't have a recollection of those terms.

Q. I am not suggesting otherwise. I am asking you whether you have a recollection. He went on to say:

40 "People speculate and they are not always necessarily in full possession of the full picture and progress being made on the fires and so forth. But 20 tankers is nevertheless
45 a considerable amount of resource. I may well have privately believed that that may have not been enough."
47

Do you recall forming a view yourself about the resources that were requested by the ACT being sufficient or otherwise for the threat?

5 A. No, I certainly did not, because at that stage I was not aware of the intimate details of the tactical situation in the ACT. My focus was on the fires that I had. I made the assumption, as I would of any professional, that what
10 Mr Lucas-Smith requested was what he thought he needed.

Q. As far as Mr Koperberg's opinion about the threat that was being faced was concerned, apart from the conversation that you and he had on the
15 12th of January, had he had any other involvement in this particular fire from the time it started, as far as you are aware?

A. I had spoken to him a number of times. The Commissioner sort of will ring and --
20

Q. Get an update?

A. --just get an update. I mean, he has access to all the paperwork going to state operations. He will talk to the ICs. So we had spoken several
25 times - I can't recall how many - I just gave him an update on where we were and where we were going each time.

Q. Perhaps if I might go back - I am sorry to jump around in the chronology - to the meeting on
30 the 10th of January. You know Mr Tony Bartlett, of course, Mr Arthur?

A. I do.

Q. Mr Bartlett has not given evidence yet but he describes being at a meeting with you and others on the 10th of January, which he attended with
35 Mr Castle at about 6:30 on 10 January; do you recall that meeting?

40 A. There was a meeting, yes.

Q. Have you read Mr Bartlett's statement?

A. I have.

45 Q. In his statement [ESB.AFP.0001.1140] and in particular at 1153, paragraph 49 and following, do you recall the portion of his statement where he

deals with that meeting and describes initially some vigorous debate during the meeting about the implementation of the control strategy?

5 A. There was certainly a lot of discussion about it.

Q. He says in paragraph 49:

10 "In particular I recall discussions about the need to complete all the control lines before the back-burning commenced (they were particularly worried about the link from the TransGrid line to the Goodradigbee River and the potential for the back-burn along the
15 southern control lines to burn to the north towards Doctor's Flat where control lines were very poor. A New South Wales Rural Fire Service officer argued with the incident
20 controller, Bruce Arthur, and said he did not want to use volunteers to implement difficult back-burning operations deep in the forest."

Do you agree that happened?

25 A. No. Could you read me the piece about the southern containment line and the northern containment line?

Q. Sure. It says:

30 "In particular I recall discussions about the need to complete all the control lines before the back-burning commenced (they were particularly worried about the link from the TransGrid line to the Goodradigbee River and
35 the potential for the back-burn along the southern control lines to burn to the north towards Doctor's Flat where control lines were very poor."

40 No, I don't agree with that at all. We were certainly concerned about - say, the charlie sector which is down to the river --

Q. The south-western corner?

45 A. Correct. That caused us trouble for almost a week. So that was the primary concern. The second concern - it is quite correct that the 07

Powerline, that is the southern containment line, was certainly a major concern. I have already stated, sir, that I went to Jindabyne on the Friday and requested, demanded - put your own
5 interpretation - additional aircraft because I considered that a high risk strategy and dangerous to the people on the ground.

10 The impact of the southern containment line on the northern containment line, no, I do not agree.

Q. He then went on to describe what he seems to suggest is some kind of argument - I am sure in the best of spirit - between you and an officer
15 from the Rural Fire Service and that other person saying, according to Mr Bartlett, that he didn't want to use volunteers to implement difficult back-burning operations deep in the forest. Do you recall that?

20 A. The only RFS present was my deputy, and I don't believe there was an argument at all.

Q. So he is wrong about that discussion?

25 A. I do not agree that there was an argument. Jim may well have put a point forward with regard to volunteers.

Q. Was there any discussion about the use of volunteers?

30 A. Quite possibly, yes.

Q. And using volunteers to implement difficult back-burning, was that a subject of discussion?

35 A. There would have been, because the intention was to use volunteers right throughout.

Q. You think the officer that he is referring to is Jim Lomas?

40 A. He was the only one present that I can recall.

Q. In Mr Bartlett's presence, was there a discussion in which Mr Lomas expressed concern about using volunteers for what he was describing as a difficult back-burning operation?

45 A. I have a vague recollection that that involved burning before we wanted to - that is, before the lines were completed - and we were violently

opposed to lighting anything until we had our lines secure.

5 Q. Was there an issue within the RFS about the use of volunteers?

A. No.

Q. There wasn't?

10 A. Our service is volunteers.

Q. Is it entirely - are all firefighters in the Rural Fire Service --

A. All firefighters are volunteers.

15 Q. We will ask Mr Bartlett about that. The reason for asking you about this meeting was because his recollection is that, during the course of it, you left the meeting to talk to Mr Koperberg. In paragraph 50 he says you were
20 called out and returned and said you had spoken to Mr Koperberg and it goes on:

25 "... additional resources had been allocated to the McIntyre's Hut fire from the next day. This included a skycrane and medium helicopters as well additional firefighters."

30 A. I actually spoke to Mr Fitzsimmons, and Mr Fitzsimmons confirmed my request from Jindabyne that morning, including the Ericsson crane, yes.

Q. When did the Ericsson crane actually arrive?

A. I believe the next day.

35 Q. The 11th?

A. I think so.

Q. Saturday?

40 A. Yes.

Q. I should finalise this paragraph by reading you the portion where Mr Bartlett says:

45 "During this meeting it was apparent that New South Wales resources for back-burning would not be in place until midday the next day, which in my experience is not a good time to

commence back-burning operations. I offered experienced ACT Forests crews to be in place early in the morning to commence the back-burning but the incident controller was not happy with this arrangement. He would only agree for the ACT Forests crew to work alongside the New South Wales crews under their control."

10 Do you agree that that was the position you put at that meeting?

A. Yes, that is the position I put. But I think I need to point out that Mr Bartlett's proposal is they act independently along our line. I wasn't prepared - I had a major safety concern on the 07 Powerline, particularly on the junction of the 07 and the northern run, a major concern - I was not prepared to light that trail until everything was in place, because there was a potential to kill men on it.

Q. Mr Arthur, by the 15th and 16th of January, did it become apparent to you that time was running out in the sense that you were having difficulty burning the area that had to be burnt before the weather turned as it was certainly going to? Let me isolate that a bit more: By the 15th of January you had weather information suggesting that, within the next three days or so, the weather was going to turn bad from a firefighting point of view?

A. Yes.

Q. Mr Koperberg has said that that was going to happen by Saturday and that he was warning people about it and discussing it with people. Was it obvious to you by the 15th that the burnout wasn't going to happen before that weather arrived?

A. It was obvious by the 15th that certainly we weren't achieving the rate or rather that we hadn't achieved quite what we wanted to.

Q. The question was how to deal with large tracts of the containment area that at that stage were unburnt?

A. That was one of the issues, yes. The primary issue at the time, sir, if I may, was to deepen

the burn lines. Until we did that, we couldn't do much else.

5 Q. Could I have slide number 57, please, which is the 15th of January at 1638 hours. You had access, I take it, Mr Arthur, to the linescan data during this period?

10 A. I did, yes. The planning section used that to the most extent.

Q. So, they would have had a reasonable picture of the boundaries of the fire?

A. Yes.

15 Q. They would have had an understanding, which no doubt they passed on to you?

20 A. I think I need to make one point, sir, that a linescan wasn't necessarily always accurate for a number of technical reasons. And, secondly, the linescan came to us some hours later. It wasn't an instantaneous thing. It is not something we could use straight away.

25 Q. No, and I certainly don't claim to be an expert. So, like the kink yesterday, I might get this wrong but, as I understand it, one of the technical difficulties with the linescan data is that it is taken from a moving aircraft above the fire. It is basically intended, as I follow it, 30 to thermally map the fire edge; that's the idea of it?

A. In principle.

35 Q. In order to make sense of it, it has got to be adapted to maps and in particular in an area like this it has to be adapted to cater for the topography, is that correct, so adjustments have to be made?

40 A. I believe so. I'm not an expert on it.

Q. You said for technical reasons so I assumed you had some knowledge of what those technical reasons were?

45 A. I have a working knowledge of it only but I am aware of those types of issues.

Q. What it means is a means of knowing where the

fire actually is in circumstances where visually you can't see it - in this case, because there was no-one in the immediate vicinity and because there was smoke that obliterates the view; would you agree with that?

5 A. Yes.

Q. What you have in front of you is Mr Cheney's analysis of the linescan data as at 4.38 on 15 January. At that stage the burning from containment lines had not been completed, according to that data. Have you seen this diagram before, Mr Arthur?

15 A. No, I have not.

Q. You have never seen it before?

A. No.

Q. If we go to slides further on to the 16th of January at 8 o'clock, that suggests that back-burning is now occurring from all the containment lines but that there is quite a substantial portion remaining unburnt?

20 A. It does, but it doesn't show the fire up against the containment line.

Q. I am sorry?

A. It doesn't appear to show the fire against the containment line.

30

Q. On the eastern side, do you mean?

A. On the eastern side.

Q. I think the eastern edge of the red area, Mr Arthur, is the containment line that was used for that particular purpose?

A. Okay. It may be, sir. It doesn't show a trail or anything.

40 Q. It doesn't show a trail. You can take it I think the eastern edge represents the area where the containment line was actually established.

A. All right.

45 Q. That was an area where work needed to be done; wasn't it?

A. Oh, yes.

Q. After the containment strategy was initially settled on. Now by the night of the 16th of January, you had quite a large area - I think from memory estimated by Mr Cheney at something in
5 excess of 1200 hectares - which remained unburnt. The idea was that, with the onset of bad weather, you needed to get that burnt if you could before the bad weather, otherwise this unburnt fuel would produce runs which would inevitably break the
10 containment line; is that the idea?

A. Yes.

Q. It was at the point, wasn't it, where aerial incendiaries were becoming an important part of
15 the strategy to get this completed?

A. It was.

Q. Did you know as the incident controller by the night of either the 15th or the 16th that there
20 was a problem in those being available?

A. I was aware that we had some problems, yes.

Q. When did you first become aware of that?

A. It would have been on either the Monday or the
25 Tuesday - 14th something.

Q. 13th or 14th?

A. 13th or 14th. These were logistics issues but I had been made aware of them, yes.
30

Q. Aerial incendiaries were being discussed back on the 8th?

A. Correct.

Q. Was there some explanation given to you how it was a week after the 8th, that is the 15th, there was still a problem about the availability of aerial incendiaries?
35

A. That was just it, the availability of them.
40 There was a high demand for these devices right throughout the bottom of the state. Everybody wanted to use them.

Q. How can you realistically plan - I appreciate you are not governed by timing - a strategy which includes a consolidation of burning using aerial incendiaries if you have no idea whether you will
45

have them or not?

5 A. You plan it, and then you try and pressure
people into providing what you need by several
expedients, and one of those saying, "Hey, if you
don't do this, then we are going to have big
problems," those types of things. Because we
don't have something doesn't mean we don't plan
for it. If we can't get them, then we have got to
look at another issue. That was our primary plan.
10 We were going to pressure. We had already made
some - got some fingers out to see what we could
borrow from other areas. In the end, we got stuff
from Tumut.

15 Q. A critical part of this containment strategy
was to ensure that this large area,
10,000 hectares, was burnt as quickly as possible,
as you have said?

A. Absolutely, yes.

20

Q. Albeit not governed by definite times, as
quickly as possible. It was obvious from the 8th
of January - I take it because it is referred to
in the documents - that aerial incendiaries would
25 be something you would need to use during the
course of that burnout?

A. It was.

Q. But a week later they still weren't available?

30 A. No.

Q. That was simply pressure on resources, was it?

A. I believe so. The logistics - sir, may I
point out that the logistics organisation was
35 searching everywhere to obtain those items. There
is only a limited stock of the things kept in the
country.

Q. But the position you were then put in was
40 that, by 11 o'clock on the 17th when it was
decided to use aerial incendiaries after a good
deal of agonising about whether or not to use
them, you were forced into a position where you
were using them in circumstances where it was
45 obviously very much a line ball decision as to
whether you should or you shouldn't; that's right,
isn't it?

A. Yes. We could not have used them before the 16th.

Q. No.

5 A. So the 16th was our very earliest time. No, we didn't have them. Somewhere the system failed on that. On the morning of the 17th, we had the situation as you described it here on this map, although it would have been advanced a little bit
10 from there. We had two alternatives, one was --

Q. Just for your identification can we go to the next slide, because I think you will get a better impression.

15 A. We really only had two alternatives left. One was to do nothing and hope that the thing wouldn't come out - I don't believe that was an alternative. To do nothing is not an alternative in this instance. The other one was to attempt
20 what we had always hoped to attempt. Given the progress rate that we made, we could not have done it any earlier than the day before, and that didn't happen. I have already referred a couple of times to circumstances that get beyond our
25 control.

On the morning of the 17th, there was an option to do nothing and know that it was going to come out; or to try something and hope that was successful.
30 We did a lot of - you put the word yourself - agonising and decided to go ahead. If we did nothing, we would be equally damned.

Q. The risk that you took by 11 o'clock on the
35 17th was that to use aerial incendiaries in those circumstances, with the weather developing the way it was then developing, in fact the aerial incendiaries would add some level of intensity to the pre-existing fire; that was one of the risks
40 you took, wasn't it - without achieving the purpose that you would seek to achieve?

A. No, not necessarily. When you do an incendiary run with the trained operators that we used, it was down to ridge tops. As I think was
45 explained yesterday, the attempt is to burn off the ridge tops and then make the fire fall over the sides. We don't drop it on the downslopes so

that they can come up. It adds more fire into the area. But that was going to happen.

5 Q. Is it fair to say that, if you are dropping onto ridge tops at llam and beyond on a day like 17 January, you are adding a potential, fanned by wind, that those very fires will cause spots?

10 A. The very aim of those is to try and take the spots out. That was why we had to get that depth in around them so they couldn't spotover.

15 Q. Do you agree that what you risk in doing that in those circumstances - that is with the weather hot, the wind from the west north-west or from the north-west, and worse weather developing - by dropping incendiaries onto the ridge tops themselves you actually run the risk of creating spots rather than dealing with the spots?

20 A. We took a calculated plan that that wasn't going to happen.

25 Q. I know you did, Mr Arthur; I am trying to establish whether that is one of the consequences that you have to consider before you make a decision.

A. Certainly it is something you have to consider.

30 Q. Did you consider it on this day?

A. We did.

Q. And thought it was a risk worth taking?

A. We did.

35 Q. Yesterday in the course of Ms Crawford's evidence, I asked her some questions about warning. And in particular I want to know whether you agree with this proposition: the ACT ESB were involved in various discussions and meetings with your IMT in part because, as Ms Crawford said and 40 as I think you agree, the McIntyre's Hut fire was always a potential issue for the ACT.

A. It always posed a potential.

45 Q. If a point is reached where it is apparent, as it was on the afternoon or the night of the 17th of January, that a fire like this is going to burn

into the ACT, do you agree that the responsibility for issuing warnings on to the residents of the ACT who are likely to be affected by that is a responsibility carried by your organisation, having originally managed the fire; or is it a responsibility carried by the ACT ESB?

5
A. If I can use the New South Wales example, because I am more familiar with it, if we reach a stage where we believe that the threat is going to lead to some severe consequences, we have another level and that is the Emergency Operations Centre which in our case is under police control. We advise them that we think, you know, perhaps it is time to start notifying - at least it is a preparatory phase.

10
Q. Did that apply in this case; in other words, was there a point reached here where ACT ESB, for example, were informed by your IMT that a point had been reached where it was time to start issuing some information to residents in the ACT likely to be affected by this fire?

15
A. The ACT liaison officer was party to all of this.

20
Q. Yes, I realise that. With respect, this may be one of the difficulties of what is in effect interstate complications. This is a fire being managed by New South Wales Rural Fire Service and the National Parks and Wildlife Service. You are the incident controller. You are an officer of the New South Wales service. There are other fires going on in the ACT being managed by them.

25
30
35
40
45
There is a clear demarcation or jurisdictional line, which of course doesn't occur out in the rest of New South Wales so much. You are the ones with the information about the fire; you are the ones with the most direct information about potential consequences of the fire - the worst case possibility, if you like. Is there a point reached or a responsibility that you carry, speaking collectively, where there is some obligation on you to say to ESB, either to a liaison officer or perhaps to the Chief Fire Control Officer, "Look, our assessment of our fire is that it is not going to be held and it is going

to burn into the ACT. You better start letting people know"?

5 A. No, sir. When I say "no", I mean we updated the ACT authorities on the status of the fire and what it was doing, but it is not within our prerogative to advise another state effectively of what action it should take in regard to its citizens. Similarly, if I might point out, on the night of the 17th and earlier when the fire
10 crossed to the west in the Brindabella Valley, the ACT advised us that - I use this term with the best of intent - their fire was coming into our area. They didn't say "you should tell your people" that follows on from our own processes.
15 They kept us apprised of the status of their fire and we took appropriate action when it looked like threatening our citizens. We kept them apprised of the status of our fire with --

20 Q. It was a matter for them?

A. I believe so.

Q. As far as your expectation is concerned, you would assume that the equivalent of your planning
25 section in the ESB would be making their own plans based on the information you were providing for that eventuality?

A. Without knowing, I would assume there is a process in place.

30

Q. Mr Arthur, at the end of the evidence you gave at the New South Wales inquest you, were asked a question by Mr Parcell at page 59 -
[DPP.DPP.0001.0338] at 0414 - who was assisting
35 the coroner. I am not sure if Mr Parcell is a police officer?

A. A police officer.

40 Q. You were asked this question.

"Q. You indicate, sir, that your strategy was one of containment using control lines because that was the best option in your view. Ultimately that failed. Strategy did
45 not work. The fire got beyond those containment lines. Can you give us an explanation now as to why you think that

happened?

5 "A. I can't give you an explanation per se. What I would point out was that from effectively 9 January to 17 January we held the fire within the containment lines."

10 Just pausing there, I want to suggest to you that is really not strictly accurate in the sense that you weren't holding the fire. What you had done between the 9th and 17th of January was to establish containment lines which were extremely broad, and the fire stayed within those containment lines?

15 A. Quite correct.

Q. That is fair; isn't it?

A. Yes.

20 Q. You go on to say:

25 "A. Might I suggest that a reference to what happened in the ACT could be used as a balance where they attempted direct attack time and time and time again and were continually being pushed back. So we were able to at least establish the situation for nearly 10 days, eight days."

30 Pausing there. The stabilisation that you refer to really at best can only be described - and I don't mean to diminish the efforts that went into it - as the establishment of the containment lines; can't it?

35 A. It can, sir. But it is in the context that throughout the western firefighting world - I have had quite a bit of dealing with Canadian and American counterparts - the strategy of indirect firefighting is well accepted in the major firefighting countries of the world. There is 40 this perception by many that, because you don't go direct, then you are failing. This indirect firefighting strategy is an accepted strategy from major fire authorities around the world. I believe it was a good strategy. I still do. 45

The other part I would like to say about that is the context that statement was made in with

comparison with the ACT. Throughout that particular hearing, there had been a great deal of emphasis via counsel on the fact that the New South Wales authorities should have done direct
5 attack on top of the Webbs Ridge Spur trail on the night of the 8th.

As I have pointed out in this inquiry and in that inquiry, that would have wound up, in my opinion,
10 if not killing people then injuring them severely. We chose a strategy that was safe to some degree with the firefighters and had a good chance of succeeding. It did succeed up to a point. You say "broad containment lines", sir, they were set
15 containment lines. They were the only options we were left with.

Q. I say "broad containment lines", Mr Arthur, because that is the phrase that was used to
20 describe the strategy. It is not my words; it is the words of the New South Wales fire service?

A. Yes, sir.

Q. They were broad containment lines?

25 A. They were. We had no option.

Q. All I am suggesting to you is in the end the strategy was to establish those broad containment lines and between the 8th or 9th of January and
30 the 17th of January the fire stayed within those containment lines?

A. That's right.

Q. You go on to say in that answer:

35

"I would also like to point out that on the evening of the 17th and the day of the 18th, my understanding is over 28 fires broke
40 containment lines. There were no fires in the southern part of the New South Wales and I might add in the northern part of Victoria which maintained inside their containment lines over that night and the following day. Can I explain it? Sir, the only thing I can
45 say - you are really repeating the question can I explain it - is the weather, the drought and everything that went with it beat

us. I have no other explanation than that.
In the end we were trying to control nature."

That is a view that you hold now, I take it?

5 A. We were trying to control nature, yes. I believe every man on the ground and every agency put every effort into this but in the end it beat us. Yeah, that's all I can say.

10 MR LASRY: Yes, thank you, Mr Arthur.

Your Worship, I am sorry before I sit down, at some stage - I might do it in re-examination - there is a video that your Worship will recall we
15 played during Mr Cheney's evidence that might be useful for this witness to see. It is the video taken at the Baldy Range fire I think on the night of the 8th of January. We have got it present, but it is not cued. Assuming Mr Arthur is here
20 after 2 o'clock, perhaps I can play it to him then.

THE CORONER: Thank you, Mr Lasry. Yes, Mr Lakatos.

25

<CROSS-EXAMINATION BY MR LAKATOS

MR LAKATOS: Q. Just a very brief question, Mr Arthur, in the records kept by the Rural Fire Service which recorded situation reports and
30 incident action plans you referred to the various incidents by various names. The McIntyre's Hut fire I take it was referred to in the Rural Fire Service documentation as McIntyre's Hut?

A. Correct.

35

Q. There was reference at one point to Bimberi complex. Have you seen any documents in your organisation relative to the fires in this general area by that terminology?

40 A. I have heard the name but I'm not too sure on that, no.

Q. I wonder if document number [NRF.AFP.0001.0206] might be brought up on screen.
45 It is a situation report form under the heading "Incident name Bimberi complex LGA Yarrowlumla". Mr Arthur, have you seen the original or a copy of

that document before?

A. I would assume I have. But I don't have a recollection of it.

5 Q. Looking at that document, if it can be scrolled down, do you know what the Bimberi complex is a reference to?

A. I can only go by the map name which is Cotter Dam. I am assuming it is to the west of the ACT
10 somewhere.

Q. I wonder if the following document could be brought up [NRF.AFP.0001.0210]. It should be situation report number 3 in that particular
15 sequence. If I can ask you the question again: have you seen that document or its original?

A. It is a name - the reason is that under our standard operating procedures we allocate fires specific names. This says "Brindabella ex-Bimberi
20 complex". Somebody has obviously tagged it and then discovered that it was the wrong name. I don't know where Bimberi came from. Once a fire is named, that name stays through unless a change is approved by state operations. So if we were
25 calling it Brindabella complex at the beginning, that's what it would continue to be called. I also note that the previous sitrep was done by the night incident controller. Perhaps he hasn't picked up on it.

30

Q. Would it be fair to say that the Brindabella complex in fact represented the Bendora, Stockyard and Gingera fires as they burnt into New South Wales on the western side of the ACT?

35 A. Once they had crossed the border, yes.

Q. Do you know whether or not those three fires as they burnt into New South Wales were uniformly referred to from that time onwards as the
40 Brindabella complex of fires?

A. Yes.

MR LAKATOS: Thank you, your Worship. I have
45 nothing further.

THE CORONER: Thank you, Mr Lakatos. Yes,
Mr Whybrow.

MR WHYBROW: I seek that we take the luncheon adjournment early. There are a few matters I need to chase up. It might actually save time if we can do that now.

5

THE CORONER: I will see if anyone else has any questions. Mr Watts or Mr Walker?

MR PHILIP WALKER: Yes, I do, your Worship. But if the video is to be played to Mr Arthur, I would rather hear what Mr Arthur has to say in response to any questions he might asked before I cross-examine him. I don't know whether it has any relevance to anything I wish to ask but I would rather hear what he has to say.

15

THE CORONER: That sounds reasonable.

MR LASRY: We can do that at 2 o'clock.

20

THE CORONER: We might adjourn now and then play the video immediately after lunch.

LUNCHEON ADJOURNMENT

[12.56pm]

25

RESUMED

[2.07pm]

MR LASRY: The next thing that I was going to do was to play a video.

30

Q. Mr Arthur, this is a video which was made during the course of Mr Cheney's evidence. Have you seen any of this material before.

A. No.

35

Q. Were you present during Mr Cheney's evidence?

A. No, sir, I was not.

Q. It is some video taken by staff from the CSIRO who went to the Baldy spot fire on the night of the 8th of January. I will just ask you to watch it.

40

(Video played)

45

MR LASRY: I should say, as it is playing, that the start of it was actually some film of

McIntyre's. At this stage these men are at the Baldy spot fire. It is at about 9 o'clock or so on the night of the 8th of January.

5 (video continued to play)

MR LASRY: Q. Now, I take it, Mr Arthur, that would be the first time you had seen or had any impression at all of the intensity of the Baldy
10 fire on the night of the 8th of January?

A. On the night of the 8th.

Q. Apart from --

A. Apart from verbal discussions.
15

Q. The verbal descriptions would have come from the Fairlight brigade who had actually got to the southern end of it?

A. And from the ACT Forests people.

20

Q. At some distance? They had gone --

A. My understanding is they had gone to the edge of it.

25 Q. I think that piece of film was taken at about half past 8 at night. You need to accept that. What you can see in the video is that, as I understand it, if you were the cameraman then the direction of the original McIntyre's Hut fire was
30 to the right, you could see the wind blowing across the road. There are obviously limitations on what you can make from a piece of film like that as opposed to being there and seeing the whole panorama. But as at 8.30 with appropriately
35 equipped personnel on the ground that fire was, I want to suggest, eminently suppressible at that stage insofar as you can see in that piece of film?

A. That specific piece of fire in the video, yes.
40

Q. One thing that I perhaps should have put you to earlier, which I think I put to Julie Crawford yesterday and it has been put to other witnesses, is that it is generally right, isn't it, to say
45 that in dealing with a fire which is going to burn beyond a day and a night shift, that is going to burn overnight and still require attention the

next day, the first night of a fire is often the best opportunity you get at some kind of direct suppression?

5 A. It is a generally accepted principle, yes. It is not a law.

Q. I appreciate that. But it is because you can expect at night with an increase in humidity, the dissipation of wind very often and lower
10 temperatures that dealing with a fire such as a fire in that condition at that time is a lot easier than of course it is during the day?

A. That's generally held, yes.

15 MR LASRY: Thank you, Mr Arthur.

THE CORONER: Mr Lakatos, I should give you an opportunity if you want to ask any more questions as a result of the video.

20

MR LAKATOS: I have none, thank you, your Worship.

THE CORONER: Mr Archer, do you have any questions?

25

MR ARCHER: I might defer my questions until after Mr Whybrow and Mr Walker in that I think they might cover the area I wish to cover.

30 THE CORONER: Certainly. Mr Whybrow?

<CROSS-EXAMINATION BY MR WHYBROW

MR WHYBROW: Q. Mr Arthur, you gave some evidence earlier about the fact that there were liaison
35 officers in each of the New South Wales coordination centre and the ACT coordination centre so that the various across-the-board forces would be kept appraised as to what the other was doing?

40 A. Correct.

Q. Is it your understanding that there was ongoing communication and open communication between each of the centres as to what was
45 happening with each of the fires?

A. That's my understanding.

47

Q. I think you even said there was an officer from ESB who was a liaison officer within Yarrowlumla?

A. Correct.

5

Q. It is the case that he or she on particular occasions would have had access to any of the information that was coming into Yarrowlumla about McIntyre's Hut fires?

10 A. Any and all.

Q. Likewise any New South Wales officers stationed at Curtin would have, in your expectation, access to any and all information coming into that place in relation to fires?

15

A. I would assume so, yes.

Q. It is your expectation, I take it then, that there would have been a number of communications and calls between Curtin and Yarrowlumla and the other way exchanging information?

20

A. I am sure there were.

Q. For example, on the night of the 17th of January, you were aware fire down in the Naas Valley in Tidbinbilla was a significant firefight that evening involving both New South Wales and ACT fire officers?

25

A. I'm aware of that.

30

Q. You said to Mr Lasry earlier in relation to warning residents in opposing jurisdictions - page 4607:

35

"We updated the ACT authorities on the status of the fire and what it was doing, but it is not within our prerogative to advise another state effectively of what action it should take in regard to its citizens. Similarly, if I might point out, on the night of the 40 17th and earlier when the fire crossed to the west in the Brindabella Valley, the ACT advised us that - I use this term with the best of intent - their fire was coming into our area. They didn't say "you should tell 45 your people" that follows on from our own processes. They kept us appraised of the

status of their fire and we took appropriate action when it looked like threatening our citizens. We kept them appraised of the status of our fire."

5

That's what you would expect the interchange between the organisations was?

A. I would, yes.

10 Q. What I want to play to you is a call from Mr Robert Gore at ACT Emergency Services Bureau at about midnight on the 17th. It would appear he has called somebody in New South Wales communications. I just ask you to comment: is
15 this consistent with the sort of liaison that you would have expected between the centres?

I have asked counsel assisting if they would assist in that regard. I have queued a call that
20 is logged at 17 January 23:58. I ask Mr Woodward to play it now.

(call played)

25 MR WHYBROW: Q. I take it you have never heard that call before, Mr Arthur?

A. No.

30 Q. Is that consistent with what you would have expected - ACT keeps you appraised of the status of their fire and takes appropriate action when it looks like threatening your citizens?

A. It is the sort of exchange you would expect between operations people.

35

Q. As far as you are aware, that sort of exchange took place in relation to all the fires at various times to the extent that people knew where they were?

40 A. As far as I know, yes.

MR WHYBROW: Thank you. I have no further questions.

45 Your Worship, that particular call is not part of the scheduled calls that were issued a few days ago, and I ask that that one be added to it. If

it is of any assistance, I have a transcript of that call, if any party is interested.

5 THE CORONER: Thank you, Mr Whybrow.

MR WHYBROW: I have no further questions. Thank you, Mr Arthur.

10 THE CORONER: Mr Walker?

MR PHILIP WALKER: Yesterday I made reference to a document which was not on the system. Mr Lasry was kind enough to give me a call number for it. It seems that the document I referred to and the document containing the call number Mr Lasry referred to although substantially similar are not quite the same.

20 I have extracted some schedules from the document I referred to, which was a New South Wales submission in the McLeod report. I just want to put one of those documents before Mr Arthur. I have also made arrangements with Geoff and the DPP so that the submission which was made to the McLeod report can be moved over and put onto the courtbook system here so that is accessible to everybody.

30 THE CORONER: That is if it is desirable to move the whole McLeod report onto the Court book. It doesn't happen automatically. It is quite and involved and a very, very expensive process to key documents into the brief. That is why there is some reluctance to do it for documents that are otherwise readily available such as the McLeod report and the submissions.

40 MR PHILIP WALKER: It wasn't the McLeod report; it was the submissions. From my point of view, the only thing I ask is that the schedule I am going to refer to be moved over. If that is more convenient, then that is fine by me. I have some more copies of that document here.

45 THE CORONER: This is a schedule to the ESB submission to the McLeod --

47

MR PHILIP WALKER: No, New South Wales submission. The commencement of the relevant table commences with a call number of [MLI.DPP.0005.0243].

5 <CROSS-EXAMINATION BY MR PHILIP WALKER

5

MR PHILIP WALKER: Q. Mr Arthur, we will come to the document in just a moment. You were aware of a conversation I gather between Mr Lucas-Smith and Mr Koperberg which took place on the 15th of
10 January in which Mr Koperberg offered and Mr Lucas-Smith accepted the offer of some assistance from New South Wales?

A. That's correct.

15 Q. Is it your recollection that the request from Mr Lucas-Smith included a request for four task forces with each task force being composed of five category 1 tankers?

A. As I recall that was the agreement.

20

Q. I just want to get an indication from you of what was supplied. Before doing so, I understand that you personally don't have any direct involvement with the supply of those sorts of
25 resources; is that right?

A. No, this was outside the section 44; this was between the ACT government and effectively an agent of the New South Wales government. We were just another fire in that.

30

Q. I just want to get some idea of the capacity of what was supplied. I think you are aware that some of these resources came from as far away as Lismore to assist the ACT?

35 A. I have no idea where they came from.

Q. Can you tell us from your knowledge what is a category 1 tanker?

40 A. Category 1 is a heavy tanker 4 by 4 with some 3,000 plus litres of water on board.

Q. Does it have any other capabilities apart from the fact that it is heavy and carries 3,000 litres of water?

45 A. It is a firefighting tanker.

Q. What is a category 2 tanker?

A. Category 2 is a medium tanker up to about 3,000 litres, 4 by 4, slightly smaller in category - apart from the water capacity it has the same function.

5

Q. When you say 4 by 4, what do you mean?

A. 4-wheel drive, off-road tankers.

Q. You said up to 3,000 litres, I think.

10 A. 2,800 to be precise, classed as a medium tanker.

Q. Category 7?

15 A. Is a light tanker. Well, light tanker up to around - I can't remember the exact - about 1500 litres, I think.

Q. Category 8?

20 A. Category 8 is I think a 2-wheel drive tanker of some type, still around about 2,000-2,500 litres.

Q. Category 9?

25 A. Category 9 is a light tanker, 600 litres, 4-wheel drive.

Q. Is it the case that category 1 tankers are capable of not only doing bushfire firefighting work but they are also capable of hooking onto a main in a street and providing structure protection?

A. All of the tankers, all of those tankers are relevant to the sizes.

35 Q. Say again?

A. All of those vehicles can hook up to a water main and produce water off a street. What they can do with it is relevant to the size of the structure involved.

40

Q. Do some have the capacity to pressurise water they get out of mains?

A. They all do.

45 Q. On the 14th of January, I think you may have heard yesterday there was the establishment of your base at Stromlo.

A. Correct.

Q. It is recorded in your section 44 report that the base at Stromlo was - you were confident that it would not be affected by fire; is that right?
5

A. Its location was subject to us considering the fire path - the possible fire paths.

Q. Did that change at any time, that confidence that it would not be affected by fire?
10

A. It certainly changed on Saturday.

Q. On the 18th. There was in fact a move to evacuate some equipment from Stromlo; is that right?
15

A. From Stromlo Observatory or Stromlo --

Q. From the base that you had established?

A. I think the fire was almost on it when that was decided. We were evacuating personnel.
20

Q. You lost some equipment there?

A. About a million and a half dollars worth.

Q. I take it that occurred simply because the fire was on you before you in fact had any capacity to do anything to save that equipment?
25

A. At that stage we were aware the fire was coming through the pines. There were crews stayed in situ to defend the asset. They were simply overwhelmed. They were still there after the fire had gone.
30

Q. Was it the intention of New South Wales, if the fire came over the border, to provide some firefighting capability in the ACT?
35

A. We did, sir.

Q. Could you just tell us what you did in an effort to deal with the fire?
40

A. When the fire started to move, say late Friday night and Saturday, all of the resources and manpower and vehicle and aircraft resources assigned to the fire backed down with it. In other words, they came back in front of the fire attempting to hold it. That was all the way back down across the river and into the flatlands.
45

They never left the fire at any stage.

5 Q. Did you at any time instruct people in New South Wales to leave their property because of fire?

A. People in New South Wales?

10 Q. Yes. Did you say to rural people, "Leave your homes. Fire is coming," or something of that nature?

15 A. No. I think I explained earlier the Rural Fire Service don't do that. We advise that to the next level above us, which is the Emergency Operations Centre. We may give them advice that we think these things may be necessary. We put a contingency plan into place commencing the night of the 17th because we started to have some concerns with regard to the area from Royalla down to Michelago.

20

Q. There was no warning that you are aware of saying to people "leave your homes" or anything of that nature?

25 A. No because, as Ms Crawford explained yesterday, it is a very fine balance as to when you do that.

30 Q. You expressed some confidence that the fire would not get so far as your base camp at Stromlo. I think you have agreed that that confidence existed from the time of the establishment of that base camp on the 14th through to Saturday when the fire ultimately overwhelmed you; is that right?

35 A. Not quite. We decided we planned the base camp from Sunday the 12th. Because we knew we were going to have to increase - we had a large logistical problem because all of our support mechanism is effectively on the eastern side of the ACT. That meant we had to cross all of our trucks and people across the ACT. It was a time penalty that we couldn't afford. Our logic was by establishing a base camp on the western side of Canberra, we could shorten our travel lines and shorten time.

40

45 That was decided on Sunday. Because these camps are provided by contractors, it took the next two

days to have the thing moved in and established.
At the time we made the decision, we did the
exercise of the potential for fire impact and we
decided at that point on Sunday it wasn't a
5 probability.

Q. Your confidence really existed from Sunday the
12th really through until the following Saturday
when the fire began to make the run that it did,
10 is that right, your confidence that the camp would
not be --

A. We started to do some contingency planning on
Friday night.

15 Q. You said you had no recollection on the 15th
of January about anybody saying things like
"Canberra is going to be hammered". I take it
that had that been said within your earshot, it
would have been the sort of thing that would have
20 made you sit up and take notice?

A. I said I didn't recall hearing it said. I
also said at the time of that meeting I was also
still performing the duties of incident
controller.

25 Q. I do understand that. I appreciate that is
your evidence. Would it be the case that, had you
heard it, you would have sat up and taken notice
if you had heard words like "Canberra is going to
30 be hammered"?

MR LASRY: How can he answer that? This is a
complaint that is often put to us. He says he has
no recollection. How can he say what he would
35 have done if he heard it. He says he can't recall
having heard it. How can you be assisted by that
line of questioning, I ask.

MR PHILIP WALKER: Not only is that a question
40 that has been asked by counsel assisting on more
than one occasion.

THE CORONER: You object to that usually,
Mr Walker.

45 MR PHILIP WALKER: With respect, your Worship, no,
I don't. The question is if somebody heard a

particular piece of information it might pass by
as of no particular relevance, and if somebody
heard some entirely different piece of information
it might be the sort of thing that makes them
5 suddenly sit up and take notice and is not the
sort of thing that would readily slip their mind
if it was said.

I am merely trying to gauge upon what part of that
10 continuum Mr Arthur considers a comment such as
this would lie if he had of heard it.
Essentially, is it the sort of thing he might have
forgotten or is it something that would stick in
his mind? Perhaps I will put it in that form.

15 Q. If the comment was made within your earshot,
is it the kind of comment that would have stuck in
your mind?

A. It's a hypothetical, sir. I'm not quite sure
20 how I would react to it. But I didn't hear - my
point was I didn't recollect hearing it.

MR PHILIP WALKER: I won't press it further in
that case. I have nothing further, your Worship.
25

THE CORONER: Thank you, Mr Walker. What about
this document? Is it part of the brief now?

MR LASRY: As I understand it, this is a schedule
30 to the submission made to the McLeod Inquiry by
the New South Wales authorities. As far as I am
aware, that submission is probably already in
casebook. There is no problem about it, if this
is relevant and my learned friend obviously thinks
35 it is, because he has produced copies of it, it
can easily be moved over to courtbook. For the
time being I would suggest that it be exhibited,
given an exhibit number and we will arrange to
have it moved across.

40 MR PHILIP WALKER: Thank you, Mr Lasry.

THE CORONER: That is what we will do. I will
mark it as an exhibit. This document entitled
45 "Assistance provided by New South Wales to ACT"
will become exhibit 0045.

47

**EXHIBIT #0045 - DOCUMENT ENTITLED ASSISTANCE
PROVIDED BY NEW SOUTH WALES TO ACT TENDERED,
ADMITTED WITHOUT OBJECTION**

5 THE CORONER: Mr Watts?

MR WATTS: Nothing, thank you.

THE CORONER: Mr Pike?

10

MR PIKE: Just very briefly.

<CROSS-EXAMINATION BY MR PIKE

MR PIKE: Q. You were asked some questions about
15 the meeting on the 15th, a number of questions by
a few different people. I will ask a couple of
questions only in relation to the issue of whether
or not the words that it was inevitable that the
fires would break the containment lines were used.
20 You gave some evidence in relation to that to the
effect, if I understand correctly, that you have
no recollection of those words being used and also
that it wasn't your personal view as of the 15th
that such an eventuality was inevitable; am I
25 right?

A. I thought I said, sir, that I didn't recall
hearing it said.

Q. That's right.

30 A. And my own view was that there was a
possibility that it could happen.

Q. Just going back a step, from the time the
fires broke out on the 8th, very soon thereafter a
35 plan was put in place involving firstly the
concept that direct attack would not avail for
this fire; that's right, isn't it?

A. Our consideration was it was not practical.

40 Q. Wouldn't work for this fire, for McIntyre's
fire; not appropriate?

A. We didn't think it had a high success rate.
We believed it was extremely dangerous.

45 Q. And consequent upon that, the decision was
made very early on that it would be a question of
putting in containment lines to have an indirect

attack upon the fire; that was the plan from early on and that remained your plan right the way through. As you have told us, you weren't in the game to lose, you were in it to win and to win with that plan?

5 A. Correct.

Q. If someone were to say, "It is inevitable that the fire is going to break the containment lines," that would carry with it necessarily the consequence that the plan that you had set in place was going to fail?

10 A. If someone were to say that, it would imply such.

15 Q. You certainly didn't come away from the meeting of the 15th with the impression that the general view of those there at that meeting was that it was inevitable that the containment lines would be breached?

20 A. I came away with the view, as we had held all along, that there was always a possibility. I think I explained to Mr Lasry that that was part of our contingency plan.

25 Q. Absolutely. You didn't come away from that meeting with the idea in your mind that it was a general view that that plan would fail and that it was inevitable that the containment lines would be breached. That wasn't the view you came away with, was it?

30 A. It was not my view.

35 MR PIKE: Thank you, your Worship.

THE CORONER: Thank you, Mr Pike. Mr Archer?

MR ARCHER: No questions.

40 THE CORONER: Mr Walker?

<CROSS-EXAMINATION BY MR BRETT WALKER

MR BRETT WALKER: Q. You were asked some questions by Mr Lasry concerning consideration, which I think your evidence is was not given, to the western control line being formed by hand between two segments of the McIntyre's track or

trail; do you remember that?

A. Yes, sir.

5 Q. I think you may recall Mr Cheney's statement that is misnamed as coming off the Lowells Flat track; do you remember that?

A. I believe so, yes.

10 Q. In Mr Cheney's statement, I think it is correct to say that the location of this hypothetical hand control line is not shown on any map or by any bearings; is that correct?

A. No, not that I'm aware of.

15 Q. You don't know where it is supposed to be?

A. No.

20 Q. It is described by Mr Cheney as being easy terrain. Are you able to comment on the availability of "easy terrain" for a handmade control line from which to burn out on the west of the McIntyre's fire as at the 8th and 9th of January?

25 A. No. Because I have flown that several times and we went down on to the spot and I saw nothing that I would consider to be easy terrain.

30 Q. In order to enhance your comment on that hypothetical possibility, it would probably assist, I suppose, if Mr Cheney were to mark on say a highscale map with contours where this hand line should have been made; is that right?

A. Yes, sir.

35 Q. Mr Cheney also talks, and Mr Lasry raised this with you for your comment, about the supposed advantage of not using the Goodradigbee River on the west but rather the McIntyre's trail plus this hand trail plus Lowells Flat as being that there would be a trafficable line; do you recall that?

40 A. Yes.

45 Q. On the map that was prepared before these fires for firefighting use within the national park, as it happens coincidentally just north of the area where Mr Cheney proposes this hand line, there is the legend "no tankers". Do you recall

that?

A. Yes, sir.

5 Q. What does that refer to in relation to the deployment of firefighting resources on and by that track?

A. It would mean you would not be able to put heavy or medium tankers up there. You may be able to get a light unit.

10

Q. Heavy or medium tankers are necessary when one is trying to maintain a control line across the possibility of break-out?

15 A. I believe so, from the simple point of safety for the firefighters.

20 Q. Did Mr Cheney at any time during even the first week of this campaign for you raise with you the possibility of having put in that hand line so as to use that as the western control line?

A. No, sir.

25 Q. Did Mr Cheney ever raise with you during say the first two days any observations he made concerning the intensity of the fire or fires at McIntyre's Hut or any of the spotovers to the east of it?

A. Not that I recall, no, sir.

30 MR BRETT WALKER: Thank you.

THE CORONER: Mr Lasry, any re-examination?

<RE-EXAMINATION BY MR LASRY

35 MR LASRY: Q. Mr Arthur, there is nothing unusual, is there, about having a track which is decided to be used as a containment line, which then requires some modification to carry the sort of traffic that it would require to carry in order to deal with the fire?

40

A. No.

45 Q. So in the example that Mr Walker has just raised with you modification of the McIntyre's trail for example, assuming that were determined to be the appropriate western containment line - I appreciate you say it wasn't, but if it had been

determined that it was - there would have been nothing unusual about the fact that personnel would then have to go to that track and modify it, perhaps widen it, perhaps clear it, or otherwise
5 affect it so that heavier traffic could move on that track. And as you indicated earlier this morning in the course of your evidence, for example, so that tankers could pass each other in opposite directions and there would be points
10 where tankers could turn?

A. If the decision had been made to use the track, yes.

Q. Apart from the fact that you didn't think it was inherently an appropriate containment line, the fact that the map said "no tankers" doesn't mean that a trail can't be modified in order to use it as a containment line, does it?

A. Not necessarily, sir, because it would depend.
20 "No tankers" may mean several things - the track may not be wide enough or it may be just too steep for heavy tankers. It doesn't follow necessarily.

Q. I am not suggesting it follows necessarily. I am simply putting this proposition to you: if it had been determined that that road was an appropriate western containment line as opposed to the river, if that had been your decision on the night of the 8th of January, it would be
25 unsurprising that work might then need to be done to that trail to make it appropriate?

A. Theoretically, yes.

Q. Well, you mean theoretically unsurprising? It is not unusual to have to modify a trail, is it --

A. No, it is not unusual.

Q. In order to use it as a containment line?

A. No.

40

Q. You were asked a question by Mr Walker in relation to the Stromlo base camp. You were asked questions about the perception of the risk to that camp on the day of the 14th. You said in answer
45 to him that, on the Friday night, there was some contingency planning for Stromlo. Can you tell us what that contingency planning was?

A. Only that we had started in the briefings to warn people of the move - the spread and the movement of the fire, that's all.

5 Q. So that by Friday night the assurance you felt about Stromlo back on the 14th was no longer the case; is that right?

A. Until late on Friday night, we still believed we could contain it.

10

Q. Yes. But I gather from the way in which your incident controller's report is worded in relation to this particular camp, the 200 person base camp, you say at page 8 of that report:

15

"A specific factor also was the considered opinion that this location would not come under threat from the fire."

20 That was the position as at the 14th?

A. Yes, sir.

Q. That was no longer the position on the night of the 17th; was it?

25 A. It was starting to change, yes.

Q. You started to plan for it?

A. Yes.

30 MR LASRY: Thank you, Mr Arthur.

THE CORONER: Thank you, Mr Lasry.

35 Mr Arthur, thank you for your evidence. You are excused. You are free to leave, if you wish. Thank you.

<THE WITNESS WITHDREW

40 MR ARCHER: May I be excused your Worship?

THE CORONER: Certainly, Mr Archer.

MR LASRY: I call Mr Rob Hunt, please.

45

<ROBERT JOHN HUNT, SWORN

47

<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Hunt, is your full name Robert John Hunt?

A. It is.

5

Q. Mr Hunt, are you still the ranger at the National Parks and Wildlife Service office at Queanbeyan?

A. Yes, I am.

10

Q. Is that described as Ranger Alps?

A. Ranger Alps, which I am responsible for Brindabella National Park and Bimberi Nature Reserve.

15

Q. Sorry to be flippant, but there is no Mr Alps; it describes your position?

A. Yes. Alps ranger.

20

Q. Mr Hunt, you began your involvement with bushfires some number of years ago, and you describe in the evidence that you gave to the New South Wales coronial inquiry at page 19 on the 27th of August 2003 you say:

25

"I first started - probably should be involvement - in bushfires as a university student at Charles Sturt University in Albury. I think it was 1989-90 with the Thegoona Volunteer Bushfire Brigade. Then joined up with New South Wales National Parks as a field officer in Kosciusko, ranger in Narrabri and a ranger in the Queanbeyan area for just under 10 years."

30

And as you point out there, you have been involved in bushfires practically every summer since then. Is that correct?

A. Yes. In New South Wales.

35

Q. I take it you recall the evidence you gave to the New South Wales coronial?

A. I do.

40

Q. You have had a chance to read it?

A. I have.

45

47

Q. You actually have it in front of you.

A. Thank you.

5 Q. It was given on oath, but I take it that it is true and correct; is that right?

A. Yes.

10 Q. Am I right to say that your involvement in these fires was primarily on the 8th and 9th of January or did it continue for some time after that?

A. It continued for some time.

15 Q. We might need to expand a little on the evidence you gave then. Your involvement on the 8th of January was initially with Ms Crawford, who was your supervisor?

A. That's correct.

20 Q. As you describe in the course of your evidence, you moved from the workshop to the office in Rutledge Street in Queanbeyan?

A. Yes.

25 Q. Listening to the radio traffic. Ultimately you got into a landcruiser station wagon with some communications and went out to have a look at the McIntyre's Hut fire?

A. Yes.

30 Q. You describe on page 20 of your evidence on the way up having a look and being a bit concerned on the way out. I take it your concern was based on what you could see from the smoke plume; is that right?

35 A. The amount of smoke, considering we were going to a lightning strike. It wasn't behaving - the smoke wasn't relevant to a normal lightning strike which we had been to in previous years.

40 Q. What would you expect to see from what you describe as a normal lightning strike?

45 A. More traditionally, yesterday you had a photograph up of the Mount Vale fire. It is normally a single wisp of fire that you are chasing. It is normally a single column of smoke; it is something a little bit harder to see and

normally you don't see it from a number of kilometres away. it is normally not the size that we saw on the way.

5 Q. From what you can see from the smoke depicted in the photographs - I think in the two taken by Mr Cutting, one at 5.30 and then you might recall yesterday another photograph was taken at 6.30?

A. Yes.

10

Q. In the earlier photograph at 5.30, the smoke suggested a fire of some intensity. That was what was concerning you?

A. A definite cause for concern enroute, yes.

15

Q. The colour of the smoke and the volume of the smoke were two of the things you were interested in?

20 A. Yes, because they were coming from an ignition that only just happened not too long ago. So it was a cause for concern.

25 Q. I know I am asking this question being wise after the event, but at the time did it occur to you that what you were seeing was the smoke from an ignition which had occurred and then done a fairly intense uphill run?

A. From the smoke that we could see, yes.

30 Q. Was that the conclusion you formed at the time; that's what I am asking?

35 A. We got a lot closer to form that opinion. We knew that something was vastly different from what we normally responded to lightning strikes in that area.

40 Q. You met up with some other people at Blundells Flat and, as you say in the course of your evidence, you were going together because you had initiated the response separately from different areas of Queanbeyan, so it was important that everybody be understanding where they were going and what their purpose was.

A. Yes.

45

Q. It was at about 20 to 6 at night, was it, that you met up on the end of the bitumen at

Brindabella Road and headed off towards the fire?
A. Proceeded together, yes.

5 Q. Just describe what happened from there and what you saw, please, Mr Hunt.

A. We then progressed down through Blundells Flat and up Curries Road, then from Curries Road we progressed around behind Mt Coree. Then we proceeded up Mt Coree. At the intersection of
10 Curries Road, we phoned a supervisor and said we had some concerns with the size of the smoke column and the condition up there, so we decided to go to Mt Coree, which was a safe vantage point.

15 MR LASRY: Can we pause there and can I ask for Mr Cheney's containment map. It is slide 45. It is probably one of the easiest ways of dealing with this. I don't know whether we have our roving microphone. When Mr Cheney gave evidence
20 he had the advantage of it. If I invite Mr Hunt to go to the screen and basically trace his movements, we might lose his evidence.

25 THE CORONER: There is a microphone on the big screen, as I understand it.

MR LASRY: Q. Mr Hunt, would it help you to go over to that map and give us an idea as to where you went? I think there is a microphone in that.
30 A. Is this working?

THE CORONER: Yes.

35 MR LASRY: Q. You need to speak into that or stand near it.

A. I will do my best. We headed up Brindabella Road then to Blundells Flat and then proceeded up Curries Road. That is the intersection of Curries and Two Sticks. We headed up Two Sticks Road and
40 then we headed up to the top of Coree. So the summit of Coree is just there (indicated on the map on the wall).

45 Q. The distance from the top of Mt Coree across to the fire you were looking at would be about how far, Mr Hunt?

A. I think we said it was around 6 or

7 kilometres to the actual fire on Webbs, maybe a little bit less.

5 Q. What were you able to see, apart from the smoke?

A. A lot of smoke which gave us - actually the smoke was lying over. Mr Cutting has got photographs. We picked him up on the way up. Jeff Cutting.

10

Q. Pardon me a moment. If we could go back to slide 35 please. It is either 40 or 41. That is from Brindabella Road, Mr Hunt. Is that a view you would have had earlier in your trip?

15

A. Heading up, yes. On our way up, yes.

Q. You hadn't come across Mr Cutting at that stage?

A. No, no, no.

20

Q. You met him later on?

A. We were still on our way.

Q. That is the view at 5.30. In relation to that we are looking at smoke which has a yellowy tinge to it?

25

A. There was some cause for concern amongst the crew that this wasn't a normal lightning strike we would go in for.

30

Q. You said that a number of times "cause for concern". What does the phrase "cause for concern" mean? Does it mean you were anxious about going to it or does it mean that you were realising the effort to deal with this fire was going to be a big effort?

35

A. En route to any fire, your size up starts en route to the fire. Something you take consideration of is what is the smoke doing? That gives you a good indication. That is giving us an indication of size. It is also giving us an indication of the weather, because it is heading across quite rapidly. It is not saying to us that we shouldn't progress any further; it is saying to us that we should progress with a large amount of caution until we can get some more information.

40
45
47

Q. If we can go to the next photograph, I think that is the view you had. By then you had found Mr Cutting?

A. We picked him up halfway up Coree, yes.

5

Q. His car had given up the ghost?

A. He has only got a Sigma.

Q. There may be others, Mr Hunt, with Sigmas, but --

A. Oh, sorry, a very good vehicle.

Q. In any event, he went with you and that's the view he got from the top of the lookout?

A. Yes.

15

Q. What can you say about what that was telling you from the top of Mt Coree?

A. Well, it has still got significant wind pushing that smoke column over. It is around the vicinity of Webbs Ridge. So that possibly the head fire or part of the head fire has reached Webbs Ridge. With that amount of smoke there is obviously flanks involved with that that may not have reached the ridge. You have the Baldy ignition too, which the gentleman in the fire tower had called in.

20

25

Q. You can see that is the section over on the right-hand side, that is apparently what that is?

A. It is. That is also an indication to us that either the Baldy one was a lightning strike or if it is a spot, which could be the case, what can't we see behind Dingi Ridge, which is the big mountain range in the foreground there. So there is a high likelihood there might be other fires in the area.

30

35

Q. You know this area pretty well, I take it, Mr Hunt?

40

A. Yes.

Q. Perhaps I will ask you to go back to the map, if we could, which is about four slides forward.

Did you determine that since you were at Mt Coree and you were looking at what you were looking at that that was as close as you wanted to get?

45

A. For safety reasons, yes. We were able to confirm from that distance that it was a significant fire.

5 Q. Any suggestion of going from Mt Coree down back towards the Powerline Trail, for example, I take it you would say would have been fraught with danger to you, is that right?

10 A. Powerline Trail, you may be okay but once you get on to Webbs and start heading north, you are then getting above one of the flanks which would turn into a head and you could be in big trouble. The same with Dingi Ridge, which is the next fire trail to the north of Powerline Trail, the same
15 situation.

Q. And it is half past 6 at night, so the warmth and the wind is still evident. Obviously the fire was going to subside to some extent later in the
20 night.

A. Yes.

Q. Would you have envisaged at some stage later in that day after the temperature had dropped and after the wind had abated to some extent that it
25 would have been desirable to get closer to the fire so you could actually see what it was doing on the ground?

30 A. All you would confirm is that it is a large fire. We are talking about something that was over 400 soccer fields in size. At night the intensity would be less, but your size isn't, it is not any smaller.

35 Q. Armed with that information from the Mt Coree tower, what happened then; what did you next do?

40 A. I spoke to Ms Crawford back at Queanbeyan. We had a conversation about what we had seen, and then there was talk that we would then come back to Queanbeyan and have the planning meeting with the ACT to discuss strategies and for me to be back at that because of my local knowledge of that park.

45 Q. Had you formed the view at that stage about what strategies should be applied to that fire?

A. I knew for safety reasons which strategy we

weren't going to implement at that time.

Q. That was a strategy of direct attack, I take it?

5 A. On the McIntyre's, absolutely, yes.

Q. I think yesterday in the course of her evidence Ms Crawford was making the point that, in many respects, the Baldy Range fire was more
10 important, I am not sure she used those words, but because it was 6 or so kilometres to the east of McIntyre's fire and therefore closer to inhabited areas it was a fire that needed to be concentrated on?

15 A. Yes.

Q. Did you agree with that?

A. Absolutely. John Schunke's house is within a kilometre and a half of that Baldy fire. It was
20 heading towards Schunke's house, yes.

Q. Was there a distinction in your mind between what was a safe approach to McIntyre's fire on the one hand and what would have been a safe approach
25 to the Baldy fire on the other?

A. Sorry, I don't understand the question.

Q. Was there a distinction in your mind between what would have been a safe approach to dealing
30 with the McIntyre's fire on the one hand, because it was throwing a large smoke plume - although by half past 6 that convection column had collapsed, it was obviously a big fire - and, on the other hand, the Baldy Range fire, which on any view was
35 significantly smaller?

A. The Baldy was smaller than the McIntyre's fire, yes.

Q. Was your apprehension, that you had an
40 apprehension, about any sort of direct attack on McIntyre's?

A. Yes.

Q. Did you have any apprehension about a
45 possibility of a direct attack on the Baldy spot fire?

A. I had less apprehension on the Baldy one, yes.

Q. Did it cross your mind while you were there to take a look at the Baldy fire before you went back in?

5 A. Well, it did. We discussed that. But also the Fairlight guys were in the area, Fairlight RFS crews were in the area. We met the Forestry crew on the way down as we got to the bottom of Coree and they were heading that way to do an assessment as well. There were other crews that were going
10 to check that out.

Q. Now you went back to Queanbeyan?

A. Queanbeyan, yes.

15 Q. Did you attend the meeting on the night of the 8th of January?

A. I did.

Q. You have been in court and heard the evidence
20 of Ms Crawford and Mr Arthur in relation to that?

A. Yes.

Q. Did you contribute significantly to the discussion about, first of all, the approach to be
25 adopted and, secondly, which containment line should be used?

A. Yes.

Q. Can you recall at that meeting whether there
30 was a discussion about first of all the use of the Baldy fire trail as an eastern containment line?

A. We had the information back from Neil Cooper's crew which said it was across the trail and the fact that they were getting out. So at that stage
35 we decided to look at the fire break trail because of the issues they were having on the Baldy trail.

Q. Were they getting out because it was too dangerous to be there or were they getting out
40 because they had no ability to fight the fire or suppress the fire?

A. I'm not sure when they said they were getting out, I'm not sure.

45 Q. That would have been reasonably significant information; wouldn't it?

A. Yes. Well, we presume it was for - well, I

thought it was for safety reasons when Mr Cooper said it. When a crew says they are getting out, it is not, "We can't do anything with it we are leaving now". The words "we are getting out"
5 impart a bit more safety consideration than "we are going to head back".

Q. At that stage, Mr Hunt, from Mt Coree, apart from what you knew of the area, you only had an
10 impression of what was happening on the Baldy Range, didn't you? You knew it was a smaller fire and beyond that you couldn't say much else at that stage, could you?

A. It was the feedback we were getting from the
15 other crews, yes - sorry, and from Mr Blundell down at Fairlight who also called in. That was information we got when we got back to the office.

Q. What did he tell you?

A. He didn't tell me. I got that secondhand from
20 Ms Crawford. She discussed that at the meeting saying there were embers dropping down at Brookvale, which is the property to the east. They were having problems there.

25

Q. You saw the Fairlight brigade going up?

A. No, no. They would have come from another way.

Q. You saw Mr Bretherton and Mr Mennen going up;
30 is that right?

A. We saw them on Two Sticks; they were heading up towards Baldy as we were heading up, yes.

Q. Were they in any vehicles that were carrying
35 water, did you notice?

A. No, they weren't.

Q. They weren't?

A. No, they weren't. I can't remember the type
40 of vehicle, but it definitely wasn't a tanker of any sort.

Q. So perhaps it wouldn't have come as any
45 surprise to you to know they got there and decided to get out; they couldn't do anything with the fire?

A. Well, again, they said they were getting out,

yes.

Q. You have heard the questions I have asked about the McIntyre's Hut trail. I take it you
5 agree, do you, that there was no consideration given to using the McIntyre's trail - the Lowells trail - as a possible western containment line?

A. No. Given that Schunke's house was the one under threat, if someone had brought it up there
10 and then, the questions we would have asked was, "Well, we have got property at risk down at Schunke's place within a kilometre and a half of the active Baldy ignition. How do we get crews there? How do we resource it safely? How do we
15 get them there safely? What are they actually going to do?" If someone had brought it up, they were the considerations we would have gone through.

Q. If someone had brought up the prospect of using that trail as the western containment line?

A. There is a few issues - yeah, I mean, it is fine to say bring it up as a strategy but then there is actually --

25

Q. A question of resources?

A. Well, resources, safety, implementing it, resourcing it and what assets are at risk. We have assets at risk from the Baldy ignition; and
30 there was no control line or fire advantage between the Baldy ignition and Schunke's house, but there was the Goodradigbee River. There was a backing fire down to the Goodradigbee River. There were no assets at risk actually there.

35

Q. But in the discussion about this containment area - again, this is an issue I have dealt with a number of times now and I don't want to spend a large amount of time on it - I take it you agree
40 that, in the circumstances prevailing on the night of the 8th of January, the smaller the containment area, the better?

A. Yes.

Q. Was that a subject of discussion at the meeting on the 8th of January as to how the containment area might be kept to a minimum?

A. It was discussed, and I think more so the following day to say, "Well, these are our broad containment lines, how can we make them smaller?" because of course the smaller the area, the better, yes.

Q. Of course, we know from Mr Arthur's evidence that on the 9th of January it was determined that perhaps another look should be taken at the Baldy fire itself?

A. There were crews on that in the morning, yes.

Q. I think crews were sent to that on the 10th; is that correct?

A. There were crews in there on the morning of the 9th.

Q. Having a look or actually --

A. Trying to assess it, yes, having a look at it, assessing it.

Q. And the attempted suppression of that fire actually occurred on the 10th; is that correct?

A. No. Well, it is my understanding - we had crews sent in on the early morning of the 9th to do the rake hoe on Charlie sector down to the river. They decided that it would be better to use a bulldozer. They were then withdrawn from there and headed over to the Baldy fire and actually started on the Baldy fire.

Q. On the 9th of January?

A. Yes.

Q. Do you know whether those crews stayed there on the 9th, the night of the 9th and the early morning of the 10th?

A. No, no. We flew over later and they couldn't see if the fire was quite active below them. They couldn't see that. They said they were doing a good job and evidently they were, but there was a lot of fire that they weren't going to get to. At that time they eventually said they needed to come back with more resources.

Q. So those crews were withdrawn?

A. Eventually that day, yes.

Q. What time was that, do you know?

A. I couldn't tell you.

Q. That night or during the day?

5 A. They were not on the fire that night.

Q. Do you know why, Mr Hunt, the crews were not placed on that fire on the night of the 9th of January?

10 A. It was quite steep country. I presume it may have been a safety consideration.

Q. I appreciate that's what you think might have been the reason. Do you know why there were no crews there overnight?

15 A. I wasn't party to that decision.

Q. All right. Beyond the meeting on the night of the 8th, then on the 9th of January what were you involved in?

20 A. I was joint operations with RFS.

Q. And doing what in particular?

25 A. Organising bulldozers and trying to resource equipment and then looking at the works that needed to be undertaken to strengthen the lines.

Q. Did you continue in a role like that for some days after that?

30 A. Yes, for a couple of days, and then I was DIVCOM when we were kicked off the burn on the 11th.

Q. I am in unknown territory because I don't have any more information about what you did after the 9th or 10th. From what you say, you were involved in the plans to start the burn-off from the containment lines?

35 A. Yes.
40

Q. On the 10th, where were you located?

A. I was still in the operations centre at Queanbeyan.

45 Q. Did you remain there during the course of that procedure?

A. No, no, the 11th, I was on the ground and from

the 11th on, I was in the field.

5 Q. By the 11th, had you formed any view about the prospects of getting that area burnt out before the weather change?

A. Yes. With the strategies set in place, we needed to get the back-burn in as soon as we could. That's what we were progressing with, so that we could do it safely.

10

Q. I take it you agree with the evidence that you have heard from Mr Arthur and Ms Crawford about the need to have the containment lines completed?

A. Yes.

15

Q. Were you aware that there was a proposal from the IMT to use aerial incendiaries to assist that process?

A. Yes.

20

Q. As far as you understood, was there a point at which it is going to be desirable to use aerial incendiaries?

25 A. Well, after your containment lines are established and your back-burning - you have a secure line otherwise you are putting a lot of pressure on the crews on the ground if you enter into aerial incendiary before your back-burning is complete.

30

Q. I take it you therefore agreed that, given those contingencies, it was the 16th January?

A. After we had done that, yes, because we got around it on the night of the 15th.

35

Q. The problem was, of course, you were running out of time; weren't you?

A. Well, time was an issue, yes.

40 Q. Going back to the night of the 8th, do you recall there being any discussion at all about estimates as to how long this process of completion of containment lines would take and, once that had been done, how long the burnout would take, bearing in mind the pressure of time from the weather?

45 A. No. It was really that we needed to do this.

It was like a list of things that we needed to do. We needed to establish down to the charlie sector - by then it wasn't called the charlie sector - but we needed to establish this line and we needed to do some work with the dozers. It was more a list of tasks that we needed to complete before we could safely implement the burn. So it was more a list of tasks. I don't remember having specific time frames on it.

10

Q. As Mr Arthur has described, difficulties arose that you can't foresee?

A. Yes.

15

Q. As those difficulties arose, was there any reconsideration of the containment planning? Did anyone say, "This is taking too long, what else can we do?"

20

A. Absolutely. We had a discussion I think it was the following day with Roger Good, the planner; Jim Lomas, who was the other operations officer; myself; and I think Neil Cooper was privy to that. Again, we had a look at: is there an opportunity to go back into direct attack? We were doing that continually. Before we set the back-burn: is there another opportunity, can we go in?

25

The problem again was the size of the McIntyre's fire. And also those ignitions down at Mountain Creek, they were continually between us and the Baldy fire. There was nowhere we could cut them off. They were so remote and so large that the answer kept coming back, "No, we can't go back into that direct attack." We were doing that because we knew it was going to take us a little while to establish those larger containment lines. So here is an opportunity to really get back in and have another good look, because that is our last option - direct attack. Once we light up, that's it.

30

35

40

Q. I think you also undertook some reconnaissance flights by fixed wing or helicopter?

45

A. Helicopter.

Q. When did you do those?

A. We were out there on the 9th, I think it was. By the time we got aircraft, the afternoon of the 9th I think it was with Jim Lomas.

5 Q. And was that the only one?

A. No, and a flight the following day.

Q. Last question, Mr Hunt: on the 15th of January, Mr Koperberg was given a briefing at the Queanbeyan IMT. Were you there for that briefing?

10 A. I was nowhere near that briefing.

MR LASRY: You were relieved to be able to say that.

15

Thank you, your Worship, I have no further questions.

THE CORONER: We might just take a short break, and I will let you consider your position, Mr Lakatos.

SHORT ADJOURNMENT

[3.15pm]

25 **RESUMED**

[3.23pm]

MR LAKATOS: On the basis that one's first instinct is always the best, I have no questions.

30 THE CORONER: Thank you, Mr Lakatos. Yes, Mr Whybrow.

MR WHYBROW: No questions.

35 MR PHILIP WALKER: Me either, your Worship.

THE CORONER: Taking a cue from Mr Lakatos. Mr Watts?

40 MR WATTS: I will ask the same questions as Mr Lakatos did.

THE CORONER: Mr Pike?

45 MR PIKE: I can't spoil a winning routine, your Worship.

47

THE CORONER: Mr Walker?

MR BRETT WALKER: I can't help myself.

5 <CROSS-EXAMINATION BY MR BRETT WALKER
5

MR BRETT WALKER: Q. You heard Mr Lasry ask
Mr Arthur some questions about what in theory
might be possible; that is, in general the
willingness to perform upgrading work and
10 adaptation work on a trail once you have decided
to use it as a control line; do you remember that?
A. Yes.

Q. You are familiar with the McIntyre's trail in
15 the vicinity of where, as it happens, the map has
it marked as "no tankers"; aren't you?
A. Yes.

Q. What are the features of the track that led to
20 that notation; and how would that affect the
possibility of upgrading it in time to use it as a
control line in this case?
A. It is a very steep trail and, because it heads
from Waterfall Trail, comes down off Webbs Ridge,
25 there is a lot of side cuts. So it is very steep
in its side cuts.

Q. What is a side cut?
A. A side cut is where you are going across a
30 hill, and the bulldozer has had to cut out
basically the side of the hill. So the gap you
have to drive on is about it. So apart from
spending hundreds and hundreds of thousands of
dollars with D8s and D9s over weeks, that's good
35 as you got.

Q. Well the hundreds and hundreds of thousands of
dollars can be put to one side, money being no
object, but I take it that weeks and weeks just
40 makes it impractical to the point of impossible to
use as a control line for a fire already burning;
is that right?
A. Which is why it is marked "no tankers", yes.

45 THE CORONER: Mr Lasry, any re-examination?

<RE-EXAMINATION BY MR LASRY

4647

MR LASRY: Q. Just in relation to that: eight days after the fire started the back-burning of course still hadn't been completed, and I presume throughout that period the containment lines were
5 being maintained; and indeed it was not until what date, can you tell us, that the containment line were finished?

A. 8 o'clock on the night of the 15th, because I
10 was there.

Q. That work had taken effectively a seven days to complete, is that right, from the night of the 8th to the 15th?

A. By the time we got the control lines safely
15 established, the additional control lines, the work done and the back-burn, yes.

Q. In other circumstances, obviously speaking hypothetically, if there were no alternative to
20 the use of the McIntyre's Hut trail, in the most obvious hypothetical case, if there were no river to the west of it, then in that kind of plan you would have had to have made the best of that track if it were the only viable western containment
25 line, wouldn't you?

A. Sorry, hypothetically we have gotten rid of the Goodradigbee River?

Q. If that was the only option to the west of the
30 containment area and if there was no second option so far as the river was concerned, then notwithstanding the condition of the track, you would have had to have made the best of the situation?

A. Well, the terrain dictates what you can do. Hypothetically - I am sorry, I am just not sure where you are going with the hypothetical. It is very steep and it is rugged and there is a river there. I am not sure what you are getting at.
40

Q. I am asking you hypothetically, Mr Hunt, whether it was the only option; you would have had to have done what you could with the track as it existed. That's right, isn't it?

A. Or hypothetically there may have been another trail because hypothetically the land might have been flat.

THE CORONER: Thank you, Mr Hunt. You are excused.

<THE WITNESS WITHDREW

5 MR LASRY: Your Worship, I think that completes
the available list of witnesses for the day. It
is intended to call Mr Corrigan tomorrow, who is
part of this series. I gather that Mr Walker and
his juniors are all not available tomorrow for one
10 reason or another. But as I understand it, the
position is they are content to have Mr Corrigan
called and his evidence dealt with in their
absence. So we will do that in the morning.
Mr Neil Cooper and Mr Kevin Cooper will give
15 evidence on Thursday and Friday of this week.

The other matter to mention, which has got nothing
to do with New South Wales witnesses,
your Worship, is that Mr Stanhope has written a
20 letter to you undated. I will hand out copies of
the letter. I don't propose to read it but I do
propose to ask that it be tendered and give the
represented parties a chance to read it and make
comments on it, if they wish to, subsequently.

25 It is sufficient to indicate that the effect of it
is that it has been brought to Mr Stanhope's
attention that, despite having originally said
that between the cabinet briefing on the morning
30 of 16 January and a discussion with Mr Keady at
lunch time on 18 January he had no memory of any
other contact between those two people, it now
turns out that there was some contact. According
to the letter, at 9 minutes past 10 on Saturday
35 morning, it would appear that he and Mr Keady
spoke for 6 minutes and 45 seconds. That's what
the records disclose. He assumes that call was
made by him to Mr Keady in response to a call from
Mr Keady at 9.10am which had been diverted to his
40 message bank.

The purpose of the letter, as I understand it,
your Worship, is to correct the record. I
understand Mr Stanhope has made some remarks about
45 this relevantly in the Parliament. He was
anxious, as I am told by Mr Johnson, to ensure
that you were aware of this correction as soon as

it had been brought to everybody's attention.

5 The letter certainly suggests that Mr Stanhope, albeit acknowledging that he spoke with Mr Keady on Saturday morning, has no recollection of the conversation. So at this stage this letter can perhaps stand as a record of that correction by him. At this stage our position, your Worship, would be that we wouldn't wish to take the matter
10 any further. It doesn't appear to us that it is necessary to recall either the Chief Minister or Mr Keady to be told, as we inevitably will be, that they can't recall what they talked about.

15 So that's the view we express, and I will tender the letter. That can be a record. I should say also, as Mr Johnson can say, that the phone records that support the contents of this letter are available. They, of course, are phone records
20 which contain personal details of who was speaking to both parties. I don't see any utility in tendering those records. They contain personal information. If any of the represented parties needed to inspect those records, they could of course, but I wouldn't propose to tender those
25 records as part of this material. That is our position. If people at the Bar table have a different view as to how this should be dealt with, then of course they can say so. I tender
30 the letter from Mr Stanhope.

MR JOHNSON: Can I indicate that, although the letter does not bear a date, it was in fact written and signed today. The letter itself
35 indicates in the third paragraph that yesterday the attention of the Chief Minister was drawn to certain material and the letter was dated today. It can be treated as a letter of 4 May 2004.

40 THE CORONER: Thank you, Mr Johnson. This letter from the Chief Minister, Mr Stanhope, to me signed today will become exhibit 0046. I will let the other parties or counsel representing other parties have an opportunity to read this and
45 consider their position. If they do wish either the Chief Minister or Mr Keady recalled for questioning, perhaps they can notify counsel

assisting of that.

**EXHIBIT #0046 - LETTER FROM CHIEF MINISTER
MR STANHOPE TO CORONER DATED 04/05/04 TENDERED,
5 ADMITTED WITHOUT OBJECTION**

MR WATTS: I don't think I have yet sought leave
to appear for Mr Corrigan who is appearing first
tomorrow.

10

THE CORONER: You have for just about everybody
else, I think. No, I haven't got you on the list
for Mr Corrigan. You seek leave to appear for
Mr Corrigan?

15

MR WATTS: Yes.

THE CORONER: That leave is granted, Mr Watts, for
you to appear for Mr Corrigan.

20

MR WHYBROW: Could I raise with you the matter of
whether we would be sitting on Friday, 14 May. I
know Mr Walker raised the possibility that we
could return to a Monday to Thursday regime so we
25 have a chance of keeping up. I know Mr Cooper is
a fixture for this Friday, but certainly it would
be my application that, if we are back on track
and moving as fast as we are, in order to keep up
and not be seeking adjournments in order to keep
30 up that the Friday after this Friday we resume the
previous situation whereby it's a four-day week.

35

THE CORONER: I think the plan at the moment,
Mr Whybrow, is that we continue sitting five days
35 a week. That is because the plan still is to try
and complete the evidence by the end of June. At
this stage, unless the situation changes and it is
not foreseen that it will at this stage, it is
intended to sit five days a week.

40

The only date I can indicate that we won't be
sitting on the Friday is Friday, the 11th of June.
That is just before the long weekend. I don't
intend to sit on Friday the 11th June so counsel
45 can make arrangements. At this stage the plan is
to sit five days. If that changes in the next two
weeks or so and that very much depends on

progress, as you have very rightly said,
Mr Whybrow, then we will consider our position.
But it is intended to sit certainly on the 14th.
That's my understanding, Mr Lasry.

5

MR LASRY: Yes, your Worship. In the course of
some of the publicity about this inquest, comments
were made in the media about the cost and things
of that nature. From our point of view at least,
10 we are as determined as we can be to complete the
evidence by the end of June and have you in a
position to deliver a report in, we hope,
September/October. The only way we can keep to
that is to keep sitting five days a week.

15

We review the witness list as a matter of course
every couple of days and certainly at the end of
each week - if it became apparent that we were
going to reach that target easily, then of course
20 we would agree with the submission. We haven't
reached that point yet. We are anxious to
complete the evidence.

MR PHILIP WALKER: Your Worship, there was some
25 mention, I thought some month ago now, about the
possibility there would be some time where there
would be no evidence in May. Is my recollection
correct?

30 THE CORONER: I don't recall that.

MR LASRY: I think my learned friend is right to
the extent that I ventured a suggestion that, if
things went according to plan, it was possible
35 that we would complete the factual evidence
possibly well before the beginning of June or
possibly before the beginning of June or at least
by the end of the first week in June.

40 Therefore, there might be a delay before we moved
into what might be described as the expert phase;
that is, the expert evidence in relation to fuel
management with the recall of Mr Cheney and the
recall of any other significant witnesses that are
45 thought to be necessary at the time.

We had in mind that those portions of the evidence

would occur in the last three weeks. Now if we finish the other factual evidence well before, then there may well be a period when there is no evidence. There may be a week or so. But I think
5 being pessimistic, which is advisable, I suspect the chances of that are fairly low - the worst case scenario. No tankers.

MR JOHNSON: Could I raise one issue, and that is
10 at some point Mr Cheney will be recalled and Mr Roach will be called, as we understand it. Will there be reports or statements from Mr Roach; And to the extent that there would be a statement or report from Mr Cheney on the fuel management
15 issues as opposed to the operational side of the course of the fire, which was his previous statement, made and available to the parties prior to them being called? It obviously would be
20 unfortunate and inefficient if for the first time one hears the opinions of the witnesses as they give the evidence orally, and people may then have to ask for time between the giving of the evidence-in-chief and any cross-examination.

25 I am conscious that the process of expert reports in a case such as this is an ongoing process. No doubt the experts have been sitting in the hearing room and forming views, and it will only be at a certain point that it goes into print, so to
30 speak. But there would need to be the provision of reports, I would submit, a reasonable time before those persons are called to allow proper preparation for cross-examination and indeed the taking of instructions on issues raised. If that
35 can be done, it would be efficient and highly desirable, I would submit. I take it that this is a matter that counsel assisting have given some thought to. It would assist if we can hear what their plan is in that regard.

40 THE CORONER: Yes, I agree with you, Mr Johnson.

MR LASRY: The plan is to comply with exactly that. There will be written reports, and we are
45 hopeful we can provide them a reasonable time before that evidence is called. We agree it is important that our learned friends know what is in

the material before the witness enters the witness box.

THE CORONER: Thank you.

5

MR WATTS: I wonder if I could be given some notice as to which of my clients might be called in relation to fuel management?

10 MR LASRY: I don't know that I have the long list of my learned friend's clients but, yes, certainly of course.

15 THE CORONER: At this stage it is Mr Cooper, Bartlett, Winter, Jamieson, Gore, Dutton and Corrigan; is that right, Mr Watts? Have I missed anybody out?

MR WATTS: Yes, as far as I can recall.

20

MR LASRY: Mr Bartlett is the principal witness who would be called in relation to fuel management, but beyond that I don't think there would be anybody on that list. My learned
25 friend's list of clients grows by the day. Obviously we are all very envious.

THE CORONER: I am sure if that changes, Mr Watts will be informed.

30

MR WATTS: Thank you.

THE CORONER: We will adjourn until tomorrow morning until 10.

35

**MATTER ADJOURNED AT 3.40PM UNTIL WEDNESDAY
5 APRIL 2004.**

40

45

TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 47

Wednesday, 5 May 2004

[10.02am]

MR PHILIP WALKER: Your Worship, yesterday
I raised the issue of whether we would resume the
5 practice of not sitting on Fridays. Your Worship
indicated at least as far as I am aware for the
first time in unequivocal terms it was not
intended to do so.

10 THE CORONER: At this stage, Mr Walker. That is
the position at this stage. That might change,
but at this stage it is not intended to sit four
days.

15 MR PHILIP WALKER: I wish to formally apply that
that practice resume. I do so simply because I,
for my part, on behalf of Mr Lucas-Smith, who in
my judgment is potentially affected by virtually
any person who comes before the inquest, at least
20 so far as I have seen to date. I am simply
finding with the volume of material that one is
firstly required to read and, secondly, to take
some instructions on, and those instructions can
often set off a chain of inquiry through other
25 documents or something of that nature. It is
simply not proving possible to provide what I
consider to be a fair and proper level of
representation for that gentleman.

30 I give by way of comparison, we have this week
dedicated for New South Wales witnesses and,
rightly so, given the importance in the whole
inquiry. That very importance that they play
highlights the following fact: I have had but five
35 minutes to talk to New South Wales witnesses just
to find out a few things, which I thought might be
important to bring out for Mr Peter Lucas-Smith.
That occurred yesterday at morning tea time when I
was able to get hold of somebody to ask a couple
40 of questions about a few things.

I am simply finding that unlike, say, for example,
the cross-examination of Mr Koperberg, which I
hope I am entitled to say we were tolerably well
45 prepared, I am simply not being able to prepare
properly for the witnesses as they come past each
day.

Without wishing to make too much of a point of it,
it is a fact from counsel assisting's point of
view there is something like five people who work
from that side of the Bar table and three
5 advocates who have taken various turns to deal
with witnesses, perfectly understandably, but it
is an indication of the magnitude of the task.
Again, perfectly understandably, the ACT has one
senior, two juniors and a number of solicitors and
10 so forth. I, for my part, have myself and about
half of Ms Rachel Bird's time, when she has it
available.

As I said, I have to look at every witness that
15 comes past and try and prepare. It is simply
proving impossible. In addition to that, I would
fairly say, it is the case that one simply does
not totally terminate the rest of one's practice
when one takes on a brief like this, there are
20 other people who occasionally require the odd bit
of time as well.

Fundamentally, the application which I make is
made in respect of what I perceive to be the
25 inability to provide sufficient representation for
Mr Lucas-Smith if things keep continuing at the
pace in which they are continuing. Accordingly, I
press the application as of next week to resume
the practice of not sitting on Friday.

30
THE CORONER: I understand what you are saying,
Mr Walker. It is a matter for you really as to
how you organise your time, your priorities and
your other business. When this inquiry started,
35 it was always the intention that we sit five days
a week right from the start. It was not until
some weeks into the inquiry that the decision was
made to perhaps sit four days a week.

40 As I said yesterday, in order to comply with the
timetable, there have been delays, which I
certainly don't say they were your fault, which
could have been avoided. If those delays had been
avoided because they were foreseeable right from
45 the start, then it would have been possible to
perhaps keep to the program of 4 days a week
sitting. At the moment, it is intended to sit

five days a week.

There may be some occasions where we finish early on some days but, at least for the next few weeks, 5 it is the intention to sit five days a week. If we do proceed through the witness list a little more speedily, then it may be that perhaps in the next couple of weeks or so we might resume back to the odd week where we sit four days a week. That 10 is not the intention at the moment. All I can say to you is that you do the best you can and perhaps you obtain resources.

I understand that there may be resources from 15 people who briefed you to provide you with some additional assistance. That may or may not be possible. I do not know.

MR PHILIP WALKER: I should say, your Worship, my 20 application is fundamentally not made on the basis of other business. I know you responded by opening saying "You have got to organise your other business." It is not made on that basis. I state that as a fact that there is sometimes other 25 cause. It is fundamentally made on a difficulty in keeping abreast of matters, taking proper instructions and looking across the range of documents to see how one statement squares with others or making inquiries of other people to see 30 whether there are additional facts that might be relevant. That is fundamentally why I make this application.

THE CORONER: I understand. 35

MR PIKE: Can I rise, certainly not to cavil with your Worship's view but just to indicate to the Court in particular the difficulty that I have had and I understand Mr Watts has had coming into the 40 matter at the time that we did having to consume, as it were, several thousand pages of transcript.

THE CORONER: And I feel for you, Mr Pike, I do.

MR PIKE: All I am indicating is, in order to do 45 justice to my parties, it would certainly be of great assistance if the course that my friend has

asked for could be adopted. Having said that, I hear what your Worship says and I don't wish to cavil with that.

5 THE CORONER: We will see what we can do, Mr Pike and Mr Walker. I have always said that we would attempt to be as flexible as we could be and to give you as much time. I do appreciate the difficulty you do have, particularly coming in as
10 late as you do.

MR PIKE: Part of the problem, as your Worship quite rightly says, if we go through witnesses more quickly then we may have more flexibility.
15 The flip side of that is, as we go through witnesses more quickly I need to add to the 24 hours in the day to be able to get on top of the material for those witnesses. So getting through them more quickly doesn't change the logistic
20 problem that I have.

THE CORONER: Thank you, Mr Pike.

MR LASRY: Can I say in relation to that, although
25 I didn't hear the beginning of Mr Walker's application. Looking at the witness list as it stands, the position today is Mr Corrigan will be the first witness called by Mr Woodward. It is likely that that evidence won't take terribly
30 long - I gather not much beyond the morning adjournment.

The only other business we have for your Worship for the rest of the day is the playing of those
35 phone calls. It is essential that they be played in court. My learned friends have disks of those. In a sense, with your Worship's leave, the rest of the day is theirs to use, I assume, while that is occurring because there won't be any other
40 evidence being given.

Tomorrow, Mr Neil Cooper will give evidence. He is the only witness for the day. I would expect that his evidence would take most of the day. It
45 does affect both the New South Wales issue and the ACT issues. On Friday, Mr Kevin Cooper will give evidence. He has made a reasonably lengthy

interview with the police. I would be surprised if his evidence took much beyond lunchtime. There is a significant chance that Friday afternoon will be free.

5

Perhaps I should just say who is being called next week: Hilton Taylor, Nick Lhuede, Nic Gellie, Peter Newham. We are now into Tuesday with Danny Camilleri, Michael Collins, Shawn McIntyre; 10 Commander Newton on Thursday; Superintendent Lines on Thursday, the rest of Shawn McIntyre if that is not finished; and Mr Cartwright on Friday the 14th in relation to the briefing on the 16th of January.

15

In that following week, that is the week commencing the 17th, apart from Mr Prince and possibly Mr Jeffery, subject to the completion of his statement, he may be called on or about the 20 18th of May. We then move into, as it were, the representative evidence; that is, groups of people - householders and also rural firefighters - a number of those will be called in a sense in a representative capacity in that week 25 and in particular the week following, beginning Monday, 24th of May, there may well be some gaps before Mr Bartlett and the remaining New South Wales evidence is called in the week commencing Monday the 31st of May.

30

So part of the reason that I am anxious to submit to your Worship that the 5-day regime should continue is because in any event in the ordinary course of the evidence, there will be gaps which 35 will be occurring. I suspect if you accumulate all of the hours you will find that we really were only really sitting effectively four days a week anyway, perhaps even a little bit less in some weeks. To not sit Friday on top of that I think, 40 in my submission, would be too much time wasted.

THE CORONER: Thank you, Mr Lasry.

45

Yesterday when we adjourned I asked counsel to consider whether or not they had a position on whether the Chief Minister should be recalled. I will just ask whether counsel - Mr Whybrow,

Mr Walker, Mr Watts or Mr Pike - have had an opportunity to consider that.

MR WATTS: Not from my point, your Worship.

5

MR PHILIP WALKER: Not for my part.

MR LASRY: I perhaps should say in relation to that that overnight and this morning we have reconsidered our position. I have indicated to Mr Lakatos that, whilst we don't request that Mr Stanhope be recalled, I have asked Mr Lakatos to inquire about the recall of Mr Keady for the purpose of asking him questions about the matters that were raised in Mr Stanhope's letter. As to when that can be arranged, he and I are not yet aware.

THE CORONER: Thank you. Just some inquiries, Mr Lakatos.

MR LAKATOS: I haven't had the opportunity to pass that on to those who instruct me. I should imagine that, subject to appropriate timing, Mr Keady is available.

THE CORONER: Yes, Mr Woodward.

MR WOODWARD: I call Anthony Corrigan, your Worship.

<ANTHONY CHARLES CORRIGAN, AFFIRMED

<EXAMINATION-IN-CHIEF BY MR WOODWARD

35

MR WOODWARD: Q. Is your full name Anthony Charles Corrigan?

A. It is.

40 Q. What is your current professional address?

A. I am currently a rural contractor.

Q. You have provided two statements for the purposes of this inquest, Mr Corrigan. The first is in the form of an ESB questionnaire. The document number is [ESB.AFP.0053.0036], and that document is dated 6 May 2003. You have also

45

provided a statement, which is dated 27 January of this year, and the document number of that is [ESB.DPP.0001.0080]. Is that correct?

A. That's correct.

5

Q. Mr Corrigan, on my reading of the two documents, the earlier document has in effect been superseded by the later one; is that a fair summary? In other words, there is nothing in the earlier one that doesn't find itself into the later one. In fact, the later one in one respect is slightly more accurate than the earlier one?

10

A. That's correct.

15

Q. In particular, as I understand it, in the earlier one you refer to attending a meeting between Mr Koperberg and Mr Lucas-Smith; whereas in the latter one you correct in effect correct that to indicate that, whilst you arranged the meeting, you weren't present during that meeting; is that correct?

20

A. That's correct.

25

Q. Subject to that matter, are the two statements true and correct?

A. They are.

30

Q. We will perhaps work from the more recent one, that is document [ESB.DPP.0001.0080]. You begin in that document by dealing with your employment history. You say in paragraph 4 that you began your career in 1983 as an apprentice with what was then ACT Parks and Conservation Service; is that correct?

35

A. That's correct.

40

Q. Jumping down a little way, for two years you were a wildlife ecologist for the wildlife research unit for the ACT Parks and Conservation Service. More recently jumping over to paragraph 5 on page 2, you say:

45

"From April 2000 until December 2002, I held the position of Manager, Parks and Conservation Service. In this capacity I had overall responsibility for the management of all nature and conservation areas and rural

lands within the ACT."

Is that correct?

A. That is correct.

5

Q. You ceased that role, as you say in paragraph 6 in December 2002, and in that paragraph say you remained an unattached officer. Could you explain what that means?

10 A. That basically means the position I was held against had been recruited to. I was left, if you like, in limbo without an actual position. While I was still employed with the territory, I was not actually assigned to one particular position.

15

Q. That was your position as at the time of the fires in January 2003; is that right?

A. That's correct.

20

Q. You have since left the service altogether?

A. I have.

Q. And are working as a rural contractor now?

A. That's right.

25

Q. You deal with your firefighting background commencing in paragraph 8 of your statement. You say:

30

"Like many people from ACT Parks and ACT Forests and other organisations, I have been involved with bush firefighting for many years. I first joined a departmental brigade when I started in the service in 1983. I worked my way up from a recruit fire firefighter to crew leader level by about 1986/87."

35

You then deal with particular involvement in some fires and in particular mention the 1984/85 fire season which was quite severe. You talk about the several thousands of hectares burnt both in the ACT and in New South Wales.

40

45

You in a sense, over the page in paragraph 11, jump over your firefighting experience in the period between 1984 in effect and 2001. We can

assume, can we, that you had regular involvement in fire incidents during that period?

A. Yes.

5 Q. Without listing all of them, what were some of the more major fire events that you were involved with, particularly focusing on forest fires?

A. I recall that there was a number of remote area fires during that period. We experienced a
10 period of quite wet weather during that period, so fire seasons weren't as severe as they had been - certainly not since the 84/85 season. Into the early '90s, there were some dry seasons where I would have attended a full range of different
15 sorts of fires from grassland fires to forest fires.

Q. Was that generally in a command role?

A. It would have generally been in a team leader
20 role rather than a command role. I didn't take on a command role until a little later.

Q. In paragraph 11, you say on 24 December you were the planning officer for the Stromlo fire and
25 you set up an Incident Management Team in the field. Had you fulfilled command roles before then?

A. Certainly. From about '95 onwards I was -
earlier than that. Sorry, I will have to correct
30 myself. Since the early '90s, I had fulfilled deputy captain roles and captain roles.

Q. Had you fulfilled that planning officer role before December 2001?

A. Yes, but not in the type 3 incident, which
35 that was.

Q. That was the first type 3 incident where you had been involved in an Incident Management Team
40 in the field?

A. Yes.

Q. You have talked about those fires in particular in paragraph 12, Mr Corrigan. Just
45 before we leave that, you talk about setting up an Incident Management Team in the field. What functional positions were being fulfilled in the

field at that time?

A. It was an incident controller, operations officer, a planning officer and a logistics officer.

5

Q. Was there a forward control point of some kind that you were working from?

A. We established a forward control point at Stromlo depot at that stage.

10

Q. And you had facilities there?

A. We did.

Q. Were you preparing incident action plans and documenting incident action plans at that stage?

15

A. Yes, we were.

Q. What was happening to those, Mr Corrigan? Were they distributed to firefighters in the field or at least commanders in the field?

20

A. I left that role at about 1900 hours on the 24th of January. At that stage, the incident action plan for the overnight period had been prepared and had been sent to Curtin for approval.

25

Q. What happened there?

A. I recall seeing it later when I was in Curtin and I'm unaware of how it was dealt with after that.

30

Q. Was it approved to your knowledge?

A. Not to my knowledge.

Q. Did you get any instructions in relation to the preparation of incident action plans at that stage?

35

A. No.

Q. Your role in setting up that Incident Management Team in the field and operating the way you have described in 2001, was that something done on your own initiative?

40

A. No, I was instructed by Mr Lucas-Smith.

Q. To do that?

45

A. Yes.

Q. Was that just a discrete instruction or at that stage had you been given some training in relation to what is known as the Service Management Team and how that interacts with incident management teams in the field?

A. I had certainly had pre-season training and had run through some exercises where that model was used. Yes, I was aware of it.

10 Q. Dealing further with the 2001 fires, in the second sentence of paragraph 12 you say:

15 "The only thing that stopped that fire - that is the one that burnt across the Tuggeranong Parkway into urban Canberra - when you look at the fire path, was the irrigated grasslands at the Mint. From my perspective, the ferocity of that fire, and the conditions, weren't as severe as the conditions during 2003 fires."

I am just trying to understand, Mr Corrigan, the point you were making in that sentence. Is it that, in that case but for the irrigated grasslands around the Mint, there would have been a run of that fire further into the urban area?

A. Well, it was my view - and it is my view - that yes, that certainly could have occurred.

30 Q. And the conditions being worse in 2003, that kind of event or a run like that into the urban area was even more likely; is that the point you are making in that sentence?

A. Yes, it is.

35

Q. You go on to explain the differences between the two seasons. And say:

40 "Even so the fire - that's the one I referred to earlier - had a fair head of steam up so that showed we needed to do some critical thinking about team planning in terms of what we did with plantation forests and native forests. By this I mean we needed to review fuel management and strategic asset protection. The 2001 experience reinforced for me that once a fire crowns in pine

45

forests, there is not a lot we can do."

Were you involved in your role at that time,
Mr Corrigan, in perhaps learning the lessons from
5 2001 and implementing those sorts of reforms?

A. Yes, I was.

Q. What sort of things were you involved in doing
in that period?

10 A. Well, firstly I suppose from the fire
perspective, I was involved in debriefs and
planning exercises that Emergency Services Bureau
undertook. But from my position as manager of
Parks and Conservation Service, we instigated some
15 work to look at strategic fire management across
native forests.

Q. When you say strategic fire management, you
are talking there about fuel management or
20 suppression?

A. Yes, both actually. We were looking at
suppression initiatives we might need to bring to
bear in the case of a similar incident occurring
under those sorts of conditions, and what sort of
25 fallback lines we would need to have in place, and
what sort of resources we had available to us in
terms of physical resources in the field, things
like water points and access points.

30 Q. What sort of conclusions were reached in
relation to those matters, Mr Corrigan?

A. I don't think --

Q. Sorry to interrupt you, particularly in
35 relation to fire suppression for the time being.

A. In relation to fire suppression, to my
understanding the work that was being done by
Emergency Services Bureau was in progress.

40 Q. What sort of work are you referring to?

A. It was basically a review based on the
operational debrief from the 2001 fires but also
in relation to various coronial inquests around
the country in other states and the lessons
45 learned there, and the coroners' findings and
recommendations were also being brought into the
planning process.

Q. So the process at least during 2002 was a matter of gathering in all that information and then coming up with some ideas as to what form might need to be introduced into the ACT; is that right?

5

A. That's correct, but also bearing in mind that the 2002/2004 fire fuel management plan was also being prepared at that stage, so there was work being done there as well.

10

Q. Given that background, was there any discussion that you were involved in in the period leading up to January 2003 about any particular steps that should be taken in preparation for that season over and above what might be a standard response having regard to the extreme season being faced?

15

A. No, not that I'm aware.

20

Q. Were you involved in what I think has been known as the Namadgi burn scenario in October/November 2002, a desktop exercise involving a scenario not unlike the one that was faced in January?

25

A. Only in the very early planning stages of that. I actually left on long service leave in August.

30

Q. Moving on to your involvement in the fires of January, Mr Corrigan, you deal with that commencing in paragraph 14. You say your involvement started on Saturday the 11th. You were contacted some time on that day by Maxine Cooper, who was your supervisor or immediate superior at that time?

35

A. That's correct.

40

Q. And asked you to make yourself available to the ESB on the 12th. When you arrived there at approximately 11am - this is paragraph 15 of your statement - you met with Peter Lucas-Smith, Tony Graham, and Maxine Cooper:

45

"I was instructed by them to be the New South Wales liaison officer representing not only the ESB's Service Management Team, but also the ACT government. I was allocated a

vehicle and asked to attend at Queanbeyan
incident control to undertake the liaison
role within the New South Wales Incident
Management Team. The team was concentrating
5 on the fire to the north-west of the ACT, the
McIntyre's Hut fire."

About what time did you arrive - you said further
down, about 12.30 in the afternoon?

10 A. About 11 - yes, sorry, about 12.30.

Q. You have identified in that paragraph that I
have just read that you were to represent the SMT
but also the ACT government. What was the role
15 you were expected to play concerning the ACT
government at that stage; did it differ in any way
from what you were doing?

A. It was my understanding and impression that I
was to, as a senior officer - as a senior
20 government officer rather than a senior fire
officer - represent the interests of the ACT
government in an administrative sense as well as
to play the role in an operational sense in
relation to the fire.

25 Q. Can you give her Worship perhaps a practical
example of at least how you envisaged what that
role might involve?

A. I don't recall having actually had to deal
30 with an issue, but it would be something like
perhaps a municipal issue where the New South
Wales representatives requested some service from,
for instance, the Department of Urban Services or
another government department. So I was at that
35 stage an early link not only at the fire liaison
level but also in a government agency sense so as
to facilitate for instance, I don't know, perhaps
even garbage facilities that needed to be utilised
from one jurisdiction to the other.

40 Q. So if that need arose, you could fulfil that
sort of more administrative role on behalf of any
ACT government authority or at least act as a
liaison officer with that relevant authority?

45 A. Yes. I think they asked me to undertake that
role because I had experience and skills with
working with the upper levels of government.

Q. I think you said earlier that you can't now think of any particular task that you fulfilled in that period that fell into that category?

A. No, I don't.

5

Q. Can we take it from that then that your primary function during that period was liaison on behalf of the Service Management Team at Curtin?

A. Yes.

10

Q. You describe your job in paragraph 16, which was to contact ACT and, you say, Peter Lucas-Smith regularly and report in relation to New South Wales use of their resources and the status of the McIntyre's Hut fire. Can you elaborate on what instructions you were given about the task you were to fulfil by any of the people you identified in paragraph 15?

15

A. I was told that I was to basically handle requests which went in either direction for resources. At that stage there was resources especially going to the McIntyre's Hut fire from the ACT. It was my job to ensure the welfare of those human resources and to be the conduit in relation to requests for further resources or requests from the ACT to the incident controller for McIntyre's Hut fire for resources to go the other way.

20

25

30

Q. So far as your role in providing in effect reports, how was that to be performed?

A. I was to contact Mr Lucas-Smith twice a day and give him an update over the telephone if I couldn't meet with him in person.

35

Q. Was that an instruction you were given?

A. Yes, it was.

40

Q. Were there any times suggested as to when you would be contacting Mr Lucas-Smith?

A. I recall that it was to be morning and afternoon. That coincided with the planning cycle. I was to give him a briefing after the morning briefing in New South Wales and then another one in the afternoon. But should an urgent issue to arise, I was to contact him immediately.

45

Q. Do we take it that the intention was there would be a minimum of two contacts per day in order to provide the SMT with the latest information out of the New South Wales IMT
5 planning meetings? But in addition to those two contacts, you would make contact if anything in particular arose that required the passing of information?

A. Yes.

10

Q. You explain in paragraph 17 you arrived at 12.30 on the 12th. You in effect were taking over from Peter Galvin who was fulfilling that role up to that time; is that correct?

15 A. He had been there for at least the previous 24 hours.

Q. You obtained a briefing from him and you were also briefed by the operations officer, Jim Lomas, and the assistant operations officer, that's at
20 the New South Wales IMT; is that correct?

A. That's correct.

Q. You spoke to Tony Graham and/or Peter
25 Lucas-Smith over the phone generally once a day. You then say Queanbeyan had a 12-hour planning meeting cycle at 0700 and 1900, although that might vary. In that period while you were there, can you provide us with an average - was it only
30 once a day you spoke to either Mr Graham or Mr Lucas-Smith or was it more frequently than that?

A. I believe it was more frequently than that.

35 Q. I think you said earlier at least the plan was you would speak to someone twice a day. Is that more likely to be what the average was or at least the minimum?

A. It was at least the minimum.

40

Q. In paragraph 19 you say on the first day, which was the 12th, you finished at about 11pm and there was no overnight New South Wales liaison officer. You weren't replaced for the night
45 shift?

A. That's correct.

Q. You generally finished at 11pm and generally tried to get there by about 5 or 6am. You say in paragraph 20:

5 "I do not have a clear recollection of the tasks that I undertook individually on each of the 5 days."

In general terms you say in paragraph 21:

10

"Outside of reporting immediately after planning meetings, other things that might have caused me to phone the ACT SMT would be: a request for additional resources from one jurisdiction to another, a break-out from containment lines."

15

I assume you mean by that a break-out from containment lines on the McIntyre's Hut fire?

20

A. Yeah or to report a break-out in the ACT to the New South Wales IMT.

Q. In relation to that, Mr Corrigan - we have spoken about your contact back to the SMT - were you also getting calls pretty regularly from the ACT from Curtin giving you information about what was happening in the ACT?

25

A. Well, I was certainly making telephone contact with other members of the SMT and members of the planning team.

30

Q. At Curtin?

A. Yes.

35

Q. Again, about how frequently was that occurring during that period?

A. That could be quite frequently. That might be on an hourly basis. There was quite often less significant issues that needed to be discussed.

40

Q. As you were getting that type of information about the development or the suppression effort, were you then passing that information on to the people at New South Wales?

45

A. Certainly.

Q. Generally speaking, would you do that

immediately or would you wait until the next planning meeting; how would that work?

A. Again, depending on the gravity of the issue, most issues were left until the planning meeting.

5 But if there was an urgent request or a significant change in the way the fires were being managed or rather the way the fires were being behaving, then I would notify them immediately.

10 Q. Were you, as far as you were aware, the main port of contact during that period whenever anyone at Curtin wanted to pass or receive information from the IMT at Queanbeyan?

A. Yes, I was.

15

Q. Now, in that period, and particularly leading up to the end of your time in that role, what can you recall the sorts of information you were getting about the progress of the suppression effort at McIntyre's?

20

A. Yes. I was actually stationed within the operations room so I was privy to all the planning and decision-making that was going on. I was quite often involved with the planning officer or members of the planning team in looking at preparation of their IAPs for the next period. But I was continuously consulted in terms of the progress of the McIntyre's Hut fire.

25

30 Q. What was your impression, particularly as I say during the latter part of your time there, of the progress?

A. I was quite impressed with the way that the job was being carried out. I think that New South Wales had had a really good shot of trying to keep that fire contained.

35

Q. You referred to the IAPs being prepared by the New South Wales IMT and their planning team in particular. Were you regularly passing those back to Curtin?

40

A. I was.

Q. You were on the distribution list for those documents?

45

A. I was. Eventually we had it automatically arranged so that, when those documents were

distributed, they automatically went to Curtin and a copy stayed with me.

5 Q. Do you know where they were coming out at the other end at Curtin?

A. At planning, in the planning section.

10 Q. So as far as you were aware, all of the IAPs and situation reports being generated out of the New South Wales IMT were being sent to Curtin?

A. Certainly.

15 Q. You, in turn, say in paragraph 22 you were asked by the New South Wales IMT to collect any IAPs from ACT that you could find. How did you go in fulfilling that request?

A. I was quite frustrated in fulfilling that request. I was unable to get formal incident action plans from the ACT except on one occasion.

20

Q. Who were you asking for?

A. Various members of the planning team and the planning officer directly.

25 Q. Mr McRae?

A. Yes.

30 Q. What was he saying to you about the IAPs; were you getting any explanation as to why they weren't available to be provided to New South Wales?

A. I think they were still in preparation.

35 Q. Did you understand at that stage that those sorts of documents were being expected to be prepared by the planning unit at Curtin or out in the field; was that spoken of?

A. No, it wasn't.

40 Q. Based on what Mr McRae or anyone else in the planning office said to you, was it your understanding that it was the planning officer at Curtin that was to be generating those documents?

A. Yes.

45 Q. You refer in particular to 15 January in paragraph 22 of your statement:

5 "On 15 January I attended with Roger Good
(New South Wales planning officer) at the
morning planning meeting at Curtin. We
attended to discuss strategies for
10 containment of the portion of the Bendora
fire that had escaped into New South Wales.
New South Wales was also setting up to do
back-burning off the Honeysuckle Trail and we
wished to discuss this with ACT SMT. I was
15 also asked" -

We have dealt with that next issue. So you
attended the planning meeting on the morning of
15 January?

15 A. I did.

Q. Do you recall anything else of that meeting,
apart from what you have referred to there in your
statement, Mr Corrigan?

20 A. No, I don't.

Q. One other matter in relation to the document
flow, were you receiving or on any kind of
distribution list for media releases that were
25 being generated by the New South Wales Rural Fire
Service?

A. Yes, I was.

Q. What were you doing with those when you
30 received them?

A. I was ensuring that they were either faxed or
I was personally faxing them to planning.

Q. Again to planning at Curtin?

35 A. At Curtin.

Q. Do you recall how often that was occurring so
far as the media releases were concerned?

40 A. I think that they were produced at least
daily. But there was situation reports coming
from all of the fires in the immediate vicinity,
including those ones much further south that were
arriving at least once a day. I asked for all of
those as a package.

45

Q. Your memory is that about once a day you might
also be forwarding a New South Wales Rural Fire

Service media release; is that correct?

A. That's correct.

Q. You say in paragraph 23 that you were
5 regularly going up in the helicopter with New
South Wales planning officers. They requested
your assistance because of your local knowledge of
the area. Both agencies collected information
simultaneously:

10

"I was with the New South Wales planning
team, but after the flights I was able to
pass on what I learned to the ACT SMT. I
would pass on up-to-date fire boundary
15 information and up-to-date fire reports and
the position of containment lines."

Again, that was something you were doing regularly
throughout the period you were at Queanbeyan?

20

A. Over the phone at Queanbeyan, yes.

Q. Although you have referred to the instruction
was to speak to Mr Lucas-Smith, you said that you
were speaking to either Mr Lucas-Smith or
25 Mr Graham so far as your more formal report was
concerned; is that correct?

A. That's correct.

Q. You were also speaking regularly to people in
30 the planning office, including Mr McRae?

A. That's correct.

Q. The sort of information you are referring to
in this paragraph, Mr Corrigan, is that what you
35 were giving to Mr Lucas-Smith and to Mr Graham?

A. Generally not. If there was something
significant to report to them I would, but the
detail of that information was sent to the
planning team.

40

Q. At Curtin?

A. At Curtin.

Q. Just to clarify this: I think in your
45 statement you indicate that your last day as a
liaison officer - you deal with this in
paragraph 30 of your statement where you say:

"On Thursday the 16th of January, about 12 noon, Jeremy Watson relieved me of the New South Wales liaison officer role."

5 Mr Watson in his statement, Mr Corrigan, has put his arrival at Queanbeyan as the 15th. I will take you to his statement at paragraph 16. His statement is [ESB.AFP.0108.0049] at paragraph 16 which is on 0053. He says:

10

"Wednesday the 15th of January was my first day as ACT liaison officer at New South Wales Fire Control, Queanbeyan, in much the same way as New South Wales Parks and Wildlife Service representative, James Coburn, worked with ESB Curtin."

15

He then discusses that role and how he spoke to Mr Coburn from time to time. How confident are you about your last day as liaison officer, Mr Corrigan?

20

A. Very confident.

Q. Are you?

25

A. Yes.

Q. You didn't have a day's overlap with Mr Watson?

30

A. No. Unfortunately there wasn't a lot of time to give him a big handover, so we met for about an hour, at the most, where I handed him over the information. I had just returned from a flight in a helicopter and when I turned my phone back on, there was a message to say that I was being retasked and he would be there shortly, and he was.

35

Q. Are you confident in your memory that that was on the 16th, the Thursday; is that right?

40

A. Absolutely.

Q. At about midday that occurred?

A. At about midday, yes.

45

Q. Just jumping back a little bit in the chronology, in paragraph 24 of your statement you say:

"It was not until about the 17th that New South Wales had a liaison officer in the ACT. I lobbied to get one."

5 Can you elaborate on that? What were the circumstances that you lobbied to get someone in that role?

A. I was concerned that the New South Wales IMT was not getting as much information as perhaps it should have and that if they had a liaison officer - someone in a mirror position to me, for instance - then they would be better informed about what was happening over at Curtin.

10 Q. Who were you pressing to have that arranged?
A. Mr Arthur.

Q. Mr Arthur?
A. Yes.

20

Q. So the person who needed to act on that was effectively New South Wales; it wasn't that putting someone in that role wasn't welcome at Curtin?

25 A. Certainly not. I believe that I discussed it with Mr Tony Graham, and they certainly had no objection to that occurring. We felt that it would just assist in the flow of information back to New South Wales.

30

Q. You are saying it was not until the 17th that that happened. Could it have been the day before?
A. It could have been the 16th.

35 Q. Do you know who first fulfilled that role? Is it Mr Coburn, as Mr Watson has suggested?

A. I don't recall his surname, but he certainly was James.

40 Q. In paragraph 25 you say:

"On about 14 January, I arranged a lunchtime meeting between Peter Lucas-Smith and Mr Koperberg."

45

The evidence suggested that that meeting actually took place in the late morning of the 15th of

January. Do you accept that?

A. I do accept that.

5 Q. You say you arranged that meeting. How did you do that?

A. Mr Koperberg happened to be in the office at Queanbeyan when Mr Lucas-Smith rang me about another matter, I recall, and I told Mr Lucas-Smith that Mr Koperberg was there and asked if I could organise a meeting for him. I kept him on the phone while I spoke to Mr Koperberg, who agreed to a meeting, and then Mr Lucas-Smith requested I hand the phone over to Mr Koperberg so he could speak to him directly, which I did do.

10 Q. Some time later that morning Mr Lucas-Smith arrived at Queanbeyan; is that correct?

A. Yes, I recall it was either late morning or early afternoon.

20 Q. The evidence suggests, Mr Corrigan, that before Mr Lucas-Smith arrived Mr Koperberg was being briefed by Mr Arthur, among others, about the current status of the fires which Queanbeyan was attending to in particular the McIntyre's fire; is that correct?

A. That's correct.

30 Q. Were you involved in or overhearing that briefing?

A. I was involved in that briefing.

35 Q. You were actually providing information, were you, to Mr Koperberg?

A. Yes.

40 Q. What sort of information were you providing?

A. I was providing to him my knowledge of what was occurring in the ACT in relation to the Bendora Stockyard and the other fire, and answering any particular questions he had about our resources that either were or had been at the McIntyre's Hut fire.

45

Q. What sort of questions did he have about that?

A. I don't recall the exact nature of his

questioning.

Q. I think you said you were present when he was being briefed by Mr Arthur and others about the process of suppression of the McIntyre's Hut fire; is that correct?

A. That's correct. I believe he was - he spent some time with Mr Arthur on his own, but I was with him in a group when we were in the operations room discussing the actual tactics and strategies that were being employed.

Q. As best you can, Mr Corrigan, what do you recall Mr Koperberg being told about the progress of suppression of the fire?

A. I believe that he was being instructed as to the progress of bulldozer lines that were being put in, the upgrading of some fire trails and the progress of the back-burning operations that were occurring, especially to the south and east of the fire.

Q. What was being said about that progress?

A. People were pretty positive and confident about it.

Q. Do you recall anything being said more generally about the prospect of containing or keeping - holding the fire, I suppose would be the term, within the containment lines?

A. I think the IMT was quite confident of maintaining the fire within the containment lines, especially if they could get some depth to burnings before the bad weather which was forecast on the weekend.

Q. I understand they were confident about keeping the fire within the containment lines in that period up to the bad weather. Do you recall any discussion about the prospect of maintaining the fire within containment lines with the onset of bad weather?

A. I recall the IMT had some confidence provided they could get the depth of burns in and there was two niggling issues in relation to containing the fire.

Q. What were those?

A. There was an area that was proving hard to contain to the south of the fire, and there had been a spot over containment lines which had burnt
5 some number of hectares to the east of the eastern containment lines, and that was continuing to not be completely contained.

Q. When you say the south, do you know whether it
10 was the south-west or east, that was the area?

A. South-west, probably within a few hundred metres with its junction with the Goodradigbee River.

Q. That was one of the areas that was causing concern; is that correct?

A. Yes. I think it was known as charlie sector.

Q. Do you recall Mr Koperberg expressing any
20 views at that time about the progress of suppression or his own views about what might happen with the onset of bad weather?

A. The McIntyre's Hut fire, no.

Q. You say in your statement that you didn't attend the meeting between Mr Lucas-Smith and Mr Koperberg. Do you recall seeing Mr Lucas-Smith arrive at the meeting?

A. Yes, I do; I met him.

30

Q. Where were you at that time?

A. I was outside the front of the building.

Q. Can you say what happened after that?

A. I had a quick discussion with Mr Lucas-Smith
35 but I don't recall the specifics of that conversation. Then I took him inside the building where we had to sign in, and I think found Bruce Arthur.

40

Q. And handed him over?

A. And handed him over - not that he needed to be handed over.

Q. I take it from your statement that you didn't
45 participate in that meeting with Mr Lucas-Smith and representatives of the New South Wales IMT?

A. No, I didn't.

Q. Did you overhear it?

A. No.

5

Q. Was it taking place in a separate area to where you were?

A. It was behind closed doors in Mr Arthur's office.

10

Q. Did you speak to Mr Lucas-Smith after the meeting?

A. I did.

15

Q. What did he say to you about the meeting?

A. He was quite positive about the meeting and indicated to me that Mr Koperberg would make available further resources.

20

Q. Did you understand that his positivity related also to the progress of suppression of the McIntyre's fire or was it mainly focused on resources; what did he say about those things?

25

A. I don't recall him being positive about the McIntyre's Hut fire only about the availability of New South Wales resources or the increased availability of New South Wales resources.

30

Q. Do you recall him saying anything to you at all about what he had been told about the progress of suppression of the McIntyre's fire?

A. No.

35

Q. At any time during your period in the Queanbeyan IMT, do you recall any discussion about threats to the urban area of Canberra or to Canberra as distinct from the ACT?

A. Sorry, the early part of your question?

40

Q. At any time during your period at Queanbeyan when you were participating in planning meetings or discussions, do you recall any discussion or reference to threats to Canberra as distinct from the ACT?

45

A. Yes.

Q. When did you first hear that discussed?

A. I think I raised it on the 12th.

Q. How did you raise it and who with?

5 A. It's my recollection I certainly raised it with Mrs Filmer, who is an officer in Queanbeyan, a permanent officer.

Q. Sorry, can you give us that name again?

10 A. Mrs Jenny Filmer.

Q. Could you spell that?

A. F-I-L-M-E-R. I also I think spoke to Mr Lomas and his deputy about my concerns.

15 Q. What did you say to them?

A. I was concerned that the ACT fires were going to break containment lines.

Q. And do what?

20 A. And burn out a lot of the ACT and through to New South Wales again, right through the ACT.

Q. Did that concern include reference to the possibility of damage to the Canberra urban area?

25 A. Yes.

Q. That was something you spoke to those people you have identified about?

30 A. It's a discussion that we had, yes.

Q. And you say you first recall having such a discussion on about the 12th, do you?

35 A. Yeah. I think looking at the conditions by the evening of my first day there, which I believe was the 12th, I was very concerned about the impact not only the fire would have on the ACT but also on my own personal property.

Q. Where is that, Mr Corrigan?

40 A. It is to the south-east of the ACT.

Q. Do you recall discussing those sorts of issues during that period with anyone at Curtin?

45 A. I spoke to Peter Galvin about it during that period. I'm not sure whether or not he was at Curtin at the time. He would probably be the only person that I spoke to about it. I did speak to

Mr Lucas-Smith after the meeting with
Mr Koperberg.

5 Q. What did you say to Mr Lucas-Smith at that
time?

A. I asked him when he thought the state of
emergency was going to be invoked.

Q. What did he say in response to that?

10 A. He said - I think he said something like maybe
the weekend. But he also said that it wasn't -
there were a lot of issues that had to be worked
through, or words to that effect, in relation to
effecting a state of emergency.

15

Q. Do you recall it being part of your discussion
with Mr Lucas-Smith - any reference to Canberra or
the urban area of Canberra?

20 A. No. I don't remember that specifically. It
was just assumed.

Q. By you?

A. By me.

25 Q. And did he say anything to you that suggested
to you that it was assumed by him as well?

A. Not that I recall.

30 Q. Perhaps recapping slightly. You recall
discussing your own concerns about threats to
Canberra with Mr Galvin at Curtin and with
Mr Lomas and the other person whose name I got you
to spell during the period up to the 16th of
January; is that correct?

35 A. Well, I've had that sort of discussion with a
number of people. I don't recall - and
continuously with Mr Galvin. He and I kept in
contact right through that period.

40 Q. I should complete the question I asked you
before when I asked you about whether there were
any discussions of threats to the urban area or to
Canberra as distinct from the ACT while you were
present at Queanbeyan. Your response to that, I
45 think from memory, included reference to a concern
about a threat from the ACT fires breaking
containment lines.

Do you recall any discussion during the period that you were at Queanbeyan with or involving New South Wales officers where they were talking about a threat to Canberra as distinct from the ACT from the McIntyre's fire?

A. My understanding it was more assumed that, if we had a decent north-westerly influence which we hadn't had for some days, then that threat was clear and present.

Q. What was that assumption, as best as you can recall, based on? Was it based on things said at planning meetings?

A. It was more informal discussion that we had during periods. I don't recall there much emphasis being put on the consequences of the fire breaking containment lines. It was more discussion about trying to keep the fire within containment lines.

Q. But you understood, did you, that that threat was a clear and present threat that everyone seemed to recognise as being there?

A. Yes. I was very concerned about it probably from the 9th.

Q. Just perhaps one more question about that: can you recall any specific remarks made by anyone at Queanbeyan that referred to a threat to Canberra or to the urban area of Canberra?

A. Not clearly, though I do recall discussion in one planning meeting led by the incident controller at that time, who was Bruce Arthur, about the most likely suburbs to be impacted on from McIntyre's Hut fire.

Q. When you say that's likely to have been, Mr Corrigan, that discussion or that planning meeting?

A. I'm sorry I can't be more exact but I think it is somewhere around the 15th or 16th.

Q. Can you recall what suburbs he mentioned?

A. West Belconnen.

Q. Any others?

A. No, not clearly.

Q. He was talking about the McIntyre's fire, obviously?

A. Yes.

5 Q. There has been some evidence at some point and one of the suggestions is that at the briefing of Mr Koperberg or around that time someone used the expression "Canberra's going to get hammered". Do you have a recollection of hearing that
10 expression?

A. Yes.

Q. Do you recall when that was?

15 A. I recall I had a discussion while having a cigarette with Mr Koperberg about the potential impact of the fires not being contained. I also recall it was more in relation to the ACT fires rather than the McIntyre's Hut fire.

20 Q. So who used that expression, you or him?

A. I believe he did.

Q. You say that was while you were having a cigarette with Mr Koperberg. Was that outside the
25 building?

A. It was out the back of the building, yes.

Q. Was anyone else there while you had that discussion?

30 A. A radio operator may have been in attendance. I can't recall exactly.

Q. Was Mr Lucas-Smith there?

A. No.

35

Q. That way, we can assume it was on the morning or early afternoon of the 15th?

A. Yes.

40 Q. After the meeting with Mr Lucas-Smith?

A. Yes, I believe so.

Q. Were you involved with --

45 A. I must correct myself, sorry. I believe it was before the meeting.

Q. Before the meeting with Mr Lucas-Smith?

A. Yes.

Q. What came into your mind to make that
correction, Mr Corrigan? Do you have a mental
5 picture of --

A. Yes, I have a mental picture of he and I
having a cigarette on the back steps.

Q. And some time after that meeting
10 Mr Lucas-Smith in the front of the building?

A. That's correct, I was smoking a lot.

Q. Are you aware that Mr Koperberg gave a media
interview some time during the early afternoon of
15 the 15th?

A. I do recall, yes.

Q. Did you see that occurring?

A. No. I mean I was aware of it occurring. But
20 I saw it from a distance. I wished to keep a low
media profile myself.

Q. Did you hear what he said?

A. No, I don't recall. If I did hear what he
25 said, I don't recall what he said.

Q. Did you otherwise become aware of what he said
to the media that day about the threat of the
fires?

A. I think that evening I became aware, yes.
30

Q. Do you recall how?

A. Somebody told me, and I don't recall who it
was.
35

Q. Was it likely to be someone at Queanbeyan or
at Curtin?

A. It may - I can't be sure who it was.

40 Q. Were you at all surprised by what you had
understood Mr Koperberg had said to the media
about the threat?

A. No.

45 Q. Sorry?

A. No.

Q. Was it consistent with your own views at that time?

A. Yes.

5 Q. Was it also consistent with the discussions you had been involved with involving Mr Koperberg earlier that day?

A. Yes.

10 Q. You ceased your role at Queanbeyan on the 16th of January; is that correct?

A. That's correct.

15 Q. You then became involved I think for a day in the firefight - at least in a formal role - on the 17th; is that correct?

A. That's correct.

20 Q. Then on the 18th, as you describe in your statement, you were involved in protecting your own property and neighbours' property and so on?

A. That's correct.

25 Q. You have set that out in detail in your own statement?

A. I have.

30 Q. When you were involved on the 17th, you say commencing at paragraph 32 that you were on the fire ground at Orroral Valley at about 5.30am, that you took over from Arthur Sayer and you met Mr Galvin. What was your view then about the threat from those fires that at least you were dealing with that day?

35 A. I guess after discussions and appraisal from Arthur Sayer, who had had a frustrating evening, I felt that we had very little chance of doing anything with it.

40 Q. You essentially were working there on the Stockyard fire?

A. I was.

45 Q. Did you have any further involvement or knowledge of developments over the night of the 17th in relation to the McIntyre's fire?

A. No, I didn't.

Q. Do you recall, after you left your role as liaison officer at 12 noon on the 16th, discussing with anyone at Curtin or otherwise in a command position your concerns about the threats of the fires generally?

A. No.

Q. As of the 16th, at about the time you left Curtin or during that day, what was your view about the level of threat posed firstly by the McIntyre's fire to the ACT and in particular to Canberra?

A. At that time I was very occupied with my new role which I had just been given as liaison officer to the --

Q. New South Wales task force?

A. -- task force which was just about to arrive. I was probably fairly preoccupied with that. I do recall a feeling of intense concern about what was going to happen over the next 24 or 48 hours.

Q. Including from the McIntyre's fire?

A. Yes.

Q. What was your view based on - I appreciate you were preoccupied at the time - your involvement in attempts to suppress McIntyre's up to the 16th - by the 16th of their chances of holding it with the onset of bad weather?

MR WATTS: I object to that. He wasn't involved in attempts to suppress it. He was a liaison officer; he wasn't really playing a part.

MR WOODWARD: Sorry, I didn't mean to give that impression, Mr Corrigan.

Q. Based on your involvement at Queanbeyan and hearing what was being done to suppress the fire, what was your view as to the prospects of them holding the fire with the onset of bad weather predicted for the Saturday?

A. Not good.

Q. Do you recall discussions with personnel at Queanbeyan where they were expressing views about

that issue?

A. I recall discussing with Roger Good, he was the planning officer.

5 Q. What did he say to you about his views about the prospects of holding the fire?

A. We felt that, if it had broken the containment line to the south again - it had already by this stage gone south of the power line easement - then
10 the chances for control were going to be pretty poor. And I don't recall discussing with him the impact on the city area specifically, but he expressed to me concern and frustration about the difficulty in containing that part of the fire.

15

Q. Do you recall anyone talking about the breaching of containment lines being inevitable? Sorry, I should qualify that - being inevitable with the onset of bad weather?

20 A. Yes.

Q. When was that said?

A. It was said a lot. It was said from the very early stages. I think the McIntyre's Hut fire
25 reached a couple of hundred hectares on the first night so it was always going to be a difficult thing to deal with. Again with Arthur Sayer on the morning of the 17th, it was not looking good.

30 Q. You were dealing with Mr Sayer in relation to the Stockyard Fire largely. As I understand your evidence, certainly while you were at Queanbeyan there was discussion from time to time about the onset of bad weather leading to the inevitable
35 breach of containment lines. Is that the sort of language you recall being used?

A. Certainly very strongly my view, and that was certainly the language I used.

40 Q. Do you recall anyone else at Queanbeyan using that language, that sort of language?

A. Not specifically, no.

45 Q. When you were referring to your discussions with Mr Good and his concerns about the southern corner or south-western corner of the McIntyre's fire, I understand you to have said that there was

a degree of pessimism expressed by him?

A. Yes, pessimism and frustration.

5 Q. Were you reporting during the period up to the 16th, Mr Corrigan, to Ms Maxine Cooper?

A. In the period prior to?

Q. Up to the 16th - in other words, your immediate superior?

10 A. No, I was reporting in an administrative sense to her for perhaps the first 24 or 48 hours. But soon after that I was to report directly to the CEO of Urban Services in an administrative sense. I certainly went to Mr Peter Lucas-Smith in every
15 other way. He was my supervisor.

Q. The CEO of Department of Urban Services at the time, who was that?

20 A. He just left the room. I'm sorry, I've got a mental blank.

Q. Perhaps while are thinking about that, what sort of reports were you giving firstly to Ms Cooper and then to him?

25 A. I don't recall giving them much in the way of reports. I certainly didn't speak to him about it. She asked me a few questions I think in the early stages about how things were going, in a very general sense, but I did not directly report
30 to her in terms of an operational sense anyway.

Q. To the CEO, were you giving him reports?

35 A. No, I don't believe so. I only had one or two discussions with him - Alan Thompson.

Q. That's right.

A. I hope he will excuse me for that.

40 Q. That happens to all of us, Mr Corrigan.

MR WOODWARD: I have nothing further, thank you Mr Corrigan. Your Worship.

45 THE CORONER: Mr Lakatos?

MR LAKATOS: Thank you, your Worship.

<CROSS-EXAMINATION BY MR LAKATOS

MR LAKATOS: Q. Can I clarify one matter with
you. You spoke about your meeting with
5 Mr Koperberg on the morning of the 15th of January
having a cigarette out the back of the building.
My learned friend asked you about comments
Mr Koperberg made concerning the impact on
Canberra. Do you recall those few questions a few
10 minutes ago?

A. I do.

Q. May I take it that it was your clear
recollection that Mr Koperberg's comments were in
15 relation to the ACT fires rather than New South
Wales fires?

A. Yes.

Q. Indeed, you became aware, as you have said, on
20 the evening of the 15th that Mr Koperberg's
comments to the media had been publicised and
gained some dissemination in television or perhaps
the radio; do you recall that?

A. I do.

25

Q. Do you recall that Mr Koperberg used the term
"the Brindabella complex of fires" in that media
extract?

A. No, I don't.

30

Q. In the context of the operation of the Rural
Fire Service in Queanbeyan, do you recall that the
Brindabella complex of fires was a terminology
used in that operation to describe the ACT fires
35 as they impacted on New South Wales?

A. Yes.

MR LAKATOS: Yes, thank you, your Worship. I have
nothing further.

40

THE CORONER: Thank you, Mr Lakatos. Mr Pike?

MR PIKE: Nothing.

45 THE CORONER: Mr Erskine, any questions?

MR ERSKINE: Not at this stage, your Worship.

THE CORONER: Mr Whybrow?

MR WHYBROW: Just a couple.

5 <CROSS-EXAMINATION BY MR WHYBROW

MR WHYBROW: Q. You were Queanbeyan's liaison officer for how many days?

10 A. Inclusive from the Sunday through to the following Thursday, the 16th.

Q. During the course of those duties you would from time to time ring ESB OPS and provide them with information and likewise somebody there would ring you and provide you with information?

15 A. That's correct.

Q. You understand that at least some of the phones within Curtin are recorded and I haven't had a chance to go through them, your expectation is there are a number of calls you are recorded calling and providing information to Curtin about things happening in New South Wales?

20 A. Yes.

25 MR WHYBROW: Thank you.

THE CORONER: Thank you Mr Whybrow. Mr Walker?

30 MR PHILIP WALKER: Your Worship, I just want to check something with Mr Lucas-Smith, I wonder if we might take the morning break and I will ask my questions after that. I don't anticipate a lot. But I would like that opportunity.

35 THE CORONER: That is fine. We will take the morning adjournment.

40 **SHORT ADJOURNMENT** [11.17am]

RESUMED [11.47am]

<CROSS-EXAMINATION BY MR PHILIP WALKER

45 MR PHILIP WALKER: Q. Mr Corrigan, do you have your statement, the one you completed as part of the ESB questionnaire dated 6 May; do you have

that there?

A. I do.

5 Q. Could you just go to paragraph 14. You see there you said that you asked Mr Lucas-Smith - the document commences at [ESB.AFP.0053.0036] and the particular page I am looking at is 0039. Do you see paragraph 14 of your statement there?

A. I do.

10

Q. You said when completing this statement in May of 2003 that Mr Lucas-Smith - your discussion was you asked about the likelihood of a state of emergency being declared, and Peter didn't think it was very likely at that stage. Is that in fact the way the conversation occurred?

15

A. I believe so, yes.

20 Q. In that statement at page 0048, the second page from the end, you were asked if you were aware of when a state of emergency was declared. Do you see that question?

A. Yes.

25 Q. It is question 5.

A. Yes.

30 Q. You see you were aware there was some interest of when a state of emergency was declared obviously, because the question was asked of you. That is so; is it not?

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

35 Q. You were aware that the question of when a state of emergency was declared was a matter of interest?

A. Yes, I was aware.

40 Q. Did you complete the narrative part of this document - the 46 paragraphs at the beginning of this questionnaire - did you complete that at the same time as you completed the questions in section 2?

A. No.

45

Q. When did you complete each section?

A. The part of the document which has numbers

against each paragraph was an early draft of a statement that was prepared on my behalf from a taped record of interview which I did with a private investigator.

5

Q. Was it done prior to the 6th of May?

A. Yes.

10 Q. Can you tell us how much earlier than the 6th of May? I am not holding you to days, Mr Corrigan, just whether it was a few days or a month?

A. Some weeks. The actual interview was done some weeks beforehand.

15

Q. When did you first see this typed-up version?

A. I don't recall precisely but I believe a few days before the 6th.

20

Q. You read it?

A. Yes.

Q. Were you satisfied with the correctness of it?

A. At that time, yes.

25

Q. In your statement that you have prepared dated 27 January of this year, which is [ESB.DPP.0001.0080], on page 0085 in paragraph 25 you refer to the meeting you arranged between Mr Lucas-Smith and Mr Koperberg and you don't make any mention about a discussion concerning a state of emergency. Do you see that?

30

A. Yes, I do.

35

Q. This was something of a refinement of your earlier statement; is that right?

A. It was - the earlier document had been scrutinised by counsel for the ACT and had been overtyped across what I had initially written with questions trying to refine it further, I guess. And there are some omissions even in this latter document as a result of that process where I perhaps foolishly didn't compare word for word each of those documents.

40

45 Q. Is your best recollection then that which is contained in the earlier document that

Mr Lucas-Smith did not think a state of emergency was likely at that stage; is that really your best recollection of the conversation?

A. It is, or words to that effect.

5

Q. When you said something like maybe the weekend in your earlier evidence, is that something that you are particularly confident of or are you now no longer absolutely certain of your conversation and do you rely on your statement?

10

A. I'm quite confident that that is the case.

Q. Sorry, what, the statement?

15

A. That Mr Lucas-Smith felt that the state of emergency might be likely on the weekend.

Q. Might be likely on the weekend is not consistent with Mr Lucas-Smith saying that he didn't think it was likely at that stage; is it?

20

MR WATTS: I object to that. It is just not correct to suggest that.

MR PHILIP WALKER: Let me ask the question --

25

THE CORONER: I don't understand either, Mr Walker, I am afraid.

MR PHILIP WALKER: All right. I will not press it. The gentleman has given his evidence as to what was said.

30

THE CORONER: Your turn, Mr Watts.

35

<CROSS-EXAMINATION BY MR WATTS

MR WATTS: Q. Did you understand at that time what a state of emergency was and meant?

A. Yes, I was familiar with that.

40

Q. Why did you ask the question?

A. I felt that the situation was severe enough to warrant a state of emergency and then invoking the powers available to the Territory Controller to make use of whatever resources were available.

45

Q. You were asked one question in relation to the

date that you actually finished up at Queanbeyan as a liaison officer. Can I show you this document? Just have a read of it for the moment. Have you seen that before?

5 A. Yes, I have.

Q. Is that a handwritten document?

A. It is a handwritten document of mine, yes.

10 Q. Your handwriting?

A. Yes.

Q. Does it assist you in recalling the date that you completed your task as liaison officer?

15 A. Well, it confirms that I took notes on the 16th of the 1st at the 9.30 planning meeting at Queanbeyan.

Q. Was it your habit to take contemporaneous notes of what was going on?

20 A. It was.

MR WATTS: I hesitate to use the word "tender" because I am still to come to grips with how I do it.

25

THE CORONER: You can always try, Mr Watts. Do you want to do that?

30 MR WATTS: I am testing the water. I do tender it.

THE CORONER: Is there any objection?

35 MR WOODWARD: No objection.

THE CORONER: Q. That document, is that notes that you took on the morning of the 16th of January at the planning meeting?

40 A. And some notes I took on that afternoon, your Worship.

THE CORONER: That document will become exhibit 0047.

45

EXHIBIT #0047 - NOTES TAKEN BY MR CORRIGAN AT THE MORNING PLANNING MEETING OF 16 JANUARY AND

**AFTERNOON NOTES TENDERED, ADMITTED WITHOUT
OBJECTION.**

MR WATTS: Q. I want to ask you another question
5 about paragraph 22 of your second statement. Have
you got the statement there?

A. I do.

Q. The last line of paragraph 22. Where did that
10 take place when you obtained that document which
has been referred to as an incident action plan?
Do you understand what I am asking you about?

A. Yes. I received that incident action plan at
Curtin in the planning room.

15

Q. Can you just tell her Worship, did you have a
conversation with Mr Lhuede concerning that before
you obtained the statement?

A. Yes. I asked Mr Lhuede if I could have an
20 up-to-date incident action plan and he said, "What
do you want written on it," and produced a blank
form. I asked that he provide me with an
up-to-date situation report and an incident action
plan for the current period, which he then
25 produced.

Q. You were asked some questions and you
expressed some views concerning the time when you
set up a planning group concerning the 2001 fires;
30 do you remember that?

A. Sorry?

Q. You were asked some questions concerning the
Mt Stromlo fire and your role in it?

35 A. I recall, yes.

Q. Do you recall being asked those questions?

A. Yes.

40 Q. I think you talked about having prepared or
preparing some incident action plans; is that so?

A. That's so.

Q. What did they contain?

45 A. They contained - as I recall, they were
handwritten on the standard form for an incident
action plan - certainly planning stationery. They

contained a set of strategies and tasks that had to be undertaken in the next 12-hour period and an appraisal of what resources would be required to undertake those tasks.

5

Q. From your experience certainly up to that time and now, was there some benefit that you could see in having such plans prepared?

10 A. The real benefit is firstly to formalise the actions for the next shift but then also to communicate those intended actions to everybody undertaking the fire control, both in the Incident Management Team and those in the field. They are really a set of written instructions on what is
15 required to combat the fire over the next shift.

Q. In your experience, did you find them helpful documents?

20 A. Absolutely.

MR WATTS: Thank you, your Worship.

25 THE CORONER: Thank you, Mr Watts. Yes, Mr Woodward.

MR WOODWARD: Just two brief matters.

<RE-EXAMINATION BY MR WOODWARD

30 MR WOODWARD: Q. You were asked some questions by Mr Lakatos about the discussion you had outside the back of the Queanbeyan offices with Mr Koperberg. He referred you to the evidence you had given in response to my questions. I just
35 wanted to clarify it, if I could. When you first gave evidence about that at page 4686 of the real-time transcript, you said:

40 "I recall I had a discussion while having a cigarette with Mr Koperberg about the potential impact of the fires being contained. I also recall that it was more in relation to the ACT fires rather than the McIntyre's Hut fire."
45

Later on, Mr Lakatos put to you in effect at 4692:

"Was it your clear recollection that it was in relation to the ACT fires rather than the New South Wales fires?"

5 Now I appreciate that is a subtle difference. But
in your first answer you said it was more in
relation to ACT rather than McIntyre's, and in the
second one you seemed to be saying, as I read your
10 answer, it was exclusively in relation to the ACT
fires, that comment as you understood it. Can I
just get you to clarify which of the two it is; do
you understand what I am suggesting?

A. Yeah, I believe it was exclusively the ACT
fires.

15

Q. The only other matter I wanted to ask you
about: you were asked some questions by Mr Walker
concerning the two statement and the differences
between them. You said something about when you
20 discussed it with the counsel of the ACT something
about it being overtyped. What in fact was done
in relation to that earlier statement,
Mr Corrigan, that part of the earlier statement
where you had referred to the discussion with
25 Mr Lucas-Smith about the state of emergency; what
had happened to that part of the statement just so
I understand that?

A. There was a number of drafts prepared. In the
first draft that I had, I obviously made some
30 corrections to it. It then went to the government
solicitor, and my understanding is that senior
counsel had a look at it; that's what was conveyed
to me. Then some time during that period there
was overtyping of a lot of my statement in bold
35 letters asking me to either explain what was
there. Unfortunately, it was done in such a way
that some of my earlier statement was obliterated
by that overtyping.

40 Q. What I am trying to understand, is it the case
or isn't it, that as a part of that exchange of
drafts process, you understood someone to be
asking you to delete the reference in that earlier
draft to the state of emergency?

45 A. No, I couldn't say that.

MR WOODWARD: I have nothing further, thank you.

MR WHYBROW: Before Mr Corrigan goes, could I make
a general inquiry and it might be easier while he
is here. Mr Watts just tendered some notes of
minutes that Mr Corrigan took of a meeting at
5 Queanbeyan.

THE CORONER: I will make copies available to you.

MR WHYBROW: Perhaps counsel assisting can tell me
10 is it part of the material in the brief?

THE CORONER: It is in the brief.

MR WHYBROW: I am saying minutes of the planning
15 meetings at Queanbeyan conducted at Yarrowlumla,
are they part of the material in the brief or is
it part of the material that is out there but
hasn't been provided? I am curious as to whether
or not there are minutes of the planning meetings
20 held at Queanbeyan available to various counsel.
We have certainly gone through at some length the
ACT minutes and I am just not sure whether there
have been. This is the first reference to a
Queanbeyan meeting that I have become aware of.

MR WOODWARD: I am indebted to my friend as I had
meant to mention that. There were 12 pages of
notes that Mr Corrigan provided as part of the
material. I myself was only reminded of that this
30 morning. I attempted to find them in the material
that we had and was unable to do that this
morning. Certainly we will arrange for those -
they are not part of the material in courtbook. I
believe they are in casebook but I couldn't find
35 them. And that will include that page. We will
arrange for those to become part of courtbook. If
anything arises from those and if Mr Corrigan
needs to be asked about that, then we will
certainly endeavour to arrange that.

THE CORONER: You have those notes and I think
40 Mr Corrigan has a copy.

MR WATTS: I have a hard copy of those.

MR WOODWARD: And the government solicitor also
45 seems to have a set as well.

THE CORONER: They will be made available.

MR WHYBROW: I appreciate that. What I am asking
for is whether there are any general typed minutes
5 of Queanbeyan notes that is not necessarily
emanating from Mr Corrigan. If I could just be
provided with a copy of those at some stage. I am
not aware that they exist but, if they do, I would
be interested in seeing them.

10

MR WOODWARD: We are not aware as to whether they
exist. Certainly we have never been provided with
anything like formal minutes as were prepared for
the planning meetings at Curtin. The only
15 information we have ever got from New South Wales
were, in broad terms, the IAPs and the situation
reports plus the section 44 report. I am
certainly not aware of any. I don't know whether
that is something that Mr Erskine can make some
20 inquiries about.

THE CORONER: Thank you, Mr Corrigan. You are
excused. You are free to leave, if you wish to.

25 THE WITNESS: Thank you, your Worship.

<THE WITNESS WITHDREW

MR PHILIP WALKER: On that last point, if there
30 are planning meeting minutes, it ought to be
really a request from the coroner or counsel
assisting the coroner to New South Wales that such
documents be produced. It seems to me government
to government essentially can be done without the
35 issue of summons, but anywhere else you would
simply formally subpoena documents which could be
quite important.

THE CORONER: That is one way. But if Mr Erskine
40 is willing to make some inquiries, that might be a
faster way to obtain the documents.

MR ERSKINE: We will do that, your Worship.

45 MR WOODWARD: We are now at the stage where we
were proposing to recommence playing the telephone
calls. If that is convenient, we can commence

that now. There may be some people who want to be excused.

5 THE CORONER: Those who wish to leave have permission. Please leave.

10 MR WOODWARD: We were dealing with channel 53. As your Worship will recall, there were two channels. We have disks for channel 53 and 54. In the
15 chronology we had reached the point where we had finished with the last of the calls for the 17th of January. Anyone working from the schedules, if they find the schedule to channel 53 and go to the 18th of January, the first call that I will play
20 is one at 0017 hours, 17 minutes past midnight on the morning of the 18th. That appears to be a 3.5-minute conversation between Ms Arman and Mr Gore. I will play continuously through these but pausing from time to time explaining where we have reached.

25 MR WHYBROW: Can I indicate, I think I put on the transcript that the call I made to Mr Arthur was not part of the schedule document. It is actually. It was the last one that was played before we broke last time. So it doesn't need to be added; it is already there.

30 THE CORONER: Thank you.

MR WOODWARD: If your Worship would permit me, I will be seated to do this.

35 THE CORONER: Please do, Mr Woodward.

(Taped telephone conversations played)

40 MR WOODWARD: Your Worship, just to recap, that was one long situation report. We are now at call 2.12.24 to Mr Gore from Ann Stewart who had previously been preferred to in the list as a Freshford resident. There is this one and some others later on during the list which we will come to.

45 (Taped telephone conversations played)

MR WOODWARD: There is one more call I will play before lunch. It is 16.15.46 between Mr Castle and Mr Graham and goes for about 3 and a half minutes. It should take us up to the adjournment.

5

(Taped telephone conversation played)

MR WOODWARD: Your Worship, that brings us to the call shown as Rosso Queanbeyan to Graham at 6.33, which we can start after lunch.

10

THE CORONER: We will adjourn for lunch.

LUNCHEON ADJOURNMENT [1.00pm]

15

RESUMED [2.05pm]

MS CRONAN: I will proceed with the phone conversation, 6.33.30 between Mr Rosso at Queanbeyan and Mr Graham.

20

THE CORONER: Yes, thank you.

(Taped telephone conversations played).

25

MS CRONAN: That's the end of channel 53. I will move on to channel 54 on 8th January. Do you want to take a short adjournment, your Worship?

THE CORONER: I don't particularly. Anybody want to take a short adjournment?

30

MS CRONAN: I would appreciate it, your Worship.

THE CORONER: We will keep with tradition.

35

SHORT ADJOURNMENT [3.02pm]

RESUMED [3.12pm]

40

MS CRONAN: I will start with the recording on the 8th January at 17.28.43.

(Taped telephone conversations played).

45

MS CRONAN: Your Worship, that's the last tape from the 9th of January. Before moving on to the

10th of January, is this a convenient time to have a break and make a fresh start with 10th January at a later date?

5 THE CORONER: I think that might be advisable. Do you have the telephone number for that particular exchange?

MS CRONAN: It is 6207 8398.

10

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

15 **MATTER ADJOURNED AT 4.00PM UNTIL THURSDAY,
6 MAY 2004.**

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 48

Thursday, 6 May 2004

[10.02am]

MR LASRY: Would you call Mr Neil Cooper, please.

5 <NEIL KEVIN COOPER, AFFIRMED

<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Cooper, your full name is Neil Kevin Cooper?

10 A. That's correct.

Q. Was your job description within ACT Forests formerly described as manager of plantation management?

15 A. Yes.

Q. Are you still with ACT Forests and is your occupation now described as the manager of debris removal and fire control?

20 A. Yes.

Q. On the 9th of December last year, did you provide a statement I think to - I am not sure whether it was to members of the Australian Federal Police or not - in any event, a statement was prepared some 28 pages which you signed on 9 December last year; is that correct?

25 A. Yes.

Q. That document is [ESB.AFP.0110.1112]. I will come back to that in a minute. Did the Australian Federal Police conduct with you three recorded conversations on the 15th and 18th of December 2003 and 10 February 2004?

30 A. Yes.

Q. Your Worship, respectively they are [DPP.DPP.0004.0018] that is 15 December; 18 December is the same number except the last four digits [DPP.DPP.0004.0019]; the last one in February of this year is [DPP.DPP.0007.0248].

Your Worship, I should say in relation to the last one that the last one is purely in relation to fuel management. Our position at this stage is since we will be calling discrete evidence about that, we do not propose that that interview with

4707

Mr Cooper form part of the material, unless parties who have had access to it and read it and wish to use it either for the purpose of cross-examining witnesses or for some other purpose want to do so. I should make it clear that the evidence I will be asking Mr Cooper about today will be restricted to his statement and the first two records of conversation.

10 THE CORONER: Thank you.

MR LASRY: Q. Mr Cooper, have you recently reviewed your statement and made some amendments to it?

15 A. Yes, I have.

Q. Has that been done in consultation with your counsel?

20 A. Yes.

Q. Have you now signed the document which is dated today's date, 6 May 2004, which is the original statement but with changes which are identifiable insofar as the changes are in bold type and underlined but basically the statement follows the same format; is that correct?

25 A. Yes, that's correct.

MR LASRY: I will at this stage tender the amended statement as an exhibit and we will add it to the material.

30 THE CORONER: Mr Cooper's amended statement will become exhibit 0048.

35

EXHIBIT #0048 - MR NEIL COOPER'S AMENDED STATEMENT DATED 06/05/04 TENDERED, ADMITTED WITHOUT OBJECTION

40 MR LASRY: Q. Subject to that process and subject to the changes you have made particularly to the statement and any amplification of the statements in your records of conversation, to the best of your knowledge is the material true and correct?

45 A. Yes, it is.

MR LASRY: Your Worship, I want to ask Mr Cooper

about material both in his statement and in his records of conversation. Rather than go through now and identify the amendments and the significance of them, I will perhaps do it as I
5 go, if that is convenient.

Q. Mr Cooper, as you have already said, at the time that you made your original statement you were the manager of plantation management and had
10 been in the position since 2001; is that correct?
A. Yes.

Q. Speaking as it were prior to the fires of January 2003, as you say in the third paragraph of
15 your statement you were responsible for all the plantations through all phases of plantation, through the initial planting right through the life cycle to harvesting. We haven't dealt with this in terms and perhaps it is obvious, but of
20 course ACT Forests managed the plantations as a commercial operation; is that right?
A. That's correct.

Q. Prior to the January bushfires, how much was there in the way of pine plantation in the ACT?
25 A. Approximately 16,200 hectares.

Q. As a result of the fires, how much of that was destroyed?
30 A. Approximately 60 per cent or 10,500 hectares.

Q. Are the plantations still commercially viable with what is left that has not been affected by the fires?
35 A. No.

Q. Prior to the fires, what was the major market for the plantations? What was the wood being grown for?
40 A. Construction timber to local mills at Hume and some preservation timber, but predominantly construction timber.

Q. Are you in a position to put a value on what was lost in January 2003?
45 A. No. No, I think it is probably better that you ask Tony Bartlett or someone like that.

Q. Just identify for us who Mr Bartlett is?

A. Tony Bartlett is the director of ACT Forests.

Q. You were and I think still are responsible for
5 the ACT Forests fire management. As you say in
paragraph 4, that involves ensuring that the ACT
Forests brigade is ready and prepared for the fire
seasons as they arise; is that right?

A. That's correct. Can I refer to my statement?
10

Q. Yes, certainly, and anything else you need to
refer to to refresh your memory. In paragraph 3
you have made two amendments, one is to amend your
position which I have already dealt with; and at
15 the end of paragraph 3 you add:

"Since the 2003 fires there has been no real
harvesting."

Q. What will become of the timber which was not
20 damaged by the fires?

A. It is currently being heaped and burnt to
clear the area for re-establishment to either
eucalypts or native forest or housing.
25

Q. In paragraph 5 you refer to your
qualifications. As you say there, you hold a
Bachelor of Science from the Australian National
University in forestry which you gained in 1982.
30 Then you identify working on your parent's farm
for a period of time and then working with the New
South Wales State Forest Department and the ACT
Parks and Conservation Service.

Q. In your amended statement in paragraph 5 you have
set out in some detail your firefighting
experience which goes back into the 1980s. It is
there to be read. I won't go through with you the
detail perhaps except to refer to a couple of
40 things. As you say in the amendments, you filled
the senior role as a fire controller group captain
for at least 15 years. You have undertaken ICS
training in the ACT in 1991 and a refresher course
in 2002. You are an accredited trainer and used
45 to deliver ICS training to departmental and
volunteers throughout the 1990s; is that right?

A. Yes.

Q. Your experience has included every large fire in the ACT since 1982 and you set out the detail of that.

5 (Short break due to computer problems)

MR LASRY: Q. Mr Cooper, it may be in an earlier question that I asked you, you misunderstood the question. I asked you a question just before we
10 stopped about what was going to be done with the remaining 4 and a half thousand hectares that wasn't damaged. You said it was going to be chopped up and burnt. It didn't sound right to me. What is going to happen?

15 A. The remaining 4 and a half thousand hectares will be on-going managed for recreation and for commercial harvest.

Q. When we stopped, I think I referred to your
20 firefighting experience and as I said at that stage it is set out in detail in your amended statement. I don't really need to revisit that.

Between paragraphs 10 and 16 you deal with
25 generally the issue of fire management, and again I don't want to ask you any questions about that in particular.

If I can come to the fires themselves on the 8th
30 of January which commences in paragraph 17. Like everyone else, you became aware of the fires on the Wednesday afternoon?

A. That's correct.

35 Q. On the 8th of January?

A. Yes.

Q. You heard the radio traffic and could see some
40 sign of the fires?

A. Yes.

Q. You describe in paragraph 17 of your statement
45 the inquiries you made, and in paragraph 18 you refer to going back to the ACT Forests Stromlo depot at about 4.30 that afternoon and you made arrangements to, as you say, hold people back in case they were required. I presume that was the

reason you did that?

A. That's correct.

5 Q. You were aware that an ACT Forests unit and a forest deputy captain, Mr Stevens, had already responded to the Bendora fire, as you say in paragraph 18, and you understand that had been done as a result of a direction by the Emergency Services Bureau?

10 A. Yes.

Q. You say in the last sentence of that paragraph:

15 "I had already started making arrangements, (preliminary crew arrangements for overnight, RAFT teams, overtime et cetera) with our staff because we could see that the fires were building rapidly, especially in the
20 McIntyre's Hut area, and it was going to require overnight shifts."

When you say that, do you mean that you expected that crews would be sent to the fires in the
25 afternoon or late afternoon of the 8th of January and be left there to work on those fires throughout the night of 8th January?

A. Yes, I did.

30 Q. That's what you thought would happen?

A. Yes.

Q. Why did you think that would happen?

35 A. With fires in that sort of country, it is imperative to get on to them as soon as possible. Overnight firefighting is a chance when conditions abate to get some good control lines in and keeping it to a small area.

40 Q. At that stage had you had any communication with ESB yourself?

A. Not myself. I believe Tony Bartlett had.

45 Q. You describe being at the map table in the Stromlo office, and in paragraph 19 you say:

"It was readily identifiable from studying

the maps that our forest assets at Uriarra and Pierces Creek pine plantations were in the direct line of the McIntyre's Hut fire and under threat".

5

I don't know whether you have been in court and seen Mr Cheney's 3-dimensional model looking south-east from that vicinity, but it is clear, isn't it, that the Uriarra, Pierces Creek and for that matter Mt Stromlo were essentially in a direct line from the McIntyre's Hut fire?

10

A. Yes. I've been a forester for 30 years, and it's a known factor that fires from that vicinity are our worst threat.

15

Q. You also say in paragraph 19:

"At the time, we were experiencing benign weather conditions. We were under a south-easterly airstream."

20

So what time are you now referring to when you say that?

A. More later in the evening.

25

Q. What time did you become aware that the wind had changed and the weather had cooled?

A. I can't recall that, I'm sorry.

30

Q. Not 4.30 or 4 o'clock but some time after that?

A. Yes.

35

Q. You also note that you were also conscious of what you describe as a rough 5-day cycle in relation to those benign weather conditions?

A. Yes.

40

Q. What difference was that making to your thinking on the afternoon of 8 January?

45

A. Weather - I'm aware that weather throughout Australia goes in rough sort of 5- to 7-day patterns. What it meant was that the day the fire started, we were under that strong westerly. As soon as the south-easterlies came, there was another 5 or so days that came before we returned to strong westerly conditions. When I say 5 days,

it is very approximate.

Q. You say in paragraph 20 that your concerns were mainly on the McIntyre's Hut fire. Why was that? Was it its location or was it your understanding of its size as well?

A. I think as Rob Hunt mentioned the other day, any firefighter looks at smoke and does a size-up and assesses the situation, and it was particularly angry. It was large. And, again, it was in a direction that would cause us some concern if it wasn't contained quickly.

Q. In relation to that paragraph, in the record of conversation of 15 December 2003 you were being asked by Mr Travers about that particular paragraph. In question 136, that paragraph is read to you, and then you are asked:

"Q. At that stage on the evening of the 8th, did you feel that the ACT was preparing for a prolonged, I guess what you would call a campaign style of firefight with numerous inaccessible fires?

"A. Ah, no."

Question 137:

"Q. And what makes you say that?"
"A. I guess my feelings were that we would get them out. So, I guess no-one really prepares for a campaign fire until, I mean, it certainly wouldn't have been the strategy to let it get really big and have a campaign fire. The strategy I envisaged would have been bringing out a small one as quickly as possible, which has always been what they try and do."

First thing to make clear about that, did you believe in relation to the McIntyre's Hut fire that that was possible to be put out quickly?

A. The difficulty here is that there is a group of fires in the ACT which we - as in we being ESB Bushfire Service - have control over --

Q. I was going to come to that. It was not a

good question. Does that answer to question 137 that I have just read to you relate more to the ACT fires --

A. Yes.

5

Q. -- than to the McIntyre's Hut fire?

A. Yes.

Q. When you said your feeling was we would get them out, you were referring to Bendora, Gingera and Stockyard?

A. Yes.

Q. Did you have a view from what you knew at the end of the 8th as to whether or not the McIntyre's Hut fire was likely to be something of a campaign fire?

A. Yes.

Q. At what stage - why did you think that?

A. On the evening of the 8th, myself, Tony Bartlett, Peter Lucas-Smith and Rick McRae went to New South Wales.

Q. You attended that meeting?

A. Yes.

Q. We will come to the detail of that meeting in a moment. In paragraph 21 you deal with the knowledge you had that the Bendora fire had had crews sent to it. You also say that you later had been told that a decision had been made to withdraw and indeed in paragraph 21 you said:

"I have been told that this decision to withdraw and stop all suppression actions was made after those crews had already run all their hoses out."

Q. In that paragraph in your amended statement you add a passage which I should read first before I ask you questions. In that paragraph, Mr Cooper, you are criticising the withdrawal from the Bendora fire on the night of the 8th; that's right, isn't it?

A. That's correct.

47

Q. You add to paragraph 21 the following:

5 "Having said what I have above, I wish to
make it clear that the controller on the
ground is always in the best position to make
an assessment of the risks and benefits of
fighting a fire overnight. What I am
critical of is what I perceive to be an
10 increasing tendency in recent years to not
fight overnight. My views about whether the
Bendora fire should have been fought
overnight were formed both on the basis of my
night-time firefighting experience and after
talking to Cliff Stevens, a Forests employee
15 who was present at the fire on the first
night. Mr Stevens told me that he thought
that the fire could have been put out."

20 The only thing I want to ask you about in relation
to that is what you describe as the "increasing
tendency in recent years not to fight fire
overnight". Is that an increasing tendency in the
ACT, first of all, that you are describing?

A. Yes.

25

Q. In what way have you observed that; and why do
you believe it has developed in the way it has?

A. I should make it clear that that is just my
opinion.

30

Q. I understand that.

A. There was an incident a month or so before
this where there was a fire in Namadgi, where
crews were also pulled out, and it was deemed that
35 it was too unsafe to go in and fight that fire.
However, it was deemed safe to go in the next day
with hand crews on a total fire ban day. I just
have an opinion that we tend to lose sight of the
fact that firefighting is inherently dangerous
40 anyway and that firefighting at night doesn't
necessarily have any more dangers than
firefighting during the day.

45 Q. Issues have been raised on that topic during
the course of the evidence here concerning things
like falling branches being more easily seen or
more easily identified during the day than at

night. Do you have any view yourself based on your experience about that risk?

5 A. Based on my experience, falling branches, trees that are alight, generally light up the middle of the tree and they are far easier to see at night than they are during the day.

10 Q. Other issues that have been raised have been issues to do with terrain - the ruggedness of the terrain, perhaps the steepness of the terrain and of course the difficulty of being in unfamiliar territory at night with only the light of the fire itself to enable you to identify where you are; what do you say about that?

15 A. I'm not denying that there are risks of firefighting at night, though what you have mentioned are some of those risks. But on the other side of the coin there is also the fact that the weather at night is generally a lot more
20 conducive to direct attack firefighting. Also, the fact that especially the first night when the fire has just commenced, it is small and usually relatively easy to get around. This isn't only my opinion, there is a national position statement on
25 night-time firefighting. So it is an accepted method of firefighting.

30 Q. Is it generally accepted, as far as you understand it, that the benefits of night firefighting particularly on the first night of a fire make it important to do it wherever possible?
A. I believe so.

35 Q. In the course of your interview on the 15th of December last year at question 141 you were asked by the interviewer:

40 "Q. Why do you think the ACT Bushfire Service has adopted a practice of withdrawing crews from a fire overnight?"

"A. I personally think that it's lack of experience. I think that it's not seeing what extent - not seeing the importance of getting in there early and knocking it on the
45 head straight away."

You go on in question 143 to say:

5 "A. And I've said this in other forums
before. We seem to be getting - this is a
bit topical, I suppose - into a situation
with a whole range of things where safety is
important, and don't get me wrong, I think it
is hugely important. But we tend to at one
end of the scale - if you go and use a
chainsaw, at one end of the scale you go out
there with thongs on and shorts; and the
10 other end of the scale you can be in a chain
mesh suit with breathing apparatus. Now,
that's the safest and the bottom is the most
dangerous. Somewhere in between there is a
happy medium. To me I think the medium we
15 seem to be tending more to be conservative."

The essence seems to be that you are saying that,
as you have just given in evidence, firefighting
is inherently risky but approaches to firefighting
20 tactics in the ACT to your observation have tended
to become more conservative and are you saying
more guided by safety than by the urgency of the
situation sometimes?

A. In my opinion sometimes, yes.

25 Q. I won't read the whole of this, but in the
answer to question 144 you also suggest in
relation to the operation of the Service
Management Team that "we" using presumably all the
30 firefighting resources in the ACT:

"A. ... are reasonably small and there are
limited opportunities for people to get the
experience with night-time firefighting."
35

Is that part of the problem in your opinion that,
because of the size of the area and the relative
lack of experience in the immediate area, the
experience of night-time firefighting, for
40 example, interstate is not something that comes
regularly to people in the ACT?

A. Yes, that's correct. We have tried to
implement links with Victoria and other states,
New South Wales.
45

Q. As you have said a moment ago, on the night of
the 8th of January, you and Mr Lucas-Smith and

Mr McRae went across to the meeting at Queanbeyan in New South Wales. In the course of that meeting you and the group you were a part of discussed the strategy to deal with the McIntyre's Hut fire?

5 A. Broad strategies, yes.

Q. That was in a meeting at about half past 8 in the evening I think; is that right?

A. It would have been.

10

Q. I know you say later in the afternoon but I think the evidence suggests the meeting was at about 8.30 at night?

A. That could be correct, yes. Yes.

15

Q. Prior to the meeting had you sent Mr Bretherton and Mr Mennen to have a look at the area to see what they could find out about the fire?

20 A. Yes, I had.

Q. What time did they leave, roughly?

A. It would have been around about 5, 5.30.

25 Q. Had you had information back from them before the meeting started about what they had been able to find out?

A. No.

30 Q. Mr Bretherton and Mr Mennen were in one vehicle?

A. One vehicle.

Q. What vehicle was it?

35 A. Just a 4-wheel drive Toyota.

Q. Were they carrying any firefighting capacity at all?

40 A. No, that wasn't the purpose that they were going out.

Q. Purely a reconnaissance?

A. Yes.

45 Q. You say in paragraph 24 that you spoke to Simon Bretherton during the meeting when he was near the top of Mt Coree; is that correct?

A. Yes.

Q. Doing the best you can, can you describe the conversation you had with him? Did he ring in or
5 did you ring him?

A. I can't recall who rang who - no, I can't recall who rang who. The understanding was that we would make contact. So whether Simon rang me or I rang him, I'm not sure.

10

Q. Before you give that description, at that stage had the discussion commenced about the proposed strategy to deal with the McIntyre's Hut fire?

15 A. From my memory, we were sitting down at the table and discussing the McIntyre's fire.

Q. Let's deal with the conversation. What did he tell you?

20 A. He basically gave me a field description of the Baldy spot fire.

Q. What did he say?

25 A. That it had burnt across the track exhibiting low flame heights. He had got out and walked for a short distance, couldn't walk around it so he didn't know the size of the spot fire.

30 Q. Sorry to pause you there. Couldn't walk around it because it was too dark or too steep?

35 A. No, he didn't say why. He just went for a walk and didn't get to the other side of it. I guess he made a judgment decision that he couldn't see the other side so he wouldn't continue walking around the spot fire.

40 Just continuing on, it was burning both sides of the Baldy track. It was burning back against itself on the eastern side. He was going to keep going down through the track, but there was burning both sides and you couldn't see the end. I suggested to him to not proceed down the track.

45 Q. So what was the next step?

A. I asked him to come back home.

Q. You asked him to come back?

A. Yes. He had no firefighting equipment and that was not his role. He was only sent there as a reconnaissance.

5 Q. Did he tell you that he was worried or felt threatened by being where he was?

A. No, no definitely not.

Q. Did you get any impression like that at all?

10 A. No. I did have a diary note which just mentioned low flame height.

Q. What did you do with that information?

A. I think it was at the meeting because Julie
15 Crawford was there and she asked if there was anything they could do. I said no, they didn't have any firefighting capacity. So that information was passed around the room that there was a spot fire, it was across Baldy Range. That
20 was quite important information because it had some influence on the eastern containment line for McIntyre's fire.

Q. In her evidence at page 4430, Ms Crawford
25 describes you being present and receiving the phone call. And then passing on the information. She says, referring to you:

30 "He said they were on the Baldy fire trail and heading out. I said, 'Has it crossed the trail? Tell me what's happening.' He said they didn't go that far down. I asked, 'Could he send them down to the Baldy spot fire, confirm it was over the trail.' We
35 believed it was. 'Confirm that'. He then rang me back."

So she is describing a conversation between you and presumably Mr Bretherton, some information
40 being obtained and then you ringing back to get more information; is that your recollection?

A. It's not my recollection but it's not something that couldn't have happened.

45 Q. On her account of it, you then spoke to her and said:

47

'No, it is across the trail and they're getting out of there.' I said, 'Isn't there something they can do?' He said, 'No, they're not even in a fire unit,' so someone had --

5

"Q. The best thing they could do is look before they leave?

"A. That's right. Someone had been on the ground. I took from that that there was nothing that they could do. We had lost that as a containment line as well. And that with what the landholder was saying" --

15 She refers to other information that had been received about that fire. Was that the effect of the conversation as far as you can recall it, Mr Cooper?

A. No. Julie's interpretation may have been we had lost that. It certainly wasn't meant to be that way when I delivered that information. It was always my perception that we might be able to contain that spot fire with rake hoe crews the next day.

25 Q. On the information as you describe it from Mr Bretherton, the fire was controllable?

A. In his opinion, yes.

30 Q. Have you seen the piece of film from the CSIRO staff taken on that night at the Baldy Range spot fire?

A. Yes, I have.

35 Q. It was part of Mr Cheney's presentation, as you recall. Is what you saw on the film consistent with the report you were getting from Mr Bretherton?

A. What I saw on the film is consistent with the picture I had in mind from the information I got from Simon, yes.

45 Q. As an experienced fire person - I think I have raised that issue with a couple of people - it is according to your recollection that conversation occurs at about 8.20pm. Was it feasible for a fire crew to be dispatched with a view to overnight presence at that fire, at that hour?

A. We were in Queanbeyan as advisers. It was a New South Wales fire. I was and still am unaware of what resources they had available at that time. I knew that area not that well. I probably hadn't
5 been in that area for 5 or 6 years because it is outside of ACT Forests managed area. So I was unaware of a whole range of things such as accessibility, fuel loads, resources. So it wasn't really my call to recommend or suggest
10 night-time fire crews on that particular spot fire.

Q. I understand that. That's not quite what I asked you. What I was asking you was whether - if
15 we can for the moment put all those considerations aside, which is why you held a particular view you weren't pushing it in any meeting - just as a matter of principle, given the report you had had about the fire and its intensity at 20 past 8 at
20 night, is it feasible to send fire crews to a fire like that to in effect stay with it overnight and keep it within some kind of control?

A. Yes. Given you could drive right to the fire, there was no walking in in dark or steep terrain,
25 you could drive right to the fire edge. Then again, we have seen the video that Phil Cheney showed, in those conditions you can work almost on the fire line. So you will have a certain degree of light from the fire edge.

30 Q. Was such a possibility discussed while you were at Queanbeyan, as far as you can recall?

A. Not as far as I can recall.

35 Q. And for the reasons you have given, you didn't raise the possibility of doing it?

A. That's correct.

40 Q. I wonder if we could have Mr Cheney's containment map back, please. I think it is from memory slide 45. I have amended a couple of the other slides to remove the Goodradigbee River altogether. That is it. This is Mr Cheney's presentation of the containment lines that were
45 discussed and at least to some extent settled on on the night of the 8th of January. Is that familiar to you, Mr Cooper?

A. Yes.

Q. In the course of the discussion, first of all there are obviously maps available for people to
5 look at and talk about with you?

A. Yes.

Q. At Queanbeyan?

A. Yes.
10

Q. Was an early part of the discussion to do with whether or not any kind of direct attack was
feasible?

A. Not to my recollection.
15

Q. So that never really seriously entered into the possibilities?

A. The only direct attack that I can recall was the possibility of getting around the Baldy spot
20 fire to keep the Baldy Range Road as the eastern containment line. So direct attack on that spot fire but not necessarily the McIntyre's fire.

Q. There was some discussion about that, was there?
25

A. My recollection was there was, yes.

Q. Was it determined one way or another to determine whether that would be a possible eastern
30 containment line?

A. Yeah, my memory is that we were going to try for the Baldy Range Road as the first option, with the fallback option the Dingo Dell track. The reason for that is the Dingo Dell track, I
35 believe, had a section that had to be put in through some grazing land. I'm not familiar with that area.

Q. I just want to be clear about one thing that I have already asked you about: did you at any stage convey to Julie Crawford or to anyone else an opinion based on the information you had from Mr Bretherton that the Baldy Range trail was out
40 of the question because of the intensity of the fire?
45

A. No, definitely not.
47

Q. Is it right to say that, with an indirect attack and a burn such as the one being planned here, an important factor is to keep the area to be burnt to the smallest feasible size?

5 A. That's correct.

Q. For perhaps obvious reasons?

A. Yes.

10 Q. As to the northern and southern containment lines, was there any discussion about those and possible alternatives; it doesn't really appear on the map there were any possible alternatives, were there?

15 A. That's my recollection from the meeting. We were really between a rock and a hard place. By the time we had sat down at the meeting, the fire had already crossed the trails that would have been used in the first instance as the northern
20 and eastern containment lines.

Q. So certainly the Webbs Ridge Trail was out of the question as any kind of containment line?

25 A. That's what I was led to believe because it had already crossed it.

Q. Was the question of the McIntyre's trail, which in part is also known as the Lowells trail - I think it is Lowells in the south and McIntyre's
30 in the north - was there any discussion that you can recall about using that as a western containment line?

35 A. Not that I can recall. Again, we were guided by New South Wales National Parks and Wildlife Service's knowledge on terrain, fuel, access.

Q. Were there people present at the meeting who appeared to have an understanding about, first of all, the condition of that trail?

40 A. Yes.

Q. Who was that?

A. Rob Hunt.

45 Q. What did he say about it?

A. I can't remember what he specifically said about that trail. There was some discussion about

the condition of some of those trails, the terrain that they were in and I had no reason and still have no reason to disbelieve Rob.

5 Q. I take it that, although you can't recall specifically what he said, the effect of what he said was their condition was such that they were probably not viable as patrollable containment line; is that the effect of what he was saying?

10 A. I think it was a combination of that. As I said before, fuel loads and terrain as to where the fire had already burnt at that stage.

Q. Do you understand who was responsible for maintaining the trails in this area prior to January 2003?

15 A. My understanding is it is part of Brindabella National Parks. I would assume the National Parks and Wildlife Service have responsibility for that area.

Q. Do you know whether those trails were intended to be maintained as fire trails and for fire suppression purposes?

25 A. No, I don't.

Q. Clearly the Goodradigbee River was then the next obvious western containment line, and that was the subject of discussion?

30 A. My recollection is that we discussed that.

Q. What was discussed about that?

35 A. You must remember the meeting was as a forum to throw in a whole lot of ideas. My recollection is that there was some concern about the river because of obviously low water levels and again there is a lot of weed growth et cetera along the river. In my mind it was always a less than secure containment edge, but we had no other option.

Q. Less than secure for the reasons you have already given, lower water levels and --

45 A. And I believe access. At the time I know that Parks were going to put Graham Todkill and a crew on foot down on that south-western edge of the river to make sure that if any spot fires came

over they would know about them straight away.

Q. At the end of the discussion then, was it your understanding that the containment lines were
5 basically as they are shown in that map, save for the fact that your understanding was that, subject to what happened the next day, the Baldy track would be the eastern containment line and that purple line which required some additional work
10 would be in effect the fallback eastern containment line; is that how you understand it?

A. That's how I understand it.

Q. Were you satisfied with that strategy?

15 A. With the information that we had, I was. I mean there was obviously concern that we were turning a 200-hectare fire into 10,000 hectares. However, if that strategy was to be implemented quickly, I think it was the best that we could
20 come up with at the time.

Q. Speaking of quickly, was there any discussion about how long this process was going to take? In other words, did you understand whether anyone had
25 a view as to how long it would take to have the containment lines ready and start burning out this area?

A. Not that I can recall.

30 Q. Was that not discussed at all?

A. It was really not discussed by me. That becomes an issue with National Parks and Rural Fire Service as to existing road conditions and whether they were in a condition that could be
35 safely burnt out from.

Q. Presumably there were people at the meeting who knew what the conditions are of these tracks were?

40 A. Yes.

Q. And had some idea as to what work needed to be done before burning could start?

A. That's right.

45

Q. No doubt that information was put before the meeting, was it?

A. The meeting was purely a very strategic meeting looking at what New South Wales National Parks and Wildlife Service and the Rural Fire Service had in mind for containing that particular
5 fire.

Q. A fairly important conversation, as you said, bearing in mind the size was how long it would take to be ready to burn and then to burn?

10 A. Yes.

Q. Do you say that wasn't the subject of any discussion at that meeting?

A. I'm not saying that it wasn't. I just can't
15 recall it being a specific major discussion at the meeting.

Q. Did you ask about it?

A. No, I didn't.
20

Q. There are a couple of amendments which perhaps are relevant to the statement you have amended. First of all, you have deleted a passage in paragraph 22. I might ask you about that. Your
25 original statement at the end of paragraph 22 is referring to now ESB on the afternoon of 8 January:

30 "Tony and I - you are referring to Mr Bartlett - had grave concerns about this fire - referring to the McIntyre's fire - as its line of travel placed it straight into the Uriarra and Pierces Creek plantations."

35 Originally the statement went on to say:

"And we were uncomfortable that the ACT had no complement of resources or any input into strategies for the control of this fire."
40

You have deleted that. Have you deleted that because the meeting itself that we have just been discussing demonstrated that in fact the ACT did have some input into the strategies?

45 A. Yes.

Q. You added a portion to paragraph 23, apart

from a smaller amendment at the outset as follows:

5 "After the meeting I felt reasonably comfortable with the proposed containment strategy. I have a note of the meeting. It was my understanding that incendiary bombing of the fire was to begin the next day which was the 9th January. My note says 'aerial incendiary tomorrow'."

10 A. Yes.

Q. Do you have that note with you?

A. Yes.

15 Q. Could you get it out, please. I might ask you if I could have a look at it. We probably have this.

A. Yes.

20 Q. I will find the reference for it. Perhaps I will just read it, it is only a few lines. The page is dated 8 January 03. At the top:

"Simon 2100."

25

I take it that suggests --

A. Simon Bretherton.

30 Q. -- Simon Bretherton. You were speaking to him at about 9 o'clock?

A. That's correct.

Q. He gives a grid reference for the spot fire. And then you have written underneath that:

35

"Crossed road slowly to east. 20-30 metres."

A. Yes.

Q. Is that the distance from the road?

40 A. That is how far in it had gone down the side of the hill, like to the east.

Q. There is a hole punch in there it might say "tonight" or "night" "south south-east 10-15.

45 Minimum 8 degrees centigrade." "DP4" is?

A. Dew point.

47

Q. "Relative humidity 80 per cent. Tomorrow south-east" - that is the wind direction presumably - "20-30, perhaps up to 40 kilometres an hour"; is that right?

5 A. Yes.

Q. Not all of that information is coming from Mr Bretherton?

10 A. No, that's correct. In the fire all my records were destroyed, but I had that in my top pocket. It is just short jogging notes from that meeting. It would have been Rick McRae giving us a weather update. Rick doesn't go anywhere without giving a weather update.

15

Q. Then you refer to the Dingo Dell dozer and then the note says:

20 "Aerial incendiary tomorrow, remote sensing. Planning. Plot map location. Section 44 IMT operating from Parks office. Rake hoe team south-western corner."

Is it?

25 A. Yes.

Q. So when you wrote down "aerial incendiary tomorrow" tell us what you understood by that? What had you been told or why had you noted it?

30 A. What I understood by that is they would be arranging aerial incendiary for tomorrow.

Q. That meant having to complete containment lines?

35 A. It meant that they could look at sections. As I said, I didn't know the state of a lot of that track. I imagine the crews were going in the next day and they would be arranging aerial incendiary. Whether they would be undertaking it the next
40 day --

Q. You don't know?

A. No.

45 Q. One of the other consequences of that night was that you became the liaison officer for the ACT Bushfire Service with the New South Wales

Rural Fire Service; is that right?

A. That's correct.

Q. You occupied that position for the following
5 two days. You say in paragraph 26:

10 "These two days were to be very frustrating
for me in that the New South Wales Incident
Management Team was slow to take pro-active
action."

You have added by way of amendment:

15 "I think my frustration was very much due to
my real concern about the fire reaching the
ACT pine forests."

You then describe in paragraph 27 a brief
conversation with Mr Lucas-Smith going home after
20 the meeting in which he said to you:

25 "As you will be liaison officer you have
authority to commit whatever ACT resources
New South Wales wants."

Is that right?

A. That's correct.

Q. I presume that is subject to the qualification
30 within reason?

A. Yes, yes.

Q. Because the ACT resources of course weren't
unlimited; were they?

35 A. No.

Q. Not by any means?

A. No.

40 Q. Did you say anything to him in response to
that about, "Well, what about the Bendora fire or
the other fires that are burning in the ACT"?

45 A. No, I didn't. The reason I remember that
comment is it sort of came out of the blue to me,
I suppose, and I actually checked that again the
next morning with Tony Bartlett before I went to
Queanbeyan to verify that that is what Peter

meant.

5 Q. As at the night of the 8th of January, was the
ACT in a position to in effect be making any kind
of open-ended complement to attacking the New
South Wales fire?

10 A. No. But I took that as meaning from Peter
that I was in a role where I could discuss
resourcing - obviously not unlimited because we
only have a limited number of resources - but
that's how I took it. When the requests came from
Bruce Arthur later on, we had some discussion
about that because I knew that with the request
that came, there is no way that we can meet that.

15 Q. To this point had you had any discussion at
all with Mr Lucas-Smith about his assessment of
the fires that were burning in the ACT?

20 A. I distinctly remember on the way out to
Queanbeyan that we went up Hindmarsh Drive and we
were assessing the smoke columns and what they
were doing for the fires in the ACT. I am sure we
would have had general conversation in the vehicle
on the way back to Curtin.

25 Q. What was the assessment as a result of looking
at the smoke columns?

30 A. They were not dying down. I think Rob Hunt
mentioned something the other day about normal
lightning strikes. I agree you can normally get
on to them and you find it difficult to find them.
These had started burning and were quite visible
from Hindmarsh Drive.

35 Q. Did that mean that there was going to be a
resource issue if these fires turned into big
fires for the ACT? I am sorry, let me put that
another way. Did you at that stage realise there
might be some tension between resources being
40 committed to the McIntyre's Hut fire on the one
hand, and the resources that might have been
needed to deal with the fires in the ACT on the
other?

45 A. Not at that stage. I was still of the opinion
that we would get the three fires that we had out
fairly quickly.

47

Q. In paragraph 28 you deal with the issue which arose in relation to the commencement of the burning in New South Wales. You went away from the meeting, as I follow it, with the understanding that the burnout would start over the next day or two; is that correct?

5 A. That was my interpretation or impression.

Q. The next morning, the 9th of January, you are in the role of liaison officer and you are back to Queanbeyan; is that right?

10 A. That's correct.

Q. There was a discussion which you refer to in paragraph 28 that the New South Wales authorities were concerned about southerly winds pushing the fire north towards Yass before the northerly containment lines were established. Is that your recollection what the issue was?

15 A. Yes. Fairly clear recollection of that because I was advocating that we commence burning from Webbs Spur and working around and then there would be no risk to the fire going to the northern containment lines, because it would just burn in to the McIntyre's Hut fire.

20 Q. I will get the operator to put that map back up, if you would please, and I will ask you to leave the witness box, Mr Cooper, as long as you speak in the vicinity of that microphone there and show us what you were proposing. In the context of the conversation that you were having on the morning of the 9th, what was it that you were proposing should happen?

25 A. Commence from - obviously any burning out operation has to start from that point. I was suggesting we use the Webbs Spur Powerline Trail as an anchor point working east.

40 Q. That is just near the P in Powerline Trail?

A. That's correct.

Q. As an anchor point with a view to the burnout moving in which direction?

45 A. We were under a southerly, south-easterly, and any fire that we put in along that Powerline Trail would burn into the McIntyre's fire. We wouldn't

necessarily have to worry so much about getting to the northern containment lines.

5 Q. Did you understand at that stage that there were significant difficulties with that south-western sector of the burnout area because of its terrain?

A. Yes, I did.

10 Q. And the difficulties concerned with completing that particular containment line?

A. Yes.

Q. Had that been explained to you by somebody?

15 A. I was fully aware of it.

Q. Who explained that to you?

A. I can't remember the actual person. I remember talking to Rob Hunt. He had some knowledge that that particular trail is where the power line goes across the river, I believe. He said that there was a bench that had been put in when they put the power line in and we may be able to use a small dozer. The reason I guess I was involved in that - I would have had some conversation with Mr Arthur as well - is the securing of dozers to put that trail in.

20

25

Q. Were you involved in the securing of dozers?

30 A. Yes.

Q. How was that being done?

A. I had contacted Peter Buetel as early as the afternoon of the 8th to start looking at dozers. The dozer that was used on that particular track, I believe, was a Soilcon dozer from Goulburn. Peter had made contact with Soilcon in Goulburn as one of our contacts.

35

40 Q. You say in paragraph 28 that back-burning operations were commenced - you have amended that in the amended paragraph?

A. Yes.

45 Q. So your discussion of course was going on in circumstances where that was the problem from your point of view that back-burning operations had not

commenced; is that right?

A. Yes.

Q. Who was this discussion essentially with? Was
5 it with Mr Arthur or was it with others?

A. I was in a difficult situation in that the
liaison officer is not part of the Incident
Management Team. I also had a Forestry hat on. I
am quite passionate about ACT Forests and at times
10 probably got vocal about the threat to the pine
plantations. I would have discussed this with
anyone that wanted to listen or didn't want to
listen.

15 I would have talked to Mr Arthur. I would have
talked to Mr Rob Hunt. Probably Roger Good I had
some discussions with. They are the only ones
that I can actually remember.

20 Q. To no avail. You were not getting any
agreement from anyone to what you were proposing
about commencing the burn before the containment
lines were complete; is that right?

A. It was my opinion that we should start burning
25 fairly quickly. I appreciate that the incident
controller has to take on a whole lot of opinions.
I had a fairly strong opinion and, yes, it wasn't
being - it was probably being considered but the
decisions weren't going the way that I thought
30 they probably should.

Q. You say in paragraph 28 also that you were
regularly on the phone to Mr Lucas-Smith. Perhaps
before I take you to that, I might just read the
35 portion of paragraph 28 as it is now amended:

"Mr Arthur also expressed concerns about the
completion of the western end of the southern
containment line. I also clearly enunciated
40 that we should be taking advantage of the
cool south-easterly conditions forecast for
the next 3 or 4 days. I argued that the
Webbs Ridge Trail could be used as a
temporary containment line whilst the
45 southern line was completed to the west. At
this stage I was already getting frustrated
that our previously agreed timetables were

being readily changed and I was constantly on the phone to the ACT Chief Fire Control Officer and Tony Bartlett back in the ACT. I have a copy of the map that I faxed to Tony
5 Bartlett indicating the proposed actions and my recommendations - this was in response to my increasing frustrations."

I will come to the map in a moment. You say, though, in that passage that you were getting frustrated with the previously agreed timetables being readily changed. What was the previously agreed timetable, as you understood it?

A. As I understood it, we had agreed that burning
15 operations - the discussions on the 8th fully acknowledged we were burning out 10,000 hectares, increasing the fire from 200 hectares as I mentioned before. To do that, that is a very large perimeter. To get that in before we get in
20 any bad weather conditions was imperative.

So what I refer to there or what I mean is the understanding or belief that we would be putting burns in as soon as possible.

25 Q. Could I have [ESB.AFP.0001.1478], please. While that is coming up, Mr Cooper, can I ask you to give us some understanding of the telephone conversations you were having with Mr Lucas-Smith.
30 Your statement says you were constantly on the phone with him. I take it there were several phone calls?

A. Peter is obviously a very busy person, being the CFCO. I would have tried Peter's phone. He
35 was obviously in lots of meetings, so I may not have got through to him. I would have talked to either Tony Graham or Tony Bartlett about the same - that's what that means, repeatedly on the phone to someone in the ACT.

40 Q. Do you believe you actually spoke to Mr Lucas-Smith about the frustrations that you were feeling at this stage?

A. I definitely passed on my frustrations to
45 Peter because that's who - I was the liaison officer between New South Wales and ESB.

47

Q. At some stage did you actually speak to him?

A. My recollection is I did speak to Peter.

Q. As well as Mr Bartlett?

5 A. Yes.

Q. This is, as I understand it, a fax Mr Cooper sent from National Parks and Wildlife Service on the 9th of January. It is to "Tony" - obviously

10 Tony Bartlett - from "Coop", which is you?

A. Yes.

Q. Is that how you are generally known as "Coop"?

A. Yes.

15

Q. The second page, is a map. Just tell us how that map came into existence and what it is intended to convey, Mr Cooper?

A. That map - at one of the IMT briefings held by Julie and Mr Arthur on the 9th there was a lot of paperwork. It is actually one of the National Parks' maps. I would have been noting down the proposed action. That is actually one half of it. There is another half.

25

Q. Yes, there is another half. I don't know whether we can - it may not be possible to have both.

A. It resulted from notes taken during an IMT meeting - Incident Management Team meeting.

30

Q. Perhaps we will go back to the previous page. I will ask you to point out, without touching the screen, again if you could leave the witness box: there is a section on the map with a number of arrows pointing to the north and of course from the northern containment line pointing to the south. Is that your work; have you put those on?

35

A. Yes.

40

Q. What is that intended to convey?

A. The three large arrows at the bottom are indicating the wind direction. The other small arrows are indicating - that is my suggestion of where we could start burning, or in my opinion.

45

Q. Just point out where Webbs Ridge Trail is?

A. In the middle (indicated) just there.

Q. Thanks. You can go back into the witness box. That's your proposal with the southerly winds
5 prevailing, the burning would start from the eastern part of the southern containment line?

A. Yes.

Q. Be controlled to the west by Webbs Ridge?

10 A. Yes.

Q. That would allow the completion of the south-western sector; is that basically it?

A. Yes. What I was trying to propose was that we
15 start the burning out operation - don't wait to start the burning operation until all the containment lines are finished. So we do them both in unison. I believe that could be done safely.

20

Q. What were the risks as you saw it in your own suggestion; were there risks?

A. I think that is actually the role of the incident controller. He assesses all these
25 actions and the risks associated with it and comes out with an outcome. I think any action undertaken on a fire this size at this time of the year would have had risks associated with it.

Q. Mr Arthur's evidence - if I can summarise briefly, and it may not be as accurate as we would like - as I understand it, his position was to embark on an action like that before that southern control line was completed. Given the terrain and
35 also given the serpentine nature of the containment line to the south ran the risk of putting the firefighters, both those controlling the burnout that you suggest and also those to the west who would be working on the containment line, at considerable risk. He said he wasn't prepared
40 to do that. That's a broad summary of his objection. Is that the way it was conveyed to you?

A. I mean there was, as there is at any incident
45 management team meeting, a broad and frank discussion about a whole range of options. I am sure what Mr Arthur said would have been some of

the concerns that he had.

Q. Did he say to you on the morning of 9 January in these discussions that to do what you were
5 suggesting was to be actually putting people's lives at risk?

A. I don't think so because I would have remembered something I guess as dramatic as
"putting people's lives at risk". My recollection
10 is that the reason or my interpretation of the reason that they didn't want to go ahead with that particular strategy was the risk of the fire heading north with no containment lines between there and sort of Yass.

15

Q. How far away is Yass?

A. Some considerable distance. I couldn't give you an idea - I meant Yass Shire, not Yass the town.

20

Q. Do you know how far that boundary is?

A. No, I don't.

Q. Was part of your proposal one which involved
25 the intention at least that the back-burn you were suggesting, was effectively the southern central or slightly eastern portion of the containment area, would actually burn into the fire front from McIntyre's?

30 A. That's correct.

Q. That was the idea?

A. Yes. As they progressed along the fire trail obviously the machines you would hope would work
35 faster than the crews burning out to get that trail in condition; they would sort of work in unison.

Q. I think later in that day there was another
40 meeting called at which Mr Lucas-Smith and Mr Castle attended. You describe that in paragraph 29 of your statement. Do you recall that meeting?

A. Yes.

45

Q. That discussed what you saw as a problem in not commencing the burning out early enough; is

that right?

A. Yes.

5 Q. Was Mr Lucas-Smith and Mr Castle there for the purpose of becoming involved in a discussion about any delay in the New South Wales burning out process; is that why they were there or were they there to discuss other things as well?

10 A. As I mentioned before, I had numerous conversations with Peter and Tony Bartlett - Tony Bartlett being the director of ACT Forests and obviously concerned about the threat to the plantation estate. I think that Tony then went to Alan Thompson who is his boss and I think there was discussions between Alan Thompson and people at ESB. What evolved or flowed from that was a delegation if you like or a meeting of ESB with New South Wales to discuss what they are doing on the McIntyre's Hut fire.

20

Q. But it didn't have the result at least that you hoped it would have; is that right?

A. That's right.

25 Q. Whatever was said during the course of that meeting and whatever reasoning was put as to the urgency of starting the burnout, the New South Wales position was that they weren't prepared to do it until the containment line was completed; is that right?

30

A. Yes.

35 Q. You say in paragraph 32 that one of the other initiatives which you and Mr Hunt were advocating early on the 9th and 10th was for the planning and procurement of aerial incendiaries to burn out the section between the current location of McIntyre's Hut fire front and the edge of the back-burn. Are you there referring to the area that you were proposing from the southern containment line?

40

A. What I am referring to there is that I know Rob Hunt - and I have for several years - and we had numerous conversations. And one of them was about the importance of getting aerial incendiaries arranged as quickly as possible so that, as soon as it was ready, we could proceed with the operation.

45

Q. Was that a discussion or an agreement between the two of you that that was needed to be done on the 9th or 10th of January, as you have said in your statement?

5 A. You still must remember that I am just a liaison officer and not part of the IMT.

Q. I am wanting to clarify the time. You say in your statement that was something that you and he were advocating on the 9th or 10th of January?

10 A. Yes, that's correct.

Q. According to your note, the issue of the use of aerial incendiaries had in fact been discussed at the meeting on the night of the 8th, in any event?

15 A. Yes. That's correct.

Q. Mr Cooper, you can take it throughout that I understand you are not in a decision-making position.

20 A. Thank you, yes.

Q. I realise that. You are simply an onlooker to some extent and of course performing a liaison role. So you had no authority?

25 A. I was just a conduit of information between National Parks and ESB Bushfire Service.

Q. It is important to remember your position was also one which was hoping to protect the ACT pine forests?

30 A. Most definitely.

35 MR LASRY: I see it is 11.30. Is that a convenient time?

THE CORONER: We will take the morning adjournment.

40

SHORT ADJOURNMENT

[11.30am]

RESUMED

[11.52am]

45 MR LASRY: Q. Mr Cooper, were you present during Ms Crawford's evidence?

A. Yes.

Q. You might recall that, during the course of that evidence, I attempted to summarise the propositions that arise from your statement concerning what you are describing as the delay in starting the burning out in New South Wales. At page 4460, I put this question to her:

10 "Q. Let me put the broad proposition as Mr Cooper's statement summarise it. He will perhaps give this evidence, perhaps he won't. As I understand it, his view was that the weather was now to a point where the conditions were much better, much more conducive to back-burning?

15 "A. Yes.

"Q. There was a large area to be back-burnt?

"A. Yes.

20 "Q. The back-burning needed to start as soon as it possibly could?

"A. Yes.

25 "Q. And even if the northern containment lines or some containment lines were completed - it should probably be not completed - nonetheless it was worth commencing the back-burning because there was so much to do. Do you understand?

30 "A. Yes, but" --

You see I am endeavouring to summarise in broad terms what your statement says:

35 "Q. What do you say about that?

"A. No, it wasn't the northern containment lines we were worried about; it was the southern containment lines. The fire was also heading to the southern containment lines. The northern containment lines were not under as much pressure of the fire reaching them. We had to get the southern containment line in. The biggest issue with the southern containment line was the far western part of it and pushing that dozer line down to the river. We had to get the southern containment line in before we

5 started burning the fire. The dozer couldn't
get in. A dozer was organised on Friday. It
came in on the Friday night and pushed the
line down on the Saturday morning, and the
burn commenced on the Saturday morning. It
wasn't the completion of the northern control
lines because we still had some days up our
sleeve before the fires got close to those
containment lines."

10

Is that the way the problem was conveyed to you at
the time, that there was a concern about not the
northern containment line but the southern
containment line?

15

A. No. As I said before, my belief was that the
issue at the time was the fact that we would be
burning and the northern containment line hadn't
been placed in. Under a south-easterly, that is
where the fire would be pushed.

20

Q. In paragraph 31 of your statement, which is on
page 12 of the amended statement, you say:

25

"With my ACT Forests hat on, I arranged for
one of the ACT Forests contract dozers (which
was then working on site preparation in the
Uriarra area) to be moved to the Blundells
area, which is at the north-western end of
the plantation. The aim was for the dozer to
reinforce the existing lines of containment
in the event of the anticipated and
inevitable wind change from the north-west.
That dozer had started widening some of the
breaks and making them more trafficable so
that if New South Wales authorities could not
contain the fire within their initial
boundaries, we may have had an option of
back-burning up from the edge of the
plantation between Mt Coree and Mt Blundell.
This strategy was well in advance of any New
South Wales Rural Fire Service initiative and
I was a little frustrated that we were
planning these sorts of operations when it
should have been a planning office role."

45

When describing in paragraph 31 your frustrations
when it should have been a planning office role,

which planning office are you there referring to?

A. It is quite interesting. The fire was in New South Wales. However, the area I am talking about is in the ACT, and that probably is one of the
5 issues that we have with border fires. What I was getting at there is a planning officer should be looking at short term, medium term and long term and looking at different containment lines and what is needed to use those containment lines if
10 the situation occurs that they need to be used.

Q. Are you referring to the planning officers of both New South Wales and ACT? Can I perhaps withdraw that and ask this question: as I think
15 Mr Koperberg famously said, "A fire doesn't respect state borders". So for the purpose of dealing with this fire, there is a fire in one spot which is possibly going to burn to another spot and burn out a pine plantation?

20 A. Yes.

Q. And ultimately affect the metropolitan area. In relation to the planning of the progress of that fire and its suppression or the combating of
25 it, where a border intervenes as it did here, in your view where is the planning for the fallback positions; where should that planning be done?

A. With the planning team that is looking after that particular fire.

30

Q. That is New South Wales?

A. Yes.

Q. What about the role of the ACT ESB planning
35 section; what is their role in catering for the possibility that this fire, as it of course did, will burn in the ACT?

A. That's where it gets quite difficult, as I said, because of the cross-border issues as to
40 when does one team take over the management of an incident. The incident at McIntyre's was being managed by New South Wales. However, it is a bit the same as the ACT fires. We had fires in the ACT that were being managed by us that then went
45 into New South Wales and became a New South Wales management team role.

47

Are you asking for my opinion?

Q. Yes, I am. Let me put a proposition to you and see if you agree with it.

5

MR PHILIP WALKER: The gentleman hadn't finished his answer. It was clear he was going to go on. Before any proposition is going to be put to him, perhaps he can complete the answer he was giving.

10

MR LASRY: Q. Mr Cooper, I think you were about to offer an opinion.

A. About who is to be in control?

15

Q. Yes.

A. As I said before, it is the Incident Management Team is looking after that particular incident until it is handed over or handed to another Incident Management Team.

20

Q. In this particular case, the point at which became a problem for the ACT, as I understand the evidence, was a point at which in a sense all hell was breaking loose. There could hardly be a smooth, easy and timely handover, could there, when it was then a situation of great urgency?

25

A. That's correct.

30

Q. The proposition I was going to put to you was that surely the answer to that is to have constant liaison between the two planning sections, if there need to be two looking at it so that, for the purpose of dealing with a joint problem as between the New South Wales and the ACT, it can be dealt with as one incident?

35

A. It sounds reasonable, yes.

Q. Do you know whether anything like that was happening?

40

A. I'm not aware of it. I should clarify that: I'm sure that the New South Wales and ACT planning teams were talking to each other - I assume that they were but I can't say I am sure that they were.

45

Q. But from your experience, obviously it is important that the ACT ESB be well aware of what

the McIntyre's Hut fire is doing and what its potential is. That's obviously so; isn't it?

A. That is correct. Remember, I was only the liaison officer for the first two days.

5

Q. I understand.

A. And in that time both or all incidents were in the building phase. It is the phase of all fires where at the start you ramp up with Incident Management Team structures. I don't know what sort of liaison occurred after the 9th.

Q. No, I understand that. Really this line of questioning, Mr Cooper, started because in your statement you expressed frustration that you were planning operations when you felt that that was really the role for a planning section. I think in the end your view was that the sort of operation you describe there as being within the role of the planning section is to be within the ambit of the New South Wales planning section; is that right?

A. Yes.

Q. Before the break I asked you some questions about what you said in paragraph 32 about aerial incendiaries. It is clear from the statement that what you and Mr Hunt were advocating was for the planning and procurement of aerial incendiary operations. You would have been in court no doubt and heard both Ms Crawford's evidence and Mr Arthur's evidence about the shortage of aerial incendiaries. Did anyone tell you on the 8th or the 9th of January that there was a problem in accessing aerial incendiaries?

A. I can't recall being told specifically. But I can understand that it would have been challenging at the time.

Q. Is that an occurrence which occurs reasonably regularly that they are in short supply?

A. I can't really comment on that. We haven't used incendiaries in the ACT since about 1976 when we burnt out the lease area to the west.

45

Q. Whose idea was the use of aerial incendiaries? Was it your idea or Mr Hunt's idea?

A. Both Rob and I were talking about it as early as the night of the 8th. The reason that I was fairly keen on discussing aerial incendiaries is that I had taken a task force from the ACT down to the fires at Moruya. One of the reasons that that fire broke its containment lines on one of the days that I was there was that there was a large area of ground that had been unburnt and hadn't been burnt out with aerial incendiaries. So reflecting from that experience to here.

Q. Is the use of aerial incendiaries a particularly efficient way of getting fire going and burning out large areas?

A. It is imperative that, once you have put a backing fire in and your containment lines, you need to burn out the country in between the backing fire and the fire front.

Q. Sorry, I have expressed the question badly. As opposed to back-burning from a containment line which, as I understand it, is at least in part done by crews going along a containment line with a drip torch and burning off a particular road, is it quicker, in a sense more efficient in terms of getting a fire started to use an aerial incendiary? In other words, when you do that does the fire start more quickly and grow more quickly?

A. Sorry, they are used for two different reasons.

Q. I realise that. I am trying to understand whether it is a quicker way of actually getting the fire started in the area that you are wanting to burn.

A. Yes.

Q. I asked you because is it feasible to use aerial incendiaries, as opposed to burning off containment lines on the other hand, in circumstances where you will be starting a fairly intense fire by the use of them potentially and not have containment lines completed?

A. No. To put in incendiaries without some sort of containment line to burn to, all you are doing is promoting the wildfire front that much closer to your containment line.

Q. If a plan has, as part of its process, the use of aerial incendiaries in order to accelerate the burning out of the fuel that you want to burn out before the weather changes, do you accept that it is appropriate not to take that step until the
5 containment lines around the containment area have been completed?

A. Yes. That's why it is imperative to get those containment lines in as quickly as possible.
10

Q. Insofar as you suggest that burning could have commenced before the completion of containment lines, that wouldn't apply to the use of aerial incendiaries?

A. What I was referring to before was the commencement of the burning out operation as soon as possible, because of that fact that there is a large area that needs to be burnt out between the burning out control burn and the actual fire
15 front. That needs to be done at least two days before the onset of bad weather so you have got time to mop it up and make sure there is no live material on the fire edge.
20

Q. I am sure I am not asking the question properly because of my own lack of experience in the area. Let me ask you this way: when you were suggesting New South Wales should start the burnout before the containment lines were
25 complete, that was basically a debate you were having on 9 January?
30

A. Yes.

Q. If aerial incendiaries had been available that day, would you have advocated the use of them also, albeit that the containment lines weren't complete?
35

A. No.

Q. The other point you make at the end of paragraph 32 of your statement goes to the question of pressure of time. You are talking about the meeting that was held at which Mr Lucas-Smith and Mr Castle attended on the 9th.
40 The particular passage (in paragraph 29) says:
45

"While the New South Wales concerns about

first putting in the containment lines before
doing any burning were acknowledged -
obviously by you - we were anxious to make
them aware of our concerns and our
5 significant assets, being the Uriarra and
Pierces Creek pine plantations, and the need
for early positive action to ensure their
survival and take advantage of the cooler
weather. I was particularly concerned about
10 the south-eastern corner of the McIntyre's
Hut fire boundary as this is where the
pressure point would be for fires entering
the ACT under a hot north-westerly wind."

15 Just explain what you mean, if you would, by a
pressure point, Mr Cooper.

A. Sorry - I can answer that but I just want to
see where you are up to in the statement.

20 Q. I have just gone back to paragraph 29.

A. Pressure point basically - in that
south-eastern corner under the influence of a hot
north-westerly, which is our most dangerous fire
wind, the main chance or the main location that
25 that fire is likely to break out is on that
south-eastern corner.

Q. So the point you are making is it is important
that it be burnt out quickly?

30 A. Yes.

Q. To avoid that if possible; that is, to have a
buffer?

A. Yes.

35

Q. Then at the end of paragraph 32 on page 12 of
the amended statement, you say:

40 "Any burning out or back-burning needs to be
completed at least several days prior to the
fire front reaching the burnt out edge or the
onset of severe weather conditions. If this
operation is undertaken too close to the
onset of these conditions then fires will
45 ignite from the areas that have been back
burnt."

47

Now, in that context, does completed mean in effect blacked out?

5 A. No, completed as in undertaken. As I've said, you need to have several days between the burning finishing and being able to get in to take out any problem trees, any things that are likely to roll over or, under the influence of a strong wind, blow sparks across your control line.

10 Q. What does several days mean - two or three days?

A. Yeah, it is not a fixed period obviously. Two or three days is ideal.

15 Q. What does that say about the realism of the plan in the case of the McIntyre's fire? If on 8 January or on the 9th of January at the earliest, perhaps the night shift of the 9th of January, the burning was going to commence -
20 albeit that it didn't for days after that - and an area being burnt is something in the order of 10,000 hectares, you need time to burn that, complete the burning and then have several more days, is that right, before the area is safe?

25 A. That's correct. That was the root of my frustration.

Q. In the weather cycles as you understood them, that was simply out of the question, wasn't it?
30 The time available was never going to be enough?

A. I was unaware, as I have said several times, of the conditions of the fire trails, the amount of fuel and whatever difficulties were associated with burning that country out. It is feasibly
35 possible but actually would have to be fairly quick.

Q. Is that complicated by the pre-existing conditions of drought, fuel loads and all the rest
40 of it in that particular season?

A. It is part of an issue. Obviously, the fuel loads are fairly dry. That's why the best burning out operations can be undertaken at night.

45 Q. We come to the 10th of January. You were still filling the role of liaison officer on 10 January, as you say in paragraph 33. You on

that morning, I assume, flew over Bendora, Mt Gingera and Stockyard with Mr Ingram for the purpose of mapping the fire boundaries; is that right?

5 A. Yes.

Q. As you say you left at about 7am. Then at 7.25, according to that paragraph of your statement, you provided a situation report in relation to the Bendora fire, which you describe as burning quietly and in most places was burning as a backing fire with low flame heights; is that right?

10 A. Yes.
15

Q. In paragraph 34 you then describe going to the Gingera fire with Mr Greep. Your statement says:

20 "I recall it being very cold and the fire behaviour was even more inactive than at Bendora. In some places the fire had actually burnt itself out. The vegetation cover was a thick alpine shrub, heath and poa type grasses that become extremely difficult to get through with hand tools. This was further shown to be true when we tried to land the helicopter; it actually sank about half a metre into the heath until the tail rotor was almost touching the vegetation. We were expecting" --

I take it that is you and Mr Greep, is it?

35 A. Oh, "we" as in I think collectively Bushfire Service.

Q. You continue:

40 "... that hand crews could cut tracks into this area but seeing as the heath was probably half a metre deep, I radioed in to COMCEN at 7.46am that a small dozer would be best to cut a trail directly alongside the fire edge, direct attack, right in around the top of the spur, causing minimal damage and thereby contain the fire. I received an immediate reply from Tony Graham from COMCEN that this would not be an option. In later

discussions with Tony Graham I believe the reason that this was not an option is that it was a national park and it was deemed inappropriate to have heavy machinery in this particular environment."

5

When did those later discussions occur, Mr Cooper?

A. I can't recall the exact time. It was probably later that day when I finished up as liaison officer at Queanbeyan.

10

Q. Was it by phone or in person?

A. No, it was in person.

Q. Did the conversation commence with some form of complaint by you about the fact that your request had been denied?

15

A. No, my recollection is it was more a discussion with Tony as to what the reasons were. It just went from there.

20

Q. What did he tell you, as best as you can recall?

A. As best as I can recall is that the options were looked at and, as far as they were concerned, they didn't want to put a park into that environment, those high alpine areas.

25

Q. And why was that?

A. Again, I can't - I don't know if I recall this or whether it is my interpretation, but it was due to the environmental issues with putting a dozer into that sort of alpine country.

30

Q. Did he tell you who had looked at it? You said you were informed --

35

A. No, he didn't.

Q. Do you understand from the process who it would be who would be likely to consider a request like that?

40

A. My impression would have been with ACT Parks and Tony Graham. But whether National Parks Brindabella were involved or not, I don't know.

45

Q. Going back to the reconnaissance flight, you then went to Stockyard which you described as the

most active of the three fires burning in the ACT that day. In paragraph 36, you refer to the fact that crews on the Gingera fire were withdrawn and sent to the Bendora fire. But you explain in that
5 paragraph that you thought the Gingera fire was the fire with the best chance of success that day; is that correct?

10 A. Based on the flight I had done that morning, yes.

Q. So the success that you expected could be achieved with the Gingera fire didn't depend on the dozer being used in the way that you had requested?

15 A. I think - yeah, the dozer would have been an integral part of containing that particular fire because of the vegetation that was there and the difficulty the crews were having cutting through that vegetation with hand tools.

20

Q. That had been denied?

A. Yes.

Q. So the withdrawal of crews from the Gingera
25 fire and being sent to the Bendora fire, did that mean that a chance of suppression of the Gingera fire had still been lost; in other words, did you believe the crews at Gingera even without the dozer still had a chance of containing or
30 controlling the fire?

A. Based on what I had seen that morning on that morning flight, they were doing quite good work. As I said, it had gone out in a number of places. The area they had to cover was not significant. I
35 think they could have still undertaken positive work on that fire, in my opinion.

Q. And controlled it or suppressed it?

40 A. I mean, every bit of work we undertake on these fires is with that aim and I believe that it could have been controlled and suppressed at some stage.

Q. And even without the dozer that you requested?

45 A. It would have been more difficult and it would have taken more time and resources, but it would have been possible.

Q. After that flight you then went back to Queanbeyan and resumed your role as liaison officer and, as you say in paragraph 37, you were dealing with the availability of dozers and the upgrading of tracks. In relation to the upgrading of tracks, did you have an understanding of how much or how many of the tracks which were forming part of the agreed containment lines required work and upgrading?

5
10 A. No.

Q. Had that been discussed back on the night of the 8th of January as to how much work would need to be done before the containment lines that were to be used - perhaps leaving out of account for the moment the Goodradigbee River - how many of those tracks required new work in order to facilitate, for example, the passage of heavy fire vehicles?

15
20 A. I think it was discussed, but my impression is that it wasn't a huge amount of work because we weren't frantically then at that stage saying that we need a lot of dozers and graders.

25 Q. By the 10th of January, the issue of dozers and the upgrading of tracks was an issue; is that right?

A. The 10th, yes.

30 Q. You say in paragraph 37 you were able to arrange a number of dozers for that fire and the ACT fires through Mr Buetel at ACT Forests; is that right?

A. That's correct.

35

Q. Just dealing with the McIntyre's fire, your statement says:

40 "On the McIntyre's Hut fire we had been using a maul dozer to extend the southern boundary (Flea Creek) down into the Goodradigbee River, a distance of not more than 500 metres. A larger machine was brought in to do this job and we used the smaller machine to clear areas under the power line and put in turnaround areas on the main road as a job to do on his way back up to Bulls Head. The

45

clearing under the power line again caused a long period of debate about the damage it may cause to the re-vegetation following the TransGrid debacle. Roger Good again was keen on not damaging this area with either fire or dozers."

I gather the TransGrid debacle, as you have described it in your statement, was a matter of some notoriety at the time in relation to - was it the easement or the Powerline Trail and the clearing of it at the time?

A. The powerline easement.

Q. What do you understand was the problem at the time of that issue?

A. The work that was undertaken scraped the soil down to bare earth and was considered probably a little bit over the top for the clearing that was required.

Q. Was that something of an issue either socially or politically at the time?

A. Yeah, both.

Q. At 9.30 on the morning of the 10th of January, a request was made by New South Wales to the ACT for 10 tankers and 15 light units to assist with the McIntyre's fire?

A. I think you have it wrongly there - it was "about" 10 tankers and 15 light units. It was a significant number. I can't remember the exact number.

Q. Was a request first of all made to you or did you discuss the nature of the request that would be made to the ACT?

A. Yes, it was discussed between Mr Arthur and myself.

Q. How were those figures settled upon?

A. Obviously 10 tankers - or a significant number of units - would impact greatly on ACT's ability to suppress our fires. So there was a bit of conversation about whether that was reasonable to expect that many.

Q. That describes what the topic was. What was actually being said as between you and Mr Arthur in relation to that?

5 A. We were trying to ascertain how many units would be available so that Mr Arthur could then go ahead and plan the back-burning operation.

Q. In the end, the request for about 10 tankers and 15 light units was not agreed to by
10 Mr Lucas-Smith?

A. Yes, that's correct.

Q. That's right; isn't it?

15 A. Yes.

Q. On the basis that he simply couldn't spare that number of resources because of the ACT's own fires?

20 A. Yes.

Q. You say at the end of paragraph 38:

25 "New South Wales Rural Fire Service initially argued that they could not go ahead with the burning as planned if they had no ACT resources however they finally accepted this reduced task force."

30 I should say that was four tankers and four light units?

A. That's correct.

Q. You then say:

35 "I then arranged for them to meet at the Uriarra depot at 12.30 to proceed into the McIntyre's Hut fire."

40 Who was saying to you that they couldn't go ahead with the burning if they didn't get the task force they requested?

45 A. I think this was a general discussion between Mr Arthur and myself, and possibly others. New South Wales were trying to arrange the start of the back-burning exercise and needed to know what resources they had available. Obviously they had banked on getting 10 tankers and 15 light units.

The plans they put in place would be different if they only got 4 and 4. That's the lines of the discussion in that the objectives for that back-burning operation would have to be wound back slightly if a reduced task force goes out.

5
Q. Do you understand why it was that the formulation of what would be needed from the ACT to assist with this back-burning was being discussed on the 10th of January and perhaps not a day or so earlier, bearing in mind the urgency that you have described? In other words --

A. Do I understand why?

15 Q. Yes. In other words, is it not possible to, say, work out perhaps not on the night of the 8th but some time in the early part of the 9th what resources would be required from somewhere like the ACT?

20 A. Yes, it is possible.

Q. Do you know why this discussion was not happening until the 10th of January?

25 A. I can only assume that the IMT at Queanbeyan were focusing on getting the containment lines prepared ready for the back-burning exercise. Once that it was acknowledged that back-burning could commence, they then were looking at resources and possible assistance with resources.

30 Q. But completion of the containment lines wouldn't of itself dictate what resources you would need, would it? I will put this proposition to you and see if you agree with it: you don't need to complete the containment lines in a case like this in order to know what resources you will need?

A. I don't believe so, no.

40 Q. So my question is whether you know from any direct knowledge why, as the containment lines were being worked on, the resources weren't being organised?

A. No.

45

Q. In paragraph 39 it appears that a complication in the process was that Mr Hunt and someone else

had taken a flight over the fire. You say at the beginning of the paragraph that they returned to tell the incident controller they were not happy with the progress that had been made on upgrading
5 the containment lines. How do you know that? Were you present at the conversation when the information was passed on?

A. Yes, when they came back from the flight.

10 Q. What did they say what was the problem?

A. My recollection is that we were using the dozer - there was some discussion about whether the fire trail or the Powerline Break be used as the area to burn from as the containment line. I
15 think after that flight that morning, it became apparent that using the Powerline Break was not an option because there were a number of steep ravines where a containment line could not be held as the fire would just burn back through where the
20 vegetation had not been cleared. So then we had to do a fallback back to the Powerline Fire Trail.

Q. In the opinion of some participants in the discussion, that meant that burning couldn't
25 start; is that right?

A. That's correct.

Q. Who expressed that view?

A. I can't remember individuals. It was an
30 Incident Management Team meeting with a number of people present.

Q. Including yourself?

A. Yes.
35

Q. Were you asked for an opinion?

A. Again, I'm only a liaison officer.

Q. Yes.

40 A. Not necessarily asked for an opinion.

Q. Did you express one anyway?

A. I gave one anyway, yes.

45 Q. You describe that in paragraph 39 in relation to the decision not to proceed, saying:
47

"I was against this action and argued that some progress with roadwork had been made and that we should commence the burning operations as soon as possible and take advantage of the weather - I was out voted. I clearly remember this decision, as the decision not to go ahead seemed to me to be the first prompt and unanimous decision the IMT and Queanbeyan had made since the start of the fire."

I want to ask you what you mean by that. Had there been, to your observation, some problem about the decision-making between the 8th and the 10th of January at the Queanbeyan IMT?

A. I think that comment reflects my frustration that, again, we were not going ahead with the burning. As each day went past we were getting closer to the bad weather returning. In fairness to the IMT at Queanbeyan, to go ahead and undertake and actually light that first match is a difficult decision. To back off and say, "We need to do some more roadworks" is a lot easier decision than to actually say "stick the match in and start".

Q. Similarly, in fairness to the IMT at Queanbeyan, at least in the initial stage the second of those choices, lighting the match, is potentially the more dangerous of the two options?

A. Without a doubt.

Q. Well, then the task force from the ACT who were on their way to McIntyre's were then rediverted to the Bendora fire; is that right?

A. That's correct.

Q. On the afternoon of the 10th of January, you ceased to be the liaison officer and that job was taken over by Mr Galvin?

A. Yes.

Q. Was that a matter of ordinary progression or did your termination in that role reflect some anger or frustration?

A. I'd like to think the former rather than the latter. There were three fire controllers in the

ACT - myself, Peter Galvin and Brian Murphy - and we were used on rotation on the Bendora fires. So it was just part of the rotation of our duties.

5 Q. Just part of the process. On Saturday the 11th January you started at the Curtin control centre, the ESB, at 7am. You say in paragraph 41 your activities - paragraph 41 has been somewhat redrafted.

10 A. Just to clarify that.

Q. Yes, do go ahead and clarify.

A. The fire that burnt through on the 18th took out our forest depot at Stromlo and took out my vehicle as well, so all my actual diary notes were destroyed at the time. Immediately following the fire at about 27 January, we had a meeting where it was imperative that we try and reconstruct our diary notes. I had made an error on the day in paragraph 41. That actually moved over a page.

MR WATTS: It is paragraph 47, a substantial part of that.

25 MR LASRY: Q. Just for clarification, where you say in your original statement that on Saturday the 11th of January you started at Curtin at 7am and set up a management process, that actually occurred on the 13th of January?

30 A. Yes, that's correct.

Q. Let me come to it simply to ask you what the problem was: were you on the 13th of January setting up a management structure for the items of plant which had been activated because to your observation there was no existing process for doing that?

A. I arrived at ESB on the 13th of January at 7 o'clock. My role was assistant operations officer to Tony Graham. One of the things that I had noticed - I had been to Bendora fire on the 12th and I had noticed that machinery was probably not being used in the most efficient and effective manner. By this stage we had concentrated on getting machinery there as opposed to tasking. It was my suggestion to Tony, which was agreed, that we set up a plant operations structure where there

is a person looking at the strategic use of the items of plant that we had on the fire ground.

5 Q. What was the problem about the efficient use of machinery? You say that you made some observations about that, but what were they?

10 A. Machines were arriving on the fire ground, and the incident controller on the fire ground didn't really realise that they were there and they were being tasked to undertake work in a not fully planned way.

15 I mean as an incident controller on the fire ground you don't want items of plant sitting around idle. However, if you are unaware that the item of plant is there or you don't have a properly structured plan, you can task that machine onto lower priority jobs without realising it.

20

Q. So the structure that was established on the 13th of January by you was a structure that basically tracked this equipment?

25 A. Yes. As I said, there were a number of machines by this stage, I think we had eight or nine dozers by the 13th and a grader. It was trying to work out - there were three fires - it trying to get a handle on who was where and with overnight resourcing which ones had operators available for overnight, so that the incident controller on any of those fires knew what items of plant they had at their disposal.

30 Q. If we can go back to the 11th for a moment, you had become the incident controller at the Bendora fire for the night shift of Saturday, the 11th; is that correct?

A. Yes, that's correct.

40 Q. You make the observation in paragraph 42 that no maps were provided to you to take to the Bendora fire when you were nominated as the incident controller nor any incident action plan?

A. That's correct.

45

Q. Was that surprising to you?

A. It was surprising that I didn't have some

maps. I was surprised that a detailed resource list wasn't available. And in effect an incident action plan puts together resource lists, maps and strategies and objectives for containing that fire
5 in that particular period.

Q. Let's just deal with the maps for a moment. Am I right that the maps are not so much with a view to enabling you to know how to get to the
10 fire but they are intended to be maps which give you information about the boundaries of the fire?

A. That's correct.

Q. As at the most recent time it can be --
15 A. Yes.

Q. Whose responsibility is it to prepare those maps and provide them?

A. The planning unit prepare the incident action
20 plan which is signed off by the incident controller.

Q. In this case the incident controller - when you refer to the incident controller, who are you
25 referring to?

A. My interpretation was the incident controller at the Service Management Team, which is the team that operates out of Curtin.

30 Q. So Mr Lucas-Smith?

A. That's correct.

Q. But you are the incident controller in the field?

35 A. That's correct.

Q. On a couple of previous occasions in the course of this evidence this topic has been discussed. Do you understand the difference
40 between the ability of the incident controller in the field to make decisions about strategies and objectives on the one hand; and the role of the incident controller at the Service Management Team at Curtin to make those decisions or intervene in
45 those decisions?

A. Yes.

47

Q. How does it work?

A. My understanding of how it is supposed to work is that the Service Management Team in at Curtin are overall looking at a number of fires. It is
5 most important when there is a number of incidents occurring at the same time. The planning unit in there has access to the met bureau, updated maps, computers, faxes, photocopiers et cetera, and the broad strategies for the day are reflected in the
10 incident action plan which is given to what we term in the ACT as the incident controller in the field. In effect, our incident controllers in the field are really just divisional commanders as per the New South Wales system - I think.

15

Q. Does that mean that important decisions in relation to any particular fire by an incident controller in the field are always subject to being reviewed by the incident controller at
20 Curtin and, if necessary, it is overruled?

A. My understanding and experience is that is how it occurs in the ACT.

Q. Now I think your answer to the questions I was
25 asking you perhaps answered the next thing that I wanted to ask you. The incident action plan is also to be a product of the planning section and the maps that you are talking about go with the incident action plan; is that correct?

30 A. That's correct, plus a resource list.

Q. So on the night of the 11th of January, going to the Bendora fire having been nominated as the incident controller - first of all who nominated
35 you as the incident controller?

A. I think I was informed by Tony Graham.

Q. Was it as simple as him saying to you, "Neil you are the incident controller tonight at
40 Bendora"?

A. That's my recollection, yes.

Q. Did you have any other information about what was to happen or what the strategy or objectives
45 were?

A. It would have been through a conversation with Tony, some discussion about where the fire is at

and basically what we are trying to do.

Q. Do you recall that information being given to you?

5 A. In written form?

Q. No, in any form.

A. As I said, it would have just been in discussion between Tony and myself.

10

Q. You say in paragraph 42 that you independently developed a strategy for the overall control of the fire?

A. That's correct.

15

Q. When did you do that?

A. Once I arrived at the fire and had discussed with the previous incident controller.

20

Q. Who was?

A. Tony Bartlett, I believe.

Q. You say in paragraph 42:

25

"I was operating as incident controller however had no support in the form of an IMT - an Incident Management Team - I appointed several of the senior Parks officers to sectors, however in reality I also filled the role of the operations officer for that evening. I had no idea where the Bendora fire fitted in relation to all the other fires and whether any actions that I may have implemented would affect those other fires."

30

35

A. That's correct.

Q. So you were describing there, in effect, the ignorance on your part of the big picture. Did you seek to establish, as it were, more information about where Bendora did fit in and what the consequences of actions were?

40

A. Not at that time. I was concentrating on trying to - after discussion with Tony Bartlett, the outgoing incident controller, we set some fairly clear directions for that evening that needed to be achieved, and that was my main focus

45

for the evening. What I am referring to there is a number of people on the fire that I was on were obviously experiencing smoke from several other fires and, you know, it was more than once that
5 the question was put to me as to what is happening elsewhere.

Q. Mr Cooper, you were asked during the course of the record of conversation that was conducted by
10 Constable Travers about the situation on the 11th of January at question 244:

"Q. What - at that stage of the afternoon of the 11th - did you have an opinion on what
15 the future potential of the fire could be?"

I think you were being asked at that stage about the Bendora fire. You said:

20 "A. Most certainly.

"Q. What was that?

"A. Ah, that we were in shitter's ditch, that everything we had done just seemed - a lot of
25 tracks - we were spending a large amount of time opening up old tracks so the dozers and graders were committed to doing trail upgrade works. And in fact on Moonlight Hollow Road I distinctly remember that where Graham
30 Blinksell was going down - because the grader operator was a one-man operation, he was working sort of I don't know, 15 hours, 20 a day, but he had to sleep at some stage. We were going down burning and we got to the
35 point where the grader hadn't upgraded the road any further, and it was going to be an impossible task to do burning in this road where the vegetation was just across the
40 road."

Right so far?

A. Yes.

Q. Continuing:
45

"Luckily, the conditions changed and we didn't have to go any further, because we

were just trying to track the fire - I mean, it was obvious to Blind Freddy at that stage we were in some pretty great bother. Containment lines were not very strong. They weren't what you would want to sort of put your hands on. They were pretty marginal at best and as they proved they just couldn't hold. And the timing thing too, because at this time we had a very large fire with a huge perimeter and to try and get all that burned out and blacked out before the next bad weather came was just a little bit - I sound like a negative bastard, don't I?"

15 As at the 11th, Mr Cooper, did you think it was possible to contain the Bendora fire?

A. I still thought it was possible, yes.

Q. Despite all those difficulties?

20 A. Yes, I was trying to reflect there it was by no means an easy task.

Q. Was the information you described there information you conveyed back to ESB?

25 A. Yes, I would have. Yes.

Q. I think one of the things that happened during that shift, which you refer to in paragraph 44, is the recall of the ACT task force from the McIntyre's Hut fire; is that right?

30 A. Yes.

Q. You describe that task force being recalled from the McIntyre's fire at 1.30 on the morning of 12 January. You also describe in paragraph 44 being told by Mr Simon Katz there had been no active burning since the shift changeover at 5 o'clock the previous afternoon; is that right?

35 A. That's my recollection, yes.

40

Q. Apart from the way you felt about that, which was valuable time was being wasted as far as New South Wales was concerned, you say later in paragraph 44:

45

"At the same time we were actively undertaking burning operations on the Bendora

fire and were desperate for extra resources to be able to get more of the containment lines secure before the following day. At 1.33am on the morning of the 12th of January I therefore contacted Dave Jamieson at COMCEN to try and get the ACT task force sent to me at the Bendora fire rather than be released to return home."

10 As far as you were concerned, how urgent was your need for those troops at the Bendora fire?

A. Very urgent.

Q. I am sorry?

15 A. Very urgent.

Q. Was that expressed by you to Mr Jamieson?

A. Yes, it was.

20 Q. What, as you recall, was his response?

A. His response was that it wasn't an option because he had been told that those crews had to return to town.

25 Q. Did he tell you why?

A. I think he said for retasking in the morning for the next shift.

Q. You go on to say:

30

"This request was denied by COMCEN as apparently the units were required again at 6am that morning. I pointed out that it would still give us three hours of use of those crews who were keen to assist but COMCEN denied again this request."

35

You had spoken to Mr Katz?

A. Yes.

40

Q. Put the proposition to him?

A. Yes. And Andrew Winter as well.

Q. And did they agree?

45

A. Yeah. They had gone out to the McIntyre's Hut fire fully expecting to be there all overnight, so they were prepared and ready for that. They were

quite happy to be retasked, if they were allowed.

Q. At the end of that shift, the handover from you as the incident controller for Bendora was to
5 Mr Bartlett on the morning of the 12th; is that correct?

A. That's correct.

Q. You say in the context of that handover that
10 there was no IMT setup overnight at Curtin so therefore no incident action plan for the next day?

A. That's correct.

15 Q. As far as you can tell, what was there at Curtin overnight on 11 January?

A. There would have been a radio operator and Dave Jamieson.

20 Q. Who would in effect be the duty officer?

A. He was holding the fort, I believe, yes.

Q. Holding the fort?

A. Yes.

25

Q. So what about the planning section?

A. No-one as far as I'm aware.

Q. As you understand it from your experience, is
30 that a usual practice once a fire is a campaign fire?

A. No.

Q. So there was no planning at all going on
35 overnight on the 11th at Curtin --

A. I had been involved at Queanbeyan with the McIntyre's Hut fire and I think after the first
night they had a full-blown Incident Management Team overnight. I had been involved in the Moruya
40 fires several months before and again full-blown management team day and night producing incident action plans for the day shift and night shift.

Q. At Queanbeyan for example on the night of the
45 9th of January and from there on, how many people would have been in the New South Wales planning section?

A. I can only surmise. I wasn't there at night; I was only there during the day. They would have had at least one planning officer. I don't know what other sort of staff they would have had.

5

Q. And producing incident action plans and associated documentation?

A. That's correct.

10 Q. The disadvantages of not having those facilities must have been obvious to you on the 11th and 12th. Did you raise that with anyone or complain to anyone about it?

15 A. Again, just in conversation with Tony Graham saying we really needed to be a little bit better with maps, resourcing and objectives, which in effect is an incident action plan.

20 Q. When did you say that to him; and what was his response?

A. Just in general conversation. I can't recall his response, I'm sorry.

25 Q. Well, this lack of that resource was a significant problem, wasn't it, Mr Cooper, for someone in your position as the incident controller at Bendora on the night of the 11th, for example? Did it occur to you that it would be appropriate to, in a sense, formalise the
30 complaint that you had about it and make perhaps a more detailed request that, "We need an overnight planning section operator; we can't do the job properly without proper incident action plans and maps"?

35 A. In hindsight, yes, I should have made a more formalised complaint.

40 Q. Your feeling about the Bendora fire as you handed over to Mr Bartlett was pessimistic, wasn't it, both as to the chances of holding the fire and the amount of resources that were available to that fire?

A. That's correct.

45 Q. You were back at Curtin on Sunday the 12th and in paragraph 46 you describe being informed that you would be fulfilling the role of operations

officer at Curtin on the 13th. Is that right, you were not to be required until the 13th?

A. That's correct, that's as assistant operations officer.

5

Q. So on the rest of the Sunday, you went up to Bendora fire with Jeff Carey?

A. Yes.

10 Q. In your statement you describe arriving at Bendora fire:

15 "It was making an intense run and it came up from Moonlight Hollow Road, crossed the Mt Franklin Road and spotted several metres into the Brindabella Valley to the west. Together with Brett McNamara and Robert Flint I investigated the chance of containing this fire by the use of helicopters - soon
20 realised the extent to which it had spotted. This fire activity trapped many of the ACT crews who congregated in the Moonlight Hollow intersection with Rick Hayes and Vivien Raffaele. I waited until the fire behaviour
25 abated and then drove down and to gather all the crews and then led them all back to Bulls Head. I also came across Phil Cheney from CSIRO who was taking measurements of rates of spread and fire intensity with his son Sean."

30

You in paragraph 47 then refer to the lack of handover from the night of the 12th of January to the 13th of January; is that right?

A. Yes.

35

Q. You also refer to the crash of the helicopter into the Bendora Dam. You make the point in the next paragraph of your statement that it would have been appropriate, you think, to have a
40 separate Incident Management Team for that event?

A. In my opinion, yes.

Q. You suggested that; is that right?

A. Yes, in conversation with Tony Graham.

45

Q. Do you know why that wasn't done?

A. I believe that incident itself was being

handled by the fire brigade.

Q. Am I right your concern about that incident was that it was distracting from, in effect, the fire effort?

A. That's correct.

Q. You say in paragraph 48:

10 "My recollection was that things were a bit frantic and there was no person taking control in 'guiding the ship'."

How long did that situation prevail for?

15 A. My recollection is it was several hours.

Q. On the 13th?

A. You are talking about referring to when the helicopter went in?

20

Q. Yes.

A. Yes, yes. I was in at the control room when we received the radio message. So there was a bit of confusion about what had happened, whether people were injured, arranging boats and crews. Obviously that threw a few things into mayhem.

25

Q. On the 14th of January, you went back to ESB and your role involved gathering information for the planning section. That involved what apparently, according to paragraphs 49 through to 51, was a hair-raising ride in a navy helicopter; is that right?

30

A. Most definitely, yes.

35

Q. The problem was in effect getting lost in the smoke and the situation becoming very dangerous, as I understand your evidence; is that true?

A. That's true. Visibility was virtually zero. Well, it was zero.

40

Q. Did that mean that the information you were able to obtain and provide to the planning unit was not substantial?

45 A. No. That's correct.

Q. In paragraph 52 you went back to ESB at

4 o'clock on the afternoon of the 16th of January to see what had happened and to get information as to what was required for the night shift. You say:

5

"I was verbally informed by Tony Bartlett there was an urgent need to consolidate the containment lines by extending the back-burning as quickly as possible. I could not locate any operational maps to take onto the fire ground despite the fact that it was now 7 days into a major fire event."

10

I take it you looked for current maps at ESB?

15

A. Yes.

Q. Did you speak to anyone about that? For example, did you ask Mr McRae for current operational maps?

20

A. I can't remember talking to Rick but I definitely went into the planning unit to try and find some maps.

Q. And were unable to find any?

25

A. No, couldn't find any maps.

Q. Did you speak to Mr Graham about the absence of maps or the problem with maps?

30

A. No. I remember discussing this with Dave Jamieson on the phone when I was up there a few days before and also discussing it with Brian Murphy, who eventually was able to source some maps and bring some copies up to the fire ground.

35

Q. The map that you ultimately took with you was one which was out of date, I take it?

A. It was an old forestry map which I grabbed on the 8th from the Stromlo Forest depot.

40

Q. On the night of the 16th of January, in paragraph 54 you refer to working on the Bendora fire on back-burning operations:

45

"... conscious of the fact that we had a substantial perimeter to complete and the rate at which we were burning was not sufficient".

When you say "substantial perimeter", how much were you actually intending to complete on that night?

5 A. I wanted to do about 8 kilometres that night. Now that may not be substantial with some of the other states with burning but, in those conditions with the crews that I had, that was a fair task.

10 Q. You refer in that paragraph to the inexperience of crews. You say:

15 "I understood why there was a reluctance to push this process along because at night, inexperienced crews could see the sparks going back over to the other side of the burn and there was concern about starting another unwanted fire."

20 What sort of inexperience are you there referring to? Is this the inexperience with night firefighting and operations?

25 A. I think a general inexperience in the ACT. There has been very minimal hazard reduction burning done, apart from ACT Forests, in the last 4 or 5 years. For some of the people that were there, it was probably their first or second fire. The inexperience I am referring to is that at night you can see every little spark and every little spot. We had commenced the burn and those sparks and spots were not igniting. The dew point was such that it was sparking over the line but there were no ignitions. We needed to push along a little bit. But there was a reluctance for some of the crews because they were slightly
35 inexperienced with seeing that sort of behaviour.

Q. In fact, as you say in paragraph 55, did you complete about 7 kilometres of the back-burning on that night?

40 A. Yeah. We had one small section of about 500 metres still to do to hand over to Brian Murphy the next day.

45 MR LASRY: Is that a convenient time, your Worship? I am about to go to the next day.

THE CORONER: Yes. We will adjourn for lunch.

RESUMED

[2.05pm]

5 MR LASRY: Q. Mr Cooper, at lunch we had reached
I think the 16th of January, which you deal with
in paragraph 56 of your statement. The 16th was
effectively a day off for you; is that right?
That is the first day off you had since 8 January;
10 is that right?

A. That's correct.

Q. On Friday the 17th you went to Sydney and on
the way home, as you say in paragraph 56, visited
15 your father and then, hearing radio broadcasts,
went to ESB at about 3 o'clock on the afternoon of
the 17th; is that right?

A. Yes.

20 Q. You went there because someone had rung you to
indicate that conditions were deteriorating?

A. Yes.

Q. Do you remember who rang you?

25 A. No, I don't, sorry - possibly Tony Graham, but
I couldn't be 100 per cent sure.

Q. But requesting you to come in and assist?

A. More requesting to go to - there was an
30 Incident Management Team briefing at Queanbeyan.
It was more to have a representative to go to that
meeting.

Q. In the statement describing that, you said in
35 paragraph 56:

"I was asked to go into Queanbeyan and attend
an IMT (McIntyre's Hut fire) briefing at
Queanbeyan at about 1530 in the afternoon to
40 see what actions they had in place to deal
with the McIntyre's Hut fire."

Is that the terms in which the request was made to
you, that you were to go over there and find out
45 what they were proposing to do with the McIntyre's
Hut fire?

A. That was my recollection, yes.

Q. If there was a meeting and it was appropriate for you to attend it in a liaison role, that is one thing; was there not some more efficient way of finding out that information other than by
5 sending you to a meeting?

A. Possibly. I was requested to go, to attend that meeting.

10 Q. At that stage you say in paragraph 56:

"Smoke from McIntyre's was towering over the ACT."

15 You got to Queanbeyan and took part in the meeting; is that right? Was there a meeting?

A. I went over - yes, there was.

20 Q. Who was at that meeting on the afternoon of the 17th?

25 A. I think Jim Lomas from National Parks. The meeting was actually held - it was the first time I had been to that facility in Queanbeyan. The meeting was held over the carpark to the southern side of the main control room.

30 Q. In your record of conversation on the 18th of December 2003, which is [DPP.DPP.0004.0019], you deal with this in answer to question 66. Do you remember being asked about that by Constable Travers in the course of those conversations?

A. More than likely, yes.

35 Q. The question at 66 was:

"Do you recall what was discussed at that briefing at Yarrowlumla fire control?"

You said by way of answer:

40 "Yes, it was a little bit of mayhem. It wasn't the sort of Incident Management Team environment that I'd experienced in the first two days. It was a different location. It was out of the office out on the coast side
45 of Queanbeyan. We all went over to a separate room where they have the Incident Management Team meeting and, I think

5 basically they realised by this stage that they were in all sorts of trouble, that it was going to break the containment lines and they were starting to look at - again this is my recollection - looking at where the next line of attack would be. They were looking at the Brindabella Road, main road, as an area to stop."

10 Is that your recollection of the way that conversation went?

A. Yes.

15 Q. As at half past 3 in the afternoon of the 17th, who was expressing the view that the fire was going to break the containment lines and that they were in trouble?

20 A. I think it was just the general tone of the meeting. As I said, the only person - I didn't know many of the people there - I think Julie Crawford was floating around. Whether she was actually at that meeting or not, I'm not sure. There was just general concern that the likelihood of containment was getting less and less.

25 Q. By this stage were people talking about the consequences for not only the ACT but for Canberra?

A. Not that I recall.

30 Q. Had it by this stage occurred to you at any stage and, if so when, that the suburbs of Canberra themselves were at risk from these fires?

A. At this stage?

35 Q. Yes.

A. No.

40 Q. Hadn't crossed your mind?

A. No.

Q. You say in your statement in paragraph 56:

45 "I still recall a comment by someone at the New South Wales Rural Fire Service office on that day in response to my worried and pained look, "... just think, Neil, we'll be part of

history!" My response was that they could jam their history and should concentrate their efforts on trying to save the plantations!"

5

You were asked about that quotation in the interview with Constable Travers at question 78:

10 "Q. You state also in paragraph 56, "I still recall the comment by someone in the New South Wales Rural Fire Service office on that day in response to my worried and pained look and when they said '... just think, Neil, we'll be part of history!' What do you think
15 they meant by that?

"A. What I took them to mean was that this fire was going to be bigger than Ben Hur. And I guess from that I take that they already realised that the plantations were
20 going to disappear. It's funny - and again I keep coming back to these certain things you remember clearly and that was one of them. My interpretation is that they meant that, it will be written down in history as an
25 extremely large fire which destroyed a lot of plantation assets. I don't for a minute think that they were referring to suburban Canberra."

30 Then you were asked whether you recall who made the comment, and you said it was Julie Crawford in fact who made the comment. Is that your present recollection?

A. It is. Can I comment on that?
35

Q. Certainly.
A. I think at the time it was just a flippant remark. I have known Julie for a number of years. She would have seen that I was quite distressed
40 and also, when doing these statements, you must remember that we had our whole plantation destroyed, all our offices destroyed. So it was a bit of a brain dump in statement form.

45 Q. Going back to the original statement, one observation you make in paragraph 56, which I now ask you whether it is an opinion you still hold,

is that as at the time of that afternoon:

5 "New South Wales Rural Fire Service still
appeared to have no clear strategy to deal
with the fire and they still seemed not to
realise the value of the pine forest
resource. For example, one of the proposed
strategies was to commence burning from the
10 Brindabella Road back through the
plantations. I pointed out that if the fire
could not be contained by the existing
containment lines then actively back-burning
through pine plantations in conditions
15 forecast for the following days was not a
very good idea and had little chance of
success."

First of all, is that still your recollection --
A. Yes.

20

Q. -- that it appeared to you that New South
Wales Rural Fire Service appeared to have no clear
strategy?

A. I think by this stage a lot of things that had
25 been thrown at it weren't quite working. That's
why I referred to that my experience with New
South Wales Rural Fire Service and National Parks
is they run a very tight ship with incident
management teams. It appeared to me it had got to
30 the stage where everything they tried to do wasn't
working.

Q. You then went back to the ACT and relayed your
concerns to the Incident Management Team in the
35 ACT, including Mr Graham and Mr Lucas-Smith, after
that meeting; is that right?

A. I went back and relayed, yes.

Q. What you say in your statement at the end of
40 paragraph 56 that what you relayed was your
concerns about the apparent inaction on the
McIntyre's Hut fire; that is the way you described
it to Mr Graham and to Mr Lucas-Smith?

A. At this stage I was extremely concerned about
45 the pine plantation assets.

Q. On the morning of the 18th of January, you

describe attending the planning meeting at about 9 o'clock; is that correct?

A. That's correct.

5 Q. Could I have please [ESB.AFP.0010.0266]. The document I have asked for, Mr Cooper, is the minutes of that planning meeting at 9.30 on the 18th of January. Can you recall that there were a significant number of people there?

10 A. I recall at all the Incident Management Team meetings there were a significant number of people, yes.

Q. And how many, approximately?

15 A. 30 to 40. I mean there was standing room only.

Q. Standing room only. If we could go over onto the following page 0267. Do you see on that page in the course of that meeting a number of things were discussed. But the planning considerations included as there recorded:

25 "... a significant potential for long distance spotting on 18 January."

Can you recall that being discussed?

A. Not specifically, but I don't doubt that it was.

30

Q. Going down a bit, I won't go through this line by line but "current areas of concern" included:

35 "Potential run from McIntyre's fire impacting on Weston Creek to Greenway and potentially west and south Belconnen resulting from a more westerly wind; potential run from Tidbinbilla impacting on the Bullen Range and southern parts of Tuggeranong; potential threat from the Stockyard fire to the west of the Murrumbidgee River to Williamsdale."

40

Do you recall those matters being raised at that meeting?

45 A. Not specifically, but I don't question that they were.

47

Q. Had you prior to the 9.30 planning meeting on 18 January yet turned your mind to the possibility that this fire was now at the stage where it might affect the Canberra suburban area?

5 A. No, I hadn't.

Q. At that meeting, is it likely that was the first time that had been brought to your attention?

10 A. Yes, it is. Even then I remember talking to Hilton Taylor, the situation officer, after that meeting that I believed that these predictions were based on a fire with no resources --

15 Q. Unattended fires?

A. Yes, yes. I still strongly believe that, once it came out of the plantations or out of the timber, we would be able to contain it on the grassland.

20

Q. Can you recall any discussion at that meeting about the possibility that it might be necessary to issue warnings, particularly in the suburban area of Canberra?

25 A. Not specifically, no.

Q. Having been at that meeting at 9.30 on 18 January, you say that you were then informed by Mr Lucas-Smith that you were not required until later that night. In paragraph 57 you note you thought that was a bit strange bearing in mind you had been rested and arrived at work as agreed the day before; is that right?

30 A. Yes, I had that feeling, yes.

35

Q. Did you ask why it would be that, given the circumstances, you wouldn't be required?

40 A. Not necessarily. I talked to Tony Bartlett but I accepted that, as one of the group captains, I would be rostered on and be required as per Bushfire Service requirements.

Q. Your continuing concern was the pine plantations; is that right?

45 A. Most definitely.

Q. You say in paragraph 57:

"I also felt that as our plantations were at risk it would make sense to use someone who had plantation experience and knowledge."

5 Did you raise that with Mr Lucas-Smith at the point where he was suggesting to you that you wouldn't be required?

A. I don't think I raised it directly. I definitely talked to Tony Bartlett about it.

10

Q. Would it have been inappropriate for you to have raised that with Mr Lucas-Smith?

A. It may not have been in normal circumstances to have raised it with Mr Peter Lucas-Smith, but 15 this was a fairly large meeting with a lot of people and Peter was obviously - had a lot of people around him. I thought the most appropriate way was to talk to my director at ACT Forests about the forest interests.

20

Q. The information that was conveyed to you that you wouldn't be required until later that night, was that given to you during the meeting or outside the meeting?

A. I can't remember. It was around the time of the meeting, whether it was during or after, I'm not quite sure, sorry.

25

Q. What you do also recall from paragraph 57 is the prediction made by Mr Hilton Taylor. In 30 paragraph 57 you refer to that by saying:

35

"My recollection is that Hilton Taylor, the situation officer in the planning unit, made it quite clear at that 9am briefing that the McIntyre fire would be in Canberra by late that afternoon."

Do you recall that occurring?

40

A. Yes, yes.

45

Q. I wonder if we could see for the sake of completeness [ESB.AFP.0110.0693]. The document that is on its way to the screen near you, Mr Cooper, is the message form dated 9am on 18 January I think prepared by - certainly signed by Mr Taylor and it represents a message from

planning to operations. The document indicates under points to note:

5 "1. Reports of active fire in the Uriarra, Two Sticks area; 2. This fire under the influence of westerly/north-westerly fire weather has the potential to impact on rural lessees, the Canberra rural/urban interface from Hawker to Weston Creek from around 1500
10 this afternoon; 3. This fire needs to be resourced as a priority."

Is that essentially the information that you can recall Mr Taylor providing at that planning
15 meeting?

A. Yes.

Q. You express concern in discussion with Mr Bartlett and Mr Taylor that no resources were
20 being assigned to the north-western side, which was the McIntyre's Hut area. As you were not comfortable with the situation, it was agreed that you would go into the field and have a look for yourself in effect; is that right?

25 A. That's correct. By this stage the fire had already entered the northern end of the pines. We already had a significant area of Pierces Creek burnt out. It was getting quite serious.

30 Q. You were in what sort of vehicle when you went out to the Uriarra Forest?

A. 4-wheel drive Toyota.

Q. Any firefighting capacity on your vehicle?

35 A. No.

Q. Were you by yourself?

A. Yes.

40 Q. You went to the Uriarra Forest and, as you have described, the Blue Range area where the fire was already into the plantation; is that right?

A. That's correct.

45 Q. You passed the information back to Mr Taylor at Curtin and then your attention was drawn to Mr Troy Meredith who was at the fire tower at

Mt Coree?

A. That's correct.

Q. Was there some issue as to whether or not he
5 should get out of that tower as soon as possible?

A. Yes. He was asked to advise, from COMCEN, to
leave the tower. One positive out of this is that
I was almost about to pick the radio up to tell
Troy the safest spot would be to stay in the tower
10 and I didn't do that, which is lucky because the
tower burnt down.

Q. You then travelled north down the Uriarra
Crossing Road towards Uriarra Crossing?

15 A. Yes.

Q. You describe in paragraph 62 of your statement
hearing what you call a white message advising of
the fire which he had judged was now in the
20 Molonglo water treatment plant?

A. That's correct.

Q. You went further down the Uriarra Crossing to
get a better view of the fire and could see that
25 the fire was not affecting the actual sewerage
works; is that right?

A. Yes, at that stage.

Q. Went back up Uriarra Crossing Road towards the
30 settlement to see if the fire had spread into what
you describe as block 13, which is a patch of
pines just north of the settlement, and it hadn't
at that stage; is that right?

A. That's right. We had quite expensive logging
35 equipment in there.

Q. Was it going to be possible to salvage that
equipment before the fire arrived - in fact was
that equipment removed before the fire arrived?

40 A. No, no, it wasn't.

Q. You then went, I think, to the Stromlo depot
to try and gauge where the fire front was actually
located. You refer to that in paragraph 64.

45 A. Yes.

Q. I think on the chronology you were there at

about quarter past 2 in the afternoon, then you left Stromlo and went back to the property at Huntly?

A. Yes.

5

Q. Mainly because you were concerned now with property protection; is that right?

A. Yes. And as there were a number of volunteer units in that vicinity, I thought I could be of assistance, yes.

10

Q. By 2.30 you had met with Mr Simon Katz, and the plan at that stage between the two of you was to try to assist the manageress at Huntly?

15

A. That's correct. She was trying to get cattle out of the property.

Q. Were you successful?

A. No.

20

Q. Were the cattle destroyed by the fire?

A. Some were. I don't know if those specific ones were. She disappeared in one direction and we were trapped, sort of.

25

Q. You described that incident in these terms:

"We were separated from the other Rivers units as we tried to help the manageress of Huntly (I cannot recall her name) muster cattle out of the path of the fire. The fire was roaring up the roadside vegetation (which was acting as a wick) and our only choice at the time was to retreat into the heavily grazed paddock on the southern side of the Uriarra Crossing Road. I radioed in to say we were in a bit of trouble because we were now caught between the fire fronts with one front to the north, a front to the south and another coming up from the west.

40

In desperation I tried to burn a patch of ground to give us an area of safety but there was not enough fuel to light a new fire and the winds were too strong actually picking up rocks with enough force to break car windows. The oncoming flames driven by heat and wind

45

were up to 2 metres high. I remember they were as high as the aerial on my vehicle. The flames had a depth of greater than 100 metres, which is a lot deeper than normal grass fires. I could not believe the height and depth of the approaching flame front given that it was burning across heavily grazed and bare ground."

10 I take it you had never seen anything like that before, Mr Cooper?

A. No, I had not.

15 Q. You continue:

"We were probably 70 or 80 metres from the road and the flame front was coming right at at us.

20 Our only option was to face the vehicles in the direction of the flames and leaving it to the very last minute, I drove straight through the fire with the Rivers Command Unit driving next to me. I couldn't see anything so I just kept the steering wheel straight, heading through to where I thought the gate was. Luckily we both came out exactly where the gateway was and we made it onto the bitumen road. By this time my vehicle's dashboard was smoking and all the engine warning lights had come on. The radiator hoses underneath had melted and the temperature gauge was way off the dial. Rivers 1 was okay although his offsider in the vehicle was slightly stressed."

That sounds pretty dramatic. It must have been a very dramatic moment, was it?

40 A. Yes.

Q. You then went back - was the vehicle then serviceable once you got through the fire front; were you actually still able to drive it?

45 A. Only as far as the Stromlo depot.

Q. Which is how far?

A. 3 kilometres.

Q. The hoses hadn't melted to the point where you had no engine cooling or anything like that?

A. Yeah.

5 Q. They had?

A. Yeah.

Q. Did you drive it until it seized in effect?

A. Basically, yes.

10

Q. Then at some time later after that, I think you obtained another vehicle; is that right?

A. That's correct.

15 Q. Was that at Stromlo?

A. Yes.

Q. And then evacuated from there as well?

A. Yes.

20

Q. Part of the purpose of going to Stromlo, I think, was to assist a mechanic who was there and to make sure that he knew he should leave?

A. The main purpose of going to Stromlo was to get another vehicle.

25

Q. And to get another vehicle, yes. It was now at about 10 past 3 in the afternoon; is that right?

30 A. Yes.

Q. Paragraph 72 --

A. Sorry, I went back to the depot, got a vehicle. Then left the depot and did some reconnaissance of where it actually was in Stromlo. Then I came back to the depot because Paul Graham, the mechanic, was still there. This was the second return to the depot.

35

40 Q. At 18 minutes past 3, according to your recollection and probably your note, the depot and the settlement area were completely engulfed by fire; is that right?

A. Yes.

45

Q. You say:

47

"I became concerned at my own safety and tried to get out of the depot via the eastern access road down the Weston Creek side, thinking that the oval behind our depot
5 (which was bare at the time) should prove to be a safe area. As I drove out the fire was crowning over the top of me and access on to the Cotter Road was blocked. I turned around and went to go back to the oval, only to see
10 it was just a sea of flame. I clearly recall thinking that it looked just like a sea of oil burning on top of the water and that the whole area was alight at once, ie it had no front as such.

15 I retreated back up past the depot and as I went past, a couple of cars were exploding as the petrol caps were blown off and tyres were blowing out. A hubcap from one of the cars
20 spun out and smashed into the side of my vehicle. I eventually made it onto the Cotter Road and turned left up Eucumbene Drive, which was totally engulfed in flame and smoke. Visibility was now less than
25 2 metres. The only way I could get up Eucumbene Drive was to drive along the guttering all the way up and feeling where I was on the road - driving by Braille! This was done at some considerable speed as the
30 flames had by this stage engulfed the plantation on both sides of the road.

There was a high voltage 3-strand power line down across the road that I didn't see in
35 time. I drove straight through it with one wire ripping off the aerial and red light as it went over the top of vehicle. Luckily the other two went underneath. I got up to the corner of Warragamba Avenue and Eucumbene
40 Drive, just as a fire brigade pumper was pulling out because it was too hot. Fortunately I was able to stick right behind them all the way down Warragamba Avenue, dodging abandoned cars on the road, whilst we
45 just tried to keep in front of the fire front. By this time numerous houses were alight."

You then go on to describe getting to the end of Warragamba Drive at about 4 o'clock and advising media personnel not to go back into the area.

5 Perhaps the significant thing which I might ask you to describe is what occurred at Mr Coonan house. Can you describe it as you recall? I know it is set out in your statement. You went there concerned for the welfare of Mr Coonan and his family and his property. Just describe what happened.

10 A. This was a little while later. The fire front was coming through. We went down to Mr Coonan's place. He was out the back on a tracker trying to stop the flames burning the back of the house. Peter Buetel was in the vehicle with me. He went into the house. There was two girls in there, Mr Coonan's daughters, who were quite hysterical. We went back, saw Mr Coonan, suggested he should get out of there. He insisted on staying on the tractor. We yelled to him to say that he needs to get his family out.

25 We went back into the house. We couldn't find Mr Coonan's wife. We grabbed the two children, led them out to the vehicle and took them to a friend of the family's place in Cook.

30 Q. And then went back to Mr Coonan's house?
A. We returned immediately after we had taken the girls, because we were concerned that the mother now didn't know where the daughters were. We returned there to explain to her that we moved them to safety.

35 Q. When you got back there, was Mr Coonan's house intact or had it been burnt?
A. It was intact.

40 Q. In fact it was saved?
A. Yes, yes.

45 Q. And neither Mr Coonan nor his wife were injured; is that right?
A. That's correct. Yes.

Q. Just a couple of other matters which are

perhaps important but less dramatic than that. Just a couple of matters that you raised in your interviews, Mr Cooper. Going back and dealing with the Incident Management Team process and the Service Management Team in your interview on 5 15 December 2003 at question 30, you were asked by Constable Travers:

10 "Q. To your knowledge, are there any differences in the way the ACT uses the incident control system with interstate models?

15 "A. In my opinion there is. I believe there's a reluctance to devolve those responsibilities to the incident controller in the field. So it appears to me that the overall control is still maintained at the Bushfire Service head office. There is a sort of reluctance to let go of the apron 20 strings. I know that in Victoria the way the system works is that the chief fire control officer stays in his main office in Melbourne and his job is more allocating between the different incident control teams that might 25 be set up; a fire at Bendigo, and there might be another one at Ballarat and another one at Echuca and all over the place. His role is at a higher level determining, okay, I've got this I've got 10 helicopters all up, I can 30 let you have two and the other eight are over here. It's just balancing those. But the overall fighting of that incident, or dealing with the incident remains the responsibility of that incident control team that has been 35 set up.

40 "Q. To our understanding there's differences with the interstate model with what is called a Service Management Team at Curtin and an Incident Management Team in the field. Can you just describe for us, as you understand it, what the roles of either the Service Management Team or the Incident Management Team are?

45 "A. That whole concept of Service Management Team and Incident Management Team was set up after similar issues from the Christmas 2001

fires and it is covered in numerous debriefing minutes that there was some concern about how the incident control system worked. What they tried to do was bring a management team, Incident Management Team type terminology, which basically referred to the possible example I just mentioned in Victoria. If the Service Management Team was just that group sitting back in Curtin making sure you've got everything you want but not setting any strategies or dealing with that particular incident, and then the Incident Management Team is the group out in the field who is looking at the strategies to contain that particular incident and how they were going to do it all and the tactics to achieve those strategies. That's my understanding of the Service Management Team, Incident Management Team."

20

Do you say that, in these particular fires, a problem arose to the extent that there was some lack of understanding or misunderstanding about the role of individual incident controllers in the field during January 2003 and the role of the Service Management Team?

25 A. In my opinion, yes.

Q. Go on.

30 A. The land managers in the ACT and Bushfire Service have been working since the 2003 fires and indeed prior to that towards a system that we all fully understand and operate within. That's currently happening now.

35

Q. Do I take from the answers that you were giving to those questions that you at least from your experience regard it as undesirable to have someone sitting in a headquarters building who is effectively maintaining individual control over strategies and tactics on an incident by incident basis?

40 A. In my opinion, yes.

45 Q. What's the problem with that? Given that that person is likely to be an experienced firefighter, what is the problem?

A. The role of the incident controller in the field is to determine strategies and tactics to deal with that incident. Obviously they need to report back to what we call the Service Management
5 Team or the main controller every now and then just informing them of what is happening and how it is going. The on-ground decisions should be with the person who is in the field.

10 Q. To take New South Wales as a comparison, to your observation during these fires is that the way the New South Wales IMT was functioning?

A. Yes. With different terminology, which
15 divisional commanders as opposed to - and it worked that way in Moruya as well.

Q. You said later in answer to question 45 in that same interview:

20 "Q. Were field incident controllers able to perform their role as an incident controller?
"A. I don't believe so."

I take it that comes from the material I have
25 already referred you to, together with, as I understand your evidence, an absence of resources?
A. Yes.

Q. Such as incident action plan, maps and
30 information of that kind; is that correct?

A. And Incident Management Team.

Q. Just on that same broad topic, in question 52
35 you were asked questions about debriefing and Constable Travers asked you:

"Q. That method of debriefing and, as I understand it, it goes sort of hand in hand with the incident control system having a
40 night shift doing cleaning for the day shift and so on?

"A. That's right.

45 "Q. Is that what occurred during January?

"A. No, no. There was no night shift for the first - that I'm aware of and my memory is not that good. But I know for sure there was

no night shift for at least the first 5 or 6 days.

5 "Q. That's a night shift at Curtin that you are referring to?

"A. Yeah, well that's where the planning had to be done from. As I said, there was no facilities at Bulls Head to do faxes."

10 Pausing there, Bulls Head was a staging area?

A. Yes.

Q. And was it in effect a forward control unit or a forward control area?

15 A. Yes.

Q. It was. You go on to say:

20 "You were flat out getting phone range with one satellite phone which worked marginally. We had no information, no facilities to set up to start to do some of that planning. In other states, the incident management team will operate out of the school building or
25 church. All you need is a table and some lights and some Powerpoints. But we had none of that, so we couldn't produce anything. As you saw, we didn't even have maps. Even when they were requested, those maps they were
30 pretty ordinary, to say the best."

Do I understand from that that, properly established, a forward control unit in the field has all those facilities: phone connection, fax
35 machine, the ability to generate data to produce incident action plans and that kind of thing?

A. Yes, they do. I should add, the difficulty we do have in the ACT is that we are fairly small. What I am referring to is Victoria and New South
40 Wales where, if there is a number of incidents happening across the state, they can be managed from centres closer to the point of fire.

Q. That's more desirable to do it that way?

45 A. We tried to set it up in 2003 operating out of Stromlo as an Incident Management Team location, but that was not acceptable.

Q. I won't read this in detail. You were asked again much later in the interview at question 240 about incident action plans:

5 "Q. Who do you feel should have been responsible for producing these?

"A. The Service Management Team at Curtin."

10 Given the circumstances and given the lack of facilities in the field - I understand you to be saying that the only place where a proper incident action plan could have been produced was at the Curtin headquarters; is that correct?

15 A. That's correct.

Q. According to your answer to that question, the first time, as far as you were aware, that that was done was on the night of the 17th of January?

20 A. That's correct.

MR LASRY: Thank you, your Worship, I have no further questions.

25 THE CORONER: Thank you, Mr Lasry. Yes, Mr Lakatos.

MR LAKATOS: Thank you, your Worship.

<CROSS-EXAMINATION BY MR LAKATOS

30 MR LAKATOS: Q. Mr Cooper, you have been taken at great length through your statements rather. Mr Lasry took you to a number of the last paragraphs in your statement which deal with the dramatic incidents and contact you had with the
35 fires on the 18th of January. Would it be fair to say that there was considerable stress, strain and psychological angst in the course of that period of time as a result of those experiences?

40 A. Yes, that would be a fair comment.

Q. That stress, strain and pressure has continued for some time after those incidents; would it be fair to say?

45 A. Yes.

Q. When you came to write your various statements and interviews you were still, I suppose, affected

to some extent by the pressures that you had undergone during that period?

A. Yes.

5 Q. When you were taken to the comment by Ms Crawford, you indicated that basically the comment that you recorded there was - I think to use your term - "a brain dump" at that time, was it?

10 A. Yes, that's correct.

Q. That was, I suppose, your way of saying how you were releasing the stress and pressures which you had gone through; would that be so?

15 A. I would agree with that, yes.

Q. I suppose to complete the circle, the lead-up to this coronial inquiry from your perspective has been a stressful one; is that so?

20 A. It's not something that I'm used to in my normal course of duty, yes.

Q. It is not something you would want to go through again too often, I take it?

25 A. No offence to anyone present, but yes.

Q. No offence taken. If I could take you to some issues arising from your evidence: in your amended statement at paragraph 5 you set out your
30 firefighting experience in some detail. I think it is fair to say focusing upon the practical firefighting experience really since 1982 until the present that you have been involved in various, both serious and less serious, incidents
35 of firefighting as set out at the bottom of page 2 of your statement; is that so?

A. In the ACT, yes.

Q. In the ACT. So at least in this territory you had as at January 2003 in excess of 20 years of
40 firefighting experience?

A. Yes, that's correct.

Q. And probably fair to say that you would be one
45 of the more experienced - not necessarily the most but one of the more experienced firefighters going around in the territory as at January 2003?

A. Yeah. I've got a fair bit of experience, yes.

Q. The opinions you have expressed, I suppose, are really the opinions of a person who has seen a tremendous amount of firefighting, directly in the face of fires on fire grounds; would that be a fair comment?

A. Yes.

Q. Mr Lasry asked you some questions concerning the issue of overnight firefighting. Do you recall that general subject matter being discussed this morning by him?

A. Yes, I do.

Q. In your record of conversation which is the one done on 15 December 2003 [DPP.DPP.0004.0018]. At question 146 you were asked about this general topic:

"Q. Has there been a kind of like a policy or cultural shift to move away from night-time firefighting?

"A. "In my opinion I think there has."

So you had agreed that there had been a policy or cultural shift away from night-time firefighting. The following question and answer:

"Q. And do you know when that shift - sort of commenced or started - began to occur?

"A. In fact to probably support my opinion is that it has been raised at the national fire control officer group meeting and that's basically representatives from every state in Australia plus New Zealand."

You go on to complete your answer that a position paper had been formulated by that group; do you recall that general area of discussion in your record of conversation?

A. Yes.

Q. May we take it that the fact that it was being discussed by that diverse group of people indicated to you the issue of overnight firefighting was not only a live issue in the ACT

but in the other jurisdictions whose
representatives attended that meeting as well?

A. Yes.

5 Q. Was the result of that discussion and others
of the group the compilation of the position
paper, a copy of which I hope I am now showing
you. Is that the position paper to which you made
reference?

10 A. Yes.

Q. I think it fair to say that the first
paragraph in effect acknowledges the value of the
technique of night-time firefighting when
15 appropriate?

A. Yes.

Q. And then the second paragraph commences:

20 "There are some safety requirements
additional to those for day-time firefighting
caused primarily by a reduced visual range."

Then it goes on in a number of dot points to say:

25 "Firefighting at night is acceptable if."

And it gives the dot points; do you see those?

A. Yes.

30 Q. Moving to the third dot point, it reads:

"It involves no diminution for safety for
firefighting personnel."

35 A. Yes.

Q. The next dot point:

40 "Personnel are appropriately trained and fit
for the task."

A. Yes.

Q. Thereafter:

45 "Personnel are adequately rested."

A. Yes.

47

Q. It says:

"Personnel are adequately briefed; site specific hazards have been identified."

5

And it goes on. A number of the dot points involve judgments about the safety of crew members of the person controlling the incident at that particular time; you agree?

10 A. Yes.

Q. Would it be fair to say that, as a general proposition, even experienced minds might come to different decisions about the various weights you would give to these dot points in giving consideration to a particular fire ground night-time firefighting situation?

A. Sorry, could you rephrase that question?

20 Q. Sorry, it got a bit too long. Would it be fair to say that, in applying those dot points, reasonable experienced minds might differ as to the weight you would give to, for example, safety considerations, site considerations and the like?

25 A. That's a fair comment.

MR LAKATOS: If it is appropriate, I would seek to tender that at a relevant time.

30 MR LASRY: I am happy for it to be tendered now.

MR LAKATOS: It might be the only time I tender a document. It is the firefighting at night fire management group position paper.

35

THE CORONER: Firefighting at night document will become exhibit 0049.

40 **EXHIBIT #0049 - FIREFIGHTING AT NIGHT DOCUMENT
TENDERED, ADMITTED WITHOUT OBJECTION**

MR LAKATOS: Q. Moving then to a different issue, Mr Cooper. You were taken by my learned friend to the interview of the 18th of December 2003 [DPP.DPP.0004.0019]. You were taken earlier on to question 66 of that document which is at page 15. That dealt with your impressions, I think it is

45

fair to say, of the meeting at Queanbeyan at 3.30pm on 17 January once you had been sent back to sit in on their McIntyre's Hut briefing that afternoon?

5 A. Yes.

Q. Mr Lasry has read that your answer to question 66 was:

10 "Yes, it was a little bit of mayhem. It wasn't the sort of Incident Management Team environment that I'd experienced in the first two days."

15 That, I take it, was an impression that you gained compared to, as you stated earlier, the order and controlled circumstances I suppose that the earlier meetings you had attended had occurred under?

20 A. Yes.

Q. Would it be fair to say that that was clearly at a time when things were, to use the colloquial, starting to go out of control?

25 A. Definitely, yes.

Q. And probably resources were stretched?

A. Yes.

30 Q. And people were getting tired and looking for answers?

A. Yes.

35 Q. Perhaps a situation which you have encountered in other circumstances when the stress levels are high?

A. Yes.

40 Q. I want to take you to a few other questions very briefly - I don't want to extend your stay in the witness box for longer than it needs to be --

A. Thank you.

45 Q. -- of that particular record of conversation of 18 December. Question 61 you were asked by the police officer conducting the interview about your thoughts on the 16th of January as to the risk.

The question was to rural property in the ACT.
The answer is set out. I won't read it all. But
you said in part:

5 "I mean, right up until when the fire was
actually in Stromlo pines I still didn't
think there was any - I really lie awake
about that, I find it quite embarrassing with
the fire experience I've got. And I know Tony
10 Bartlett, him and I have talked about this
several times that we never even perceived it
would burn our depot. I left my vehicle at
the depot with my wallet and all the drivers'
licence and all the details."

15 You go on to expand on that answer. May we take
it that that represents your current state of
thinking as at the afternoon of the 16th of
January 2003; that is to say, you never thought at
20 that time that the Stromlo depot would be overrun
by fire?

A. Yes, that's right.

25 Q. Then at question 78 of the same document,
there is the Julie Crawford interchange, if I can
refer to it as that:

"I don't for a minute think that they were
referring to suburban Canberra."

30 That is again comments made by Rural Fire Service
personnel on 17 January?

A. That's correct.

35 Q. That reflected your thinking as at the
afternoon of the 17th of January. And then I
think at question 87 of the same document you were
asked how you thought the whole incident might
resolve, if I can put it that way, and you said:

40 "A. Our best growing area and has the best
pine plantation."

In reference to Uriarra:

45 "I mean, I thought it would stop as soon as
it came out of the plantation."

I take it you are there referring to the McIntyre's Hut fire?

A. Yes.

5 Q. I take it once again, that's a reference to late on the 17th of January 2003. You see question 88 refers to going to paragraph 57 and the 18th of January. So you may take it from me - you can check if you like - that the earlier
10 questions relate to the 17th of January?

A. Sorry, I'm a little bit lost as to --

Q. Your thought processes as set out:

15 "I thought it would stop as soon as it came out of the plantation."

Were they thought processes you had late on the 17th of January 2003?

20 A. Yeah, I still have those thought processes. I still thought it would stop.

Q. I understand that. Finally today you said at transcript 4780 that, even at the 9.30 meeting on the following day, it was your view that the fires
25 would stop once they hit the grasslands?

A. That's correct. Just clarify that. I didn't expect the fires to just burn out and stop --

30 Q. I do understand that.

A. I expected that, once they came out onto the open grazing country which was just bare dirt, we would be able to undertake successful suppression efforts.

35

Q. When it reached that location there would be opportunity for some kind of suppression?

A. That's correct.

40 Q. Really until 9.30 on the morning at least of 18 January the prospects of the fires coming into the urban interface was not one that you were seriously considering at that time?

45 A. Not, it's not. I must also add, if I can, that my focus was on the pine plantations and at various times on getting out of where I was. So I probably wasn't in a situation to be looking at

the bigger picture.

MR LAKATOS: I understand. Thank you, Mr Cooper.

5 THE CORONER: Thank you, Mr Lakatos. Yes,
Mr Pike.

MR PIKE: Thank you, your Worship.

10 <CROSS-EXAMINATION BY MR PIKE

10

MR PIKE: Q. Firstly a couple of questions about
your experience working with Mr Tony Graham, who I
think you know well?

A. Yes.

15

Q. You have worked with him for a number of years
now?

A. Yes.

20

Q. Both at ESB and while he was at ESB with you
in the field?

A. Yes, that's correct.

25

Q. Would you agree he is a person who, at least
in your experience, consults widely and
extensively about decisions to be made?

A. Yes.

30

Q. He is a person who operates through consensus
or tries to achieve consensus where appropriate?

A. Tony is the sort of person that will try to
work through to get an outcome, yes.

35

Q. Just to give an example, perhaps. Things
haven't always been completely along the same
track, if I can put it that way, between land
managers and Emergency Services in a number of
respects; would that be a fair comment?

A. Yes.

40

Q. Do you believe from your experience that
Mr Graham has had any role in trying to forge a
working and profitable agreement between those two
groups?

45

A. Yes, definitely.

Q. I take it he has always taken on board

suggestions or requests by those out in the field?

A. That's correct.

5 Q. Would it be fair to say that you are a person who is prepared to express your view and at times express your view forcibly, if you believe the occasion warrants it?

A. I have been known to do that, yes.

10 Q. Would it be fair to you to say that the restrained demeanour with which you have given your evidence in this court today has perhaps not been the same way that you might express yourself and did express yourself perhaps at the meetings
15 with the New South Wales people as you were telling us before?

A. That's a fair comment, yes.

20 Q. Would it also be correct to say when you - I am not singling you out - and other people also expressed views in a forceful and forthright manner invariably Mr Graham has taken those views on board and has worked through with those persons expressing those views?

25 A. Yes, that's correct.

Q. Hasn't taken offence at strong views being expressed?

30 A. I think as I mentioned before, in any incident management team meeting, there is a diverse range of views expressed in a diverse range of ways.

35 Q. That is almost inevitable, isn't it, that when you have a situation like that there will be diverse views?

A. Definitely.

40 Q. That's the point in a sense of having a team so those views can be expressed with a view to reaching hopefully what is the right conclusion in the end?

A. That's correct.

45 Q. One person expresses a view which isn't shared by others, and that view, although not perhaps adopted by others, may be instrumental in achieving a better outcome ultimately?

A. Yes.

Q. You have had the experience also of working with Mr Graham at ESB itself; is that right?

5 A. Yes.

Q. On occasion as his assistant operations officer?

10 A. Yes.

Q. I think it was on the 13th or on the 15th, was it, that you acted in that capacity?

A. Around that period, yes.

15 Q. I will take you to it precisely; I don't want to mislead you. I think this was the aspect regarding which, because of the lack of your notes, you had to change your statement because you thought something had occurred on the 11th and
20 it was in fact on the 13th?

A. Yes. Correct.

Q. That appears at paragraph 47 of your amended statement.

25 A. Yes.

Q. Apart from that occasion, you had had opportunity at other times to work with Mr Graham as his assistant or in other capacities?

30 A. Yes.

Q. What has been your assessment generally as to Mr Graham's capacity to be a manager of operations in those circumstances; do you believe he is a
35 good manager?

A. Tony has some very positive skills, very good skills in management, as we have just discussed about taking on a diverse range of views and coming up with a result that tends to express the
40 direction that things want to go in. Sorry, I should explain that. There was a memorandum of understanding between the land managers and ESB, and Tony and I worked fairly strongly on that. When we started there was some fairly diverse
45 viewpoints but we ended up coming up with an acceptable agreement.

47

Q. As you have already told Mr Lakatos and you said it very modestly, I must say, you are one of the most experienced firefighters in the ACT at the current time. You can say yes to that
5 Mr Cooper; is that correct?

A. I have some experience, yes.

Q. I think Mr Graham would be one of the first to acknowledge you have much more experience in
10 firefighting than he does?

A. Yes, that would be correct.

Q. He has not ever, to your knowledge, failed to take on board the views of someone experienced
15 like yourself, in fact to the contrary?

A. Yes.

Q. On the day of the 13th when you were acting as an assistant operations officer, you had the
20 opportunity to work with him closely and observe him closely?

A. Yes.

Q. Your assessment of him on that particular day fulfilling the job of operations manager was that he performed, at least in your view - and I only
25 ask in your view - very capably?

A. Yes.

Q. You were asked some questions in relation to the 10th of January. If I can take you to that, and for your reference in paragraph 34 of your
30 statement. In particular in relation to your overflying of the Gingera fire and your
35 communication back to COMCEN as to utilising a small dozer at that location. Do you recall those questions?

A. Yes.

Q. What you have said in your statement is you gave COMCEN certain information about that. Then you say:

45 "I received an immediate reply from Tony Graham at COMCEN that this would not be an option."

47

This being the utilisation of the dozer in that location.

A. That is my recollection, yes.

5 Q. You didn't go back to look at the radio transcript though when you were setting out that passage in your statement, I assume?

A. I don't think so, no.

10 Q. Let me read to you from the transcript at [ESB.DPP.0004.0001]. It is at page 30 at about 7.47am. It records you as saying:

15 "Just one thing further, the vegetation up here should be conducive to the dozer doing virtually a direct attack line. It shouldn't have to work very far off the firies. Over."

The response being:

20

"Yeah, Roger. Our preference was that we did not put a bulldozer into that area. Over."

Your response:

25

"Received."

Have you had the opportunity yourself of checking the radio log as to that particular entry?

30

A. Not as per that particular entry. I've looked through it.

Q. I ask you to assume for the purpose of the question that that is how it is reflected?

35

A. I believe you.

Q. That is not in the same absolute terms as perhaps maybe indicated on a first reading of your statement where you have indicated that Mr Graham said it would not be an option; you would agree with that, wouldn't you?

40

A. I would accept that, yes.

Q. I think you have already told us that you are a person not averse to expressing your view with a degree of force if the occasion warrants it?

45

A. Yes.

Q. You could have done that in relation to that particular call on that day either at that moment or indeed when you were back at the ESB discussing it with Mr Graham?

5 A. Yes.

Q. You didn't choose to do that?

A. That was the flight - I would have been back out as liaison officer straight back out to
10 Queanbeyan.

Q. I think you said you did go back to ESB though later on that day but you weren't sure exactly when.

15 A. Yes, that evening.

Q. You had a conversation with Mr Graham?

A. Yes, that evening.

20 Q. It was suggested to you by Mr Lasry, I am not entirely sure why, but you raised the issue by way of a complaint with Mr Graham and you disavowed that. You told us that you raised it with him. I take it from that you didn't raise it by way of
25 complaint; is that right?

A. No. I would have had a conversation with Tony as to what the reasoning was and what the outcome was.

30 Q. In his usual manner that you are so familiar with, he would have explained himself to you at that point?

A. That's correct.

35 Q. One situation is, of course, you weren't in a position to look at the bigger picture in terms of the allocation of resources and the overall strategies for handling all three fires?

A. That would be correct.

40

Q. You would have assumed that Mr Graham would have been looking at that overall picture on making decisions of that nature?

A. Yes.

45

Q. Going back a step, Mr Cooper, I think you have said in some of your answers to questions put to

you in the record of conversation - I will go back. You were asked questions in relation to fitness level requirements: do you recall being asked those questions in your record of
5 conversation?

A. Not specifically, but I am sure we discussed those issues.

10 Q. Were you instrumental, in part, in bringing in and implementing requirements as to fitness levels?

A. For the Urban Services brigade, yes. That was undertaken as part of a leadership program project that I did about three years ago.

15 Q. That is obviously a requirement that you support in that case?

A. Yes, I do.

20 Q. I think you might be the occupational health and safety officer for forests; is that right?

A. Yes.

25 Q. You were aware of the fact that some firefighters, perhaps in particular some of the more experienced in terms of years firefighters, may not necessarily regard that requirement of fitness levels a good thing; are you aware of that?

30 A. That's correct, yes.

35 Q. In terms of overall responsibility for people essentially at the workplace, which is what a fire front is for those involved in the fighting of a fire, you see that I take it as being a very important matter?

40 A. Yes. There is various levels - 3 levels of fitness. It doesn't negate people who are probably not as fit as others being involved in firefighting. But it does give people on the fire ground an indication of the base level of fitness of the crews that you have there. So you have an understanding of what they can and can't do.

45 Q. Just to put it in its most dramatic terms, if you do not have a system of requiring certain fitness levels and someone goes out on a fire

front, collapses and perhaps dies of a heart attack because of a lack of essential fitness, then you potentially have got a serious legal problem on your hands; do you not?

5 A. Yes. Not only for that person but for the rest of the crew, because sometimes it can make that whole unit inoperative because it doesn't have enough crew.

10 Q. Is there another benefit in it as well in terms of, if I can loosely put it this way, succession planning of firefighting personnel?

A. Yes, it is an issue we are talking about within Department of Urban Services at the moment.

15

Q. Just explain that to us for the moment.

A. If there is a reliance too much on the longer-term employees there can tend to be - you fall into a false sense of security, and all of a sudden when these people retire, you have a significant gap between the skills and ability of those people that are now no longer with the organisation right the way back to the fresh recruits that have come in.

25

Q. What you euphemistically term the "longer term firefighters", I take it you mean the older ones?

A. People who have been around for a fair while, yes.

30

Q. You would not join with any criticism of requirements about fitness levels; in fact, to the contrary, you see that as a very necessary and positive thing?

35 A. I fully support fitness level requirements.

Q. Finally, sir, in the final days of the fire leading up to the 18th - I am conscious of the fact that that wasn't the end of the fire as such; that is what we are looking at here in this inquiry - on the 18th would it be correct to say that all of the ACT resources were involved in combating fire?

40

A. As far as I'm aware, yes.

45

Q. There was no suggestion that it was just the urban fire brigade, for example?

A. Oh, definitely not.

Q. That of course would never be contemplated in a circumstance like this?

5 A. No. No. The urban fire brigade work in with the rural fire brigade. We go to similar fires. We get responded to similar fires.

10 Q. That is both a general proposition I take it and --

A. The only difference --

Q. Go on?

15 A. The only difference is in the urban area the urban fire brigade, if you like, are in control of that particular incident; whereas in a rural area the Bushfire Service are in control of that incident.

20 Q. So, in general terms both services work hand-in-hand where the need arises?

A. Yes. We have been working that way for a number of years now.

25 Q. And certainly in the particular circumstance of this fire and in particular on the 18th that was the case to your knowledge?

A. As far as I am aware, yes.

30 MR PIKE: Yes, thank you, your Worship.

THE CORONER: We might just take a short break.

SHORT ADJOURNMENT [3.12pm]

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RESUMED [3.22pm]

THE CORONER: Mr Erskine, do you have any questions?

40

MR ERSKINE: I am in a very difficult position because my voice is simply not up to asking questions. I would be asking for the opportunity for the cross-examination of Mr Cooper on behalf of New South Wales to be postponed. Having said that and having listened to the course of the evidence today and having listened to some of the

45

cross-examination that has already taken place, it seems to me to be unlikely that we would need to ask Mr Cooper anything or anything that would take very long.

5

If that is the case we can certainly undertake, if your Worship were prepared to postpone the cross-examination to some future date, to notify the DPP within a week whether we actually need to ask Mr Cooper any more questions. So if I could crave your Worship's indulgence to postpone because I simply physically can't ask questions. It may very well be that Mr Cooper, after we look at it, doesn't have to be recalled at all. If he does, we can certainly notify that within the next seven days.

10

15

THE CORONER: I think that is reasonable --

20

MR WATTS: Could I be heard on this issue?

THE CORONER: -- depending on Mr Cooper's availability as well.

25

MR WATTS: With respect, it is not only that, your Worship. I am certainly not trying to take advantage of my friend's discomfort in his voice. But both he and senior counsel have known since Monday of this potential problem. They have known Mr Cooper was going to give evidence today.

30

This has been, as is obvious, a very stressful occasion for Mr Cooper. It has taken a lot of time and preparation for him both in conference with myself and also, more importantly, emotionally to prepare himself for today. It has been a very big occasion. He is certainly extremely keen to get it over and done with.

35

40

Now in those circumstances, it would be in my submission not fair to require him to have the potential for him to come back, even though it may be a remote potential, to go through it again. Yesterday an application was made to sit four days a week by Mr Walker and your Worship promptly refused that, it seems to me, because of the public interest in getting this matter out of the

45

way.

Here we are going to be further delayed in
circumstances where it is going to put significant
5 stress back on to Mr Cooper or not see him have
the stress relieved which he is entitled to have
relieved from him. Say Mr Craddock came back on
Monday and said, "I have read the transcript; I
now want to ask questions," is he going to be
10 required to come back on another occasion? Junior
counsel is here; junior counsel should be in a
position to cross-examine. In those
circumstances, I would strongly oppose what is
suggested by Mr Erskine.

15 THE CORONER: That has merit as well, what
Mr Watts says in relation to Mr Cooper's position.
I do have sympathy for his situation.

20 MR ERSKINE: May I make two responses: The first
is whilst I appreciate what Mr Watts has said, it
is also the case that Mr Cooper made an amended
statement which we didn't get until this morning.
It is a statement which, that in particular, has
25 quite an impact upon whether we would then need to
ask any questions. I am not being critical. I am
only saying that if we had had that four or five
days earlier, I may now be able to whisper
hoarsely a position to your Worship that no
30 questions are required. Unfortunately, we didn't
get it until this morning.

In the course of today, Mr Cooper has also given
other answers which qualify quite properly the
35 opinions that he has expressed. So we haven't
really been in a position in the course of today
to be able to take full instructions.

The second thing is that, on behalf of New South
40 Wales, there are actually three counsel involved.
There is Mr Walker as senior counsel, who was
never expected to be here for the whole period.
We did in the course of this week attempt to get
Dr Prichard, who is the other junior counsel, to
45 see if she would be available. But in one of
those extraordinary coincidences, Dr Prichard was
hospitalised last weekend with a fairly similar

virus to mine and has been directed by her doctor to take the week off as well. We are in quite an extraordinary position in which this hasn't just levelled one counsel, it has knocked over two in
5 the same team in circumstances where we normally would have been able to field one vaguely healthy counsel to be able to continue the evidence today.

10 So we don't make the application lightly. In the extraordinary circumstances that the New South Wales team has been confronted with, I can put it in terms of we don't have any choice but to make the application. We accept that, at the end of the day, of course the outcome of the application
15 is entirely in your Worship's lands.

THE CORONER: Do you wish to say anything in reply to that, Mr Watts?

20 MR WATTS: As far as any amendments are concerned, it is easy for my friend to say they need to take instructions on these things but he hasn't pointed to the particular aspects which he says he needs to take instructions. Everybody else is in the
25 same position. The amendments with great respect are not significant when one looks at them, certainly not significant as far as the New South Wales position is concerned. He has - they have had all day to seek appropriate instructions.

30 So far as counsel is concerned, in this day and age the availability or non-availability of counsel is never an appropriate reason. They have had since Monday to obtain somebody else to deal
35 with this issue, if they had wanted to. I come back to the point that it is simply going to be unfair and a huge imposition upon Mr Cooper to have this hanging over his head for a longer period of time than it should have been. If your
40 Worship pleases.

THE CORONER: Thank you, Mr Watts. Do you wish to be heard, Mr Lasry?

45 MR LASRY: No, I don't wish to be heard, your Worship.

47

THE CORONER: What I will do, Mr Erskine, is I won't require Mr Cooper to return after today, if we do finish his evidence today. But if there is something compelling that you do require
5 Mr Cooper to be questioned upon some point, perhaps if you notify that to counsel assisting. And then consideration will be given, in conjunction with Mr Watts, as to whether or not it is an issue where Mr Cooper should be returned.
10 We will make a decision on that basis. At this stage, I will say that, when Mr Cooper is excused, he is excused from proceedings.

MR ERSKINE: With respect, your Worship, that is
15 very reasonable. We wouldn't quarrel with that.

THE CORONER: Mr Whybrow, do you have any questions?

20 **<CROSS-EXAMINATION BY MR WHYBROW**

20

MR WHYBROW: Q. Mr Cooper, just two issues: firstly, you said in your statement and in your evidence that you were the operations - is it operations manager on the 13th January at ESB?

25

A. Assistant.

Q. And that was the day the helicopter crashed into the dam?

30

A. That's correct.

Q. You said in your statement at paragraph 47 that it would have been appropriate to have a separate Incident Management Team for that event.

35

A. Yes.

Q. You suggested at the time you should set up a separate Incident Management Team to deal with the helicopter but this was not accepted. At page 4770 of the real-time transcript, when you were
40 answering questions of Mr Lasry, he asked you:

"Q. You also refer to the crash of the helicopter into the Bendora Dam. You make the point in the next paragraph of your
45 statement that it would have been appropriate, you think, to have a separate Incident Management Team for that event?"

"A. In my opinion, yes.

A. Yes.

5 Q. Then in your record of interview you go on to say:

"Setting up an Incident Management Team for that helicopter crash is a perfectly logical thing to do."

10

Is that correct?

A. Yes.

15 Q. There is no particular magic about an Incident Management Team and a particular incident. You could set up an Incident Management Team for having a 5-year old immunised if they are particularly difficult?

A. Yes, that is correct.

20

Q. You talked about dealing with a mouse plague or having to destroy sheep and things of that nature?

A. That's right. Yes.

25

Q. Mr Lasry then asked you:

"Q. Do you know why that wasn't done?

"A. I believe the incident itself was being handled by the fire brigade."

30

And that's your understanding, it was being handled by the fire brigade?

A. Yes.

35

Q. Let me ask you this question: do you know if that was done, if a separate Incident Management Team was set up?

A. I'm not aware, no.

40

Q. Can I refer you to two bits of evidence and ask you those again. Mr Castle in his statement, which is [ESB.AFP.0111.0117], at 0135 in paragraph 87 refers in that paragraph - I will just read you out that section:

45

"Later that day a helicopter crashed into

Bendora Dam. . . . Peter Lucas-Smith and Jon Stanhope assisted Ewan Mackenzie of SouthCare in the rescue of the pilot. This incident presented another problem - potential
5 contamination of the water supply by fuels from the helicopter. Hazardous Materials (Hazmat) staff were sent to the site and I asked the Fire Commissioner to form a separate Incident Management Team. Fire
10 Commissioner Ian Bennett's Incident Management Team concerned themselves with the crash site leaving Tony Graham of bushfire operations to focus on bushfires."

15 Q. Would it be fair to say that you are not aware if that happened; it may have happened without your knowledge?

A. Yes, yes.

20 Q. But what you experienced is that the result of that helicopter crash proved to be, as would be with human nature, some disruption on the day to your operations?

A. That's correct. Even if there was a separate
25 Incident Management Team, and I do take your point that could have happened, it would have still been operating out of Curtin so there was some form of overlap.

30 Q. The fire brigade - at that stage certainly the urban fire brigade - if they had set up their own Incident Management Team, they were based in Curtin as well?

A. Yes.

35

Q. Mr Cooper, you were taken through the dramatic events that you experienced on the afternoon of the 18th of January and in particular your experience at the Huntly property where you were
40 caught in the middle of the paddock?

A. Yes.

Q. And where I think you indicated in
45 paragraph 67 you could not believe the height and depth of the approaching flame front, given that it was burning across heavily grazed and bare ground?

A. Correct.

Q. After that experience is when you linked back to the depot in the car that had been burnt over?

5 A. Yes.

Q. Notwithstanding that event and your experience, you indicate at paragraph 70 that you still did not even think that the depot was about to burn down; is that correct?

10 A. That's correct.

Q. At that stage, which you say you distinctly remember leaving at 2.32, there were New South Wales units still at that depot?

15 A. Yes, there were.

Q. As far as you could see, did they seem to have any appreciation of the fact that that depot was going to be on fire within half an hour?

20 A. I'm sorry, I can't recall. I wasn't taking that much notice of the New South Wales units at that stage.

Q. In any event, you set out there your thoughts and actions at that time. Given all of the things that you experienced on that day and taking into account your experience and your knowledge of what the weather was like that day, would it be fair to say that what you experienced was many factors beyond any worst case scenario you could have imagined occurring that day?

25 A. Yeah, I think that is a fair comment.

35 THE CORONER: Thank you, Mr Whybrow. Mr Walker?

MR PHILIP WALKER: Thank you.

<CROSS-EXAMINATION BY MR PHILIP WALKER

40 MR PHILIP WALKER: Q. Mr Cooper, regarding paragraph 27 of your statement: Mr Lucas-Smith in his evidence had the following matter put to him, which was the earlier version of your statement. It was read to him:

45

"I have been given instructions,
authorisation from the Chief Fire Control

Officer Peter Lucas-Smith that I could commit any level of ACT resources to the McIntyre's Hut fire that may be requested by the New South Wales Rural Fire Service to assist in the suppression activities."

There is a bit more to the quote but that is the burden of it. Mr Lucas-Smith answered as follows:

"I certainly don't recall giving Mr Cooper authorisation to commit whatever ACT resources were figured necessary."

Firstly, I take it you do recall that conversation about you dealing with ACT resources with New South Wales?

A. I definitely do. As I mentioned before, the reason I remember it was I actually double-checked with Tony Bartlett the next morning.

Q. You accepted with Mr Lasry that this was subject to reason, I think you said?

A. Obviously, yes.

Q. And you went on to say you took that as meaning you could discuss resourcing. Do you recall giving that evidence?

A. I don't recall but I agree with your comment.

Q. Do I understand then that, as a result of that conversation, you didn't understand yourself to be in a position where you could, in effect, just sign a cheque on behalf of the ACT and commit the ACT to whatever you had signed to?

A. Yes, that was my understanding.

Q. That you could not do that?

A. Yes, yes.

Q. Therefore, should we read you saying that you have authority to commit whatever ACT resources, is that after some reference back and discussion with Curtin about their particular needs?

A. Yes. How I took that to mean was that

Mr Lucas-Smith was opening up the ACT resources to New South Wales. How I understood that to be was that, when the request came from New South Wales,

we would try and see what that request was and see whether we could meet that request given the number of resources that we had and given the fires that we were trying to crew at that stage.

5

MR PHILIP WALKER: Nothing further, your Worship.

THE CORONER: Thank you, Mr Walker.

10 MR PHILIP WALKER: Thank you.

THE CORONER: Yes, Mr Watts.

MR WATTS: Thank you, your Worship.

15

<CROSS-EXAMINATION BY MR WATTS

MR WATTS: Q. Mr Cooper, the area where the McIntyre's Hut fire came into the ACT, is it the fact that pine forests in that area were growing right up to the border in fact across the border?

20

A. Across the New South Wales border?

Q. Into the New South Wales?

A. There is one small section of the northern part of the Uriarra that is actually New South Wales, yes.

25

Q. Uriarra though went right up to the border?

A. Yeah, yeah, in effect.

30

Q. And pine trees about which you were concerned were grown right up to the border?

A. Yes.

35

Q. You gave an answer about having some links with other states, Victoria and New South Wales, to improve firefighting skills?

A. Yes.

40

Q. In your role with ACT Forests, have you taken any steps personally to see that those links are developed, and can you tell us what you have done?

A. We've set up some very good links through Tony Bartlett with Victoria DOC and we have sent a number of our staff to incident control courses in Victoria. Myself, I've been to an advanced leadership course in Western Australia which is

45

about emergency management. As well as another
one of our employees has also been to that
advanced leadership course. It is all fire
related and emergency management related. We have
5 tried to make links with other states. Obviously
we are represented on the forest fire management
group, where again we try to promote cross-border
training and opportunities to actually go to those
states if they have an incident as an onlooker.

10

Q. Do you regard it as very important for those
people who are going to be required to fight
bushfires have proper training and as much
experience as possible?

15

A. Yes.

Q. In fact, it is critical; isn't it?

A. Yes.

20

Q. You were asked some questions concerning your
view which you were putting when you were over in
Queanbeyan about starting the back-burning earlier
than was in fact the case?

A. Yes.

25

Q. I think you put that your suggestion was that
Webbs Ridge road be used as a kind of temporary
containment line and that burning take place - you
showed us on the map - from there to the north and
30 to the east?

A. Yes, that was my suggestion, yes.

30

Q. With your knowledge of the weather
circumstances which were obtaining during that
35 period of time - that is, the 9th through to say
the 11th of January - are you able to estimate how
long it might have taken for the back-burning to
reach the far northern containment line if the
burning had been commenced?

40

A. That's extremely difficult without knowing
fuel loads, aspect but in the order of, I guess, 3
days or 4 days.

45

Q. Is it your suggestion that, whilst that
burning was taking place, containment lines - if
they were not in place, there would be time to
complete them?

A. That's correct.

Q. You were asked some questions concerning maps and the absence of maps. I think you were asked
5 about whether the maps that you might take out to the fire would show the boundaries of the fire. Would it be correct that a good map to be given to somebody like that would also show the containment lines as they were?

10 A. Yes.

Q. Any water sources?

A. Yes.

15 Q. Any trails and the state of trails and tracks?

A. Yes.

Q. Whether there was any difficulty in access along those tracks, and any other important
20 relevant features?

A. Yes.

Q. Your evidence is that they are the kinds of maps you did not have?

25 A. Yes, that's correct. I was probably spoilt at Queanbeyan, because they had exactly that.

Q. Having those kinds of maps gives you a significant advantage.

30 A. Yes.

Q. It allows you to hit the ground running when you get out there.

A. Exactly, yes.

35

Q. Mr Lasry asked you concerning whether you made a formal complaint about the absence of overnight planning; do you recall that?

A. Yes, I do.

40

Q. I think this was concerning the 11th of January - about that time?

A. Yes.

45 Q. During this period of time, how many hours a day were you working?

A. We were on 12-hour shifts - 15, 16 hours a

day.

Q. And was all your vacant time taken up with whatever task you had in hand at the time?

5 A. Yes. Under those sorts of situations, it is extremely difficult to finish that shift, go home and go straight to sleep, especially when I was very, very worried about the whole plantation resource. So, yeah, I was awake more than asleep.

10

Q. So you were very stressed about what was occurring?

A. I was concerned, yes.

15

Q. And trying to focus on the job at hand?

A. Yes, that's correct.

Q. Just on the point of overnight planning, when you are out fighting a fire overnight - and say take Bendora on the night of the 11th - is there as much effort that goes into overnight fighting the fire as during the day-time?

20

A. Yes, there is. Night-time is the time to undertake the burning-out operations and try and get the containment lines to a secure state that the day crew can mop up and blackout and get it ready for the night crew to again in the more benign conditions punch forward with the burning-out operations.

25

30

Q. The question was this: there is no lesser need for planning and support overnight than there is during the day; is that correct?

A. Yes, that's correct.

35

Q. As far as you were able to observe in the whole period from say the 8th to 18th of January, was there good communication between the urban Fire Brigade and the Rural Fire Service?

40

A. Yes, they work out of the same office at Curtin and they were involved in all the IMT briefings.

Q. Good co-operation?

45

A. Yes.

Q. Do you know that the Fire Brigade in fact from

time to time lent equipment to the Rural Fire Service; do you know that?

A. That's correct.

5 Q. Finally, in paragraph 57 talking about the planning meeting of the 18th, you refer to it as being at about 9 o'clock?

A. Yes.

10 Q. Is that your recollection that it was at 9 o'clock?

A. It was around that time. I think that is the normal time that the IMT meetings were held.

15 Q. Finally, I think you given a commendation award for your role in these bushfires?

A. Yes, that's correct.

MR WATTS: Thank you, your Worship.

20

THE CORONER: Thank you, Mr Watts. Yes, Mr Lasry.

MR LASRY: Two brief matters.

25 **<RE-EXAMINATION BY MR LASRY**

25

MR LASRY: Q. You were asked a couple of times - and in fact I asked you, I think - about the fire suppression that you expected would take place in the grasslands on the 18th?

30 A. Yes.

Q. It was that possible suppression that, in effect, prevented you from contemplating the possibility that the fire would burn into the suburbs; is that right?

35

A. Yes.

Q. Did you have any understanding or idea as to how that would actually work; in other words, as you said in answer to - I forget who exactly, either Mr Pike or Mr Lakatos - that the fire wouldn't just get to the grasslands and stop; it would have to be suppressed?

40

A. Yes.

45

Q. Did you have any conception in your mind at the time as to how that would work, what the

resources required would be, where they would be positioned, and how they would deal with it?

A. No, I didn't. My role was based on a specific portion of that fire, not the big picture --

5

Q. Yes, of course.

A. But I assumed that once it came into that open country, we would be in a better position to be able to undertake a successful suppression operation.

10

Q. Again, this is perhaps to some considerable extent hypothetical, given the intensity of the fire as you were observing it on the 18th, even in the grasslands the resources required to suppress a fire of that intensity would have been very, very large; wouldn't they?

15

A. My views that we would be able to be in a better position to suppress the fire when it reached the grazing country were based on, I suppose, what I have seen in the past. However, once I experienced that fire behaviour around Huntly, and obviously the fact that it was already at Huntly was a clear indication to me that we probably weren't going to be really successful. However, again, I was only focused on where I was.

20

25

Q. Where you were.

A. Yes.

30

Q. I wonder if the witness might be shown exhibit 49 briefly. This is the position paper. I want to make a couple of things clear about the document. According to some information provided to me, Mr Cooper, this is a position paper of a group of land managers; is that correct? Is that what the forest fire management group is?

35

A. It's the representative group of - it is the forests managers and it is the fire management from the main forest agencies across Australia and New Zealand.

40

Q. I am informed that this arose as a result of some series of incidents which may have occurred in the south-east of Tasmania; does that mean anything to you?

45

A. Not to me. I have only been a representative

for the ACT for the last two years.

Q. I am also informed that, without going into
whether or not these dot points are sensible or
5 not - indeed they seem sensible to some extent -
it is not necessarily the position of AFAC; it is
not the official position of AFAC, as far as you
are aware?

A. Not as far as I am aware.
10

Q. Or, for that matter, the rural firefighting
industry, if I can put it in that global sense?

A. Again, I am only just a member on that group.

15 Q. You may not be aware.

A. Yeah.

MR LASRY: Thank you, Mr Cooper. I have no
further questions, your Worship.

20 THE CORONER: Thank you. Thank you, Mr Cooper.
You are excused. Thank you for your evidence.
Mr Erskine, I would ask that you indicate by
tomorrow as to whether or not there are any
25 issues.

MR ERSKINE: We will see what we can do,
your Worship.

30 **<THE WITNESS WITHDREW.**

THE CORONER: We will adjourn now until tomorrow
morning.

35 **MATTER ADJOURNED AT 3.55PM UNTIL FRIDAY
7 MAY 2004.**

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15 MISSING PAGE - 4825

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TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT OF THE
AUSTRALIAN CAPITAL TERRITORY

MRS M. DOOGAN, CORONER

CF No 154 of 2003

CANBERRA

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

DAY 49

Friday, 7 May 2004

[10.00am]

MR WHYBROW: Your Worship, before we start the
evidence today, could I raise a matter. As
5 your Worship may recall, your Worship has given me
leave to represent Ms Vivien Raffaele. One of her
roles is President of the Fire Controllers Group
and she has a lot of liaison with a number of
volunteer bushfire brigades and officers. I
10 understand as recently as yesterday, a number of
volunteer firefighters who have previously
provided statements have received summons to give
evidence in this inquiry in circumstances in which
they have not given any idea as to the purpose,
15 context, of why they are being called at this late
stage, when effectively they were feeling they
were out of the woods, so to speak.

With respect, could I suggest that these are
20 people, who have been through some fairly
traumatic experiences, have been following
obviously with interest and concern this inquest
and have seen what has happened to some people in
this inquest, with legal representation, warnings
25 and things of that nature, and are in the
circumstances of receiving these summons quite
concerned as to the purpose and the context.

I understand that counsel assisting noted
30 yesterday we would be coming to a stage where a
representative sample of emergency personnel,
police, firefighters, rural fire brigade officers
perhaps, will be called to give evidence to put
some perhaps more flesh and blood into the
35 inquest. If that is the case, if perhaps those
instructing could provide a bit more context to
some of these people. I raise it on behalf of my
client who is concerned and has had concerns
expressed to her about that.

40
Indeed, if there is to be a selection of
representative witnesses in this inquest, could
other counsel be provided with a list of that so
that perhaps - I am not sure whether counsel
45 assisting will take on board any suggestions - so
that it is truly a representative sample. Not
everybody in the material says bad things about

ESB, and a representative sample would include some of the positive stories too. So there can be no short notice and inability to get a hold of people down the track, if it is possible, if there is a list proposed of who those witnesses might be in due course, could that be provided with some notice so there could be at least representations made as to other perhaps relevant witnesses.

My main concern I raise at this stage is that if there are witnesses to be summonsed at this late stage, there are a number of them previously of the belief that they haven't been referred to, having been contacted, they don't need to be concerned. Now some people are getting subpoenas wondering whether they should be getting legal advice, wondering what they will be asked and need to perhaps be handled with a bit more subtlety and delicacy as to the context of why they are being summonsed. I raise that on behalf of my client in that respect, who has some concerns for members of her organisation.

MR PHILIP WALKER: I just might add on behalf of Mr Lucas-Smith a small further matter to that but from a slightly different perspective. One matter which has concerned my client and this would tend to underscore that, is that this service is one made of up volunteers. It is of the most extreme concern to him that if there is indeed not some of the subtlety and more particularly some explanation given to people who might be called before this inquiry why it is so, there is a very real risk that great damage will be done to the service, because some of the people who voluntarily give their time might start to think that this is beginning to get all a bit too complicated and difficult. That has been a longstanding concern of the Chief Fire Control Officer.

THE CORONER: What, coming to an inquiry to give evidence is considered in the context of them serving in a volunteer capacity?

MR PHILIP WALKER: No, your Worship. They are perfectly entitled to be summonsed. They may have

valuable information. But out of the blue in some sort of disturbing sort of fashion without an explanation of "Look, we are simply calling some people" --

5

THE CORONER: How can you say this? Has somebody come to you and said out of the blue, "I am disturbed that I am receiving a summons." If they are not then potentially what you are saying
10 Mr Walker and also to some degree you, Mr Whybrow, what you are doing is potentially inflaming a situation which is a delicate situation in any event. It is a delicate situation not because of the nature of this inquiry but because of, as I
15 said before, some ill-informed comments by some people about the nature of this inquiry.

All this inquiry is about is simply inviting people and summonsing people to come to give
20 evidence about what they did, what they saw, what they believe and what happened. That is all. I must admit, I have some difficulty in understanding why people in the community, good decent people in the community who were involved
25 in these events, are traumatised by this. It is a disturbing aspect to come to court to give evidence. People understand this.

But if people have been involved, as they were on
30 the 18th in whatever capacity, and before the 18th of January, in this event, then it is their obligation. It is their duty to come and tell the rest of us what they did, what they saw, what they perceived and what they believed. It is a process
35 that should not be traumatic for anybody. It is a process that they should perhaps welcome, in a way.

So when you say that you have received
40 information, and also you Mr Whybrow, of people who were disturbed, I want you to tell me who has said this to you and the content of that. Why are people disturbed about coming to this inquiry to give evidence?

45

MR WHYBROW: I can give you some answer on that, your Worship. Because, this is through

information - I am not going to reveal in open
court the names of the witnesses who have been
provided to me by my client in confidence, but
they are specific named persons. Counsel
5 assisting provided summons to them yesterday so
they can inform you in a less open fashion.

I am instructed that there is a perception amongst
certain people that, notwithstanding what
10 your Worship said, they have seen that there is a
particular slant to the inquiry, that they are
being asked to come and give evidence in a way
that they are concerned is in effect trying to ask
questions to "dob in their mates for wrongdoing"
15 and things of that nature.

They are concerned that statements that people
made in good faith in an effort to have all the
information brought out are being slanted towards
20 a particular goal and they are disturbed and
concerned that it is not an open "what are the
facts" but more a "this is the result we are
trying to achieve", and their positions are being
unfairly represented. They feel concerned that if
25 they don't say certain things consistent with
statements that they may have stated in their
statements, they might be criticised.

This is my instructions. They feel concerned
30 about being criticised or doing things in good
faith, if what they say is not consistent with
what is perceived by some people to be what the
appropriate answers should be.

Now your Worship has set out what the purposes of
an inquest are and that people shouldn't feel that
way about coming in. The fact is, they do feel
intimidated about coming in and re-experiencing
things that were the most traumatic time of their
40 lives in this sort of atmosphere where, from time
to time, counsel assisting get up and put the
position to witnesses based on their statements
which don't necessarily accurately reflect the
whole situation. They are concerned that it might
45 not absolutely fairly represent their position.

They are concerned they might be undermining

morale, and things of that nature. That is just human nature. That is the position that some people in the services feel, according to my instructions. Your Worship can sit there and say
5 they shouldn't feel like this. The fact is that some people do. The fact is that there are a number of witnesses who feel very concerned about the way others have been questioned, about what is expected of them, not knowing whether they will be
10 one of the ones if they can't remember something that will be criticised for it - things of that nature.

Your Worship, that is what the situation is. I
15 can't put it any more plainly than that. I appreciate that people are entitled to be summonsed, should come in and do their duty and give evidence as well as they can. Certainly that is the advice that I am sure all representing
20 individuals would give: that you can only do your best and tell the truth.

Notwithstanding that, people feel concerned, nervous, not sure of their position, not sure what
25 questions they are going to be asked, not sure what sort of slant will be put on their evidence. In the circumstances where we get to 7 May, day 49, I think it is, and they previously had no notification that they may be at any stage called
30 as a witness, all of a sudden get a summons dropped on their doorstep, without any explanation as to what context, what part of their evidence may be relevant, whether it is the 10th of January and whether they were on a fire field at Bendora
35 or whether it is the 18th and whether they were in a firestorm or whether it is the whole lot, they are obviously concerned as to "why am I being called at this stage? What has happened? Who am I expected to come on and contradict, perhaps?"

40 That is the way some people are thinking. I can't do anything about that, except bring it to your attention and ask counsel assisting to try and alleviate that by when they contact a witness to
45 some extent try and explain "This is why you are being called. This is the circumstances". If there are any particular concerns counsel

5 assisting have as to whether they should be
represented they can say, "we don't think you need
to get representation. "We don't think this", or
"we do think there may be these issues you may be
examined on". That is all I am putting today.
When these people are being contacted, as counsel
assisting and your Worship is entitled to do,
there is some indication to them as to what for.
That is all, your Worship.

10

THE CORONER: Thank you, Mr Whybrow.

MR LASRY: Somewhere the message has been very
badly mixed. No subpoenas were issued. Yesterday
15 Ms Drew, instructing us, contacted three rural
firefighters, consistent with the announcement I
made some time ago that we expected to call, as it
were, a cross-section of the volunteer
firefighters to give evidence during this inquest.
20 We are reaching that stage.

Three of them were spoken to and informed that
they would be required for that purpose. Ms Drew
has arranged with those witnesses to come to court
25 next week in order that they can examine the
Court, see the Court and get the feel of the Court
before they are in fact called to give evidence.

I don't know where Mr Whybrow is getting his
30 information from. It is completely at odds with
the information that is provided to me. We have
throughout this inquest been sensitive to the
psychological trauma of these fires and, in many
cases, physical trauma and loss.

35

Rather than analyse it word by word, I can only
say for my part I thoroughly reject the
implications in the submissions that have been
made about slants being put on evidence or
40 witnesses being called in - of course witnesses
have been brought here, have been questioned and
several witnesses who are accountable have been
asked to be accountable and they have been
examined in that context.

45

In my submission, the conduct of the evidence to
date has been for the purpose of getting at the

truth. That is what your Worship is endeavouring to do in this inquest. We are endeavouring to provide as much information as we can to enable your Worship to come to that result.

5

What my learned friends have just suggested is frankly nonsense. We have adopted a policy throughout in the way that we have dealt with witnesses, and that policy has been implemented.

10 To now be suggesting that there is some hidden agenda which is going to be inflicted on volunteer firefighters is just absurd. Obviously, I thoroughly reject it.

15 THE CORONER: I reject it too, Mr Whybrow. What you have said - I reject everything that you have said. All you have sought to do and all you have done is just cause more distress to people who are perhaps --

20

MR WHYBROW: I object to you saying I sought to do anything. There was no intention other than acting on behalf of a client who raised concerns with me.

25

THE CORONER: You could have raised this with counsel assisting, Mr Whybrow. You did not have to raise this issue in open court. It is a matter that could have been discussed with counsel assisting. If indeed you had information about specific witnesses who you are not prepared to name, and I understand that, you could have raised those concerns with counsel assisting.

35 It appears that those concerns, from what I have heard, unless you do have some names that you want to raise with counsel assisting, you can do so privately and counsel assisting will get in touch with those people. Otherwise what you have said, Mr Whybrow, has caused to serve more distress to people who perhaps are a little apprehensive in any event. I, too, reject the suggestion there has been a particular slant put on any calling of evidence or witnesses who have come to this inquiry.

45

MR WHYBROW: If you go back through the

transcript, you will see the perception; it wasn't a submission made by me, certainly not at this stage, that that is what occurred. I was indicating the perception that some people have indicated --

THE CORONER: What people, Mr Whybrow? Some people?

MR WHYBROW: As your Worship said, it is not appropriate to raise those sorts of things in this forum. What I would ask though, if there is a cross-section of people called next week and summonsed or contacted yesterday, that those that represent some of those people that are to be held accountable, as Mr Lasry calls it, get some notice of who these witnesses are before the day before, which it seems to be an ongoing situation. If there is going to be a cross-section of witnesses, I renew at least that call that we give as much notice as possible. When were we going to be told who these witness next week were going to be?

THE CORONER: You have already been told.

MR LASRY: I hesitate to interrupt. I went through the timetable two days ago. I thought I made it clear in the course of the timetable, which arose apropos the issue whether or not we would sit on Fridays, I went through next week's timetable. If my learned friend was paying attention, he would know that the rural firefighters were announced by me to be called in the week commencing Monday 17 May. That is not next week.

The program was that they were contacted yesterday. They have been arranged to be brought in here next week so they can see the environment of the Court and, as I have already said, the intention was that they be called in the following week.

We could have given them a year's notice, I suppose. It seems to me in the circumstances that that is adequate notice. The way in which it was done, as I have already said, was entirely

appropriate. This is an issue that frankly now is
wasting time in dealing with an issue which is not
really an issue at all, as I understand it. I
would ask your Worship to bring the discussion to
5 an end.

THE CORONER: We will just continue.

MR PIKE: Before we do continue, a totally
10 different issue. We are calling, as I understand
it, the other Mr Cooper today. There was some
discussion about New South Wales witnesses and the
provision of their notes a couple of weeks ago.
In one of Mr Cooper's documents he refers to
15 having photocopies of notes he has. I wonder
prior to his giving evidence, while Mr Keady is
giving evidence, whether if those notes are
available they could be made available to those at
the Bar table.

20

MR LASRY: I am sure they can, your Worship. I
must say what I have is a typed document. I don't
have any handwritten notes.

25 THE CORONER: What you are referring to, Mr Pike?

MR PIKE: I will tell you, your Worship. The ESB
number is [NRF.AFP.0085.0106]. Reference is
contained in the document from Mr Cooper dated
30 7 July 2003. It says on the front page that it is
a 18-page document. My copy has 17 pages, which I
believe is due to the fact that there is a page
missing.

35 On the final page where the question was asked,
"Do you have any handwritten, typed or other
notes?" The answer is:

40 "In addition to the photocopies of notes I
have I will also provide a copy of the NSW
debrief report".

That is the document I am referring to.

45 THE CORONER: We will make some inquiries then,
Mr Pike.

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MR LASRY: Would you recall Mr Keady, please.

<TIMOTHY BERNARD KEADY, RECALLED, RESWORN

5 **<FURTHER EXAMINATION-IN-CHIEF BY MR LASRY**

5

MR LASRY: Q. Mr Keady, sorry to have brought you
back again but an issue has arisen, as I am sure
you are aware, that we need to ask you about.
Before I do that, I just want to remind you of
10 some earlier evidence which you gave on 19 April.

I am referring to a summary of it. The evidence
is at page 3506. I was asking you, Mr Keady,
about meetings that you might have attended at ESB
15 on the night of the 17th of January and I think
the morning of the 18th of January. In summary,
you said at 3505:

"I can't recall if I was at the planning
20 meeting on the evening of Friday, the 17th of
January."

You might remember also I asked you about a phone
call with Mr Castle on Friday evening. As I
25 understand your evidence, you had a vague
recollection of receiving the phone call. You
assumed the phone calls were in the context of
keeping you informed of events. That's still
consistent with your recollection; I take it?

30 A. It is.

Q. You also said at 3506 that you were unaware of
or you didn't recall the predictions that were
referred to in the minutes of the evening planning
35 meeting. I think in the end the likely conclusion
was that you perhaps were not at the planning
meeting, because there were subsequent attempts by
Mr Castle to contact you by phone which suggested
that you might not have been at the meeting. You
40 might remember that I put to you that, at 10 past
7 on the night of the 17th of January, Mr Castle
is recorded as having made contact with you in a
call that lasted about one and a half minutes?

A. Yes.

45

Q. That probably suggests that you didn't speak.
He may have left a message or something of that

kind. You have no recollection about that either, I take it?

A. No, I don't.

5 Q. The information that we now have suggests that he also attempted to contact the Chief Minister, Mr Stanhope, about four minutes later at 14 minutes past 7. The other information which was
10 that you and Mr Castle spoke, it would appear, for about seven minutes at about roughly 10 to 10 on the Friday night?

A. Yes.

15 Q. I think that was a phone call that you were prepared to accept may well have occurred, and you had some vague recollection of it?

A. Yes.

20 Q. It was probably to keep you informed of events?

A. That was my assumption, yes.

Q. On the Saturday morning, I think the position
25 was that you accepted that you may have been at the planning meeting at 9.30 on Saturday morning but you couldn't recall it. Is that still your position?

A. It is.

30 Q. Since you last gave evidence, we have had evidence from a couple of other witnesses, including Mr Tonkin, that at 8 o'clock on Saturday morning there was a meeting which was effectively
35 referred to as the evacuation meeting - or a meeting to discuss the preparedness for evacuation. Mr Tonkin was present and gave evidence about it and Janelle Wheatley also gave
40 evidence about it at page 4192. Were you at that meeting?

A. I don't believe so.

Q. Have you turned your mind to whether you were?

A. Yes, I have.

45

Q. And you don't think you were there?

A. No.

Q. Between the 16th of January when the cabinet briefing took place and the Saturday morning, subject to what I am about to come to - so up until 10 o'clock on Saturday morning - had you
5 discussed this fire emergency at all with the Chief Minister?

A. If I had contact with him over that period, inevitably the issue would have arisen. I can't recall. I can't recall whether he attended at
10 Curtin in between those times. If he did and I met him, we would have. If he didn't, probably not.

Q. What about the possibility of having contact
15 simply by telephone?

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

Q. Did you consider it appropriate after the cabinet briefing and particularly in the day or
20 two following - the situation as it developed was obviously getting a lot worse - that there was some requirement that he be kept informed as to progress by somebody?

A. Well, there were a lot of people involved and
25 I didn't make it my business to be phoning him regularly. So I'm not sure how he kept involved. I know he was visiting - I think he visited the fire front a couple of times; he was interacting with ESB personnel. I didn't have any contact
30 with him, no.

Q. As a result of the cabinet minute that we looked at last time, you had some responsibility for administrative arrangements or you were going
35 to have some responsibility for administrative arrangements under any declaration of a state of emergency; is that right?

A. Yes. That was anticipating the need to bring together a government administration under a
40 formal declaration, yes.

Q. By Saturday morning, was it crossing your mind that a state of emergency was a likely
45 possibility?

A. I don't think so, no.

Q. It wasn't?

A. No.

Q. As you are no doubt aware, Mr Keady,
Mr Stanhope has written to the coroner, apart from
5 expressing regret about not having recalled a
particular conversation, acknowledging that at 10
past 10 on Saturday the 18th, you and he spoke for
some 6 minutes and 45 seconds?

A. Yes.

10

Q. Do you have a recollection of that
conversation?

A. No, I don't. I don't recall the call.

15 Q. You don't even recall whether you spoke to
him?

A. No, I don't.

Q. It would appear from the chronology that
20 Mr Stanhope sets out in his letter that you had
attempted to ring him at 10 past 9 on Saturday
morning and that a message was then diverted to
his message bank. At 10 past 9 on Saturday
morning that either would have been during or just
25 before the planning meeting. Can you recall,
doing the best you can to tax your memory, for
example having a discussion with Mr Castle or
anybody else about why it would be necessary to
ring the Chief Minister?

30 A. No, I can't. I can speculate but I can't
answer factually.

Q. You accept though, don't you, that at the time
you made your official call which diverted to
35 Mr Stanhope's message bank at 9.10am, you would
have been at ESB?

A. Yes, I would have been.

Q. As I say, either preparing for or actively
40 involved in the planning meeting that morning?

A. Well, as I understand it now, the planning
meeting didn't commence until 9.30.

Q. 9.30, yes, that's right.

45 A. When you say "planning for", I wasn't an
organiser of the meeting; I was a recipient of
whatever information was going to be provided.

Q. I know you say you don't have any recollection of the call or the reason for it. I want to put to you the proposition though that inevitably that call was about the bushfire emergency?

5 A. Yes.

Q. Inevitably the information conveyed in that call or the reason why it was thought to be necessary on your part to ring the Chief Minister would have at the time at least appeared to be based on matters of some significance?

10 A. Again, I can go to the realm of speculation as to what those matters might have been at the time but, as I must emphasise, it is under speculation
15 on my part.

Q. I take it that calls to the Chief Minister, even from people who know him personally, are not made flippantly. You wouldn't simply be ringing to see how he was. You would think when you made that initial call to which he later related that you were in possession of information that he should know about, that is the most likely reason; isn't it?

20 A. Yes. There are a number of events that occurred during the evening, Friday evening, that would have been logically the sort of thing I would have wanted the Chief Minister to be updated about.
25

30

Q. In your mind what were they?

A. There was the evacuation of the Bulls Head staging area and the subsequent use of Curtin Oval in the urban area as the new staging area. There was the fire in the rural areas of the ACT and the consequences for those people affected by them. So I mean they were the two things that stand out in my mind. I think that probably at that time it might have been known that the McIntyre's Hut fire had touched the top of the pine area in the ACT as well.
35
40

Q. The other thing which had happened on the Friday night was of course at that planning meeting, although as I understand your evidence you don't particularly recall it, predictions were made in relation to unattended fire behaviour that
45

the fires would reach Uriarra by midday Saturday, the Cotter Pub and Reserve by 4 o'clock and Narrabundah Hill by 8 o'clock on 18 January. As I understand your evidence, Mr Keady, you don't
5 recall those predictions but it is likely, isn't it, that they would have been brought to your attention at some stage?

A. Yes. Although the sequence as I understand it is that my call initially to the Chief Minister
10 preceded the planning meeting --

Q. Sorry, I have confused you. They were predictions that were being made on Friday night.

A. Probably would have been brought to my
15 attention at some point, yes.

Q. Have you discussed with Mr Stanhope whether either of you recall this conversation on the Saturday morning since the fact of it had been
20 brought to his attention?

A. Yes. He rang me on Monday night to say that it had been brought to his attention that this call had occurred and did I recall it.

25 Q. And you said no?

A. I said no.

Q. Presumably he said no as well?

A. He said that he couldn't recall it, and could
30 I recall it.

Q. He couldn't recall?

A. Yes.

35 Q. Did you discuss, in the same way as you have been now, discuss the possibilities as to what was discussed?

A. Yes. I volunteered the same information to him as to why I may have called him and what we
40 may have discussed that I just recounted here.

Q. This may or may not be a helpful question to ask you but frankly, Mr Keady, does it surprise you that you can't remember the call?

45 A. As I think I indicated previously, Mr Lasry, my recollection of Saturday is simply overwhelmed by what occurred later in the day. It was an

enormous event. It affected I think everybody who was either an observer or in some way a participant. It had an emotional impact as well as other things. Frankly what occurred prior in the day just seems to become a bit of a blur compared to events later in the day.

Q. The other matter that I wanted to briefly ask you about was this: an email was brought to our attention, which is not an email from you but it is as a result of an email from you. It is in fact an email which is circulated within this court building. The email is dated Thursday 16 January 2003 at about 5.05. It attaches an email prepared by Julie Mitchell which summarises the fact that you, referring to you, had just returned from another meeting at the Emergency Services centre at Curtin. Has that email been shown to you? I think I provided a copy of it to Mr Lakatos.

A. I have seen it, yes.

Q. These are not your words, so I should just briefly read them to you and ask you whether you accept that they reflect what you were saying. The email quoting you is dated 16 January 2003, just after midday. Julie Mitchell says to the recipients of the email:

"Tim has just returned from another meeting at the Emergency Services centre at Curtin. We are all aware of the dreadful bushfire situation. According to Tim, it is likely to worsen if the weather predictions are correct. ESB officers have been working around the clock and Tim is keen to provide relief in any way possible, except fighting the fires. Generally clerical support, answering phones, photocopying, perhaps even making sandwiches. He has asked me to attain a list of staff who would be willing to provide assistance, those who could be relieved from their general duties during the week and those who would be prepared to work over the weekend probably for only one day."

And then the recipients are asked to draw up a

list of available staff. Do you recall doing that?

A. Yes.

5 Q. Do you recall leaving ESB at some stage on Thursday? This email is sent at midday, so I presume your response or your original email went out some time in the late morning on Thursday. Do you recall doing that in the circumstances where
10 you believe the situation was going to get a great deal worse?

A. I think the email - the suggestion that I had returned from a meeting at ESB was probably incorrect. I've checked with Julie Mitchell since
15 that email was brought to my attention to try and reconstruct the sequence of events. I think what occurred is that I left the cabinet meeting, cabinet briefing, which probably would have been somewhere between half past 10 and 11. My office
20 was within about 5 minutes walk. I think I have gone back to the office.

Ms Mitchell's initial recollection was that she received those instructions via someone else. She
25 later checked and believed she spoke directly to me. She thinks that was mid to late morning; in other words, somewhere between 11 and 11.30, which would be proximate to me returning to my office following the cabinet meeting. I think the
30 reference there to returning from a meeting at ESB was incorrect. It was more the sequence is I asked that be done following my return from the briefing.

35 The reason I did it, I had done something similar in New South Wales in 2001, when the Rural Fire Service headquarters at Rosehill was under similar stress. And I arranged for my staff - the organisation I then headed - anybody who was
40 available to go to Rosehill to fill in in the same ways that that email suggests. It was because of the continuing duration of the fires, the fact that they had been going for over a week at that stage, we didn't know when they were going to end,
45 more people becoming involved, more assistance was required. I arranged to have that circularised to see if we could find some more volunteers.

MR LASRY: Thank you, Mr Keady. Thank you,
your Worship.

THE CORONER: Any questions, Mr Pike?

5

MR PIKE: No.

MR WHYBROW: No.

10 MR PHILIP WALKER: No, thank you.

MR WATTS: No.

MR ARCHER: No.

15

MR JOHNSON: Just one matter.

<CROSS-EXAMINATION BY MR JOHNSON

MR JOHNSON: Q. You said a moment ago at
20 page 4843 at lines 13 and 14 that you had done
something similar, that is going to the
administrative centre at Rosehill in 2001. Do you
mean 1994 and not 2001?

A. Sorry, 1994. Yes.

25

Q. I think you have given evidence on the first
of the times you were in the witness box that you
had been in 1994 the Director-General of the
Ministry of Police and Emergency Services in New
30 South Wales; is that so?

A. That's correct.

Q. In that capacity at that time you had gone to
the New South Wales Rural Fire Service
35 headquarters at Rosehill to provide a form of
practical administrative support to the people who
were engaged in the operational side of fighting
the fires?

A. That's correct.

40

Q. The 1994 fires in New South Wales were very
dramatic and difficult fires; that's so, isn't it?

A. Very much so, yeah.

45 Q. Mr Koperberg has told this inquiry how New
South Wales learned from bitter experience from
those fires. I don't know if you were in the

hearing room when he gave that evidence, were you?
A. I wasn't here then, no. But I think I can
confirm that New South Wales did learn a lot out
of that. It severely stressed the organisation at
5 that time.

Q. In any event, it was 1994 you were speaking
about?

A. 1994 in New South Wales.
10

Q. 2001 in fact in the ACT?

A. I wasn't referring to 2001.

MR JOHNSON: Thank you, Mr Keady.
15

THE CORONER: Anything, Mr Lasry?

MR LASRY: No questions, thank you, your Worship.

20 THE CORONER: Thank you Mr Keady. You are
excused.

<THE WITNESS WITHDREW.

25 MR LASRY: I call Kevin Cooper.

MR ARCHER: May I be excused, your Worship?

THE CORONER: Yes.
30

<KEVIN COOPER, SWORN

<EXAMINATION-IN-CHIEF BY MR LASRY

MR LASRY: Q. Mr Cooper, would you tell the Court
35 your full name, please?

A. Good morning. Kevin Cooper.

Q. Are you by occupation the co-ordinator
emergency response with the New South Wales
40 Department of Agriculture?

A. That's correct. I am responsible for exotic
disease preparedness for the State of New South
Wales.

45 Q. What is your professional address?

A. My work address?
47

Q. Yes, your work address.

A. Elizabeth Macarthur Agricultural Institute,
Woodbridge Road, Menangle.

5 Q. Apart from your position with The Department
of Agriculture in New South Wales, since what year
have you been involved in the New South Wales
Rural Fire Service?

10 A. 1987, August '87 was when I first became an
official member of the service. I had dealt with
the fires informally up until then.

15 Q. You have provided a document which I will
tender as an exhibit in a moment. From 1987
onwards, you had significant experience within the
Rural Fire Service in emergency management and
bushfire management; is that true?

20 A. I think if you consider the amount of time
that I attended campaign fires, you know those
that go for a week or longer, plus upwards of over
100 even 200 local calls a year. If that is
experience, I'm probably experienced.

25 Q. Not all of your deployments have been to
fires. You have been involved in other aspects of
emergency or emergency preparation which have
affected the Rural Fire Service or, for that
matter, the New South Wales Department of
Agriculture; is that correct?

30 A. Yes. Through the Rural Fire Service some of
the non-fire activities were the Nyngan floods in
1990, the Wollongong floods also. With the
Department of Agriculture I have had the
operational role of controller, so it is
35 essentially the same as you would see for a fire.
Responsible for control centres. New South Wales
or Australia's largest biggest outbreak of an
exotic disease was on the central coast of New
South Wales. I was the controller there for four
40 months.

I also went to the United Kingdom for the foot and
mouth disease in 2001, initially deployed for a
month as an emergency manager. The United Kingdom
45 then sought to engage my services for 12 months
based on the success of the first week. I
finished up staying for three months. Most people

consider that I am a fairly experienced emergency manager. I train and assess right across the board nationally as well as within New South Wales.

5

Q. You also hold a degree of Bachelor of Science?

A. That's correct. And an associate diploma with honours in biology is the other acronym.

10 Q. The acronym is BTC?

A. Yeah.

MR LASRY: I tender Mr Cooper's career history.

15 THE CORONER: Mr Cooper's history will become exhibit 0050.

**EXHIBIT #0050 - KEVIN COOPER'S CAREER HISTORY
TENDERED, ADMITTED WITHOUT OBJECTION**

20

MR LASRY: Q. On the 26th of June of last year, were you interviewed or did you hold what is described as a taped record of conversation with Constable Mark Travers at the Winchester police station; do you recall that?

25

A. It was at Winchester Centre and Sarah or Christine was also present.

Q. Apart from that conversation, that is not otherwise a formal statement as such; am I right about that, Mr Cooper?

30

A. That's correct. I did submit a statement.

Q. Your Worship, the document is [NRF.AFP.0085.0001]. Mr Cooper, were you provided with a copy of that record of conversation? Have you had an opportunity to read through it?

35

A. That's correct. I have got that here.

Q. As far as you are concerned, the information that you provided in that document is true and correct?

40

A. That's correct.

Q. In addition to that, you have provided some written material which is [NRF.AFP.0085.0106], which is your response to a request for

45

information by this coronial investigation; is that correct?

A. That's correct, yes.

5 Q. That is a document dated 7 July 2003?

A. That's correct.

Q. Were you in court earlier when Mr Pike was asking about some notes that you referred to?

10 A. Yes, I was.

Q. Do you have those notes with you?

A. No. What I was saying was after I had done the interview at the Winchester Centre, I actually brought a box of notes with me and they were copied by the police at the time. I don't have those notes with me here today.

Q. I must say for my part I am not altogether sure what those notes were. What was in those documents?

A. My specific notes were in there were what you would probably call field notes, notes that I took at the control centre. I carry around a notebook while I am operating. I write things down as I go in those. Some of it is scribble; some of it is indications of what was happening at the time. But we also had some other information, copies of T-cards, special fire weather forecasts that we got from Rosehill - those sorts of things. Some of that information, unless I explain it, wouldn't mean a lot to anyone. I had to explain some of them to Mark. It does demonstrate some of the things that we had done and we were doing.

35

Q. Are those documents referred to from time to time during the course of the interview? Were you using those to answer the questions you were asked in the interview?

40 A. No. No, I did the interview without any notes at all.

MR LASRY: Your Worship, I am being referred to a correction in the transcript. The transcript recorded in answer to my question whether he provided a formal statement the response that he did.

45

Q. But as I understand it, you didn't; is that correct?

A. Sorry, what is that?

5 Q. Apart from this interview and the provision of the documents you provided, you otherwise did not provide a formal police statement over and above the interview itself; is that right?

10 A. No, what I provided was the other one where you asked about a response to a request. If that is not a statement, no, I didn't provide a statement.

MR LASRY: It may be that some of those documents
15 might need to be referred to. I hadn't proposed to refer to them in the course of Mr Cooper's evidence. I had proposed to ask him questions in relation to his interview only. I am conscious of the fact that Mr Pike was interested in the notes.
20 It sounds as though the notes are significantly more voluminous than I must say I had realised. I don't know whether that raises a complication with dealing with the evidence at the moment or not. If it does, perhaps Mr Pike can say so.

25 MR PIKE: I don't know, your Worship. We made this request some time ago. Apparently it has been with the Australian Federal Police for some time. I don't know what the answer is. There may
30 be an explanation. All I can say is I will not interfere with the conduct of the examination at this stage. We will see how we go.

THE CORONER: We will see how we go. If the notes
35 can be provided and examined, we can take it from there.

MR ERSKINE: May I add, my friend Mr Lasry has taken me at least by surprise in saying that he
40 only has access to two sets of documents. There are two other quite extensive documents prepared by Mr Cooper. My instructions are that one of those at least was prepared by Mr Cooper and provided by the Federal Police. It does not
45 appear on the CD that has been provided through the inquest. There is a second document in a similar form. Certainly at least from my reading

of those documents, they are actually very detailed descriptions of events that happened on particular days.

5 Obviously there is an enormous degree of overlap between the three or four documents we are now talking about. I am wondering what the status is of those other documents. Because if my friend
10 intends to ask Mr Cooper detail about what happened in the course of his stay in the ACT and his assistance in fighting the fires, it may be of assistance to him, and one would think also to others in this courtroom, if the other material is available.

15 MR LASRY: I can suggest this: it may be my omission in not extracting all the material that has been provided but I hadn't quite finished dealing with the documents. What I have is the
20 interview of the conversation that occurs with the police on 26 June; the response to the request for information; and another document that I was coming to which is described as the overview of New South Wales Rural Fire Service in the Canberra
25 ACT, which is [NRF.AFP.0070.0002].

MR ERSKINE: That is the document I was referring to. I withdraw what I just said.

30 THE WITNESS: There is another one.

MR LASRY: Q. There is another one on top of that?

35 A. There is a fourth document I have provided to the police called debrief report for the operational RFS task force under ESB control on 16-22nd.

40 MR LASRY: Can I suggest this: we anticipate, as I think I said a day or two ago that in the week commencing 30 May we would be calling some more New South Wales evidence and if, having dealt with Mr Cooper's evidence today, it is necessary, by reference to those documents, to ask him some
45 further questions either on my part or on the part of any of my learned friends, then perhaps arrangements could be made for Mr Cooper to return

in that period.

I will go as far as I can. If people are hindered
by the absence of that material in court today,
5 then of course since I haven't been producing all
of it, we couldn't object to any request that he
be recalled.

MR WATTS: Your Worship, the difficulty with that
10 course, and I certainly have some matters to put
to this witness, is that if I am required to
cross-examine him today without the benefit of
seeing that document, the whole tenor and thrust
15 of the cross-examination may well change. I would
be embarrassed to have to cross-examine him,
without having the opportunity of seeing that
document before I am required to cross-examine
him.

MR LAKATOS: I might join in that comment as well.
Your Worship, might I suggest this as an immediate
20 course: My learned friend Mr Lasry obviously has
matters he can put to this witness. My suggestion
is at the end of that period of time, we adjourn
25 and recall him. By that stage there will be the
handwritten notes and the other document which has
not found its way in here, because this witness
has a number of matters to say about the ACT and
its various officers. They are matters of some
30 significance. We want to check our position in
relation to the full panoply of material that he
has.

THE CORONER: It sounds sensible.
35

MR LASRY: That sounds reasonable.

THE CORONER: It is a bit inconvenient for you,
Mr Cooper.
40

THE WITNESS: I can live with it. Obviously I
have a career job. I did listen intently to the
discussion earlier about volunteers which I
thought was interesting. I can give dates when I
45 am not available, as I have done all along with
the people from the Court right back from January.
47

THE CORONER: That would be appreciated.

THE WITNESS: If you can work around that, that is fine. I think the document you are missing -
5 I guess not to put my own importance on it - is pretty important because it is a debrief report for, if you like, all of the RFS people that worked. I debriefed all of those people. It is a summary of the feedback from that group of people.
10 It is my compilation of what they said. They did verify it before it was submitted.

THE CORONER: I do recall reading that some time back.

15 MR LASRY: Your Worship, I can ask Mr Cooper questions over the next half an hour. I am more than happy to do that. It may be that really the most efficient way to deal with it is to stand
20 Mr Cooper down now before even I ask questions and have a look at those extra documents. Obviously I should do so. It may be it is a more efficient process if I deal with them first. Maybe my learned friends want to deal with them as well.
25 It would make it a short day, your Worship, because we don't have any other witnesses. I am in your Worship's hands. I will do whatever is the most convenient for the Court.

30 THE CORONER: I think what we do is perhaps go as far as we can with Mr Cooper now and have access to the other documents. Either way Mr Cooper will need to be recalled. It may be that you don't finish your examination, but perhaps if we just
35 use the time that we have while Mr Cooper is here.

MR LASRY: Yes. If your Worship pleases.

40 Q. Mr Cooper, putting all that aside, the position as far as Canberra was concerned was on 15 January you were asked whether you would be able to go to Canberra as a task force commander; is that correct?

45 A. That's correct. State operations rang me, as they usually do, and said was I available to take a task force.

47

Q. And you were available?

A. And I said, yes, I would be available. They said they would get back to me around 11 o'clock the next day to confirm the need to attend. They
5 did ring me pretty close to 11. I remember I was outside laying pavers at the time. They said, "Yep it's on. Could you make your way down." I had the details of the task forces faxed to my house. I subsequently met them - the first two of
10 the task forces - at Marulan.

Q. Your role was to be the commander of all of the task forces that went?

A. Yes. My job is one of liaising with the
15 receiving jurisdiction or the agency to ensure that the task forces meet the requirements of that receiving jurisdiction, but at the same time I am also responsible for the well-being, the
20 discipline and the accommodation of the people in the task forces. So each task force comes with its own commander, and they are the operational commanders that would relate direct to the ESB. I am the intermediary just to really make sure the
25 task forces are doing what they should be doing.

Q. On the 15th of January, you left with the task forces that went to Canberra on that day?

A. 16th.

30 Q. 16th, I'm sorry, on Thursday the 16th.

A. The task forces actually left, they arrived at around 1730 in Canberra. They left from places as far north as Kyogle. Some of them took 17 hours. They departed and basically journeyed most of the
35 day. The furthest south a task force came from was the Hunter Valley. They had been on the road a long time by the time I had got on the road.

Q. The initial departure was how many task
40 forces? How many left for Canberra on 16 January?

A. Four.

Q. By Sunday, am I correct that there were 7 task forces in the ACT?

45 A. Between 7 and 8. There were actually nine deployed to Canberra - one of them went to Queanbeyan rather than Canberra. But, yes.

Q. You were effectively the commander or co-ordinator of that entire resource?

5 A. That's correct. Just the additional task forces that came in were from Sydney, so they were a lot closer. I was the coordinator of the whole lot, but I had command and control below me to manage those people.

Q. What does a task force consist of?

10 A. Task force is five appliances and can either be a day and/or a night shift, so it would be two shifts. But importantly, as well as the appliances there would also be a task force commander. If there is a night shift as well as
15 the day shift, there will be a commander for the night shift as well as the day shift. And a task force can be any combination of appliances, light and heavy, depending on the tasks at hand.

20 Q. You were asked some questions about your role, and indeed in the course of questioning, reference is made to the document which I have just referred to - the overview of New South Wales Rural Fire Service in Canberra ACT, [NRF.AFP.0007.0002]. At
25 question 21, you were asked a question:

"Q. So you were responsible when you say the coordination and direction of your resources, was that for all four of the task forces?

30 "A. That was for all four and subsequently for all seven."

As you said you were essentially the overall coordinator of this particular resource; is that
35 right?

A. That's correct, to ensure the well-being of the people on the ground. They were working closely and appropriately with the Emergency Services Bureau.

40

Q. Within that group, am I right in saying that there were two divisional commanders?

A. What we came to call - they were eventually called divisional commanders, that is correct,
45 Dennis McTaggart and Guy Duckworth.

Q. What was their role in each case?

A. Again, they were to provide a command and control role. So in the field they had a genuine command role rather than a coordinator role. They were the operational commanders from the ESB field
5 commanders, the incident controllers to the task forces and --

Q. In New South Wales would they be regarded as incident controllers?

10 A. Division commanders?

Q. Yes.

A. Definitely not, they are division commanders. The incident control system for an incident the
15 scale of what we are looking at in Canberra, the Incident Management Team would be located in a control centre with all the planning operations, logistics people had offices in the control centre and the divisional commanders with sector
20 commanders and also task force commanders would be in the field.

Q. Had you previously been on any task force which had been sent to the ACT for bushfire
25 responses?

A. No, not at all. My career job had brought me to Canberra more in the previous two years, and I actually knew my way around more than I would have
30 otherwise.

Q. I wasn't so much interested in whether you knew the area so much. In a case where a task force is dispatched to a receiving state, in the way that these task forces were, as you describe
35 it, at the outset are arrangements made for appropriate radio communications, both obviously the radio communication within the task forces because they are all part of the same service but what about dealing with any potential
40 inconsistency within the receiving state?

A. Logistic support including communication has to be worked out between the receiving jurisdiction and us coming to town. So even when you move around New South Wales, one of the issues
45 that you do check out, if you like, is communications in terms of liaising. We have a system whereby we were allocated GRN channel 158

to be used in the ACT and the expectation was that that would provide coverage.

5 When we did arrive in Canberra, soon after the people were in the field there was a realisation that communications, whilst it was fine within the task forces, wasn't as good as it could have been between the ACT services and the RFS units. That was addressed very quickly by placing ACT units
10 with radio communications with each of the task forces.

Q. In answer to question 35 you were describing the roles of people and the interaction with ESB
15 and in particular you were describing the field operation role. At question 35, having asked whether the previous answer makes sense, you said:

20 "And there is - there is a national - this is where I usually jump to a whiteboard. There is a national structure called AIIMS and so it has in a traditional - you know, we have an incident controller and then we have the sort of three streams, you know, planning,
25 operations, and logistics. And so and typically that spans the whole - the whole fire ground as it were, if you know what I mean, whereas like we came to understand was that they - I think you are there referring
30 to the ACT - have an IMT for the Bendora fire and the Stockyard fire and then there was one in the ESB. So once the fires came together that even created some challenges for our guys working in the field. So all I'm saying
35 is it was potentially three command structures where our people would actually expect one."

40 Can I just ask you to explain that a bit further, the difference in the command structure between the ACT and the way it operates in the New South Wales?

A. What we are looking at for a small fire, say a class 1, would be local resources, local equipment
45 and when you turn out the incident controller is on the fire ground. So as it would have been on the 8th of January, we had people out on the fire

ground, that would have been the incident controller and they would have had all their functions in one person.

5 But as it scales up and, if you like, becomes more complex and it is obvious that it is going to run over a longer period of time, there is a need for more forward planning interaction with things like communication, public relations. And you go to a
10 class 2, so you are now looking at a significant number of resources that are going to be there for a long period of time. Your incident control structure expands beyond one person and you will now have multiple people in a role.

15 In the case of the Canberra fires where each of those were being dealt with separately, you could conceivably say that they were class 2s. But collectively we would call it a class 3 or
20 section 44, so they would be managed as one. The incident control team, if you like the lead group, would be not located in the field because of the complexities of the systems that are required to support them, to actually deliver them, and the
25 field end would be divided into divisions and sectors. Does that answer your question?

Q. Yes, it does. In fact, what was your understanding or your observation of the way it was operating when you got to Canberra on the 16th
30 of January?

A. On the 16th of January, at that stage it wasn't till the Friday the 17th that we came to realise it was a different structure. And I guess
35 the telling moment was when Guy Duckworth turned up dressed as I am expecting to be in what we know as an IMT and be in a control centre, he was asked where his yellows were because he was going to the field. That was a realisation that their IMT
40 actually meant field IMT, and I guess we would see that for a class 1, at worst a class 2 fire rather than a large protracted event that I guess should have been in a fairly advanced material stage. It was 10 days old at this stage.

45 Q. You also make the observation perhaps in relation to that but in answer to an earlier

question - this is in answer to question 28 but is in part in answer to question 28 - that it appeared to you that it was apparent from the beginning, presumably from your arrival, that the
5 ESB didn't understand what a task force actually involved. Was that your observation?

A. Certainly the assessment by senior officers and myself, task force commanders and also Inspector Dennis McTaggart when he arrived, was
10 that this was a large workforce that we had put on the ground and ESB, I think, probably didn't really get a good understanding of what - we didn't feel they had a good understanding of what it meant to put a lot of people in the field for
15 24 hours a day in terms of providing mid-shift meals, fuel, drinking water, you know even toilet facilities.

So in a fairly quick situation analysis, that was
20 where we arrived at. But I would have to say that the logistics people at ESB were very quick to respond to any requests that we made. For instance, on that first night, we'd asked for bottled water to be delivered to the field and it
25 was there before midnight, which was quite impressive.

Q. The inconsistencies that you have been describing between the way task forces are
30 organised and even command structures are organised in New South Wales on the one hand and the existing situation in the ACT on the other, first of all, what difficulties did the differences create? The second part of the
35 question: were the difficulties able to be solved?

A. Initially we didn't see them as a difficulty. We didn't see them as a problem. The first and second shifts on Thursday night and the Friday day
40 shift went straightforward up until Friday lunchtime. The command and control, the planning officer I think for the field IMT greeted our people at Narrabundah. I think it was Tony Corcoran. He was wearing his yellow jacket at that time. He ushered those people into the
45 field. Our people were concerned at the time that there were no maps, no incident action plans. That was I guess some of the concerns that people

have been about how it would operate.

5 The command and control was working fine. Where
we really started to feel that things were not
working fine was from about midday particularly on
the Friday. After I worked out some of the sort
of logistics type issues with the crews, I went
into the control centre. My initial situation
assessment in there was that I guess I don't think
10 they were really across the whole control
situation in the field.

15 That's when things got hot after lunch, I suppose
you could put it. When the Stockyard and Bendora
fires started a run, our crews had been correctly
withdrawn from the field to I think a place called
Glendale. Our people then got left and they were
very concerned about being left. That was about
half past 2, 3 o'clock that we were then asked to
20 deploy two task forces into Tidbinbilla Nature
Reserve, which we did. From there on to the early
evening, that was I guess when we became concerned
that the command structure in the field and the
command structure in the control centre weren't
25 working in unison, weren't working as good as they
could have been. I don't think either group
really knew what they knew. I guess that's an
opinion on my part but --

30 MR LASRY: I have just been provided with one
other document which I am not sure that I had
previously referred to which I am informed is in
the brief.

35 Q. One of the documents that you mentioned
earlier, Mr Cooper, was the debrief document,
which is one that I think you said I hadn't
mentioned?

A. That's correct.

40

Q. It is in the brief and is document number
[NRF.AFP.0085.0227]. So I think as far as the
typed documents are concerned, we now have a
complete set; is that right?

45 A. That's correct. There are four typed
documents that were submitted over a number of
months.

Q. You mentioned in the course of that last answer that one of the things that was concerning you was that there were no maps and no incident action plans. I think you said that was a concern that was being expressed by crews on the Thursday; is that right?

A. That's correct. Certainly over the last five or six years, anyone in campaign operations have come to expect incident action plans. But usually the first thing that field crews want are maps. They want to know not so much where they are going but what they are going to have to do.

Q. Those maps will provide information about the size of the fire and obviously its location?

A. It certainly gives you the overall situation at the time but also where things are going to go - a bit of a battle plan. You've got to remember these people had come from far north. This was new territory. This is what happens with Rural Fire Service volunteers on a regular basis - when they get there they want high quality information.

Q. What should the procedure have been in relation to the provision of incident action plans and maps on Thursday?

A. Our procedure normally is at the commencement of any shift, the task force commanders and the crew leaders will receive incident action plans that would normally include a map as well as the situation statement, communications plan, organisational chart, objectives for the session, also things like a medivac plan. There are a whole range of supportive documents that are provided in an incident action plan but they are also backed up by a verbal briefing.

Q. Ordinarily that material would be coming from where as far as you would understand?

A. What normally happens is the planning team in the control centre, in the IMT, their real task initially when things start is to develop a strategic vision of where they want to go. That might be two or three days out. It might be a week out. But then what happens is each shift, so the previous shift would develop a specific action

plan to deliver that strategic objective. And so they will actually go in to quite a large amount of detail about what is expected to happen in the shift that is about to be briefed and how it would
5 roll out.

But importantly what they don't do and shouldn't do is give detail in tactics. The field commanders have a responsibility for ascertaining
10 the best tactics to deliver what is required in an incident action plan.

Q. How was the absence of incident action plans and maps coped with on the Thursday? How was
15 that --

A. On the Thursday night?

Q. Yes.

A. As it turned out it really didn't make a lot
20 of difference because I think most people are now aware that the crews in travelling to where they were going to commence the back-burn, the bridge broke. The bridge actually collapsed. So the night shift didn't do anything but actually drive
25 out and drive back. So that is as it turned out.

But on the Friday, I guess given the conditions that were forecast for the Friday and eventually they proved to be worse. You've got to remember
30 that the day crews that were going out on the Friday met the night crews. The night crews basically magnified their concerns about no maps and no IAPs. Now the day crews were going out without any information that they would have
35 normally reasonably expected.

Q. I want to ask you about the planning meeting that occurred on the Friday night. You recall that, no doubt, Mr Cooper?

A. Yes. I think it was scheduled for about 1800.
40 It took off at about 1830. It was a bit late. That was my first meeting, or the Rural Fire Service attending a meeting other than liaison officers.

45

MR LASRY: I have just been handed a bundle of documents. It might be helpful if your Worship

was willing to take the morning adjournment early,
and I will give the witness a chance to look at
them to make sure they are what I think they are,
and also give me a chance to have a look at them.
5 They may or may not make a difference.

I will keep going with the questioning, but
perhaps if your Worship adjourns now rather than
in 10 or 15 minutes, then I will have some idea of
10 what is in them.

MR PIKE: Before you do, can I rise to indicate my
concern. These documents apparently have been
with the police all this time. I made it
15 abundantly clear weeks ago what our request was.
I wasn't alone. I would like some explanation as
to why we are in this position.

THE CORONER: We will adjourn.
20

SHORT ADJOURNMENT [11.14am]

RESUMED [11.42am]

MR LASRY: Your Worship, it may be that, in view
of the notes, the point has been reached where
there is more utility in adjourning this witness's
evidence now. I have had a look through the notes
and I would like an opportunity to look through
30 them in a bit more detail and perhaps speak to the
witness about what is in them. It seems to me
that a more complete account of Mr Cooper's
evidence might be able to be obtained if we
adjourn now, if I have a look at these - there is
35 one other document that I didn't have - and
perhaps speak to the witness.

What I think has happened is that the notes, when
they were originally looked at, weren't obviously
40 relevant, and in a sense not obviously relevant
because a great deal of them deal with events
after the 18th of January. The police had the
documents on their database throughout. Judgments
were made about relevance based on a number of
45 criteria, including the date of the document.

Now that I look at them, informed by the last two

or so months of evidence, I see there are some documents there that do have a relevance. For example, there are some notes of the planning meeting on the Friday and there are some other documents which are dated on the 17th of January. A lot of the other material is to do with the activities of Mr Cooper's task forces late on the 18th, on the 19th and beyond.

In the original process, the police database was made available to us and a process was gone through where we endeavoured only to place on Casebook, which was the original database, all of the documents that we thought would be relevant. This is no doubt a significant amount of material which falls outside the time frame, that is after the 18th of January, which did not get onto the database.

Looking at these documents, I can see why whoever looked through them at the time and made a judgment about them was unable to see that they were particularly pertinent to the inquiry that stops at 18 January. But that said, that is essentially the explanation; it wasn't that they were being concealed; and they have now been produced.

It is one of those circumstances where, in dealing with a large amount of material, this is one batch of documents that had literally fallen between the cracks. In the end, the responsibility is ours and so in the end the responsibility is mine. I accept that responsibility without hesitation. I regret that they were only produced to my learned friends this morning.

I think in fairness to others who were involved, the original request was interpreted to be made on the basis that, when New South Wales witnesses were coming to give evidence, it was sought that any notes on which they would be relying would be produced. I think we were unaware as to whether or not Mr Cooper actually had copies of these notes with him and would be bringing them with him. Apparently he does have the originals of these documents, although he doesn't have them

with him at the moment.

In considering Mr Pike's request in particular, I think it was not realised that these documents
5 were sitting on the police database and hadn't been transferred across. It is one of those things that unfortunately has happened. It is probably desirable in those circumstances that this witness's evidence not be completed until
10 some time has been taken to look at them.

MR PIKE: I hear what my friend says. I thank him for that. I am very grateful. There was, as I indicated before, reference to notes in the
15 particular actual document that I saw when I read it. Lest there be any misunderstanding, at least for my part I would like to clarify the call that was made some weeks ago about notes and be clear that they refer not only to notes which the
20 witnesses may intend to rely upon to refresh their memory or whatever but any notes that they created at the time. If there was any misunderstanding about that, I accept responsibility for that. It wasn't properly expressed, and I now put it that
25 way.

In relation to the witness's further evidence, part of the difficulty that at least I foresee, and I haven't discussed this with my colleagues,
30 is that the witness's evidence - as indeed the evidence of a number of witnesses - is not restricted to what is in their documents but, as in the normal course, counsel assisting takes them through those things and asks them in some
35 instances to expand on those matters.

If there were to be matters of substance which this witness would be asked to expand upon, it makes it very difficult for all of us to get
40 instructions on the run when it is being done for the first time in the witness box. I am not sure how counsel assisting would want to handle that situation. But it does place at least myself, and I am not sure of my colleagues, in an invidious
45 position of having to firstly take instructions upon the documents - that is not a problem - but then take instructions on expanded versions of

things referred to in those documents which is being done as we speak. I raise those issues for consideration at this stage.

5 MR WATTS: I support my learned friend Mr Pike on that issue. If there is to be evidence adduced which goes beyond other than a simple clarification of what is in the material to fresh expressions of opinion or fresh evidence of facts
10 of incidents in which this witness was involved, my submission would be that it should be put in the form of a statement so that we can see it beforehand. It is really not adequate to say it is in the document. Sometimes documents like
15 this, the meaning is not apparent to those looking at it until the witness says, "This is the context of that document. This is how it arose," and this is what he thinks it means. In my submission, we should have something like that so we can be
20 prepared.

Secondly, I would ask that we be given access, if we desire, to look at the originals of the
25 documents.

MR LASRY: Your Worship, I will ask Mr Cooper - he is sitting here listening to this - that he bring with him on the next occasion the original of these notes.
30

THE CORONER: Q. You have the originals of those notes, do you?

A. I do. Yes, I certainly have the spiral - there are a number of photocopies in there.

35 Again, as I referred to earlier, they are my field notes; they are the notes that I make on the run. They are in two pads, and I do have those.

MR LASRY: I don't, with respect, propose to ask
40 that a statement be obtained from Mr Cooper, bearing in mind the detail that has been placed into his record of conversations to which I have referred and the detail that has gone into the accompanying documents.

45 My learned friends have all those documents. It is the appropriate procedure in the course of an

inquest for those documents to be referred to and
regularly for counsel, certainly counsel in my
position, to ask the witness to explain particular
aspects of the document or in some cases expand on
5 it.

Bearing in mind what has occurred, I intend
speaking with Mr Cooper, assuming he is willing
to, prior to him giving evidence. If I am
10 informed of any material which is not in the
documentation and is out of left field, a bolt out
of the blue or however it is to be described, then
I will certainly communicate that.

15 But the position with the New South Wales
witnesses has been is that they have not provided
us with statements. In view of the detail in
Mr Cooper's material, I don't see the need to do
it, subject to anything that may arise from some
20 discussion about these more recently produced
notes.

MR PIKE: I hear what my friend says and accept
what he says with good faith, of course. I have
25 nothing further to say about that aspect.

I do observe that most of the material in
Mr Cooper's documents have been expressed by him,
quite rightly, as being his opinion and have not
30 been put to other witnesses in any event. That
may give some gauge as to the matter that has been
conducted. I don't have a viewpoint from that
point of view.

35 MR LAKATOS: Can I ask one question from my
learned friend: the description of the documents
that this witness had with him at the interview
suggested a larger quantity of documents. I just
wondered if at some point when we are gearing to
40 have him back again we can be assured that the
entire range of documents are available.

THE CORONER: That you have a full set.

45 MR LAKATOS: It may be they are here already. I
am not suggesting otherwise. I think he referred
to a box of documents - but I might be wrong in

that. This doesn't amount to a box.

THE CORONER: Perhaps that could be clarified.

5 MR ERSKINE: May I also ask for some
clarification: given that New South Wales is not
continuously in the inquest, there may be
something that has passed us completely by, but I
was a little puzzled when my learned friend said
10 the cut-off date as far as the inquest is
concerned is 18 January.

Mr Cooper's evidence shows that the New South
Wales task forces were in the ACT until the 22nd
15 of January and they were actively involved in
fighting fires in the ACT between the 18th and the
22nd. To the extent that Mr Cooper is being asked
to make comments about systemic questions as
opposed to the detail of fires on particular days,
20 there may be material that he has that talks about
days after the 18th of January which may have some
relevance to the inquest.

I am therefore inquiring, given that we are going
25 to make our best endeavours to provide all the
documents and so forth, as to whether hopefully we
can produce material up to the 22nd or may we take
the 18th as the cut-off date?

30 THE CORONER: I think it is probably - the 22nd.
If that is the nature of the material, then that
would be very useful, I would think, Mr Lasry.

MR LASRY: Yes, it would be, your Worship. Our
35 original concern, in order to limit the ambit of
this inquest, was to present material only up to
the 18th of January. What we won't be doing in
relation to this witness is conducting any
detailed analysis of what occurred between the
40 18th and the 22nd.

But if it becomes obvious that there is material
which is relevant to your Worship's ambit, as
agreed and as set but that falls outside that
45 period, then of course we will refer to it. I
might be in a better position to know the answer
to that when I have had an opportunity to speak to

the witness.

MR PHILIP WALKER: Dealing with these documents, I
am not quite sure who the authors of all of the
5 documents in the bundle that I have been provided
with are, because there do seem to be some
differing handwriting.

But in addition to any documents of Mr Cooper's,
10 I would like to see any notes taken by
Mr McTaggart or Mr Duckworth as well, if they are
available. If they are all in here, then so be
it. But I am just not clear who the authors of
each of the documents are.

15 A further matter that I would wish to raise is
there is reference in Mr Cooper's documents - it
is not necessary to bring this up unless somebody
wishes to see what I am talking about. It is in
20 document [NRF.AFP.0085.0512]. In that there is
some reference to telephone hookups with state
operations in New South Wales with which there is
said to have been some conversation about the
impact upon Canberra by fire on the coming
25 Saturday.

I appreciate New South Wales could not be asked to
produce - at least I don't think they can be asked
to produce - transcripts of tapes like that, but
30 it would appear to me appropriate that we at least
have a duplicate, if tapes are held, of
conversations like that. Because they are
forecasts about what is going to happen, which may
be very material to what your Worship has to
35 consider.

THE CORONER: What were the dates of those
telephone conversations, Mr Walker?

40 MR PHILIP WALKER: I think it was the 17th when
there was a reference to a conversation with state
operations. There is at least I think one other
that I picked up in this document - although I
haven't worked through it and I will need to
45 identify the page again. The references to calls
to state operations where there might be a
duplicate tape, in my submission, particularly the

one I have referred to, would be potentially very relevant.

5 The third matter is something which I think
Mr Whybrow initially raised two days ago and I
rose to support; and that is, I would certainly
like the planning meeting minutes from New South
Wales, if there are any such things, prior to
Mr Cooper's return.

10 The final matter: I have heard what Mr Lasry has
said about not obtaining a statement, but there
are a number of matters within these documents
which I do not think have been completely
15 amplified in any way at all in the record of
conversation - for example, at [NRF.AFP.0085.0227]
at page 0230. It might be worth having that
brought up so your Worship can see what I am
referring to.

20 I don't wish to take up a lot of time going dot
point by dot point but, if your Worship reads
through those bullet points on that page, you will
see that there are a series of conclusions which
25 Mr Cooper has formed about the incident control
centre in the ACT, as he calls it, which are very
difficult to deal with from my client's point of
view. They are of a nature, because they seem to
be a broader systemic thing, which might well
30 impact upon the view taken about the way
Mr Lucas-Smith discharged his duties.

References to information being out of date and
resourcing and so forth - it is terribly difficult
35 for me to go to Mr Lucas-Smith and ask him
questions without at least some detail of what
those sorts of matters related to. I can either
set the record straight if Mr Cooper is in error;
or if Mr Cooper is passing a perfectly fair
40 comment, I can at least attempt to put it in some
context. Ultimately, I guess what I am saying is
somewhat akin to what Mr Watts has said, it is
terribly difficult. I mean, if this was ordinary
civil litigation, you would send out a request for
45 particulars.

I am asking for some sort of process where we

might get at least some more specific idea of what Mr Cooper has in mind rather than possibly having that factual material elucidated when the gentleman is next here, because it may prove
5 impossible on the run to come up with an appropriate response, if there is one to be had.

MR ERSKINE: Might I respond to that in one way: my learned friend with respect does not know what
10 the document is. He keeps referring to it as being "Mr Cooper's opinion" but it is actually the debrief document. This is actually the opinion of a considerable number of New South Wales officers and whether the individual bullet points at 2.6
15 are one person's views or a view of three or four people is not known.

THE CORONER: That is the difficulty of it.

20 MR ERSKINE: To call it Mr Cooper's opinion, with respect, is not right.

THE CORONER: It is Mr Cooper's document.

25 MR ERSKINE: Yes, it is his document. He is reporting back what he gleaned from what was obviously a large number of discussions with a large number of people up the coast of New South Wales. I say that in order to say that one would
30 expect it would be remarkably difficult to be able to amplify too much of what is there without starting to break down into perhaps 30, 40 or 50 individual statements, depending on how many people took part in the debriefs.
35

THE CORONER: I accept that, Mr Erskine. That is the difficulty.

40 MR PHILIP WALKER: So do I, your Worship. It is Mr Cooper's document, and I accept what Mr Erskine says - although at least some of those do appear to relate to ESB in Curtin which is where Mr Cooper seems to have been. Insofar as Mr Cooper is able to give some sort of particulars
45 of what he actually says - I appreciate what Mr Erskine says - it would be of great assistance. There are probably other examples, your Worship,

but that is probably the best consolidated example of the problem which I face.

THE CORONER: Thank you.

5

MR LASRY: As far as I am concerned, when we next hear from this witness I propose to lead his evidence on the basis of the material as it stands. I don't propose to do other than I have said I will do; that is, if something comes from my discussions with him, assuming that he is willing to talk to me, that is not referred to at all in the written material, then I will make that available. Beyond that, I don't propose to pursue any other material.

If the New South Wales Rural Fire Service care to supply us with the tape-recording of those particular conversations on the night then, in a sense, that is a matter for them. As I say, I propose to deal with the witness now on the basis of the material as it stands.

THE CORONER: Sure.

25

MR WATTS: This doesn't relate to Mr Cooper but I would like to add to my list that is becoming a slab. I need to seek leave to appear for the following witnesses next week: Hilton Taylor, Peter Newham, Michael Collins and Peter Cartwright, who are all due to give evidence next week.

THE CORONER: Leave is granted for you, Mr Watts, to appear for those people. Mr Cooper, thanks very much for your evidence today. You are excused for the day. Thank you for your co-operation and willingness to come back on another occasion. Arrangements will be made dependent on your suitability.

THE WITNESS: I will liaise with Helen Drew.

THE CORONER: Yes, you can make arrangements with her.

45

MR LASRY: I should say, subject to Mr Cooper's

availability, we would be hoping to recall him in that week commencing 31 May.

5 THE CORONER: If that is suitable to you, Mr Cooper.

THE WITNESS: I will see what I can do.

10 THE CORONER: Thank you, Mr Cooper, you can step down.

<WITNESS STOOD DOWN

15 THE CORONER: Mr Cooper was the only witness for today?

20 MR LASRY: He was, your Worship. There are the tapes but I thought perhaps being the end of the week and in view of the regular requests that we might use the tapes to fill the holes next week rather than this afternoon.

25 THE CORONER: That might be desirable. Everyone can have an early mark. We will adjourn until Monday at 10 o'clock.

**MATTER ADJOURNED AT 12.05PM UNTIL MONDAY
10 MAY 2004.**

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