

OPENING REMARKS FROM COUNSEL ASSISTING

26 May 2014

Members of the Board,

The abundant brown coal of the Latrobe Valley is key to Victoria's economic prosperity. It's a low cost source of electricity that powers our industry and heats and lights our homes.

While all of Victoria benefits from this ready source of energy for electricity generation here in the Latrobe Valley, there are some burdens associated with coal mining and power generation. These burdens have fallen disproportionately on those who live and work in the Latrobe Valley.

The township of Yallourn was eloquently described by Justice Stretton in his report on the February 1944 fires in the Yallourn Open Cut Mine. He said, "It's a pleasant place and an asset of very great value, worthy of special fire protection by the Commission under whose sole management it lies. Here indeed the townsman enjoys all that the heart of man may desire except freedom, fresh air and independence. He lives his life on a great many days in a fine rain of abrasive coal particles against which closed doors and windows offer no defence."

Much has changed in the last 70 years, including the advent of local democracy in the Latrobe Valley and greatly reduced emissions from industry, but this description from 70 years ago will probably resonate with people who lived and worked in the Latrobe Valley, especially in Morwell during February and March this year.

The township of Yallourn is no longer. It was removed to make way for an extension to the Yallourn Open Cut Mine and by the early 1980s had all but disappeared.

Morwell itself might have suffered a similar fate.

In 1947 the State Electricity Commission of Victoria proposed a large new open cut mine to the south of Morwell which would have seen the town removed to a proposed new Morwell. This proposal was strongly opposed by the shire of Morwell and was rejected by the premier. At the same time approval was given for the development of what is now the Hazelwood coal mine directly to the south of the existing town.

For reasons that are not known, there was no provision for a buffer zone between the mine and the town, and since the development of the mine began in the late 1950s residents of the southern parts of Morwell have lived cheek by jowl with an open cut coal mine. There is at the end of Maryvale Crescent an early learning centre with a fine view over the freeway into the northern batters of the mine.

The Latrobe Valley community was especially hard hit in the mid-1990s by the disaggregation of the SEC and the privatisation of the electricity industry.

Over time the number of people working in coal mining and power generation and distribution fell by thousands. Unsurprisingly, unemployment rates in the Valley rose during this period to well above the national average.

By most conventional measures, the Latrobe Valley community is less prosperous and less healthy than the rest of Victoria even though the key to Victoria's economic wealth is here. Median household incomes are significantly lower here than for the whole of Victoria and there is a much higher proportion of low income households in the Latrobe Valley than in Victoria at large.

Morwell has an ageing population and the percentage of people living here who need assistance due to a disability is twice the rate for the rest of Victoria. Health outcomes are markedly worse in the Latrobe Valley. Life expectancies are significantly shorter than the state average and there are higher rates of diseases including cancer, cardiovascular disease and asthma.

The community of the Latrobe Valley has been particularly hard hit or particularly affected by asbestos-related disease. There would be few long-term residents who do not know someone who has suffered or died from a lung disease caused by inhalation decades earlier of apparently harmless asbestos dust.

For all of this, the Latrobe Valley is a proud, strong and resilient community. It has a vibrant well-established community network and a large cohort of volunteers. These aspects of the community were on display this year during the mine fire. They continue to be on display as the community, local business and local government work to clean up and recover from the fire's effects. Also on display, very clearly during the Board's consultation process, has been the community's desire for information and accountability about the mine fire.

The Latrobe Valley is located in a notoriously bushfire-prone region. There are fires in the area every summer. Sometimes these fires are catastrophic.

Five years ago on Black Saturday in 2006 the Churchill fire claimed 11 lives, injured 35 others and destroyed 145 houses. At one stage it was feared that the fire threatened the Loy Yang open cut coal mine. On the same day fires were also burning at Delburn and Bunyip, not far away.

It's not uncommon for there to be multiple significant fires burning in the region at the same time. Fire is a commonplace event in an open cut coal mine.

The first known fire in an open cut mine in the Latrobe Valley was in 1896. Justice Stretton observed in his 1944 report on the Yallourn open cut fire that

fire is an almost unavoidable concomitant of brown coal open cut mining. That fire was ignited by a bushfire that began outside the mine.

Since 1944 the operators of the Hazelwood mine have experienced numerous fires, most of them small, some of them large. There are approximately 100 small fires at the Hazelwood mine each year, usually in the working part of the mine. Measures are in place so that these fires can be put out quickly and do not spread.

In 1977 there was a significant fire in the mine ignited from a vehicle exhaust. It burned for three days and prompted a review by the SEC of its fire protection measures. From that review came the Latrobe Valley open cut mine's protection policy that was developed as a result of the lessons learned from the 1977 fire.

The SEC had a dedicated mine fire service in place which endured until the SEC was broken up in preparation for privatisation in the 1990s.

While the Hazelwood mine which was for many years referred to as the Morwell open cut, while it was first developed and for many years operated by the SECV, since September 1996 it has been privately opened and operated by the Hazelwood Power Partnership.

Since September 1996 the licensee for the mining licence, mining licence 5004, has been the Hazelwood Power Corporation Limited, and that company is owned by the Hazelwood Power Partnership.

Through a complex ownership structure the Hazelwood Power Partnership is ultimately owned through various companies, including the International Power Australia Holdings Pty Ltd, by GDF Suez SA as to 72 per cent, and by Mitsui & Co Limited as to 28 per cent. GDF Suez Hazelwood is the custodian of an important state asset in the Hazelwood mine and the operator of an essential industry in the power station that generates 25 per cent of Victoria's electricity.

It's a major employer and contributor to the Latrobe Valley's economy. It's also a neighbour to those who live on the southern side of Morwell.

There have been several significant fires at the Hazelwood mine since it was privatised. In the last decade, there were fires in December 2005, October 2006, September 2008 and most recently in January 2012. These were all ignited from sources inside the mine - the 2005 and 2008 fires from a hot spot in the worked out batters of the mine, and the 2006 and 2012 fires from a hot idler on a conveyor belt. Each of these fires was the subject of review which made recommendations for improved fire prevention and response. In light of experience, Hazelwood has updated what was the Latrobe Valley Fire Protection Policy to what is now the Mine Fire Policy and Code of Practice, which is still substantially based on the policy that was developed by the SEC in the 1980s.

The risk of fire in the Latrobe Valley's open cut coal mines has been squarely recognised for decades; by the mine operators, by the Fire Services, by regulators at state, municipal and regional emergency management planning, and yet on 9 February this year a fire ignited in the worked out batters of the Hazelwood mine and quickly burned out of control. The fire took six weeks to put out. It could have taken much longer but for the tremendous effort of more than 7,000 people who worked long and hard in difficult conditions to suppress the fire.

During those six weeks people who live and work in the Latrobe Valley, particularly in Morwell, had to endure the smoke and ash from the fire. To quote again from Justice Stretton's 1944 report, "The fact that on 14 February last a great fire did develop in the open cut and that strenuous and prolonged efforts were necessary to be expended before it was extinguished points strongly to the fact that the protective measures which had been previously taken were not reasonably adequate."

Seventy years later the occurrence of the worst open cut coal mine fire in Victoria's history raises similar questions which are posed in the Board of Inquiry's terms of reference.

During the public hearings over the next few weeks the Board will be exploring these questions with a wide range of witnesses. Evidence will be given by witnesses from Victorian Government agencies, including the Fire Services, the mine regulator, the Environment Protection Authority and the Department of Health. Evidence will also be given by GDF Suez personnel and by employees of the Latrobe City Council. In addition, the Board has engaged several experts to provide it with expert opinion on subjects as diverse as the environmental and health effects of the fires, communications and community engagement, mine safety and bushfire risk.

The Board will also hear from a number of community witnesses, people who live and work in Morwell and elsewhere in the Latrobe Valley who will give a firsthand account of their experiences of the mine fires. During each week of the hearings the evidence will address a different theme. In this first week of the hearing the evidence will be directed to the origin of and the response to the fires in the mine. How did the fires in the mine start? How did they become so widespread within the mine? What was the initial response to the fires, first by the mine operator and then by the Fire Services? What worked and what did not work in the effort to suppress the fires? Are the fires out? Most importantly, what are the lessons that can be learned for the future?

In a short time the Board will commence hearing evidence from the first witness, Fire Services Commissioner Craig Lapsley. He will give a detailed account of the Statewide preparations for the extreme fire that was forecast for 9 February, the ignition and spread of fires around Morwell leading up to and on 9 February, and the Fire Service's evolving response to the mine fire. The next witness today will be Bill Brown, a community witness who worked for many years in the mine Fire Service at Hazelwood and elsewhere. The evidence today will conclude with a presentation of a Phoenix computer

simulation of the probable spread of the Hernes Oak Fire and the Driffield Fire on 9 February.

Later this week evidence will be called from the officer overseeing the Victoria Police investigation of the Hernes Oak and Driffield fires, and a number of GDF Suez employees who were involved in responding to the fires in the mine on 9 February and afterwards. Evidence will also be called from Fire Service employees who were responsible for local incident control over the duration of the fire, and on Friday we propose to explore the discrete issue of the safety of firefighters responding to the fire at the mine.

Unfortunately, the evidence this week may be a little disjointed. Statements from GDF Suez personnel and the successive Incident Controllers were requested at the beginning of the month, on 1 May, and the first of these statements was not received by the Board until Tuesday last week. The last is yet to be provided. As the witness statements became available to the Board last week we found that the information provided in them was not complete and did not fully address the questions that the Board had posed, and as a result the Board has issued several summonses for witnesses to give evidence this week. We will do our best to stitch up the gaps between the evidence, but it may be that the flow of the evidence this week is not all it could have been.

The second week of the hearings will focus on the environmental and health effects of the mine fire. Evidence called next week will also address relief and recovery arrangements and communications and community engagement. The witnesses to be called next week will include witnesses from the Environment Protection Authority, the Department of Health and the Latrobe City Council.

The Board will have the assistance of independent expert evidence from the following witnesses: First Claire Richardson, an environmental scientist of Air Noise Environment, Professor Donald Campbell, a respiratory physician, and two communications experts, Professor Jim Macnamara of University of Technology, Sydney and Lachlan Drummond of Redhanded. Witnesses will also be called from the Department of Human Services and GDF Suez in relation to relief and recovery assistance provided during and after the fire, including with cleaning up the soot and ash. During next week also we will generally call a community witness each day.

The third week of the hearings, commencing on Tuesday, 10 June, will address questions of mitigation and prevention. There's no doubt that the risk of fire in the mine was identified and there are a number of regulatory schemes within which this risk is managed - mine regulation, Occupational Health and Safety, emergency management, municipal fire prevention and land use planning.

The questions that will be explored during the last week of evidence include whether the measures identified to control the fire risk were adequate, whether the measures identified were in fact implemented and what further

measures should be taken in future in light of the lessons to be learned from this year's experience. It's during this week that the evidence will explore the rehabilitation of the mine and whether it's a feasible fire prevention measure for the future.

Evidence will be called from the mine regulator which is now known as the Earth and Energy Resources Division of the Department of State Development, Business and Innovation; also the Victorian WorkCover Authority, Latrobe City and GDF Suez. The Board will have expert evidence from the mine safety engineer, Professor David Cliff, and also an experienced bushfire consultant, Rod Incoll.

We propose to conclude the evidence by recalling the Fire Services Commissioner, Mr Lapsley, both wearing his Fire Services Commissioner hat and his future hat as the first Emergency Management Commissioner in Victoria to address the existing fire risk management arrangements and the scope for improving them in the future.

I call the first witness, Mr Lapsley.