
TRANSCRIPT OF PROCEEDINGS

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2015/16 HAZELWOOD MINE FIRE INQUIRY

MELBOURNE

FRIDAY, 11 DECEMBER 2015

THE HONOURABLE BERNARD TEAGUE AO - Chairman

PROFESSOR JOHN CATFORD - Board Member

MR PETER ROZEN - Counsel Assisting

MS RUTH SHANN - Counsel Assisting

MR RICHARD ATTIWILL QC - State of Victoria

MS RENEE SION - State of Victoria

MS RACHEL DOYLE SC - GDF Suez Australian Energy

MS MARITA FOLEY - GDF Suez Australian Energy

DR MATTHEW COLLINS QC - Energy Australia Yallourn

MS EMILY LATIF - Energy Australia Yallourn

MS JULIET FORSYTH - AGL Loy Yang

MS LISA NICHOLS - Environment Victoria

MS EMMA PEPPLER - Environment Victoria

1 CHAIRMAN: Yes, Mr Rozen.

2 MR ROZEN: I will just deal with two housekeeping matters
3 before calling the first witness today. The first
4 concerns evidence that was given yesterday by Professor
5 Galvin. The Board and the parties may recall that
6 Professor Galvin made reference to approvals of mines and
7 work plans in New South Wales and the gist of his evidence
8 was that the process in New South Wales with which he is
9 familiar is different from the one that prevails in
10 Victoria. I think it is fair to say that Professor
11 Galvin's evidence was that there were features of the New
12 South Wales process which are better than those which
13 prevail in Victoria.

14 He made reference to examples of project
15 approvals that he was familiar with and it will be
16 recalled that I asked him if he could provide an example
17 of one to the Board. Professor Galvin has kindly
18 overnight provided us with a project approval under the
19 Environmental Planning and Assessment Act 1979 dated
20 23 October 2012. It concerns a project called the Maules
21 Creek coal project. Copies of this have been provided to
22 the parties and at this stage I merely seek to tender it.

23 CHAIRMAN: Do you want to tender it separately or under
24 Mr Galvin's - - -

25 MR ROZEN: I think separately might be best.

26 #EXHIBIT 26 - Report of project approval for Maules Creek coal
27 project.

28 MR ROZEN: The other housekeeping matter I should raise briefly
29 at this point in time is that I have been contacted by
30 Ms Forsyth, counsel for AGL. She has indicated to me that
31 her client wishes to file a report from a gentleman whose

1 name is Mr Gillespie and it is a report which addresses
2 the subject matter of the Accent report about financial
3 assurance mechanisms and alternatives to rehabilitation
4 bonds.

5 I have raised with her obviously a concern from
6 the point of view of the Board and no doubt the parties
7 about the lateness of that and, as I understand it, that
8 application will formally be made perhaps at the
9 conclusion of the evidence today would be an appropriate
10 time to do that.

11 CHAIRMAN: Perhaps if I can say in advance that I will need to
12 hear what others say as to that and they may not be in a
13 position to say anything until they at least see it. When
14 will they be able to see it?

15 MR ROZEN: It might be best if Ms Forsyth addresses the Board
16 on that.

17 MS FORSYTH: Thank you. We hope to have the report by
18 lunchtime today. I have undertaken community consultation
19 with the legal community around the table.

20 CHAIRMAN: That's obviously desirable. Have you encountered
21 opposition?

22 MS FORSYTH: I have not encountered opposition. I was about to
23 say subject to my understanding that I think Ms Nichols
24 would like to see what the report contains, but I will let
25 Ms Nichols speak for herself.

26 MS NICHOLS: We don't want to deprive the Board of any useful
27 information, of course. We are just a little bit
28 concerned about the timing. I don't really know what to
29 say because if it is received into evidence it will need
30 to be dealt with next week.

31 CHAIRMAN: Can I just mention while you are on your feet that

1 we are very much aware of the potential for this kind of
2 problem to expand its difficulties because of what
3 happened at previous parts of the hearings where matters
4 came more out of the blue than this case, but at a late
5 stage, and the on-flow effect was very substantial.
6 I won't say no, but at this stage I'm simply saying we
7 will wait and see. That's really what your position is
8 too.

9 MS NICHOLS: Yes. I suppose the reality is if we receive it
10 today we will need to read it and deal with it on the
11 weekend and we are all in that position. That's really
12 all we can do.

13 CHAIRMAN: I'm conscious of the fact that counsel generally
14 will be working very, very hard over the weekend and into
15 the early stages of next week, so that's why I think at
16 this stage we will just say we will wait and see.

17 MS NICHOLS: Thank you.

18 CHAIRMAN: Do you want anything more or are you content to
19 leave it on that basis?

20 MS FORSYTH: I did propose to outline to the Board why it is so
21 late and take you through the reasons for that.

22 CHAIRMAN: It may be there is no opposition in the end when
23 people have seen it. I don't really need to go into all
24 that detail if we are not really going to be finding
25 anything that is going to cause any concerns overall.

26 MS FORSYTH: That saves my instructing solicitor from doing the
27 detailed chronology that she is now doing, so that's a
28 useful indication. Thank you.

29 CHAIRMAN: Let's just wait and see at this stage.

30 MR ROZEN: If the Board pleases, they are the only housekeeping
31 matters that I have. It doesn't seem anybody else has

1 anything to raise at this point. So I will call the first
2 witness, Ms Carolyn Cameron. Ms Cameron's report appears
3 behind tab 1 in folder 1A.

4 <CAROLYN CAMERON, affirmed and examined:

5 MR ROZEN: Good morning, Ms Cameron.

6 MS CAMERON: Good morning.

7 MR ROZEN: Ms, do I have that right?

8 MS CAMERON: That's fine, thank you.

9 MR ROZEN: Thank you for joining us. I know you, like many of
10 the experts, have travelled a long way to be here with us
11 and the Board is very appreciative of that. Ms Cameron,
12 you are the director of Cameron Strategies, your own firm;
13 is that right?

14 MS CAMERON: That is correct.

15 MR ROZEN: What services does Cameron Strategies provide?

16 MS CAMERON: Cameron Strategies is providing social, economic
17 and policy advice primarily to governments and to
18 statutory authorities like the Great Barrier Reef Marine
19 Park Authority and I'm here on behalf of Jacobs where I'm
20 also doing some subconsulting with them on various topics.

21 MR ROZEN: In that capacity you have authored a report through
22 Jacobs entitled "Analysis of potential coordination and
23 planning models for Latrobe Valley brown coal mines"?

24 MS CAMERON: That's correct.

25 MR ROZEN: The final report is dated 26 October 2015 and for
26 our purposes the Ringtail code is EXP.0009.001.0001. That
27 number needn't bother you, Ms Cameron. That's an internal
28 Inquiry thing. Do you have a copy of your final report
29 dated 26 October 2015 in front of you?

30 MS CAMERON: Yes, I do.

31 MR ROZEN: Have you had a chance to read through that before

1 coming along and giving evidence today?

2 MS CAMERON: I certainly did.

3 MR ROZEN: Is there anything you wish to change?

4 MS CAMERON: No.

5 MR ROZEN: Are the contents of the report true and correct?

6 MS CAMERON: Yes.

7 MR ROZEN: To the extent that you express opinions in the
8 report, are they opinions that are honestly held by you?

9 MS CAMERON: Yes.

10 MR ROZEN: I tender the report.

11 #EXHIBIT 27 - Report entitled "Analysis of potential
12 coordination and planning models for Latrobe Valley brown
13 coal mines" dated 26/10/2015.

14 MR ROZEN: Ms Cameron, you have been kind enough to provide us
15 with a copy of your CV. Do you have that in front of you
16 as well?

17 MS CAMERON: No, but I do know who I am.

18 MR ROZEN: You know it pretty well, I suspect better than
19 anyone else in this room including me. The CV is found at
20 EXP.0009.002.0001. You have a copy?

21 MS CAMERON: Yes.

22 MR ROZEN: In the document you set out your education, which
23 consists of a bachelor degree in the United States and a
24 Master of Environmental Science also at Ohio, is that
25 right?

26 MS CAMERON: That's correct.

27 MR ROZEN: And then more recently a Graduate Diploma in Urban
28 and Regional Planning from the Queensland University of
29 Technology and a Masters of the Built Environment from the
30 Queensland University of Technology?

31 MS CAMERON: That's correct.

1 MR ROZEN: Your work experience, without going through each and
2 every job you have ever performed, you have performed a
3 range of roles both in academia, in industry and in the
4 public service; is that a sort of fair overall
5 description?

6 MS CAMERON: Yes, that's correct.

7 MR ROZEN: Most recently, for the last six years or so, you
8 were the assistant secretary of the Great Barrier Reef
9 Taskforce Strategic Approaches Branch within the
10 Department of Environment. Is that the Commonwealth
11 Department of Environment?

12 MS CAMERON: That is the Commonwealth department.

13 MR ROZEN: Can you tell the Board a little bit about what you
14 did during those six years with the Great Barrier Reef
15 taskforce, perhaps starting with what it is or was and
16 what you did, because I think it is an important aspect of
17 your report, is it not?

18 MS CAMERON: Yes. Yes, it is, sir. The Great Barrier Reef
19 Marine Park Taskforce was established in the department to
20 respond to the World Heritage Committee's concern about
21 the health and the current condition and trend of the
22 world heritage values of the Great Barrier Reef Marine
23 Park. That part of my career in the Commonwealth was more
24 or less for the last three or four years, and that
25 involved undertaking strategic environmental assessments
26 with Queensland and with the Great Barrier Reef Marine
27 Park Authority to establish what the values and aspects of
28 the park were and how they were being protected. These
29 were then regularly communicated to the World Heritage
30 Committee and through Senate estimates committees and
31 others to the government.

1 The strategic assessments were endorsed under the
2 national environmental lobby, Environment Protection and
3 Biodiversity Conservation Act, and out of that then we
4 worked for the last year in 2014/15 with a partnership
5 group that was comprised of industry, the Queensland
6 Farmers Federation, the World Wildlife Fund, the
7 Queensland Conservation Foundation, the fishers group,
8 academic experts, to sit around and come up with a Reef
9 2050 Long-term Sustainability Plan for the reef going
10 forward.

11 That was then presented to the World Heritage
12 Committee at their meeting of June 2015 and was approved
13 and the reef was not listed in danger because of the
14 comprehensiveness - they believed that the plan when
15 implemented would provide adequate protection for the
16 values that it was listed for. It was very much a
17 hands-on procedure from the Commonwealth, the State, the
18 Great Barrier Reef Marine Park Authority and these
19 partners working together.

20 MR ROZEN: Having achieved that milestone, that is convincing
21 the World Heritage Committee to take the position that it
22 did, the taskforce has what ongoing role?

23 MS CAMERON: So the taskforce within the department - so within
24 both the department in Queensland and the department in
25 the Commonwealth there are a group of people now working
26 as I guess just normal government functions, public
27 servants, but tasked to implement the plan. Then also the
28 Great Barrier Reef Marine Park Authority also is
29 implementing aspects of the plan. It was all allocated in
30 the original planning framework as to who would be doing
31 what. So the taskforce has kind of morphed now into a

1 normal kind of government section, but there is one in
2 Queensland and there is one in the Commonwealth and then
3 there is the Great Barrier Reef Marine Park Authority. So
4 it needs an overriding group of officials then that look
5 at it and that is through the Great Barrier Reef
6 Ministerial Forum which has Queensland ministers and
7 Commonwealth ministers and an intergovernmental agreement.

8 MR ROZEN: So it is in an implementation phase having gone
9 through that planning phase.

10 MS CAMERON: Yes.

11 MR ROZEN: We will come back to this in due course, but towards
12 the end of your report you talk about some of the
13 potential similarities between that process and the
14 process concerning the rehabilitation of the Latrobe
15 Valley coal mines.

16 MS CAMERON: Yes.

17 MR ROZEN: Albeit that they are very different. The subject
18 matter is very different.

19 MS CAMERON: The content is very different, yes.

20 MR ROZEN: In some ways the barrier reef is probably more
21 attractive to look at than the Latrobe Valley coal mines,
22 for example.

23 MS CAMERON: I don't think it would get on to a World Heritage
24 list.

25 MR ROZEN: Possibly not, without intending any disrespect to
26 those sitting behind me. I think we can leave your CV
27 now, but I should tender it as part of the exhibit, part
28 of exhibit 27.

29 #EXHIBIT 27 - (Added) Curriculum vitae of Carolyn Cameron.

30 MR ROZEN: Ms Cameron, if we can go to your report and perhaps
31 a useful place to start may be to look at the task that

1 the Board of Inquiry gave you, which we find on the bottom
2 of page 6. So the numbers in your report are in the
3 bottom right-hand corner and for our purposes the Ringtail
4 number in the top right-hand corner ends in 0009. Do you
5 see 1.1, "Terms of reference"?

6 MS CAMERON: Yes, I do.

7 MR ROZEN: You there explain that Jacobs - perhaps I can
8 summarise - Jacobs have really been engaged to perform two
9 pieces of work for the Board and the first is the one that
10 you describe in the first paragraph there, the 24 July
11 engagement, which was specifically looking at terms of
12 reference 8 and 9 and considering future rehabilitation
13 options for the coal mines?

14 MS CAMERON: Yes.

15 MR ROZEN: That report became part of the evidence before the
16 Board yesterday and we heard from your colleagues.
17 Mr Hoxley and Mr Spiers gave evidence about that
18 yesterday. I think you are aware of that?

19 MS CAMERON: Yes, I am.

20 MR ROZEN: The work that was done by Jacobs has informed this
21 piece of work by you, has it not? You have had regard to
22 their work?

23 MS CAMERON: Yes, I have.

24 MR ROZEN: You then go on in the second paragraph towards the
25 bottom of that page to say, "On 9th October Jacobs was
26 commissioned by the Inquiry to conduct an independent
27 review of potential coordination models for rehabilitation
28 of Yallourn, Loy Yang and Hazelwood coal mines," and that
29 report, which is the one we were reading, was submitted on
30 26 October. It is the case, is it not, that the two
31 pieces of work are interconnected in a number of ways, not

1 the least of which being that in the Jacobs options
2 report, if I can call it that, the one that you were not
3 involved in, they highlight the need for regional
4 coordination in a number of areas of the report?

5 MS CAMERON: That's correct.

6 MR ROZEN: If we go over the page to the page that has 7 on the
7 bottom right-hand corner and ends in 0010 in the top
8 right-hand corner, you set out the specific request of
9 Jacobs which was to review potential coordination models
10 and give consideration to the role and terms of reference
11 of any potential body or structure; the structure
12 membership and reporting arrangements; what, if any,
13 legislative changes were required and powers afforded;
14 questions of tenure; questions of funding;
15 interrelationships with other agencies; and overall
16 advantages and disadvantages of each model.

17 Then importantly you identify three things that
18 the scope of the review did not include: an examination of
19 the effectiveness of existing coordination bodies; so, for
20 example, you refer in the report to the role the local
21 council plays, which is coordinating in some respects.
22 You go on and note that you were not asked for
23 recommendations as to whether a coordination body to
24 oversee the rehabilitation of the coal mine should be
25 established or not, and that is the case, isn't it?

26 MS CAMERON: Yes.

27 MR ROZEN: That you were not asked by the Board to come up with
28 a definitive answer?

29 MS CAMERON: No, we were asked to look at different ideas.

30 MR ROZEN: And, thirdly, you were not asked to identify,
31 describe or recommend a preferred model or body.

1 Although, as we will see as we go through your report, you
2 do identify certain features you consider to be important
3 if any such body were to be established?

4 MS CAMERON: That's correct.

5 MR ROZEN: As to your methodology, if we can go over to the
6 next page, please, page 8 of the report, page 0011, you
7 set out under the heading 1.3 the review approach. If we
8 go under the figure, there are four dot points where you
9 have set out the approach that you followed. Can you
10 summarise, please, for us, either by reference to what's
11 there or just based on what you did, how you went about
12 doing this piece of work, what it involved?

13 MS CAMERON: As you can see, it was a very quick piece of work
14 in a sense, so we just had several weeks, actually, to
15 undertake the work. So, given that, the methodology was
16 quite clear and direct. We did a literature review to
17 find good models of what is termed in the literature as
18 "network governance", trying to bring together pieces of
19 legislation and the necessity to coordinate things that
20 perhaps on paper it isn't quite clear how that should
21 occur.

22 Then we looked at three case studies utilising
23 the frameworks and ideas that we got from the literature
24 to compare and analyse those, and then came back as well
25 to look at the aspects of coordination and what were their
26 attributes and what were their functions so that you could
27 then compare across the different models.

28 MR ROZEN: You briefly refer in the next part of your report to
29 bodies that have been or that have performed coordinating
30 roles in the Latrobe Valley in the past. I just want to
31 talk to you briefly about the Latrobe Regional Commission,

1 because on day one of this hearing, that is earlier this
2 week, we heard from a gentleman, David Langmore, who you
3 actually quote from later in your report, one of the
4 people who put in a submission to our Inquiry, and he
5 refers to the Latrobe Regional Commission. I don't know
6 how much you know about the commission. Not a great deal.
7 But we can see that from the Act that set up the Latrobe
8 Regional Commission back in 1983, and this is on page 9 of
9 your report, that it played a sort of broad coordinating
10 role, as we see, coordinating the economic, physical,
11 environmental and social development of the region and
12 assisting in economic development, coordinating major
13 projects and so on. So the role that the commission
14 played to some extent overlaps with the sorts of areas
15 that you go on to examine in your report, albeit far more
16 broadly than just concerning the coal mines.

17 MS CAMERON: That seems to be the case.

18 MR ROZEN: You then go on in section 2 of your report, and
19 I won't dwell on this, but you are drawing I think on the
20 work done in the other Jacobs report, talk about the
21 various mines and you note the closure and rehabilitation
22 plans which have been approved for each of the three
23 mines, noting that in each case some form of lake in the
24 existing mining pit is the anticipated ultimate closure
25 strategy.

26 Then if I can go over, please, to page 13 of your
27 report, page 0016 in the Ringtail coding, you then discuss
28 what needs exist for coordination of the rehabilitation of
29 the three coal mines. Could I start by just asking you
30 about what appears under the heading 3.1, a diverse array
31 of important mine rehabilitation issues. The additional

1 observation you make there is not limited to this subject
2 matter, is it? You identify in general terms when
3 coordination of networks is needed?

4 MS CAMERON: Exactly. So the literature was saying to us that
5 network governance is required when these attributes, when
6 priorities and timeframes are unclear, you have a range of
7 people's views, the information bases are not necessarily
8 either shared or determined and there is not necessarily a
9 lack of preferred outcomes from any of those parties. So
10 that's where network governance comes in, kind of working
11 through with people to solve problems.

12 MR ROZEN: You go on and conclude that some, perhaps all, of
13 those are present in relation to the subject matter that
14 this Inquiry is considering.

15 MS CAMERON: That is correct, with regard to rehabilitation.

16 MR ROZEN: You then go on and quote from the engineering firm
17 GHD, who have been referred to on many occasions during
18 the last four days as being a consulting firm that's
19 provided a very broad range of advice to the various mines
20 and to government about the mines, and you quote from
21 their submission to the Inquiry to the effect that, "At
22 this time there are a number of known unknowns" - an
23 expression which seems to have entered the lexicon - "some
24 of which have regional significance." They go on,
25 indicating that, "Regional opportunities or requirements
26 may not be addressed and wider public benefits lost if
27 there is solely a focus on individual mine rehabilitation
28 plans." I take it that you endorse that observation by
29 GHD?

30 MS CAMERON: We did.

31 MR ROZEN: The remainder of chapter 3 which I will now take you

1 through in summary form identifies more specifically
2 reasons why there is a need for greater coordination in
3 relation to the rehabilitation of the coal mines; is that
4 right?

5 MS CAMERON: That's correct.

6 MR ROZEN: Perhaps we can go through those one at a time,
7 starting with 3.1.1. Perhaps I can just pause there.
8 What you are doing in chapter 3, as I understand it, is
9 saying, look, these are - I think it is eight or perhaps
10 nine reasons why greater coordination in one mechanism or
11 another would be of assistance in relation to the future
12 consideration of rehabilitation of the brown coal mines?

13 MS CAMERON: That's correct. So these are the issues that
14 emerged in the options report. They were looked at as
15 types of things that needed further understanding and
16 then, in the context of what we have talked about with
17 regard to network governance, that would lend themselves
18 to having a coordinated approach in some manner.

19 MR ROZEN: Yes. If we can just go through them, we don't have
20 to do this in too much detail, but the first issue you
21 have identified at 3.1.1 is obtaining access to sufficient
22 material needed to achieve final proposed landforms, and
23 by "material" you mean physical material, soil, clay and
24 the like?

25 MS CAMERON: Yes.

26 MR ROZEN: That was a matter that was identified. You have
27 raised in the third paragraph there that there could be a
28 requirement for a coordinated approach between mines to
29 use and share material. So if one mine - it might not be
30 all that likely - but if one mine had more overburden than
31 it could necessarily use and another mine had a greater

1 demand for that because of their final rehabilitation
2 model, then that's an obvious example of a way in which
3 some coordinating body could perhaps facilitate that
4 occurring; is that right?

5 MS CAMERON: That is correct. It would also apply in the sense
6 of the material that is available within the Valley's
7 purview, how that's kind of - where it is best and most
8 appropriately used.

9 MR ROZEN: You might not be familiar with this, but the Board
10 has heard some evidence from Victoria's Emergency
11 Management Commissioner who heads up a taskforce that has
12 overseen improvements in fire suppression capacity of the
13 three mines and he gave evidence to us earlier this week,
14 Mr Lapsley, of examples of sharing of information and even
15 equipment relating to fire suppression. So, we have seen
16 that already developed in the last 12 to 18 months and
17 what you seem to be suggesting here is that that could
18 potentially be expanded beyond fire suppression to look at
19 broader issues of rehabilitation?

20 MS CAMERON: That's correct.

21 MR ROZEN: The second issue is one that we have heard a great
22 deal of evidence about and that is the management of
23 valuable water resources. You note in the first paragraph
24 under 3.1.2 that, "Each mine will require ongoing access
25 to a substantial volume of water to achieve their final
26 proposed landform." That may be, even in those terms, an
27 understatement of the quantity of water that we have heard
28 evidence about this week. But you go on at the top of
29 page 14 in the second paragraph, page 14 of your report,
30 page 0017 in the Ringtail coding. You say, "Understanding
31 the potential groundwater and surface water impacts

1 associated with the mines using a substantial volume of
2 water over the long term will require a strong
3 coordination across the mines, other water users and
4 statutory authorities such as Southern Rural Water.
5 Latrobe Valley coal mines share the same sedimentary and
6 water basin. Therefore actions by one mine may have
7 repercussions on baseline conditions for other mines, with
8 potential compounding effects for other water users and
9 important environmental values."

10 Then in the box which is figure 3.2 an issue
11 which may benefit from coordination is described as
12 "Coordinating regional water resources and studies to
13 inform allocation and management; planning for the mines'
14 potential long term use of a substantial volume of water;
15 how water quality issues could be addressed."

16 We heard evidence yesterday from a gentleman in
17 Germany who heads up the agency that coordinates the
18 rehabilitation of Germany's brown coal mines. His
19 evidence was that his agency had overseen the flooding of
20 a number of coal mines over the last 25 years or so and he
21 made the point that they developed a system of
22 prioritising which mines would be filled when, according
23 to availability of water and other such matters. That
24 would seem to be the sort of thing that you are alluding
25 to here?

26 MS CAMERON: It sounds like that. Importantly, it's to inform,
27 it's not necessarily, in the first line, "Coordinate
28 regional water resource goals and studies"; to inform
29 those things.

30 MR ROZEN: Yes, not to direct those things.

31 MS CAMERON: Yes.

1 MR ROZEN: So it is not proposed that - well, it is not
2 necessarily the case that a coordinating body would come
3 in and start to do the work of the water authorities, for
4 example?

5 MS CAMERON: Exactly.

6 MR ROZEN: Perhaps drawing on the barrier reef model that we
7 spoke about earlier, can you think of an example of how
8 that taskforce operated in that way? Rather than
9 supplanting the work of existing agencies, it performed
10 that coordination role?

11 MS CAMERON: One of the aspects that's required under the Reef
12 2050 Long-term Sustainability Plan is an integrated
13 monitoring and reporting framework. All different
14 activities then report into the same monitoring framework
15 that then provides the information back that people can
16 then use in their own management and implementation
17 planning. So it is kind of like a clearing house of
18 information.

19 MR ROZEN: The third matter that you raise under the heading
20 3.1.3 concerns planning for potential climate change
21 impacts. Can you expand on what you are referring to
22 there?

23 MS CAMERON: In the case of what I guess is going to happen,
24 having a shared understanding - it relates back to water,
25 it relates to vegetation, it relates to fire and those
26 aspects, but just having a shared view is an important
27 aspect rather than everybody having an idiosyncratic
28 approach with regard to climate change.

29 MR ROZEN: Yes, and we have heard some evidence. We had
30 various representatives of water authorities here earlier
31 in the week and they gave evidence about work that was

1 done, I think in response to a question from Board member
2 Professor Catford, about what the current research work
3 was in relation to climate change.

4 At 3.1.4 towards the bottom of that page you
5 identify an issue which has also been the subject of some
6 evidence, and that is the possibility for one or more of
7 the mines to close earlier than is currently proposed.
8 So, we have evidence before the Board of existing licences
9 running into, in the case of Yallourn and Hazelwood,
10 running to 2026, and I will be corrected if I'm wrong
11 about this, but in relation to Loy Yang running to 2037,
12 I think is the evidence.

13 But you make the observation in the second
14 paragraph there under the heading 3.1.4 that, "There is a
15 possibility that one or more of the coal mines could close
16 earlier or later than their current estimated dates.
17 Market demand is a key determinant for the ongoing
18 viability of the mines and will be heavily influenced by
19 the pace of change in the composition of Victoria's energy
20 mix." That is probably self-explanatory, but are you able
21 to expand on that and maybe draw on any examples you know
22 of that are relevant?

23 MS CAMERON: I think what we were saying here is that we are
24 planning to the best availability of the knowledge that we
25 have now, but if that changes, all the other things could
26 change in relation to that too. The water, the material,
27 all those things could be impacted by a change in closure
28 date for any given mine. So having a coordinated regional
29 perspective on that would be helpful for the community and
30 the other players that are involved.

31 MR ROZEN: Once again drawing on the evidence we heard from

1 Dr Von Bismarck, the German head of the agency there, he
2 told us that a change in government policy impacted on the
3 life of a number of coal mines, and he also made reference
4 to the whole nuclear energy industry shutting down in
5 Germany overnight based on a government decision. So, we
6 just don't know what the future holds, I guess is the
7 observation there, and it is nice to be as prepared for
8 the potential for that as we can be.

9 MS CAMERON: And to have a coordinated view and response at the
10 time.

11 MR ROZEN: Yes. If we go over the page, please, to page 15 of
12 the report, page 0018 for us, the fifth issue that you
13 have identified that can benefit from coordination is
14 providing for community safety, that is safe and stable
15 final landforms. This is a very important matter for this
16 Inquiry and it also has been the subject of a deal of
17 evidence about the importance of community engagement,
18 community involvement.

19 Perhaps drawing on the barrier reef example, if
20 you are able to, can you talk about how those outcomes,
21 that is community involvement, community engagement, might
22 potentially be facilitated by some coordination mechanism?

23 MS CAMERON: Often the issues that are of interest to the
24 community and are important to the mine operators or
25 others are actually shared issues and having a concerted
26 voice, a shared voice, then makes it much easier to have
27 that kind of conversation. So in the context of, as you
28 can imagine, along the Great Barrier Reef coast the
29 location, development and operation of ports is very much
30 an issue. So they have in places like Gladstone developed
31 community based responses of what they call healthy

1 harbours partnerships where they bring people together to
2 have conversations about what's important in their
3 community and then track that information about providing
4 a safe and stable harbour, basically. Very
5 similar - different, but in terms of community goals of
6 use and health and protection, but it is done as a
7 collective group rather than each of the individual
8 regulated entities along the harbour doing - they still
9 have their licence conditions, but then they provide
10 information collectively together into community driven
11 reporting. So that's an example.

12 MR ROZEN: We have heard evidence here about the question of
13 whether any given lake that might ultimately be created by
14 flooding one or more of the pits would be a lake that was
15 accessible to the community and useable by the community
16 or would be fenced off and a hazard, essentially, from
17 which the community needed to be protected. Is that the
18 sort of question that might be addressed within this
19 aspect of the coordinating body that you are talking
20 about?

21 MS CAMERON: It would probably be the parameters by which you
22 would do that, by which you would understand the aspects
23 of the lake that you would be seeking to achieve to have
24 community access, as compared to the risks and
25 consequences if it was deemed to be a hazard. But it
26 would be the dialogue that would happen through the
27 coordination as to the prioritisation.

28 MR ROZEN: And it may be the case that for a range of sound
29 reasons it is ultimately determined that, if there are to
30 be three lakes, that not all of them can be accessible to
31 the community, but maybe one or two would be or some

1 variation on that, but that that's the sort of decision
2 that should be made in a coordinated way.

3 MS CAMERON: And based on a dialogue that has established
4 principles and ways of making decisions and collective
5 perspectives.

6 MR ROZEN: Yes, rather than a mine unilaterally making that
7 determination, perhaps.

8 MS CAMERON: I think it comes back to those things on network
9 governance that we had in the original about where
10 outcomes are not necessarily clear and where information
11 may vary over time.

12 MR ROZEN: If you can go over to 3.1.6 on page 16 of your
13 report, page 19 of the Ringtail, the middle of the page,
14 "Transition to the beneficial and productive post mining
15 land uses and supporting future economic growth", and you
16 make reference there to the submission to this Inquiry
17 from the Latrobe City Council. Can you summarise what it
18 is you are referring to there?

19 MS CAMERON: I think the council was wanting greater clarity
20 and involvement in the planning because it's such a
21 fundamental element within the council's area and
22 responsibilities to better understand how that might work
23 in the future. They would obviously be a key stakeholder.

24 MR ROZEN: Going over the page to 3.1.7, "Fostering community
25 liveability and amenity", this would seem to link back a
26 little bit to the fifth point about providing for
27 community safety, that is safety and stability. Can you
28 perhaps expand on that a little bit for us?

29 MS CAMERON: I think what this does is go a bit further. So
30 the safe and stable is the basis, but then this is looking
31 at what does the community have as a vision? How do you

1 determine a vision for the rehabilitated mine sites in the
2 context of the Latrobe Valley? Who does that? This is a
3 decadal change that's going to occur and so having a
4 vision, and that's one of the things in the Reef 2050
5 Plan, there's a clear vision that is held for 2050 and
6 everybody is working and utilises that as the goal, so to
7 protect the outstanding universal value of the Great
8 Barrier Reef world heritage area for future generations.
9 It is a flag on the hill that everybody then compares
10 their actions, their decisions and aspects against. So
11 this goes beyond just safe and stable.

12 MR ROZEN: That probably leads very neatly into 3.1.8 which
13 talks about the need for "continuity and certainty
14 regarding mine rehabilitation planning and execution".
15 I'm reading from page 18 of the report, page 21.0021 in
16 the Ringtail. "Continuity and certainty regarding mine
17 rehabilitation planning and execution will be essential to
18 achieving the desired community safety, economic,
19 environmental and community outcomes in a manner
20 acceptable to key stakeholders." You refer there to
21 community, mine operators and governments, so everyone
22 benefits from certainty and continuity.

23 MS CAMERON: Yes, I guess it needs to be balanced. The
24 planning literature is always filled with the
25 conversations about certainty versus flexibility. So
26 having a clear vision about what you are trying to
27 achieve, but having some common sense ways of making
28 changes that enable you to more effectively and
29 efficiently get to that outcome is something that probably
30 needs to be considered. It is not written in the tablets
31 for 30 years because we know things are going to change.

1 But we need a method by which you do change that and a
2 method by which you have a conversation about it.

3 MR ROZEN: I just want to ask you about the last sentence in
4 the third paragraph under 3.1.8. Do you see the paragraph
5 that starts, "The Victorian division of the Minerals
6 Council"?

7 MS CAMERON: Yes.

8 MR ROZEN: That's a reference to their submission referring to
9 regulatory inconsistencies and they note that that was
10 something that was identified in the first report of this
11 Inquiry. Then you go on in the third line of that third
12 paragraph, "Strong coordination of the short, medium and
13 long-term rehabilitation planning and implementation is
14 likely to be needed to mitigate against the risk of
15 stakeholders' actions adversely disrupting the
16 rehabilitation effort."

17 I'm not sure I understand that. Who are the
18 stakeholders whose actions might adversely disrupt the
19 rehabilitation effort that's referred to there?

20 MS CAMERON: It could be one of the mines could make a decision
21 that would then have ramifications because of the
22 interrelatedness of the water table and the materials that
23 would then work against the interests of the others. So
24 it's having that clear view and ability to come to a forum
25 and have the conversation so that it doesn't end up in an
26 adversarial point of view, it becomes a way of doing
27 business that gives you the certainty about what you are
28 trying to achieve, but the flexibility. It would stop
29 kind of unilateral activities that could be counter or
30 damaging to the overall perspective.

31 MR ROZEN: Finally, before leaving part 3 of the report, if we

1 go over to page 19 or page 0022 in the Ringtail, there is
2 a heading "Stakeholders potentially involved in mine
3 rehabilitation", and you identify a range of stakeholders
4 which I'm pleased to see include each of the parties that
5 were granted leave to appear in this Inquiry. But
6 I wanted to ask you about the quote from the submission
7 from Mr Langmore which I referred to earlier. You note
8 that he is a gentleman who previously held senior roles
9 within the Latrobe Regional Commission and the Department
10 of Infrastructure in Gippsland, and he of course gave
11 evidence to the Board on Tuesday. You quote from an
12 aspect of his submission where he said, "Rehabilitation is
13 a bit of many organisations' interests, but it seems to be
14 no organisation's particular interest. There is certainly
15 no agency with well-qualified staff in the Latrobe Valley
16 which are providing oversight, vision, research and
17 investigation coordination, planning, monitoring, public
18 information and consultation on rehabilitation."

19 I think the evidence the Board has heard would
20 suggest that there are agencies doing some of those things
21 but there's no one agency doing all of those things. Is
22 that consistent with your understanding of the current
23 state of affairs?

24 MS CAMERON: That would be my understanding. They are doing it
25 within their legislative mandates, the perspectives that
26 they have, and it isn't necessarily a shared perspective
27 with a vision and a clarity about what is to be achieved
28 beyond their legislative mandates.

29 MR ROZEN: It is an overused term but perhaps apposite here.

30 There's the silo effect, isn't there, people doing things
31 within their silos and not a great deal of communication?

1 MS CAMERON: Yes.

2 MR ROZEN: We have seen several examples of that in the
3 evidence this week. If I could turn then to the
4 discussion of leading practice in coordination models
5 which is on page 21 of your report, section 4, 0024. You
6 start by distinguishing between functional and structural
7 attributes of coordination models. Can you explain to us
8 the difference, please, in summary?

9 MS CAMERON: The functional attributes are the things that a
10 coordination activity needs to be able to do. So it needs
11 to be able to plan, deliver, report and then have some
12 continuous improvement. So those are the things that it
13 needs to do. The key structural attributes are the
14 elements that kind of give you the comparison between the
15 three models. So it is the leadership. It is the
16 legislative mandate. It's the tenure. It's the funding.
17 It's the power, the accountability. Those things are the
18 elements then that differentiate one model from another
19 model. That was what we had found in the literature . It
20 is quite clear that those are the elements that are
21 nominated throughout the literature on network governance.

22 MR ROZEN: So the functions are the things that have to be done
23 or the coordinating entity does, and then the structure as
24 the word suggests is the nature of the mechanism that's
25 set up or the nature of the entity or arrangement that's
26 set up.

27 MS CAMERON: Yes.

28 MR ROZEN: It is important not to focus on the concept of an
29 entity. I think lawyers have a tendency to drift towards
30 entities set up under legislation to perform these sorts
31 of roles. But what you are saying in your report is you

1 can have an arrangement between existing entities that can
2 achieve a coordination role.

3 MS CAMERON: That's very much the case.

4 MR ROZEN: Another important theme that I take from your report
5 is that questions of structure and function are
6 interrelated in the sense that you have to start by
7 identifying the functions that you want to have to be
8 coordinated, if I can put it that way in a neutral term,
9 and then you pick the structure that is most likely to
10 perform the functions that you have identified?

11 MS CAMERON: Yes, that's correct.

12 MR ROZEN: So you set out a couple of tables which we can all
13 read, table 4.1, "Key functional attributes" and then in
14 table 4.2, "Key structural attributes". Then you go on at
15 4.2 on page 23 of your report to identify from the
16 literature the three main models of coordination. They
17 are, firstly, the self-governing model; secondly, the lead
18 organisation model; and, three, the established authority
19 model. Can we start with the self-governing model, which
20 you deal with at 4.2.1. If you can identify the general
21 features of the self-governing model.

22 MS CAMERON: It is a group of organisations or stakeholders
23 that have come together, usually voluntarily. They might
24 have been told to go away and make it work. But there is
25 no legislation necessarily around it. They often have a
26 chair that's self-selected or it might even revolve from
27 one organisation to another. It is a bit ad hoc. They
28 kind of pick up whatever needs to happen at the time and
29 deal with it. They tend to exist for as long as they
30 still have shared interests or shared objectives that they
31 need to coordinate.

1 The power and, I guess, accountability are
2 shared, which means they are probably as good as their
3 weakest link rather than there isn't necessarily any
4 scrutiny that you can give - censure that you can give to
5 somebody who doesn't perform other than kind of what you
6 would expect in a cooperative - it is more of a
7 cooperative than it is another type of group, and funded
8 through either in kind, often it is just in kind, their
9 officers do things that need to be done, or they can
10 contribute a levy. The example that we used was the Upper
11 Hunter Dialogue, and they actually put funds into the New
12 South Wales Minerals Council which then gives it back. So
13 there is kind of a mechanism of collecting funds and then
14 redistributing them.

15 MR ROZEN: I was going to take you to the example which is, as
16 you said, the Upper Hunter Valley, which is an example of
17 a self-governing coordination model. You deal with that
18 at 4.3.1 on page 26 of your report. That is of obvious
19 interest to the Inquiry because the subject matter there
20 is so close to what we are dealing with, that is coal
21 mining. What is the history of the Upper Hunter Valley
22 coordinating body? What drove it to come into existence?

23 MS CAMERON: It is kind of an interesting one because it shows
24 that coordination can evolve over time. From my chequered
25 employment history I was actually the project manager for
26 the Upper Hunter cumulative impact study in the 1990s and
27 during that time it was a lead agency model. They did
28 some work that was of interest at the time and then the
29 interest and the momentum died. So the mines were still
30 getting community folk responding quite stridently,
31 particularly to air quality issues.

1 So they established the Upper Hunter Dialogue.
2 That came together - this is now their fourth year, fifth
3 year, and they came together and had a workshop,
4 identified a number of things that needed to be done and
5 developed working groups. It is very much an organic type
6 of organisation. One of the interesting things, though,
7 is they put agendas, minutes from all their working
8 groups, all that's up on the website. Anybody can see it.
9 One of the things that they were most worried about was
10 air quality. So all mining companies put their air
11 quality data into a central place and anybody can dial
12 up and know the weather conditions for the day and the air
13 quality and understand what that might mean for their
14 health. That's just done through the Minerals Council in
15 a fairly - the mining companies that are involved have
16 their own coordinating executive group, but it is a very
17 flexible organisation. It isn't necessarily hierarchical.
18 Anyone can join the different committees, but they have to
19 pledge to work for the group. It's kind of like the Three
20 Musketeers. They have to sign up and say that they will
21 work for the group, not for their own interests.

22 MR ROZEN: All for one and one for all.

23 MS CAMERON: Exactly.

24 MR ROZEN: The constituent members are the mines; is that
25 right? Is there any community participation in an active
26 way?

27 MS CAMERON: I'm trying to think what it's called, but there is
28 a steering committee that has community members. They
29 actually were advertising for community members. They
30 have given a kind of terms of reference of what they were
31 expecting of people to be involved in the joint steering

1 committee. That was where you had to sign up and say that
2 you were more interested in working for the collective
3 than you were for your own personal attributes.

4 MR ROZEN: I see. What about regulators and the like? Do they
5 have any role in that body or is that a separate topic?

6 MS CAMERON: Anyone can come to some of the meetings, and they
7 are often involved in the actual projects, but they are
8 not part of the organisation.

9 MR ROZEN: Hard to see how they could sign the pledge.

10 MS CAMERON: Exactly, when they have a legislative
11 responsibility; indeed.

12 MR ROZEN: They would have an interesting conflict there. All
13 right. So that's the first model that you have identified
14 and the example that you have provided us. If we can just
15 go back to the lead agency model, which you talk about at
16 4.2.2, page 24.

17 MS CAMERON: Yes.

18 MR ROZEN: And a lead agency model, as you describe in the
19 middle of the page, page 0027, "All major activities and
20 decision making is coordinated through and by a single
21 participating party resulting in brokered coordination
22 arrangements." You note that it is a model that's better
23 suited to situations where there are the three features
24 that are identified in the middle of page 24: differences
25 of opinion between parties; parties are not fully
26 committed to the same goals; or trust, rather than being
27 shared among parties, is centred on one or two member
28 organisations. The example you give of that model is one
29 that's close to your personal experience, and perhaps your
30 heart too, is the Great Barrier Reef coordination
31 arrangements.

1 MS CAMERON: Yes.

2 MR ROZEN: What features of those arrangements are ones that
3 fit that description of a lead agency model?

4 MS CAMERON: The complexity of shared jurisdictions between the
5 Queensland government and the Commonwealth government and
6 then with the Great Barrier Reef Marine Park Authority
7 means that you needed to have within each government a
8 lead agency. So it's kind of like multiple lead agencies
9 but within the statutory roles that they fulfil to ensure
10 that the reef 2050 plan will be implemented, to be sure
11 that the statutory obligations at both state and national
12 level will be fulfilled and to be sure that the decision
13 making is coordinated and funding flows through in a
14 transparent way that the community can see.

15 The community, the Great Barrier Reef, is not
16 just the local guys along the coast. It's the nation.
17 It's the world. So being obvious through a ministerial
18 forum, so you bring together the responsible ministers.
19 There's an intergovernmental agreement and things like the
20 reef 2050 plan are scheduled to that agreement. So there
21 is a formal legal mechanism. There are identified
22 ministers who are responsible. Then departments obviously
23 take up the role to have that lead agency and
24 coordination.

25 It is also important about reporting. To ensure
26 that the coordination occurs in research and between
27 experts there's an independent expert panel that's chaired
28 by the Chief Scientist of Australia. There is also a reef
29 advisory committee that was basically the people that we
30 used in the partnership group. They have now been
31 reconstituted as the reef advisory committee with an

1 ex-governor of Queensland as the chair of that to
2 coordinate and have that gravitas that indicates the
3 commitment of the governments to coordinating that through
4 this kind of collective method.

5 Because it is in two jurisdictions, you can't
6 necessarily have an established authority either; so the
7 third model that we have. So it is long term. They are
8 there for 2050, and they have been there since 1975 with
9 the Emerald Agreement. They have worked together with
10 Queensland and the Commonwealth. They have those
11 different functions. They have had the planning function.
12 Now they are into the delivery and implementation. They
13 have a reporting and monitoring function. Because of the
14 statutory nature of the marine park legislation and other
15 types of activities they have a five-year response with an
16 outlook report that then enables them to have that
17 performance management and review.

18 MR ROZEN: Then the third model that you have identified is the
19 established authority coordination model. You outline its
20 features on page 25 of the report. As its name suggests,
21 it is a model that involves an entity established
22 generally under statute and specifically to govern the
23 network and its activities, and it is external to the
24 network. So in a way what we are really talking about is
25 a spectrum, are we not, and it is at the opposite end of
26 the spectrum from the self-governing ad hoc type
27 arrangement which sort of lasts as long as its shared
28 members consider it needs to?

29 MS CAMERON: That's correct.

30 MR ROZEN: The example you have given us, and there are of
31 course many, of the established authority coordination

1 model is the Dandenong - - -

2 MS CAMERON: Development Board.

3 MR ROZEN: You describe it at the bottom of page 31 of your
4 report, page 0034 in Ringtail. You refer to the City of
5 Greater Dandenong, which is on the south-eastern outskirts
6 of Melbourne - or maybe not these days the outskirts. It
7 was once upon a time. You refer us to the role that that
8 entity played in revitalising Dandenong. What was its
9 brief or purpose?

10 MS CAMERON: It was to pull together a number of the functions.
11 It actually took over some of the functions for the time
12 of its duration. So it became the planning authority and
13 worked with infrastructure and other things to coordinate
14 a redevelopment in central Dandenong. But it had a finite
15 life. So it was good in planning, delivery and some
16 reporting. It didn't actually get to performance
17 management and review because there was an audit - because
18 it was a government agency, the Victorian audit group had
19 a look at it, but it was actually just after it had closed
20 down.

21 The thing with an established entity like this is
22 because it's sitting out there as something separate,
23 external to the network or to the elements that need
24 coordinated, it is also perhaps more subject to political
25 changes. It is created. It can be uncreated. Very, very
26 similar. So it has strengths. Its potential power and
27 accountability and requirements, there can be censures on
28 others not to do the right thing. But it is also somewhat
29 vulnerable in its creation and long-term tenure and/or
30 funding. It can continue to go, but be defunded as well.
31 So it has some vulnerabilities.

1 MR ROZEN: In a way - I'm not taking issue with what you are
2 saying - it is almost counterintuitive that you would
3 think the body set up under statute might be the least
4 vulnerable to those sort of changes, but it may well be,
5 as you describe, the most vulnerable because it is a
6 stroke of a pen that can remove it from the landscape.

7 MS CAMERON: Mm-hm.

8 MR ROZEN: You note on page 33 of your report, page 36 of
9 the Ringtail, that that particular body was set up under
10 statute, the Dandenong Development Board Act 2003, and
11 that it had a board the membership of which is set out
12 there, representatives of relevant government agencies,
13 local businesses and the City of Greater Dandenong, and
14 that it had a budget of \$1 million per year and some
15 staffing and the ability to engage consultants.

16 MS CAMERON: Yes.

17 MR ROZEN: That's as a summary.

18 MS CAMERON: Because it is an entity, it can contract.
19 Depending upon what it's been given in its terms of
20 reference or in this case actual legislation, it has the
21 appropriate powers as created at the time for the problems
22 they are trying to solve.

23 MR ROZEN: To bring section 4 of your report to a conclusion,
24 at 4.4 there's a heading "Summary of lessons learnt from
25 case studies". This is page 36 of your report, page 39 in
26 the Ringtail. I am interested in what you say under the
27 heading "Short, medium and long-term planning". You say,
28 "Developing plans to respond to the current objectives in
29 the short and medium term was a strength of all three case
30 studies." The Great Barrier Reef, the lead agency model,
31 is the only example of a long-term timeframe, that is to

1 2050. Is it conceivable that it may even continue beyond
2 2050? Presumably many of the issues that are currently
3 existing will exist then, maybe even more so in relation
4 to some areas like the impact of climate change, for
5 example?

6 MS CAMERON: Yes, I'm sure that something will exist then. But
7 the plan itself was looked at as fairly aspirational to
8 try and deal with 35 years, let alone a longer timeframe.

9 MR ROZEN: A manageable chunk of time.

10 MS CAMERON: Yes, and it has five-year targets, medium-term
11 objectives for 2035 and then the longer 2050 goals.

12 MR ROZEN: Yes. As I'm sure you are aware, the evidence the
13 Board has heard about the rehabilitation of the coal mines
14 involves estimates which are certainly in the decades, so
15 we are certainly talking about a vision to the middle of
16 the current century, but there is evidence before the
17 Board that it may in fact be centuries even of, for
18 example, monitoring water quality and assessing stability
19 and so on. So we are talking about even greater perhaps
20 time scales than was the case for the Great Barrier Reef
21 situation.

22 MS CAMERON: Yes.

23 MR ROZEN: If we can go over to section 5 of your report,
24 please, where you assess the model by reference back to
25 the subject matter that we are concerned with. That's at
26 page 38 of your report, page 41 in the Ringtail. You note
27 in the second paragraph under the heading 5.1, "Analysis
28 of the issues that may benefit from coordination showed a
29 strong need for coordinated short, medium and long-term
30 planning." I take it that's language you have used in a
31 considered way, that there's a strong need? Why the

1 adjective "strong", I guess is the question?

2 MS CAMERON: Because the elements that we looked at in
3 section 3 about the types of things that needed to be
4 coordinated, it's about planning for those things often.
5 Delivery and implementation and other aspects may have
6 other ways of being delivered, but if there's not a clear
7 vision there's not a clear understanding of some of the
8 information needs about planning for water, planning for
9 materials for coverage, those types of things, it is in
10 that planning function that it is most needed to have a
11 coordinated approach.

12 MR ROZEN: Under the four dot points that you then set out
13 there's a paragraph that I do want to ask you about that
14 starts with the word "regulation". Do you see that?

15 MS CAMERON: Yes.

16 MR ROZEN: "Regulation (assessment and approval) of individual
17 mine operator work plans and variations and/or water
18 allocations was not identified from the research as
19 needing to be within the scope of any coordination entity.
20 Based on the literature review and case studies,
21 regulatory assessments and approvals should remain at arms
22 length (to protect integrity and neutrality of the
23 regulatory function) from entities with the policy
24 development or coordination functions."

25 If I can just stop there and just summarise, if
26 I can, some of the evidence the Board has heard about
27 their regulatory role in relation to work approvals, and
28 we heard a lot of evidence about that yesterday and also
29 earlier in the week. I think it is fair to say that the
30 evidence the Board has heard would suggest that there is
31 certainly room for improvement - to use the expression

1 that primary school teachers are very fond of in school
2 reports - in that area. What is it about the regulatory
3 function that doesn't necessarily lend itself to being
4 brought into this coordinating role? What is the point
5 that you are making there?

6 MS CAMERON: You could perhaps do it in the established
7 authority if you gave all those powers to the established
8 authority. But because, in a sense, the regulations are
9 there to undertake the activities that they have been
10 identified for, whether it be a pollution control, mine
11 regulation, energy, whatever it is, has been established
12 for a reason and it applies to everybody. If it is pulled
13 out and put into a coordinating function it could be seen
14 to be diluted from the mainstream that it's being
15 implemented from. So it has a legislative base. It is
16 there for a reason. If it continues in the way and you
17 are coordinating through it, across it, rather than taking
18 it over you end up with the main legislation and a
19 coordinating function both getting to good outcomes
20 together. It's like a stool with three legs rather than
21 one. So you are getting to a better outcome.

22 In the Great Barrier Reef all the things continue
23 to happen. All the Queensland legislation - there is
24 26 pieces of legislation that continue to happen. But it
25 is coordinated as to how they will work within the context
26 of the Great Barrier Reef. So you are looking at it from
27 how the decisions are made in those places by the
28 regulatory agencies under the legislation they have.

29 MR ROZEN: You go on in the remainder of section 5, starting at
30 5.2 on page 40 of your report, 0043 in the Ringtail, to
31 assess advantages and disadvantages of potential mine

1 rehabilitation coordination models. Consistently with the
2 brief you were given, you weren't asked to come to a final
3 answer or make a final recommendation. But you do, for
4 our benefit, identify advantages and disadvantages of each
5 of the three models having regard to the subject matter
6 that the Board of Inquiry is concerned with; am I right?

7 MS CAMERON: That's correct. With regards to the functional
8 attributes of planning, delivery, reporting and
9 performance evaluation.

10 MR ROZEN: You make the point - and I'm just struggling to find
11 it in your report, but I'm sure you will remember - that
12 it may not be a matter of choosing one particular model;
13 that over time it may be that different models lend
14 themselves to different aspects of the work of a
15 coordinating body.

16 MS CAMERON: Yes.

17 MR ROZEN: Maybe you can find the point in your report where
18 you say that, or it doesn't really matter, if you can just
19 expand on that for the Board by reference to your
20 experience, please.

21 MS CAMERON: We have seen in the Upper Hunter where it has gone
22 through and had a lead agency that then became
23 disempowered, in a sense, and then the mines picked
24 themselves up and said, "We are going to have Upper Hunter
25 Dialogue and do it ourselves in self-governing." So it
26 went differently. Everybody plans well when they come
27 together. So the planning function can be done, with good
28 intentions, under any model. Then it may be that as you
29 go forward and there are harder decisions or funding
30 becomes something that needs to be equitably distributed
31 and transparently reported that you need a different

1 model; the self-governing wouldn't work.

2 As you said earlier, what we are looking for are
3 the functions that need to happen. This is the long-term
4 perspective. What do we need to have as a coordination
5 conversation? What is the method, approach, we have for
6 coordination that fits the time and the functions that are
7 there at that time? The evaluation, monitoring and that
8 kind of continuous improvement aspect will be something
9 that's really important in the context of the Latrobe
10 Valley because, as you said, it's a long time. So which
11 entity does that over time? But, to kick it off and to
12 get started, planning can be done under any of the models.

13 MR ROZEN: So here the Board has been asked by its terms of
14 reference to consider short, medium and long-term options
15 and has taken the working view that "short term" means
16 between now and the end of mining at a particular mine,
17 "medium term" from that time for a period of 15 years, and
18 then "long term" will be thereafter.

19 MS CAMERON: Correct.

20 MR ROZEN: So within those timeframes obviously in the
21 short-term there's mining going on and rehabilitation done
22 on a progressive basis. But once the mine closes and if
23 it is to be filled with water, for example, that's a very
24 different activity and then a different type of mechanism
25 to coordinate that may be appropriate.

26 MS CAMERON: I would think that that might be the case.

27 MR ROZEN: I have actually found the point where you deal with
28 that. It is on page 47 of your report, under the heading
29 "Tenure", on page 50 of the Ringtail. The second
30 paragraph there, "Given the duration of the rehabilitation
31 effort (tenure) upwards of 30 to 40 years" - and, as we

1 have heard, maybe considerably longer than that - "it is
2 highly unlikely that one coordination model can be used to
3 perform all required functions over that period of time.
4 It is essential that the vision and outcomes of the
5 rehabilitated mined areas are strong and stable." Then
6 you go on and expand on what we have just been discussing.

7 MS CAMERON: Yes.

8 MR ROZEN: Just one last matter. On the following page under
9 the heading "Interrelationships", very last paragraph
10 there seems significant, "Ultimately and within the
11 context of the existing legislative framework, it is the
12 performance of the coordinating entity that will either
13 create and maintain or diminish their standing with
14 stakeholders. As shown in the Great Barrier Reef case
15 study (for example the appointment of former Queensland
16 Governor General" - probably Queensland Governor.

17 MS CAMERON: Yes, that was an error.

18 MR ROZEN: "... to head the advisory committee)." Given your
19 origins, Ms Cameron, you are probably forgiven for not
20 appreciating the fine distinctions in our constitutional
21 arrangements. Some of us struggle to understand them at
22 times, I think . But you talk about the importance of
23 leadership. What is the significance of that from your
24 perspective in the context of coordinating arrangements?
25 Why is leadership important?

26 MS CAMERON: Again when we come back to the conversation about
27 the elements of coordination and why you need it, you
28 haven't got a shared outcome, trust might not be
29 fully - having a leader that comes in and helps through
30 that coordination process give that clarity and stability,
31 transparency and just has the gravitas to say, "Let's come

1 together, let's have the conversation", and do it in a
2 very calm and sensible manner then gives people confidence
3 that the conversation is happening in an appropriate
4 manner. It is much more difficult in the self-governing
5 to probably do the clarity about the leadership. But
6 there may be people that would come forward out of the
7 self-governing groups to take that role on and be able to
8 do that.

9 MR ROZEN: One final matter I want to ask you about which goes
10 outside the scope of your report, although probably fits
11 more comfortably under the third model, is what sometimes
12 is referred to as a commissioner model, that is a person
13 appointed to a role; so rather than a body with
14 necessarily a board or so on, a commissioner, and there
15 are various examples existing certainly in Victoria. Is
16 that a model that might potentially play some role in
17 relation to the issues the Board is considering and are
18 you aware of any examples of commissioners that perform
19 similar roles or from which the Board could learn
20 something?

21 MS CAMERON: I'm aware in Victoria and in the ACT there is an
22 Environment Sustainability Commissioner that has been
23 established primarily when we look at those functional
24 roles again, not about planning but about reporting, so
25 state of environment reporting, and has the ability then
26 to reflect that information back and to create a
27 policy - you wouldn't say directives, but policy
28 information for other agencies to pick up and utilise as
29 they do their planning, delivery and reporting.

30 I am also aware that in Queensland when the coal
31 seam gas started they had established a commissioner that

1 looked at coordinating the information from all the
2 individual tenants, the tenements about water. Water is a
3 regional resource. It is a groundwater. The aquifer
4 doesn't stop at the boundary of a tenement. So they
5 needed a manager to coordinate information of groundwater.

6 I would think from the things that we have read
7 that having clarity of the terms of reference of what you
8 wanted the person to do or the commissioner to do, and
9 then everyone would understand what
10 responsibilities - because what's difficult is about
11 accountabilities, responsibilities, censure, the kind of
12 carrot and stick that you have as a standalone entity, you
13 have to be quite clear how you create it such that it is
14 appropriate and robust enough to be able to do what you
15 need it to do and have people respond to your requests.

16 MR ROZEN: Thank you. The last matter I want to ask you about
17 concerns research. The evidence the Board has heard,
18 particularly from a range of experts yesterday, is that
19 one thing everyone agrees on is that there are a lot of
20 things we don't know about stability, water quality and so
21 on and that there needs to be a considerable amount of
22 research done before we can reach final conclusions, for
23 example, about whether we will have stable landforms if
24 pits are filled with large quantities of water. Is that
25 part of the Great Barrier Reef arrangement, that is that
26 it oversees research about the impact of climate change
27 and so on on the Barrier Reef? Is that part of the
28 coordinating arrangements?

29 MS CAMERON: Underneath the ministerial forum and as part of
30 the reef 2050 plan in the governance section and in the
31 implementation section there is an independent expert

1 panel. The people are all appointed and it goes across
2 socioeconomics because it is about how farmers make
3 decisions in the catchments as much as it is about how
4 fishermen work on the reef. So they have a range of
5 scientists that have come together and it is chaired by
6 the Chief Scientist, Ian Chubb, who has now been replaced.
7 They have a program to review research proposals, research
8 priorities and then to look at the efficacy of them in a
9 scientific sense too. They are a peer review group as
10 well. They perform that function meeting three or four
11 times a year.

12 MR ROZEN: Thank you very much. They are the questions I have
13 for Ms Cameron. Professor Catford?

14 PROFESSOR CATFORD: Ms Cameron, thank you very much. It was
15 very helpful indeed. I'm still a little bit uncertain
16 about what the role of the Commonwealth government is in
17 this piece. Does it have any regulatory responsibilities
18 at all? If it doesn't, are there other opportunities the
19 Commonwealth government could assist in the rehabilitation
20 of the mines? Just finally, within that, what is the role
21 of Regional Development Australia Gippsland in this piece?
22 I'm conscious that's in some ways a partnership between
23 the State and the Commonwealth.

24 MS CAMERON: Because I no longer work for the Commonwealth
25 government I can't really speak on behalf of that. I can
26 talk a little bit about what's in the Environment
27 Protection and Biodiversity Conservation Act. Water for
28 coal mines is a matter of national environmental
29 significance, but there would have to be actions that are
30 taken that would have a significant impact on those for
31 the Commonwealth to be involved in a regulatory manner.

1 I'm not the person to speak to about the role of the
2 Commonwealth in rehabilitating mines per se.

3 I'm also not the person to talk to about Regional
4 Development Australia because there are much better people
5 that actually know its responsibilities under this
6 particular government as compared to the previous
7 government on a Commonwealth basis.

8 PROFESSOR CATFORD: I'm just trying to think about your Barrier
9 Reef experience where clearly the Commonwealth has been
10 quite an important asset or resource in this process.

11 MS CAMERON: Yes, it was.

12 PROFESSOR CATFORD: I guess it is something that we might want
13 to consider further, about what the role of the
14 Commonwealth might be.

15 MS CAMERON: There they had a clear legal mandate. They have a
16 responsibility to protect and provide protection and
17 implementation of the World Heritage values. Because it
18 is an international treaty, the Commonwealth had that
19 World Heritage responsibility. Also the Great Barrier
20 Reef Marine Park is a matter of national environmental
21 significance under the Environment Protection and
22 Biodiversity Conservation Act. So they had a clear legal
23 mandate. Here, from my background in the Department of
24 Environment, I don't know what their legal status or the
25 legal trigger would be that would get them involved.

26 PROFESSOR CATFORD: Thank you very much.

27 MR ROZEN: I'm informed that counsel for GDF Suez, Ms Doyle,
28 has some questions; maybe just one. I don't know.

29 MS DOYLE: Just one topic. Ms Cameron, I'm interested in the
30 models that you summarise. It is probably best if we go
31 to page 52. It is almost the end of your report. The

1 Ringtail number is 55. The three models your paper
2 explores are the self-governing model, the lead agency
3 model and the established authority model. Is it right to
4 say that ultimately you conclude at page 52 that the
5 analysis demonstrates that all three models have
6 advantages and disadvantages.

7 MS CAMERON: That's correct.

8 MS DOYLE: Would it be the case that, although you don't land
9 on a particular model, you do tend to suggest that either
10 the lead agency or the established authority model might
11 be the preferable model in this arena?

12 MS CAMERON: Given the functions that you need to do over time,
13 particularly when you move into delivery and information
14 and performance monitoring and review, the self-governing
15 model is not as good at. For the planning stage, any of
16 them could do it. You could start the conversation - - -

17 MS DOYLE: I appreciate you have analysed three case studies.
18 Can I ask you one that relates more directly to coal. In
19 the context of looking at the suitability of the lead
20 agency model or the established authority model, did you
21 have any regard to the work of Coal Resources Victoria?

22 MS CAMERON: No.

23 MS DOYLE: Have you heard of Coal Resources Victoria?

24 MS CAMERON: No.

25 MS DOYLE: Its predecessor Clean Coal Victoria, which was
26 established in 2008?

27 MS CAMERON: I have heard of it but I do not know the specifics
28 of that organisation.

29 MS DOYLE: You might not be alone in that. I take it you
30 haven't had an opportunity to look at the current purposes
31 or strategies of Coal Resources Victoria?

1 MS CAMERON: That's correct.

2 MS DOYLE: So then you haven't had an opportunity to analyse
3 whether that entity - it's simply changed name. It
4 changed from Clean Coal Victoria to Coal Resources
5 Victoria. You haven't had an opportunity to analyse
6 either whether it is best described as a potential entity
7 to take on either the lead agency or the established
8 agency role?

9 MS CAMERON: I'm not. That is a statewide agency?

10 MS DOYLE: Yes. It was originally a unit of DPI and, as
11 I understand it, through the various changes that have
12 occurred it is now a unit of the current department known
13 as DEDJTR.

14 MS CAMERON: I think from what we were asked to do and what we
15 have looked at in the context of the Latrobe Valley a
16 statewide agency or entity needs to have that local
17 regional focus. So there would have to be some mechanism
18 set up through it to bring in the local stakeholders and
19 to have the conversation with local folk.

20 MS DOYLE: In light of what you have just said that might be
21 done either by establishing a Latrobe Valley chapter of
22 Coal Resources Victoria or some means by which some of the
23 people working within that unit had a means of access to
24 the Latrobe Valley community?

25 MS CAMERON: Yes, and I guess it comes back to the elements of
26 trust and some of the other aspects that the different
27 entities have, the models have too, because trust,
28 effectiveness and efficiency are some of the things that
29 are discussed very much so in the literature.

30 MS DOYLE: I have no further questions for Ms Cameron.

31 MR ROZEN: Nothing arising from that. Could Ms Cameron,

1 please, be excused?

2 CHAIRMAN: Yes, thank you very much.

3 <(THE WITNESS WITHDREW)

4 MR ROZEN: I'm instructed we need 10 minutes before Ms Unger is
5 called. It might be convenient time to have a break.

6 CHAIRMAN: Yes, we will take a break.

7 (Short adjournment.)

8 MS SHANN: Thank you, I call Corinne Unger.

9 <CORINNE JOY UNGER, sworn and examined:

10 MS SHANN: Thanks, Ms Unger. Before I take you through your
11 professional background, if I could just ask you have made
12 a statement for the Inquiry dated 26 November 2015?

13 MS UNGER: Correct.

14 MS SHANN: And have you read that statement recently?

15 MS UNGER: Yes.

16 MS SHANN: Is it true and correct?

17 MS UNGER: Yes.

18 MS SHANN: Is there anything you wish to alter?

19 MS UNGER: No.

20 MS SHANN: I tender that.

21 #EXHIBIT 28A - Statement of Corinne Unger dated 26/11/2015.

22 MS SHANN: I will also ask you, Ms Unger, did you provide a CV
23 which is found behind your witness statement?

24 MS UNGER: Yes.

25 MS SHANN: I will tender that.

26 #EXHIBIT 28B - Curriculum vitae of Corinne Unger.

27 MS SHANN: Finally, and we will come to this when we talk about
28 briefly your professional background, you were awarded a
29 Churchill Fellowship in 2009 and you produced a report as
30 a result?

31 MS UNGER: Yes.

1 MS SHANN: The topic was to "Study leading practice on
2 abandoned mine rehabilitation and post mining land use
3 projects in Austria, Germany, England and Canada"?

4 MS UNGER: Correct.

5 MS SHANN: That's found with Ringtail reference
6 EXP.0005.001.0007. If I could tender that.

7 #EXHIBIT 28C - Churchill Fellowship report by Corinne Unger.

8 MS SHANN: Thank you. Ms Unger, could I ask you firstly just
9 to provide the Board with a brief overview of your
10 professional background and expertise in relation to the
11 issue of mine rehabilitation?

12 MS UNGER: So, it's about 30 years of experience starting in
13 soil conservation. First of all, I studied geomorphology
14 and did a Dip Ed and postgraduate Diploma in Geoscience.
15 I worked in soil conservation in New South Wales and then
16 for ERA managed the rehabilitation and research program
17 for a uranium mining company located near Jabiru in the
18 Northern Territory surrounded by Kakadu National Park. So
19 that was for about 10 years. Then I was an environmental
20 regulator in central Queensland for a year and then
21 managed the Mount Morgan abandoned mine project for about
22 five years, and then became a self-employed consultant
23 based in Brisbane until the time of my Churchill
24 Fellowship and then additionally commenced part-time
25 research at the University of Queensland around abandoned
26 mine, mining legacy research and then have progressed into
27 an ACARP grant, which is a coal research grant. So
28 I consult and I do research. Then I joined the TRB in
29 September.

30 MS SHANN: Just in relation to the TRB, that's the Technical
31 Review Board which advises in relation to the three mines

1 the subject of this Inquiry. When were you first
2 appointed to that Board?

3 MS UNGER: September.

4 MS SHANN: What is your understanding of your role or the
5 intended role for you within that Board?

6 MS UNGER: To address the rehabilitation aspects in a strategic
7 sense within the Board and that that had been added
8 recently and so I was to fill that role.

9 MS SHANN: When you say "added", are you referring to the term
10 of reference - - -

11 MS UNGER: Yes, sorry, the terms of reference included
12 rehabilitation from this year, from what I understand.

13 MS SHANN: I'm going to firstly ask you about your broader
14 knowledge in terms of guidelines and international and
15 national best practice in this area. But as part of your
16 role for the TRB, recent as it may be, have you had an
17 opportunity to read the work plans of each of the three
18 mines?

19 MS UNGER: I have only been given and had time to review the
20 rehabilitation sections of the work plan. So I haven't
21 read all of them, no.

22 MS SHANN: But that relates to each of the three mines?

23 MS UNGER: Yes.

24 MS SHANN: And does that include the recent Loy Yang work plan
25 variation?

26 MS UNGER: I read it and it was discussed and, yes, I recall
27 being caught up with issues from the past by the TRB, so
28 there was a lot of discussion around it, but I was new to
29 the TRB at that point.

30 MS SHANN: Have you also as part of your recent involvement in
31 the TRB had an opportunity to read and review the

1 statutory regime which really oversees the work plans and
2 the rehabilitation in this area?

3 MS UNGER: I have read the legislation, the Mineral Resources
4 Sustainable Development Act. I have read a number of the
5 guidelines. I have not looked at how the environmental
6 legislation interacts with it yet, so that's something
7 I still need to do, so how the two agencies work together
8 over issues that relate to rehabilitation and where those
9 interactions occur. So, it's been mainly focused on the
10 legislation and the guidance that I found relevant to it
11 as I was reading it.

12 MS SHANN: Thank you. At paragraph 8 of your statement, which
13 is WIT.0005.001.0003, you refer to there being a
14 significant body of knowledge about good practice
15 rehabilitation and closure which can be used as a
16 reference, and you go on to say as a basis for revision of
17 Victorian legislation and regulations. I just want to ask
18 you about that body of knowledge outside of Victoria, with
19 reference to a particular example, the Western Australian
20 guidelines for preparing mine closure plans. Is that a
21 document that you are familiar with?

22 MS UNGER: Yes, it's a contemporary closure guidance document
23 and it provides some principles which are worthy of
24 review.

25 MS SHANN: Mr Chairman, that's a document which we will get up
26 on the screen. The parties have recently been provided
27 with copies. I will just take Ms Unger to a few parts of
28 it. She also has a copy. Is the purpose of this set of
29 guidelines - firstly, it's a set of guidelines developed
30 by the government in WA?

31 MS UNGER: Yes, and so in referring to this, so in terms of the

1 overall context for this it's about looking at other
2 jurisdictions and picking the eyes out of what they do
3 well. So I'm not saying this is directly transferable;
4 I'm saying there are some principles in here that are
5 worth considering. One of the key principles is seeing
6 that two agencies have signed off on this. So where the
7 two agencies have had interaction and involvement and
8 legislation that is relevant and interact in this space,
9 that they have put this together, and I feel that it
10 provides scaffolding for operators to understand what the
11 expectations are. So it helps to clarify that and bridge
12 any gaps that may exist.

13 MS SHANN: The two entities that you are referring to are the
14 Department of Mines and Petroleum and the Environmental
15 Protection Authority?

16 MS UNGER: Yes, that's correct.

17 MS SHANN: And this is a set of guidelines developed by both of
18 them?

19 MS UNGER: Yes.

20 MS SHANN: To set up a set of criteria - - -

21 MS UNGER: To clarify mine closure expectations whilst
22 addressing the legislative requirements of both agencies.

23 MS SHANN: Then each of those agencies has to sign off on work
24 plans which are provided or submitted in response to this
25 set of guidelines?

26 MS UNGER: In this case there are two different processes and
27 that makes them unique in terms of comparing it with
28 Victoria where certain mines go through an EPA path and
29 others go through a DMP path. But what it is is saying
30 that they agree on the process and that process will be
31 applied to all.

1 MS SHANN: If I can take you firstly to page 3 of that
2 document. About halfway down it states, "Consistent with
3 industry leading practice, the guidelines are based on the
4 principle that planning for mine closure should be an
5 integral part of mine development and operations planning
6 and should start 'upfront' as a part of mine feasibility
7 studies." If I can firstly just ask you is that a
8 sentiment that you agree with based on your experience and
9 knowledge?

10 MS UNGER: It is certainly desirable.

11 MS SHANN: Why is it desirable?

12 MS UNGER: Because at the beginning of a project you have the
13 ability to influence strongly some of these potential
14 risks that can end up being large liabilities at the end
15 of a project, and that sentiment is reflected in
16 International Council of Mining and Metals guidance and
17 other guidance so it is not just an opinion, but that it
18 is about risk management and having that ability to
19 influence things early, whereas as you get closer to
20 closure you have narrowing of options.

21 MS SHANN: Taking the three mines in the Latrobe Valley which
22 obviously are well established to varying degrees, but
23 they are all in operational phase, would this principle
24 apply to that phase even if, for example, that planning
25 hadn't started before the mines actually started their
26 operations?

27 MS UNGER: Yes, so most mines that I prepare closure plans for
28 are already started. I'm rarely involved from the outset.
29 So usually it's about saying, "Where are we in the
30 process? How can we get this planning and design on track
31 with a closure focus?" So it's actually taking sometimes

1 disparate activities that are uncoordinated. So it
2 doesn't matter what point in time through the mining
3 project you can still bring it to a closure design focus
4 and then align all the tasks within that. So it's not as
5 easy as doing it from the start, but it is still a good
6 way to do it.

7 MS SHANN: What are some of the risks if that sort of early
8 planning isn't done?

9 MS UNGER: Consideration of the full footprint of the mine may
10 not be clearly defined. So, the footprint in terms of
11 disturbance and where materials might be placed, how waste
12 might be handled, how topsoil might be managed. It's
13 mainly around understanding the full life of mine from the
14 outset and considering all of those options. So, for
15 example, sometimes waste dumps can be placed in
16 inappropriate locations and create long-term legacy risks
17 across a drainage line or close to something that it would
18 have been better if it wasn't. So, it's about those
19 design decisions from the outset and it is also about
20 segregation of materials that need to be segregated. So
21 it might be adverse behaving wastes geochemically,
22 materials that need to be encapsulated have to be managed
23 differently to those that don't, and it is about actually
24 using those waste materials as a resource and valuing
25 those materials. So, it is about being clear about all of
26 that and anticipating those problems with a life of mine
27 focus.

28 MS SHANN: If I could take you to page 8 of that set of
29 guidelines at 2.5, where it says, "All mine closure plans
30 approved by DMP must be regularly reviewed over the life
31 of a mine. The Mining Act requires these plans to be

1 reviewed and submitted for approval by DMP every three
2 years or such other time as specified in writing by DMP."
3 Firstly, in your experience what are the potential
4 benefits, if any, of having a set period of time where
5 plans have to be resubmitted for approval?

6 MS UNGER: I guess from a regulatory perspective then there is
7 an ability to plan and focus on those issues that are in a
8 regular timeframe and then be a continual improvement, so
9 there is a planning process, there will be some
10 implementation and there will be some review and then you
11 get to see how that's improved in the next plan. So the
12 first plans may not be all that substantial, but over time
13 you see that continual improvement if this process works.

14 From an industry perspective it can also help
15 with planning and I'm not saying three, five, whatever
16 time period it needs to be appropriate, but it creates a
17 focal point around the closure issue which can often be
18 deferred because the term itself implies that it doesn't
19 matter until closure. So bringing forward the closure
20 design related elements and then how rehabilitation is the
21 implementation of those elements you can do while you are
22 operating, it brings that focus forward instead of leaving
23 it until later.

24 MS SHANN: If I could ask you to turn to page 12. Set out at
25 3.1 are a set of principles of mine closure planning. How
26 important do you consider it to be to have a
27 government-led set of such principles?

28 MS UNGER: I think it's critical because otherwise the
29 expectations are very unclear. So if you are operating a
30 mine and just dealing at a rehabilitation level, so
31 rehabilitation and safety and stability issues are

1 fundamentally important, but they are like a subset of the
2 overall closure issue and planning for it, that if those
3 principles aren't clearly defined, then what end point are
4 you aiming for? So governments need to set the standard
5 and provide the frameworks, I believe. Individual
6 operators have the best knowledge of the site and are the
7 best ones to develop those plans, but those expectations,
8 they have to be clear. So if there was any sort of
9 overarching visioning of a process, then these things can
10 slot into that.

11 MS SHANN: Just turning then to page 16, is this a table titled
12 "Indication of required level of closure detail" which
13 goes on to provide against each of the stages of mining,
14 including over the page at page 18 the stage of operation,
15 a set of various levels of detail which in this context
16 the Western Australian government is expecting mine work
17 plans to provide?

18 MS UNGER: Yes, so quite often when a framework is developed,
19 companies will say, "Give us an example." What I would
20 like to refer to is perhaps the figure at 3.3, just in the
21 context of that, because that is really an elaboration of
22 that figure.

23 MS SHANN: So that's at page 13?

24 MS UNGER: Page 13, section 3.3. So where it talks about how
25 you start with a conceptual closure plan, that increasing
26 detail through the life of the project is the process that
27 that's trying to define in words, that's all. It's just
28 about starting conceptually and refining it.

29 MS SHANN: Some of the references on page 18 to required level
30 of closure detail include providing detail about research
31 trials and risk reviews. Are you able to say what the

1 benefits are of having that level of detail in a work plan
2 in your experience?

3 MS UNGER: I guess it's the evidence that you need that these
4 issues are being well addressed and that the right people
5 are in the room when the risk assessment is done.

6 MS SHANN: If we could turn to page 23. This is a section of
7 the guidelines titled "Structure and content of a mine
8 closure plan", which indicates what the two relevant
9 government agencies require the plan to include for
10 consistency and for efficient assessments, and then turn
11 to page 26. I just want to ask you a few questions about
12 some of those requirements.

13 The first one is at 4.7, "Stakeholder
14 engagement". What it appears is required is that the mine
15 closure plan includes information about what stakeholder
16 strategy and engagement has occurred in relation to the
17 actual closure plan. From your experience, what's the
18 significance of having that type of stakeholder
19 engagement?

20 MS UNGER: The significance is that mines can reach the end of
21 their life and not ever be fully completed because the
22 stakeholders haven't been effectively engaged. We do have
23 examples of mines in Australia that have reached that
24 point, mainly historic. But if you haven't engaged with
25 the stakeholders, then there can be a fundamental sticking
26 point. So the fundamental requirement about post mining
27 land use, how will this land be used after mining, must be
28 agreed by a range of stakeholders. It is like this parcel
29 of land has been taken out of the normal planning
30 mechanisms, used for this purpose, but then it must be
31 reintegrated. So when you go from multiple agencies being

1 involved during a start-up phase in a greenfield site, and
2 not necessarily that's how these mines started, but when
3 you have these multiple agencies interacting, the
4 operations are undertaken sometimes regulated by only a
5 few of those agencies and then when you come to close it
6 you have to be reintegrating that landform, landscape,
7 everything about it, across all of the aspects of social,
8 economic and environmental. Then you have to be
9 reconnecting with all of those and you can't leave it to
10 the end because you may not have anticipated those things.

11 So stakeholder engagement throughout the life of
12 the project is the critical link. They call it - it has
13 been referred to by colleagues as progressive
14 rehabilitation for people. So there's progressive
15 rehabilitation of the land and then there's that
16 progressive rehabilitation of people and that is how you
17 involve them in decisions around the post mining
18 landscape. But it means having a very good knowledge base
19 and bringing them along. So it's an education process as
20 well about what can and can't be done with that landscape.

21 MS SHANN: Thank you. If you could turn to page 30, and at 4.9
22 of these guidelines there's a set of completion criteria
23 and an indication of what the agencies require in the mine
24 closure plan in terms of criteria, including completion
25 criteria that will be used to measure rehabilitation
26 success, completion criteria that will demonstrate the
27 closure objectives have been met and completion criteria
28 developed for each domain which consider environmental
29 values. What's the role or significance of having such
30 completion criteria in a work plan?

31 MS UNGER: It is about taking those broad objectives - and

1 I will just refer back to those broad objectives that were
2 on page 3 about safe, stable, non-polluting with agreed
3 post mining land uses as being some general principles
4 applied to good practice, rehab and closure of mines.
5 There are objectives around them, but then how do they
6 translate into action? And without some clear completion
7 criteria there's no step-wise process of necessarily
8 getting to an end point and there is no way of signing off
9 on that end point. There must be mechanisms for agreement
10 that they have been met. Without those mechanisms, it's
11 not clear who is deciding when it's been done.

12 MS SHANN: When you say mechanisms for ensuring they've been
13 met, does that include for the regulator to be able to
14 actually evaluate compliance with criteria?

15 MS UNGER: I think it is both. I think companies need
16 certainty about when they are going to reach an end point
17 and what that end point might look like and whether that
18 end point has a post closure management phase, whatever;
19 there's clarity required there. The regulator definitely
20 needs measures that they can sign off on to say that it's
21 met those requirements, and that means it has had to take
22 into account stakeholder requirements as well.

23 MS SHANN: If I could take you to page 33. At 4.11 there's a
24 set of requirements relating to the identification and
25 management of closure issues and an indication that both
26 risk assessments, outcomes of risk assessments and what
27 that looks like is required as part of the work plan.
28 What is the significance of having risk assessments as
29 part of a work plan?

30 MS UNGER: For a closure risk assessment it is a different type
31 of risk assessment, but it ensures that if it is

1 effectively done you have had to consider the consequences
2 of failing to meet your objectives. So, having set those
3 objectives, what are all the mechanisms, and going into
4 that in detail reveals often overlooked issues around
5 closure. So having that long-term view and that
6 intermediate view about how you are going to apply it to
7 everyday planning, design and progressive rehabilitation.
8 It identifies the big risks, you look at the likelihood of
9 those risks and you come up with a risk register and then
10 it helps to focus attention on the critical issues so that
11 smaller, minor issues don't loom large just because they
12 are immediate. There may be other ways of prioritising
13 risks that are out there in the future, but they need to
14 be brought forward so that the uncertainty can be
15 addressed.

16 MS SHANN: In terms of the risk of failing to meet the ultimate
17 completion criteria or the ultimate plan for closure, what
18 are some of those risks?

19 MS UNGER: There is a risk that the operator is there in
20 perpetuity managing the site, which may or may not be a
21 problem in this instance . I'm not clear about how the
22 regulator deals with the differences between privately
23 owned land when the land is owned by the operator as
24 compared with Crown land. In the legislation there are
25 differences and there are differences with how
26 rehabilitation expectations are negotiated. So, when the
27 owner is the operator, I think there's a bit of a lack of
28 clarity around how that plays out through the legislation,
29 or abandonment or - probably two options. One is the
30 mining operator never leaves because they have to manage
31 the site or it's abandoned and it defaults to the

1 community or the State.

2 MS SHANN: Turning to page 39, at 4.14 is set out the
3 requirements under the heading of "Financial provisioning
4 for closure". There are a number of dot points which are
5 required to be, where applicable, included in financial
6 provisioning information, including closure research and
7 trials and provision for premature closure. Can I ask you
8 what is the importance, in your view, of having that type
9 of information as part of a work plan?

10 MS UNGER: Research and trials in particular, because if
11 closure is perceived to be something that can be left
12 until the end, then often there's a number of surprises
13 that face operators. I'm speaking generally here. I'm
14 not saying that it's specific in this case. But the
15 research and trials are absolutely necessary to address
16 those uncertainties that you would identify through a risk
17 assessment around closure before you get to the end of the
18 life of the project because they may result in savings in
19 terms of effort or they may incur extra work that may need
20 to be done . But, whatever they define, if it can be
21 integrated during the operations it is far better than
22 leaving it until the end. So it's about gathering the
23 data to address uncertainty, just reduce the uncertainty
24 to provide a clear pathway. What was the other aspect?

25 MS SHANN: The provision for premature closure?

26 MS UNGER: So that's really about - in some cases it's where
27 operations go into care and maintenance, but it is just
28 really about once you do plan for the end point, part of
29 the risk assessment process could be what if we don't get
30 to that end point and we have to stop here. It's about
31 simulating that and seeing what else might need to be done

1 and where the risks lie, because some of those risks may
2 not be as great once you've done the risk assessment or
3 they may just require a different approach.

4 MS SHANN: I won't take you through it, but at page 73 of this
5 guidance or these guidelines is there an appendix which
6 provides what's titled "Interim guidance on pit lake
7 assessment through a risk based approach"?

8 MS UNGER: Is that a yes/no question, sorry?

9 MS SHANN: Yes.

10 MS UNGER: Yes, that's what it is.

11 MS SHANN: That goes for some pages providing some guidance
12 from the two government agencies as to what kind of
13 information might be required in a work plan where a pit
14 lake was an option being put forward for closure?

15 MS UNGER: Yes, so this is a closure plan as they call them
16 there. They are not work plans. So the closure plan is
17 part of - there are other plans I think they have to
18 prepare.

19 MS SHANN: If I could tender that document, please.

20 CHAIRMAN: Do you want that as part or separate?

21 MS SHANN: Probably separate.

22 #EXHIBIT 29 - Guidelines for preparing mine closure plans, May
23 2015.

24 MS SHANN: Just leaving that to one side and asking you more
25 broadly about that idea of national and international best
26 practice and how that compares to your knowledge of what's
27 happening in Victoria at the moment in relation to the
28 three mines, firstly, in your opinion based on that
29 background what would you say about the level of detail
30 that's in the current work plans, including the recent Loy
31 Yang work plan variation?

1 MS UNGER: So to put Australia in context, we have a younger
2 mining history. So when I would say that perhaps USA and
3 Canada are perhaps more advanced, or Germany, you have to
4 understand that they have been mining a lot longer. They
5 have closed many more mines and they understand how to do
6 it because they've done it. In Australia we have a number
7 of closed mines, but not necessarily to a modern standard.
8 We have successful examples from shallow mining, like
9 bauxite and sand mining, and we have less perhaps
10 contemporary examples of completed mine closures around
11 coal and metalliferous mining. So that's a general
12 context sort of statement.

13 In terms of the sites and the regulatory process,
14 I'm not fully across all of the conditioning processes.
15 So having read the legislation and looked at
16 rehabilitation sections of work plans, I can't say that
17 I'm fully across the conditioning process. I can see that
18 a level of detail can be inserted at that point, but
19 perhaps it is the opportunity now to have some framework
20 that ensures that the conditioning is consistent around a
21 structure that sort of unifies the three in a way around
22 those elements that they have in common and allows the
23 differences to be managed, obviously.

24 So I'm not going to comment specifically on the
25 content because I don't have the context for it and
26 I haven't been into the mine and explored it in detail.
27 I have been into the Hazelwood Mine and I have looked at
28 the other two mines from the lookout and that's as far as
29 I have gone. So I haven't had the opportunity to really
30 understand the sites well yet, and in terms of the
31 regulatory process I haven't delved into it and I don't

1 know how this process interacts with the environmental
2 agency and I don't know how their needs are met in terms
3 of ash dams and those aspects that aren't captured by the
4 Mineral Resources Sustainable Development Act. I don't
5 know how the two interact. There is obviously a process,
6 but I don't know how effective that is and I can't comment
7 on that.

8 MS SHANN: That's fine. In terms of the part of your statement
9 where you say at paragraph 15 that, "It is important for
10 government to define standards and end point criteria for
11 safety and stability as well as other environmental and
12 end land use aspects of rehabilitation to clarify
13 expectations for completion of rehabilitation," are the
14 Western Australian guidelines an example of where that's
15 occurring?

16 MS UNGER: Yes.

17 MS SHANN: Are those requirements that you set out in paragraph
18 15 in your opinion requirements which are desirable in
19 Victoria and applied to the three mines here?

20 MS UNGER: Yes, and in particular because of the existing
21 legislation being so heavily weighted towards safety and
22 stability, that other aspects can be not done as well.
23 So, yes, there's a heavy focus on safety and stability
24 when you read the legislation, and the other aspects are
25 with other agencies. I don't know how it comes together.

26 MS SHANN: You refer in your statement at paragraph 11 to the
27 need for coordinated, collaborative knowledge based
28 approach. What would that involve or what does it look
29 like?

30 MS UNGER: First of all, in developing a closure plan you start
31 with a knowledge base and you look at all the knowledge

1 that you have for a site through a closure lens. So you
2 actually have to position yourself a bit differently
3 around the information. So you may have been collecting
4 water quality data, you may have done some rehab or
5 whatever and you have stability issues, but if you look at
6 it from a closure perspective and you get the right people
7 in the room or involved with that project, you think about
8 what does this landscape - what is it going to look like,
9 how is it going to function, where are its boundaries in
10 terms of what it influences, how does water move through
11 the landscape, what is the quality of that water, how
12 might that change through the seasons if there are lakes?
13 It is an integration of all the sciences and the
14 engineering that are around closure planning.

15 So, the knowledge base that you put together
16 around closure has to bring all those things together.
17 Then, from that you revisit your objectives and say, "Are
18 they still right and realistic?" Then you engage and
19 progress and you do your risk assessment on the basis,
20 "What are all of the key risks that could cause us not to
21 meet those objectives?"

22 That evidence base, that knowledge base is that
23 foundation and it has to cut across all of those issues,
24 not just safety and stability. It has to go across all of
25 those aspects that impinge on closure. In the earlier
26 session we learned about governance or frameworks for
27 steering processes, so there are those activities that
28 relate to the cumulative aspects of these mines and then
29 there are other individual ones. So there has to be a
30 linking process between that, say, lead agency role that
31 looks at the vision creating process through a regular

1 consultation and then you have the individual sites
2 building their knowledge, addressing their knowledge gaps,
3 identifying them first and then addressing them and
4 progressively slowly getting to that end point. So it is
5 a process over time.

6 MS SHANN: You refer in your statement at paragraph 5 to
7 progressive rehabilitation as including trialling final
8 rehabilitation concepts and building community and
9 regulatory confidence. Can you just expand a bit more on
10 why you have included those as part of the definition of
11 progressive rehabilitation and what the significance of
12 them is?

13 MS UNGER: I think to draw on the Hunter Valley, for example,
14 or here as well, where mines are visible and people can
15 drive past and have a look, you don't have to be a
16 rehabilitation expert to see when rehabilitation work is
17 being done and whether it's being done well or not. There
18 is something that a lot of people, whether farmers or just
19 anyone, can look at an area and say, "Gee, that's
20 progressing well" or, "It's not". That is whether there's
21 a stable looking slope, whether there is vegetation on it
22 or not, or whether the drainage is working, or whether it
23 is failing, whether there is gullying or whatever.

24 I think in the Hunter Valley it's an example that
25 has been particularly apparent that where the community
26 has a lot of access to sites they can see whether the
27 rehab is happening or not. So there has been a heightened
28 awareness of the issue of rehabilitation generally from
29 the general public. So, if the community is concerned or
30 doesn't think that the rehab is being done, then the
31 pressure will be applied to governments and governments

1 will impose more regulatory requirements and so it has
2 this feedback mechanism.

3 So, as an industry, the mining sector has to
4 recognise, and it has, there are some companies that
5 recognise it and they push ahead with their progressive
6 rehabilitation as rapidly as they can because they value
7 the confidence that it instills in both the community and
8 the regulator, because the regulator can come to the site
9 and say, "Hey, you hadn't done that last year. You've
10 done this now. It's working really well. If it fails,
11 you've learned from it." It is part of that process.
12 Acceptance of failure, sometimes it occurs, but there's
13 that learning process. So there is a continual
14 improvement loop happening. It builds confidence.

15 MS SHANN: Part of that building of confidence is the trialling
16 of final rehabilitation concepts in order to demonstrate
17 whether or not that final closure plan is feasible, but
18 having that transparency around the trialling process?

19 MS UNGER: Yes, because then it requires some rigour around the
20 monitoring and the data collection and the verification as
21 well. So, unless it's properly trialled - anyone can push
22 out a slope and throw some seed out, but if it is properly
23 trialled, you do it in a systematic manner and you gather
24 the appropriate data and then you can say, "This is
25 working, that isn't, but we can fix that." So that
26 feedback mechanism has to occur and that's where trials
27 are important, so gathering the data and reviewing what
28 you've done and how it's working.

29 MS SHANN: I want to just finally ask you some questions about
30 paragraphs 9 and 10 of your statement. At 9 you say in
31 relation to the issue of bonds that it is important that

1 the value of a bond accurately reflects the true costs of
2 rehabilitation and that it should include realistic sums
3 for the research and development monitoring and
4 maintenance required to develop and implement the
5 rehabilitation. Why are those things important, in your
6 experience?

7 MS UNGER: Because in some cases once rehabilitation works have
8 been undertaken there is a perception that nothing further
9 is required, yet they always require some follow-up to
10 different degrees, depending on the site. Obviously the
11 monitoring has to go on until you reach a point where
12 you're confident that you're tracking on a particular
13 trajectory, and I'm not just talking about vegetation.

14 So when we get back to those completion criteria,
15 there is a tendency to think about it just from a
16 perspective of vegetation growing on grass, but all of the
17 completion criteria, there may be water quality, there
18 might be other landscape values that have completion
19 criteria, so you have to be able to monitor and measure
20 until you reach the point at which you can say, "It is
21 performing as we predicted and we've met those
22 objectives."

23 So I think timeframes around the end of the life
24 of a project are very unclear, but the bond and the
25 frequency of review are complex issues. I think
26 governments may or the community may rely entirely on the
27 bond when you also need to have people with the right
28 expertise to evaluate them in government. So it's a
29 specialised area and it is not just something that anyone
30 could review. So it's a very specialised area,
31 understanding not only the costs, but also what's not

1 included in the bond. So the bond is seen as an
2 earthmoving task and it sets aside those costs, but it
3 doesn't take account of those studies that you need to do
4 to know what you are going to do, if you know what I mean.

5 MS SHANN: You refer at paragraph 10 to bonds should be
6 reviewed regularly to ensure the amount reflects the
7 current costs to rehabilitate the mine. You have just
8 referred to the need for expertise to undertake such a
9 review. Should that be being done within government or by
10 the mines or a combination or by an external independent
11 expert? In your experience, do you have any thoughts on
12 the best model there?

13 MS UNGER: The best way to verify them is with an independent
14 external audit, but that's not necessarily practical for
15 every assessment. But if there is a bond that needed to
16 be reviewed, then independence is essential.

17 MS SHANN: I understand you are familiar with the bond
18 calculator tool which is referred to in a document at
19 DEDJTR.1021.001.0001. What are you able to say in
20 relation to that particular tool against your experience
21 of best practice in it calculating and evaluating bonds in
22 other contexts?

23 MS UNGER: So my first thought is - and I don't know if it's
24 been updated - but it looks dated. So when you look at
25 it, it looks like an older - I think it has 1990 on it.
26 I would have to refer to it now. It is an adaptation of a
27 New South Wales bond tool and as such, when I looked at
28 the open cut coal section and it referred to washery
29 wastes, I thought how are these mines applying it, because
30 those aspects are not relevant to these mines. So, it was
31 around the age. I didn't know when the rates had been

1 updated. They may well have been updated, but obviously
2 the rates need to be kept up to date.

3 MS SHANN: How important is it for any kind of bond calculation
4 to actually allow for knowledge gaps that there might be
5 about what may need to occur to ensure closure plans are
6 actually realised successfully?

7 MS UNGER: As part of the risk assessment, those studies that
8 are a necessary part, it's about going beyond the
9 earthworks task. It's about everything that's required.
10 It's about stakeholder engagement. I don't know whether
11 the bond is the right place for that, but somewhere it has
12 to be captured that rehabilitation and closure is more
13 than an earthmoving task.

14 MS SHANN: Ms Unger, perhaps I could just ask you generally,
15 before I sit down, is there anything else that you from
16 this national and international experience in mine
17 rehabilitation think would assist the Board in answering
18 the questions that they have to answer?

19 MS UNGER: You might just have to stop me. In relation to
20 bonds, there has been research done where they have
21 compared bonds in different countries, but what I will
22 come back to is just the need for evidence based policy so
23 that if there are to be any changes, then we draw on
24 evidence. So it means investing in the research from a
25 government perspective as well. Operators need to invest
26 in research to solve their problems, but governments need
27 to invest in research as well, because looking just next
28 door at New South Wales may not be enough. You need to go
29 wider than that. Even what they are doing in
30 Western Australia, that's an example, but I think globally
31 and gather the information, as this Inquiry is doing. Let

1 me just have a quick look.

2 The other aspect that I could not find in the
3 legislation was around institutional controls. So it is
4 really about how mines are managed after closure, as part
5 of that closure process, how they are transitioned to
6 other landowners and land users and all of the
7 institutional controls. That is something that does exist
8 overseas and you can find examples of that in Canada and
9 other jurisdictions where they've already had to address
10 those issues. So it is perhaps because Victoria is not at
11 a point yet where it necessarily has had to think about
12 it, but the time to think about it is not waiting until
13 the end as well.

14 So those institutional controls, they are the
15 legal arrangements, the planning arrangements. That's how
16 you limit access to the land as well as permit. We have
17 talked about it in the planning sense, but then there are
18 legal arrangements and so they are not physical things,
19 they are all those other controls that need to be put in
20 place.

21 The IFC, the International Finance Council or
22 commission and the World Bank have publications around
23 bonds and financial assurance and there are very good
24 reviews around about different methods of providing
25 bonding for mines and their advantages and disadvantages.
26 So I would recommend that some reference to those be made.
27 There is one called "It's not over when it's over" about
28 mine closure.

29 The other aspect I wonder about is around the
30 organisational structure within government where there are
31 senior roles around authorisations and compliance, but

1 nothing around closure. Closure may be embedded in the
2 compliance part and it may also be embedded in
3 authorisations. But that would be something that I would
4 be looking to see how that is embedded in those regulatory
5 functions.

6 At a national level there are strategic
7 frameworks that provide guidance. There was one for mine
8 closure in 2000, an abandoned mine one in 2010, and there
9 is a multiple land use framework that was developed under
10 COAG as well which has relevance and emerged through the
11 Hunter Valley. I'll stop there, I think.

12 MS SHANN: Thank you very much. If you just wait there,
13 I think there are some questions from Environment
14 Victoria.

15 MS NICHOLS: Ms Unger, you say in your statement that Victorian
16 mineral resources legislation is dated and needs to be
17 amended to reflect good international practice. Apart
18 from the matters you have mentioned just a moment ago, are
19 there particular aspects of the legislation that you think
20 need amending to reflect good practice?

21 MS UNGER: So I have mentioned about, yes, a strong focus on
22 safety and stability, so those other environmental
23 aspects, whether they come into that legislation or where
24 the linkages are. The way that rehabilitation is
25 certified needs to be looked at.

26 MS NICHOLS: What do you mean by that?

27 MS UNGER: I can't remember the names of the section, but it
28 refers to how, at the end of a mine's life, how it is
29 signed off by an auditor. It is like a sentence. It is a
30 whole area in itself that needs to be developed. That
31 brings in those institutional controls, but it is also

1 about the mechanisms and process and it is what has led
2 into that, so that you've reached an end point and then
3 you transition across. So I see that as being very
4 superficial.

5 I think the fact that legacy mines have gone
6 across to other agencies is a risk, that this agency has
7 control over the authorisation and compliance aspects, but
8 if they fail they appear to go through to local government
9 and the EPA, or I'll say the environment department, I'm
10 not sure where. But when I say that, I'm drawing on the
11 Victorian Auditor-General's report of 2011 on contaminated
12 land where this agency isn't mentioned, but those other
13 two are mentioned in terms of their responsibilities.
14 That to me poses questions about how effective the
15 legislation is through the complete loop and
16 accountability and the fact that Victoria doesn't have a
17 single point of contact on abandoned mines, whereas every
18 other state does.

19 MS NICHOLS: Do we infer from that that it is your view that
20 the legislation should make clear who has responsibility
21 for mines in their post closure stage?

22 MS UNGER: It needs to address the process for defining it. So
23 in every case it might be different, but in terms of
24 responsibilities for, say, an abandoned mine or a legacy
25 site, I can't find a policy or anything around that issue
26 that says, "This is who's responsible and this is how
27 we'll come together." In Canada, for example, "Bring it
28 under one lead agency, fully account for your liabilities,
29 put in place programs, address the knowledge gaps and then
30 produce performance reports," so that's good governance
31 around those issues. That's another aspect. Mostly in

1 Australia it's the Mines Department that has that
2 responsibility, so it seems to me that that's where it
3 sits.

4 MS NICHOLS: Is there a role for having legislative
5 requirements to publicly advertise major changes to mining
6 work plans?

7 MS UNGER: You mean elsewhere in Australia?

8 MS NICHOLS: No, in Victoria?

9 MS UNGER: I'm not familiar with the triggers in Victoria and
10 I think again because there's two agencies involved there
11 may be different triggers for different agencies in terms
12 of the magnitude of the change. I'm not clear on that and
13 every state is different on that aspect.

14 MS NICHOLS: But would you see it as an important aspect of the
15 legislative regime that major changes to work plans be
16 publicly advertised and available for public scrutiny?

17 MS UNGER: Yes, I'm not clear how you define the thresholds and
18 what significance. I'm having trouble picturing the
19 triggers, so that's probably why I'm having trouble
20 answering the question, but if they're major, it really
21 depends what you have defined as major.

22 MS NICHOLS: I will give you a specific example. What about a
23 major change to a proposed end use, end of mine life use?

24 MS UNGER: If the stakeholder engagement process - so you're
25 talking about where the process hasn't been ideal?

26 MS NICHOLS: That's right?

27 MS UNGER: I would rather see that addressed through a
28 proactive forum and this mechanism that has been talked
29 about in terms of carrying it forward, so a mechanism for
30 doing that, because otherwise we may just be reacting to
31 issues time and time again that, when dealt with together

1 in a proactive manner, could end up with far better
2 outcomes.

3 So, on the one hand, I can see how regulators can
4 get tied up and perhaps bogged down in some of those
5 issues, but let's set the framework a little bit better,
6 put the mechanisms in place and then those sort of changes
7 will have a place in which a discussion and a dialogue can
8 occur. Because there's a whole lot of research around the
9 costs of conflict in the resources sector and I think it's
10 really poorly understood in Australia, that it does cost.
11 It costs governments, it costs companies, it costs
12 everybody when conflict is not well understood, the causes
13 of it and the mitigation of it and the management of it.
14 I've probably gone off track, sorry.

15 MS NICHOLS: Just another point about legislation. You do
16 mention in your evidence that it is important to review
17 existing legislation to ensure that community expectations
18 for rehabilitation are addressed. Do you mean that just
19 generally or do you mean that stakeholder consultation
20 should be addressed specifically in legislation?

21 MS UNGER: When I read the Act I didn't feel that that aspect
22 was clearly defined or required, and it may be the place
23 not in legislation but in a guidance document. So, again
24 I'm not an expert on where something should go, but
25 perhaps the time for trying to retrofit older legislation,
26 maybe it has to have some structural changes for these
27 changes to be brought in. But it is just about embedding
28 that aspect and not overlooking it, instead of just
29 negotiating with the landholder if it's their land and
30 with the Crown land manager if it's their land. It is
31 just very narrow in the legislation now.

1 MS NICHOLS: In your report of the Churchill study that you
2 did, you mentioned that you visited the former East German
3 or, rather, finished mines and the management of those.
4 You mentioned that the German mining laws required
5 community consultation but the implementation is sometimes
6 superficial and sometimes in-depth. Is there anything you
7 gleaned from looking at that legislation which can be of
8 assistance in Victoria?

9 MS UNGER: In Germany?

10 MS NICHOLS: Yes.

11 MS UNGER: It is a while, and that would have come from a
12 conference. Was that from the conference in Lusatian
13 region?

14 MS NICHOLS: It may have been. That's mentioned in the context
15 of your visit to Germany?

16 MS UNGER: So it was probably something I took - a takeaway
17 message from a conference presentation. There are very
18 important lessons to be gained from those projects, but to
19 put it in context, reunification caused the abandonment of
20 those mines, so you have massive mining regions that have
21 been abandoned. So the impetus and the engagement across
22 levels of governments was forced, in a way, and some
23 excellent outcomes resulted, but I found that where there
24 were multiple stakeholders engaged and multiple levels of
25 government, you had these really leading practice
26 programs.

27 So, how they did it, that gets into the detail,
28 but it's how do you engage these multiple agencies,
29 multiple perspectives. So whether it was mining heritage
30 listed, a world heritage listed site, and how you engaged
31 with historical societies around post mining land use in

1 Cornwall, England, is completely different to the brown
2 coal mining of the lakes region of Lusatia in Germany.
3 But the key elements were they looked at the complete
4 picture, they looked at the landscape architecture, they
5 looked at new economies after mining. Their theme was new
6 landscapes, new economies, but they also had the
7 engineering and the water treatment aspects being well
8 addressed, so they set up these two entities.

9 It is different when you have an operating site
10 because you have three different players, but you also
11 have the opportunity to bring about good outcomes while
12 they're here. So that's the mechanism that I think we
13 have the opportunity to lead on.

14 MS NICHOLS: You said in your evidence that it is important
15 that the value of a bond accurately reflects the true
16 costs of rehabilitation. Do you have any views about the
17 major risks to government in achieving 100 per cent
18 financial assurance, including in the process by which
19 they negotiate with the mine owners?

20 MS UNGER: So the risk is that a mine is abandoned and the
21 liabilities default to the State. Where you have large
22 global corporations, it's less likely because there is a
23 reputational issue as well and also a body of oversight.
24 There are other resources that can be drawn in when a
25 particular site is needing to do the work. Probably a
26 greater risk are smaller, second-tier and third-tier kind
27 of operators, but the risk is really about, I think, also
28 the currency of the estimation, so for what time period is
29 it accurate. The current bond doesn't take account
30 of - well, it does, it sort of assumes it has to happen
31 now, but even when you do it now, it takes years to do the

1 work and so then you really should be taking account of
2 the time value of money and then you get into financial
3 modelling.

4 So, there's a whole series of things that are not
5 addressed by the tool. So it is really what level of
6 complexity do you need to feel assured that the State is
7 not at risk and the community is not at risk.

8 MS NICHOLS: One of the observations you also made in the
9 report of your Churchill study in relation to community
10 consultation was that innovative community consultation is
11 likely to lead to better outcomes, particularly where
12 cumulative impacts of mining and opportunities after
13 mining are to be evaluated. You also said that collective
14 engaging of clusters of communities rather than one by
15 one, project by project, may overcome consultation
16 fatigue.

17 Do you have any observations about creative
18 approaches to consultation and avoiding consultation
19 fatigue that you think might usefully be applied in
20 Victoria?

21 MS UNGER: I do, but I will just preface it with I'm not a
22 social scientist. So, as an observer, I found the work of
23 the Eden Project in Cornwall, England, they were leading
24 on these innovative planning mechanisms where they would
25 have what seemed to be like a fete or a fair in a
26 community hall, yet it was a planning mechanism. They had
27 aerial photos and they were talking about rejuvenating
28 abandoned communities, as well as when mining stopped in
29 the Cornish region. So they would have the aerial photo
30 and they would have their sticky notes and they'd say,
31 "Where is the heart of the town? What do you think is the

1 most important place here?" So it was a mechanism for
2 engaging the community to learn how they perceived the
3 landscape so that new planning mechanisms could consider
4 those as they went forward in terms of how they'd plan for
5 that region. So it was not only a heritage listed site,
6 so there was industrial archaeology to manage, but there
7 was a lot of unemployment, it was a socio-economically
8 depressed area. So how were they going to build the
9 economy and grow the communities and take into account the
10 social connection to the place?

11 So what they did was just made it appealing and
12 made it enjoyable and they made it fun. It sounds hard,
13 but you get the right people to do it and you can do it.
14 So it's about social science, it's about engaging with the
15 right skills, I think, and having that right skill set and
16 approach and making it enjoyable and valuing community
17 input instead of fearing it. I think that's the key.

18 MS NICHOLS: Just one more question about community engagement.
19 When you have a situation like we do here in Victoria
20 where the mines still have quite some operative life to go
21 and there are some real scientific, technical and
22 practical uncertainties about the viability end of mine
23 life options, which do vary between the mines, how do you
24 allow for the community to have meaningful input into the
25 end of life options? What are some practical steps to do
26 that?

27 MS UNGER: I think you have to start with that knowledge base
28 and communicating that knowledge base so they will have a
29 good understanding of what you can and can't do with that
30 landscape. Otherwise you can get all sorts of ideas that
31 are impractical and that may actually not tap into the

1 inherent creativity that may exist. So, I feel like that
2 wider view of options needs to come after that knowledge
3 base is sort of more solid in terms of pulling it
4 together. It may be very solid and I've just not seen it,
5 just because I haven't been here very long, but just
6 seeing that knowledge base around groundwater stability,
7 ash dams, how they're going to be rehabilitated in the
8 context of the whole landscape, and then getting on to the
9 water issues and water quality issues around lakes as well
10 and discharge of water, just getting the science and the
11 engineering on a solid footing, and then narrowing down
12 perhaps the options in terms of what's practical and
13 what's not and where.

14 Participatory GIS is another method that's been
15 used, so geospatial databases, so it's where communities
16 can be engaged around land use planning. So I think it is
17 a planning discipline and it's a social sciences one that
18 needs to come in. That's why I'm getting out of my depth.

19 MS NICHOLS: Thank you. No further questions.

20 MS FORSYTH: I act for AGL Loy Yang. Thank you for providing
21 these Guidelines for Preparing Mine Closure Plans, May
22 2015. I just wanted to ask you about a few parts of those
23 guidelines that I don't think you were taken to this
24 morning and just ask if you agree that they represent
25 sensible and reasonable statements about rehabilitation
26 planning. Do you have a copy of those guidelines in front
27 of you?

28 MS UNGER: Sure.

29 MS FORSYTH: The first section I wanted to take you to was on
30 page 13, section 3.2. That section of the guidelines sets
31 out the benefits of a risk based mine closure process and

1 includes a number of dot points there, including
2 identifying a range of closure scenarios which are
3 commensurate with risk; early identification of potential
4 risks to successful closure; development of acceptable and
5 realistic criteria to measure performance; orderly, timely
6 and cost-effective closure outcomes; reduced uncertainty
7 in closure costs; and continuing improvement in industry
8 rehabilitation standards. Would you agree with the
9 statement there that they are benefits of a risk based
10 mine closure process?

11 MS UNGER: Yes.

12 MS FORSYTH: Can I also ask you about another statement in the
13 guidelines at page 21 under the section 3.4.3
14 "Rehabilitation". The third paragraph starts, "The best
15 intention must always be to restore the landscape to
16 conditions similar to the surrounding (non-mined)
17 environment, including physical, biological and chemical
18 processes." Subject to the caveat that mine operators
19 should always be encouraged to considering a broad range
20 of end uses, do you agree that that really is the best
21 intention for rehabilitation?

22 MS UNGER: It depends on the mine. Again, if you had a
23 heritage listed mine, for example, you wouldn't restore
24 the landscape to its natural biological condition, just as
25 an example. It is kind of a general statement for a mine
26 in a remote area. I feel that's how I take that one.

27 MS FORSYTH: Is it largely consistent with section 79 of the
28 Mineral Resources and Sustainable Development Act which
29 requires that a rehabilitation plan must take into account
30 the desirability or otherwise of returning agricultural
31 land to a state that is as close as is reasonably possible

1 to the state before the mining licence was granted? Is it
2 a similar sort of concept?

3 MS UNGER: Except that the current legislation in Victoria
4 refers to agriculture as being kind of the default
5 mechanism, so it's a bit different. There was probably a
6 greater focus on biodiversity in Western Australia.

7 MS FORSYTH: Yes. Can I now just ask you about section 4.8.1
8 of the guidelines on page 29. This is in the context of
9 the heading "Post mining land uses" and closure
10 objectives. Would you agree with what's set out there at
11 paragraph 1 and the start of paragraph 2, namely that,
12 "The post mining land uses must be relevant to the
13 environment in which the mine will operate or is
14 operating; achievable in the context of post mining land
15 capability; acceptable to key stakeholders as defined
16 previously" - and you were taken to that section - "and
17 ecologically sustainable in the context of local and
18 regional environment"?

19 MS UNGER: Yes.

20 MS FORSYTH: Would you agree with the next sentence, "Where
21 possible, proponents are encouraged to consider applying
22 resources to achieve improved land management and
23 ecological outcomes on a wider landscape scale, as well as
24 the potential for multiple land uses"?

25 MS UNGER: Yes.

26 MS FORSYTH: And it is appropriate to encourage proponents to
27 consider going beyond minimum requirements in terms of
28 rehabilitation in the way that these guidelines do, rather
29 than to mandate those outcomes?

30 MS UNGER: That's correct, and that's to take account of
31 changing community expectations. So expectations at a

1 point in time may not be the same at the end.

2 MS FORSYTH: Under "Closure objectives", which is section
3 4.8.2, the first line says, "Closure objectives define the
4 closure outcomes for the project and should be realistic
5 and achievable." Do you agree that that's a sensible
6 statement to have in a set of guidelines like this?

7 MS UNGER: Yes.

8 MS FORSYTH: Can I now ask you about appendix H of the
9 guidelines, which deals with guidance on pit lake
10 assessment through a risk based approach. I would like to
11 take you to page 72. The fourth paragraph says, "DMP and
12 the EPA understand that aspirational end uses (such as a
13 regional lake with recreational or agricultural values)
14 are not always possible, especially in the many arid
15 environments of WA. While the EPA supports the
16 development of regional lakes with multiple end uses, it
17 recognises that creating an attractant (e.g. wetland,
18 recreational lake) may increase the risk the lake
19 represents by attracting animals and people to a lake with
20 poor water quality. Any final management strategy for a
21 pit lake that requires active remediation is discouraged
22 (ongoing water treatment or active pumping of fluids due
23 to the ongoing financial liability). Low risk and low
24 liability end uses for pit voids are preferred by the
25 EPA." Would you agree with the statement there that - - -

26 MS SHANN: I think you missed out a few words, "including
27 backfilling where appropriate".

28 MS FORSYTH: Sorry, I did, to save time. I'll go back.
29 Including the words "(including backfilling where
30 appropriate)" in brackets after "voids", "are preferred by
31 the EPA." Is it an appropriate approach to take when

1 dealing with pit lakes to try to achieve an outcome that
2 is safe and stable and environmentally acceptable and then
3 only once you've achieved those goals to look to whether
4 or not you can achieve the additional goals, the
5 aspirational end uses, if you like, such as recreational
6 lakes and the like?

7 MS UNGER: Correct.

8 MS FORSYTH: I take it from what you said earlier that that
9 final stage of determining whether or not something might
10 be available for the community may happen at a later stage
11 in mine planning once you've really undertaken your risk
12 assessment and you have a good grasp of the risks that are
13 potentially going to influence that long-term land use
14 outcome?

15 MS UNGER: I feel a lot of the studies and knowledge that's
16 needed needs to be done during the operation and not left
17 until the end so that there is clarity about that and that
18 stakeholders are brought along in that process so they
19 understand the limitations and the opportunities. So, it
20 is not something that is left until the end. Have
21 I understood you correctly?

22 MS FORSYTH: Yes, so it is a discussion that should be had
23 early, but in terms of promising the community that there
24 will be an asset for them to use at the end of the
25 process, it's prudent not to do that until you've worked
26 out exactly what the risks are inherent in providing a
27 community asset like a recreational lake?

28 MS UNGER: Absolutely. There has to be a sequence, a
29 structured process for planning and design and, that's
30 correct, you have to get all the engineering and the
31 science right first.

1 MS FORSYTH: I have no further questions, thank you.

2 MS SHANN: Thank you. I have no questions. Professor Catford.

3 PROFESSOR CATFORD: Ms Unger, thank you very much indeed.

4 I was reflecting with my co-Board Member the value of
5 Churchill Fellowships because we are both Fellows, as you
6 are. I wonder whether you could just reflect a bit on
7 your experience of visiting all these countries. I think
8 we were all very excited about the presentation from
9 Dr Von Bismarck yesterday about the experience in Germany
10 and of course you have also been to Austria and Canada and
11 the UK. So it is in that sort of context. I would like
12 to ask you really about your feelings about the future.
13 How optimistic are you that the rehabilitations of the
14 mines in the Latrobe Valley will be successful?

15 MS UNGER: I think this is a fundamentally important Inquiry
16 and I think it marks a step change in the planning
17 process. That's how I see it, and the fact that
18 rehabilitation is now part of the Technical Review Board
19 and that the department itself is already undertaking risk
20 assessments internally and restructuring, I'm very
21 optimistic.

22 PROFESSOR CATFORD: Based on your experience overseas, do you
23 think the rehabilitation process and outcomes can enhance
24 the quality of life here in the Latrobe Valley?

25 MS UNGER: I think it can, but it's like an octopus with all
26 these tentacles, it has to connect with a whole range of
27 opportunities, and so sometimes it is about funding that
28 may be set aside, say, for an employment program, but just
29 gets tuned into some of these activities. So it is really
30 about linking in with other - and they are things that I'm
31 not expert in, but I have seen how projects can engage at

1 a number of levels and activate around socioeconomic
2 aspects in ways that are not always well managed early.

3 So I think there are those opportunities and it
4 is also about helping communities to let go. In Cornwall
5 I was learning about the processes of how communities
6 eventually, when mines do close, how they accept it, and
7 when I worked on Mount Morgan in Queensland there was a
8 significant resistance to let go, they kept thinking
9 another company would come or another one would come. So
10 when that point does come, there are social and other
11 mechanisms and they addressed it through theatre and quite
12 creative mechanisms where the community could come to
13 terms with what was happening.

14 But I was really looking at things at different
15 scales and where the roles and responsibilities were. So,
16 starting with the International Atomic Energy Agency and
17 how they addressed legacy mines at a global level for
18 uranium, then regional programs in Germany, so uranium
19 mining regions that were also abandoned, as well as coal
20 mining regions. Then Cornwall, England, with a heritage
21 focus and then Canada, because with its National Orphaned
22 and Abandoned Mines Initiative and its provincial based
23 programs there was more parallel there for Australia.

24 Then the BC Crown Contaminated Sites Program
25 became this model of best practice and then my research
26 has built on that with a maturity model for Australia and
27 then I have undertaken a web-based research on where we
28 are at in Australia for each jurisdiction around how we
29 manage legacy issues because I believe there's a strong
30 link there that, when it's broken, we are not learning.
31 So I feel that's where I have directed my effort to try

1 and improve, I think, regulatory capacity is the focus.

2 PROFESSOR CATFORD: Just to sum up, that's why you are
3 optimistic that some good can come from all this which
4 will add value back to the community. I'm very conscious
5 you may well have the last word at this part of the
6 Inquiry on rehabilitation. So is there anything you would
7 like to say to the community or the other stakeholders
8 here who have been working in a spirit of partnership to
9 actually move forwards? They are all attentively sitting
10 at the back of this room.

11 MS UNGER: I will say something really predictable like, if
12 everyone works together, we will have a really good
13 outcome. Doesn't that sound great. It is about
14 clarifying that vision, I think, and once that vision is
15 clarified there is a mechanism and a lead agency and a
16 process going forward. So long as there is a place for
17 these recommendations to have a life - there's nothing
18 worse than reading other inquiries if something hasn't
19 been followed through. I watched the Queensland Flood
20 Inquiry around the particular aspect that I was interested
21 in and saw some issues get addressed and some didn't. So
22 I think it's everyone's responsibility to carry them
23 forward. Everyone has a part to play. The more that do
24 get engaged in the issue in a positive way, the more
25 likely you will have a good outcome.

26 PROFESSOR CATFORD: Thank you very much.

27 MS SHANN: Thank you. I would like to thank Ms Unger and ask
28 if she could be excused.

29 CHAIRMAN: Yes, indeed.

30 <(THE WITNESS WITHDREW)

31 MS DOYLE: Can I raise a brief procedural question. During the

1 morning the issue was raised about the permission or leave
2 that might be granted to AGL Loy Yang to rely on a further
3 report. It has been circulated this morning
4 electronically. I have had the opportunity to look at it
5 briefly. I just wanted to indicate that our position
6 would be it is a mere 11 pages in terms of the substance
7 of it. There is a CV and an attachment that bring it out
8 to some 20-plus pages. But it is 11 pages. It seems on
9 an initial read to be directly relevant to term of
10 reference 10 and to be of a nature that means that it will
11 assist the Board and inform the Board on very important
12 questions pertaining to those issues raised in the report
13 of Mr Cramer from Accent Environmental.

14 In those circumstances it would be our submission
15 next week when this matter comes to be considered that it
16 ought to be admitted. It is relevant. It is informative.
17 It will assist the Board answer the questions which are
18 thrown up by term of reference 10. As a matter of
19 fairness, would it have been easier and fairer to receive
20 it sooner? Certainly. But fairness is a relative
21 concept. For example, this morning the parties were
22 provided with the 96-page guidelines to which Ms Unger
23 just directed attention. We hadn't had prior notice of
24 them, and yet we had to roll with it, if I can put it that
25 way.

26 So it is in those circumstances that we will
27 certainly next week be suggesting that this report of
28 Mr Gillespie ought to in all of those circumstances be
29 admitted in order that the difficult questions thrown up
30 by term of reference 10 be allowed to be explored in the
31 environment where there is a counterpoint on some aspects

1 to the views which are going to be advanced by Mr Cramer.
2 If the Board pleases.

3 DR COLLINS: Can I say for the benefit of the Board we agree
4 with everything Ms Doyle has just said.

5 MR ROZEN: I don't understand anyone is opposing that course,
6 I must say. I have also had a chance to read through it.
7 There are hard copies in the Inquiry room, if that
8 assists. I just make the observation that Dr Gillespie,
9 it appears, was not instructed until earlier this week.
10 The Accent report that he is responding to was served a
11 month ago, I think. But, having said that, I basically
12 agree with what Ms Doyle says, that - - -

13 CHAIRMAN: It has value.

14 MR ROZEN: It has value. The other difficulty is a logistical
15 one. If a decision about its tender is not made or rather
16 its filing is not made until Monday, I think Dr Gillespie
17 is based in Sydney, so obviously arrangements would have
18 to be made. I think the simplest thing and certainly our
19 submission would be that - - -

20 CHAIRMAN: We assume that he will be called on Monday, but we
21 will wait and see.

22 MR ROZEN: I'm reminded that Mr Cramer is not giving evidence
23 until Tuesday. So it would be Tuesday. Probably the most
24 sensible thing would be that he would join Mr Cramer on a
25 panel, I think would be the sensible course. So our
26 submission is that the decision about the Board's receipt
27 of it should probably not be left until Monday because
28 I think that would create practical difficulties. I think
29 it is something that can be determined today.

30 CHAIRMAN: All right. If I say that it will be, but with a
31 caveat that if there are some exceptional circumstances

1 that come to my attention in between time the position may
2 change, that's how we will proceed.

3 MR ROZEN: Certainly from our perspective we are content with
4 that course. There is a range of things that I need to
5 address. I notice we didn't hear from Ms Nichols.

6 I suspect she would say something if she wanted to.

7 MS NICHOLS: That sounds sensible and it is helpful.

8 CHAIRMAN: In other words, if there is some particular very
9 grave concern, if you like, then I will review the
10 decision. But at the moment it is sensible to assume that
11 it will go in and that these matters will be dealt with
12 together on Tuesday.

13 MS NICHOLS: I quite agree. It is most helpful to know that it
14 is going to be on Tuesday so we can manage our time next
15 week. So we have no difficulty with that.

16 MS FORSYTH: There is a related matter, if I may. We have
17 received notice that we may be getting a further report
18 from AECOM in relation to the rehabilitation liability
19 assessment. Of course the AECOM report that the Board
20 presently has is based on the 1997 work plan. So clearly
21 the assumptions in that report are now not relevant
22 because it's no longer the approved work plan. We have
23 been told that AECOM has produced another report. That,
24 we understand, may be given to us today.

25 I am going to obviously do my best to get
26 instructions about that, but that type of report is in a
27 bit of a different category to the report that we have put
28 in by Accent in the sense that I'm going to need to get
29 detailed instructions as to the inputs into the costings
30 in order to be able to effectively cross-examine on that
31 report. So I'm just reserving my position on that at this

1 stage. I will do my best to roll with it, as I did with
2 the guidelines this morning. But if I can just preface my
3 cross-examination next week with that comment.

4 CHAIRMAN: Yes, your comments are noted.

5 MR ROZEN: I can update everyone. Mr Attiwill has just
6 whispered to me that his client has just received that
7 report, and that was one of the matters that I was going
8 to foreshadow. I think we may all be in a similar
9 position to Ms Forsyth of trying to get on top of that
10 over the weekend along with some other things.

11 Another related issue is that one more thing the
12 parties are probably going to be having to grapple with
13 over the weekend is a statement from Mr Chadwick of AECOM
14 which I am instructed is being finalised this afternoon.
15 It won't be very long and it will just set out the process
16 by which the AECOM reports came into existence. I think
17 it will be of assistance to the parties in their
18 preparation for examining Mr Chadwick. We are hopeful
19 that that can be finalised and served this afternoon. I'm
20 looking hopefully at Ms Stansen. Yes, she's nodded.

21 The only other matter that I wanted to raise
22 along the lines of additional material is the GDF Suez
23 draft work plan variation application which Mr Faithful
24 was asked about. I understand from Ms Doyle that we are
25 expecting to receive that today, and that will obviously
26 be distributed to the parties as well.

27 All that remains for me to do is just tidy up the
28 tender of various documents which are in the tender
29 bundle. I will do that by reference to their Ringtail
30 number and the tabs and folders where they can be found in
31 the hearing book. I will start with a simple one, that is

1 the report of Meredith Fletcher, which is behind tab 2 in
2 folder 1A. Its Ringtail code is EXP.0010.002.0001.

3 I seek to tender the report of Ms Fletcher.

4 #EXHIBIT 30 - Report of Meredith Fletcher.

5 MR ROZEN: There are two additional brief documents that are
6 found at the end of the Jacobs report dated 16 November
7 2015, that is the options report, if I can call it that,
8 which is exhibit 24A. There is a letter from Jacobs to
9 the Board dated 16 November 2015 which is at
10 EXP.0011.002.0001. Then there is what's described as a
11 note prepared by Jacobs to the Board dated 16 November
12 2015 which is at EXP.0001.003.0001. I would suggest that
13 perhaps they be added to exhibit 24.

14 CHAIRMAN: 24D or E or two together just D?

15 MR ROZEN: Perhaps they can be D, so they are all part of
16 the Jacobs bundle.

17 #EXHIBIT 24D - Letter from Jacobs to the Board dated
18 16/11/2015; Note prepared by Jacobs to the Board dated
19 16/11/2015.

20 MR ROZEN: The next document which was never tendered but
21 referred to by a number of witnesses was the letter from
22 Southern Rural Water to Ms Bignell, I think sometimes
23 referred to as the Bignell letter, but she wasn't the
24 author. It was addressed to her. That's dated 24 August
25 2015. There is no Ringtail reference for that, but it is
26 most appropriately added to the exhibit which is
27 Mr Rodda's statement which is exhibit 8, so I would ask
28 that that be done.

29 CHAIRMAN: Do you want it as 8A and B or 31?

30 MR ROZEN: Perhaps it could be 8B and the statement can be 8A.

31 #EXHIBIT 8A - (Formerly exhibit 8) Statement by Clinton Rodda.

1 #EXHIBIT 8B - Letter from Southern Rural Water to Ms Bignell
2 dated 24/8/2015.

3 MR ROZEN: The next document is behind tab 31 in folder 11. It
4 is the Loy Yang work plan variation 2015 rehabilitation
5 section which is pages 69 to 87 of the Loy Yang work plan
6 variation application version 5 from May 2015, and the
7 Ringtail code for that commences at AGL.0001.003.0138.
8 I think that should be added to exhibit 12B, which is the
9 supplementary statement of Mr Rieniets.

10 #EXHIBIT 12B - (Added) Loy Yang work plan variation 2015
11 rehabilitation section.

12 MR ROZEN: The next matter is a series of documents listed
13 under tab 41 in folder 9. These are four documents which
14 are referred to by Mr Wilson in his statement of
15 20 November 2015 which is exhibit 5A. I will just read
16 them out. They are referred to by him but not attached to
17 his statement. They are firstly Department of Natural
18 Resources and Environment discussion paper which is at
19 DEDJTE.1004.001.0051. The second is Rehabilitation Bonds
20 for the Mining and Extractive Industries, which is
21 DEDJTR.1004.001.0092. The third is Inquiry Into
22 Greenfields Mineral Exploration and Project Development in
23 Victoria, DEDJTR.1004.001.0199. Finally, Options for
24 Financial Assurance for Rehabilitation of Mine and Quarry
25 Sites in Victoria, DEDJTR.1007.001.0228. I think they
26 could all just be added to exhibit 5A, just be part of 5A
27 along with the other annexures to Mr Wilson's statement.

28 #EXHIBIT 5A - (Added) Four documents referred to by Mr Wilson
29 in his statement of 20 November 2015: Department of
30 Natural Resources and Environment discussion paper;
31 Rehabilitation Bonds for the Mining and Extractive

1 Industries; Inquiry into Greenfields Mineral Exploration
2 and Project Development in Victoria; Options for Financial
3 Assurance for Rehabilitation of Mine and Quarry Sites.

4 MR ROZEN: Then from tabs 42 to 48 in volume 12 there's a
5 series of schedule 19 annual activity and expenditure
6 reports for the various mines. Some of them are already
7 in as attachments to the statements of the three mine
8 witnesses, so at the risk of doubling up I would submit
9 that I will tender all of them. It may mean that one or
10 two of them are in more than once, but I think it will be
11 better to do that than be in a situation where some have
12 not been tendered.

13 CHAIRMAN: That will be exhibit 31.

14 MR ROZEN: Sorry, I just have a note here. I think that should
15 probably be a new exhibit. We are up to 31. Perhaps if
16 it could be 31A to G, if I could suggest that, with A
17 being what's behind tab 42, through to G which is what's
18 behind tab 48. I'm not sure that I need to read them all
19 out with their codes.

20 CHAIRMAN: They will be in the transcript.

21 MR ROZEN: I hope that is clear enough for the parties.

22 #EXHIBIT 31A - Tab 42. Schedule 19 Annual Activity and
23 Expenditure Report 2013/2014 Hazelwood
24 DEDJTR.1007.001.0189.

25 #EXHIBIT 31B - Tab 43. Schedule 19 Annual Activity and
26 Expenditure Report 2013/2014 Loy Yang
27 DEDJTR.1007.001.0206.

28 #EXHIBIT 31C - Tab 44. Schedule 19 Annual Activity and
29 Expenditure Report 18.8.14 Loy Yang DEDJTR.1007.001.0212.

30 #EXHIBIT 31D - Tab 45. Schedule 19 Annual Activity and
31 Expenditure Report 2014/2015 Loy Yang

1 DEDJTR.1007.001.0223.

2 #EXHIBIT 31E - Tab 46. Schedule 19 Annual Activity and
3 Expenditure Report 2014/2015 Yallourn - (redacted)
4 DEDJTR.1007.001.0176.

5 #EXHIBIT 31F - Tab 47. Schedule 19 Annual Activity and
6 Expenditure Report 2014/2015 Yallourn - (redacted)
7 DEDJTR.1007.001.0182.

8 #EXHIBIT 31G - Tab 48. Letter from GDF Suez to DEDJTR 9.4.15
9 DEDJTR.1007.001.0187.

10 MR ROZEN: The final document I need to tender is behind tab 49
11 volume 12. It is a matter which Ms Doyle foreshadowed
12 earlier in the week; that is, the tender of the Annual
13 Report October 2015 from the implementation monitor,
14 Mr Comrie, and that's at HMF1.1010.001.0001. Originally
15 just two pages were included behind tab 49, but the entire
16 document should go in.

17 #EXHIBIT 32 - Annual Report October 2015 from the
18 Implementation Monitor.

19 MR ROZEN: The only other tendering issues which I raise
20 concern some documents which were filed with the Board and
21 are behind tabs 51 and 52. The materials behind 51 are
22 the Energy Australia tender documents. The first of
23 those, A, is exhibit 15, but there were three others which
24 I don't think were tendered. I'm not sure Dr Collins
25 wants those tendered.

26 DR COLLINS: No, we don't press the tender of those documents.

27 MR ROZEN: Thank you. Similarly, in relation to GDF Suez there
28 are seven documents which were provided to us and are
29 behind tab 52. The first three are exhibit 16. The
30 fourth is exhibit 3, which is the letter to the Latrobe
31 Valley Express. But I think E, F and G were not tendered.

1 I'm not sure if Ms Doyle wants them in or not.

2 MS DOYLE: I don't know what they are.

3 MR ROZEN: An email from D Guy to D Addis. Perhaps that's
4 relevant to Mr Webb.

5 MS DOYLE: I think they are all relevant to next week.

6 MR ROZEN: Perhaps we will leave it on that basis, so they
7 might ultimately be tendered. TOR-10 I'm being told.

8 The final thing I raise is the proposed order for
9 the witnesses on Monday and Tuesday. Our intention is to
10 start with the mines panel, so the same mines panel we had
11 earlier, but in relation to term of reference 10. They
12 will be followed by a DEDJTR panel, which will consist of
13 Mr Wilson, who gave evidence earlier this week;
14 Mr McGowan, who gave evidence earlier this week; and
15 Mr Attiwill will remind me of the name of the third
16 gentleman. There may be one further witness who has been
17 involved in the bond review project, but that's apparently
18 under consideration. The parties will be advised.

19 The third panel will be the AECOM witnesses who
20 are Mr Chadwick and Dr Bowden. The parties have been
21 advised about Dr Bowden, who was involved together with
22 Mr Chadwick in designing the methodology that AECOM used
23 for their assessments. Mr Webb from the EPA. It may be
24 we have Mr Webb before AECOM, I think. Then finally
25 Accent, Mr Cramer and Mr Byrne. I think originally there
26 was a thought that we might be able to do that in a day.
27 I think that's unrealistic and we will need the two days.

28 CHAIRMAN: And Mr Gillespie comes in on that category.

29 MR ROZEN: And Mr Gillespie, subject to the caveat that the
30 Chair expressed, will join the Accent panel on Tuesday.

31 CHAIRMAN: Yes.

1 MR ROZEN: And confirming that that will conclude the evidence
2 on terms of reference 8, 9 and 10 and then we will return
3 for submissions on Friday. In the interim, Counsel
4 Assisting's submissions in writing will be served on the
5 parties on Wednesday the 16th. I'm getting urgent
6 communications from my right that it is unlikely that we
7 will be in a position to do that on Wednesday. We will
8 endeavour to, but it may be Thursday.

9 CHAIRMAN: Yes. I think Ms Forsyth wanted to say something.

10 MS FORSYTH: Yes, just in terms of the tender documents, tender
11 document number 53 was AGL's public submission. I did
12 have Mr Rieniets identify that and go to matters in it in
13 relation to fire. I should have tendered it at the time
14 but I now seek to do that. Mr Rieniets' witness
15 statements are in a document 3 onwards, but they are
16 exhibits 12A through to 12C, so perhaps if we could make
17 that exhibit 12D.

18 MR ROZEN: There is no objection to that course.

19 #EXHIBIT 12D - Submission from AGL, tender document 53.

20 MR ROZEN: I think that now concludes the evidence on terms of
21 reference 8 and 9.

22 CHAIRMAN: So we assume we will be resuming on Monday at 9.30.

23 MR ROZEN: Yes, sir.

24 CHAIRMAN: Thank you.

25 ADJOURNED UNTIL MONDAY, 14 DECEMBER 2015 AT 9.30 AM

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