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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 please, 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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