

**IN THE MATTER OF
The Hazelwood Mine Fire Inquiry**

SUPPLEMENTARY STATEMENT OF DR SHARON DAVIS

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 Filed on behalf of: The State of Victoria
 Prepared by:
 Victorian Government Solicitor

Ref: 1503689
 Attention: Andrew Suddick

I, Dr Sharon Davis, of [REDACTED], Executive Director, Water Resources Division of the Water and Catchments Group in the Department of Environment, Land, Water and Planning (**DELWP**), can say as follows:

INTRODUCTION

1. I am the Executive Director of the Water Resources Division, Water and Catchments Group in DELWP. I report to Kate Houghton, Acting Deputy Secretary of the Water and Catchments Group, who in turn reports to Adam Fennessy, the Secretary of DELWP.

THE BOARD'S REQUEST FOR THIS STATEMENT

2. I make this statement pursuant to the request made by the Hazelwood Coal Mine Fire Board of Inquiry (**Board**) by letter of 1 December 2015 (**Board's letter**). The questions in the Board's letter are set out in the remainder of this statement together with my responses.
3. Previously, the Board, by letter of 14 October 2015 asked a number of questions. These were addressed in my previous statement dated 2 November 2015 (**my previous statement**). This supplementary statement expands on a number of matters in the previous statement.
4. The information contained in this supplementary statement is derived from research carried out by officers of DELWP at my request in response to the Board's letter and is accurate to the best of my knowledge, information and belief.

THE BOARD'S QUESTIONS AND MY RESPONSES

Question 1 - Has DELWP been involved in any discussions (including in any stakeholder working groups) with, for example, other water authorities or corporations, the EPA, DEDJTR, the State Government or any of the mines regarding:

- a. rehabilitation of the mines generally;***
- b. sourcing water to rehabilitate the mines (fill the pits), including by way of river diversion and/or use of water from the Blue Rock Reservoir or Lake Narracan; or***
- c. how to maintain water quality in any pit lakes created in the mines?***

If yes to the above question, please provide details of the discussions and copies of any minutes or notes detailing the discussions.

5. Between 2005 and 2009 the development of coal resources in the Latrobe Valley was studied by the then Department of Primary Industry (**DPI**) (now the Department of Economic Development, Jobs, Transport and Resources (**DEDJTR**)) under two projects – LV2100 and Clean Coal Victoria. Officers of the then Department of Sustainability and the Environment (**DSE**) (now DELWP) had some involvement in these projects. A number of reports were prepared for DPI that considered issues of water supply and rehabilitation for the mines, for example:
 - 5.1 Water Resource Options for a Sustainable Coal Industry, (URS, 2007); and
 - 5.2 Mine Rehabilitation Options and Scenarios for the Latrobe Valley: Developing a Rehabilitation Framework (GHD, June 2009);
6. DSE officers attended an Industry workshop as part of the preparation of the URS report.
7. In June 2015, Southern Rural Water (**SRW**) provided DELWP was a copy of the application for a Work Plan Variation for Loy Yang mine, including the rehabilitation plan, for comments. A Senior Hydrologist within the Water Resources Branch, DELWP, provided an email response to SRW.
8. I have been unable to determine whether DELWP, or its predecessors, have had any other discussions with respect to the mines as set out above. I will continue to make enquiries prior to attending to give evidence before the Board.

Question 2 - Who owns and maintains the infrastructure for water in the Latrobe Valley? Please provide supporting documentation.

9. Section 138 of the *Water Act 1989* (Act) provides for ownership of works. "Works" is defined by s.3 of the Act to include reservoirs, dams, bores, channels, sewers, drains, pipes, conduits, machinery, equipment and apparatus, whether on, above or under land. Section 138(1) of the Act essentially provides that any works that were owned by an Authority immediately prior to the commencement of the Act or which were acquired or constructed after the commencement of the Act are owned by the relevant Authority. "Authority" is defined by s.3 of the Act to mean a water corporation or Catchment Management Authority.

10. Not all works are owned by an Authority. Section 138(2) provides that works that are constructed by an Authority on behalf of another public body, or of the owner or occupier of land on which the works are constructed, are not owned by the Authority if the Act provides, or the parties agree, that the works are not owned by the Authority.
11. The majority of works outside the mine sites are owned by the relevant water corporation. However, there is a vast amount of infrastructure relevant to the supply of water in the Latrobe Valley (including that accessed and used by the mines). Identifying particular ownership details (and maintenance arrangements) in relation to individual infrastructure is possible but would require investigation on a case by case basis. The relevant Authority or mine operator is best placed to provide this level of detail.

Question 3 - Is it realistic to consider diverting the Latrobe Valley and/or Morwell Rivers to assist in filling the mines with water? Please provide supporting documentation.

12. I am not able to express an opinion on this. The issues involved are very complex, and are not confined to the water resource. A non-exhaustive list of some of the issues that may have to be considered in river diversion projects:
 - 12.1 Geographical constraints of the landscape;
 - 12.2 Infrastructure requirements for the diversion, in particular to overcome any topographic or distance constraints;
 - 12.3 Impact on towns in close proximity to a river diversion, including social, amenity and landscape values that may be influenced by the diversion;
 - 12.4 Environmental impacts, including the effects on native vegetation, rare and threatened flora and fauna, downstream wetlands, riparian habitats and downstream users; and
 - 12.5 Any regulatory requirements, for example the need for water entitlements. In fully allocated systems, such as the Latrobe River System, entitlements would have to be obtained by purchase of existing entitlements off current holders.

Question 4 - Is the Gippsland Region Sustainable Water Strategy (2011) still current government policy? Are there any specific action items in the strategy relating to mining that DELWP is working on, for example Action Item 6.8? Provide supporting documentation.

13. The Gippsland Region Sustainable Water Strategy (2011) (**Gippsland SWS**) is still current government policy.
14. The only action of the Strategy which references mining is Action Item 6.8. DPI (now DEDJTR) is the responsible agency for implementation of this action item. DELWP is not working directly on Action 6.8.

Question 5 - Has DELWP reviewed any of the mines' work plans or proposed work plan variations? If so, provide information regarding whether those plans make any assumptions regarding water and outline any advice provided by DELWP on those plans and their feasibility, including commenting on the statement contained at page 132 of the Gippsland Region Sustainable Water Strategy that flooding of the Latrobe Valley mines may not be a viable rehabilitation option due to insufficiency of water. Provide supporting documentation.

15. DELWP was provided with a copy of the AGL Loy Yang 2015 Work Plan Variation in 2015 by SRW for comment.
16. DELWP provided comments to SRW. DELWP was provided with a copy of the SRW response to DEDJTR on the Work Plan Variation application.
17. I do not believe DELWP had any involvement in the Hazelwood Work Plan Variation approved in 2009.
18. The Gippsland SWS was prepared under the guidance of a Consultative Committee chaired by Llew Vale, OAM and a representative of DPI, Mr Greg Turner.
19. The Consultative Committee met 24 times between March 2009 and September 2011. Its deliberations helped shape the required technical work and provided local perspective on the Strategy's consultation, and option development and assessment process.
20. The Gippsland SWS involved a two and a half year collaborative and consultative process involving government departments, independent experts, and key water industry stakeholders, including urban, rural and environmental water users, Traditional Owner groups and the broader regional community.
21. As part of the collaborative process, a Discussion Paper and Draft Gippsland SWS were released for public comment.
22. The Draft Gippsland SWS included a proposal that DPI would continue to develop mine closure and restoration strategies in consultation with DSE and the companies that mine coal in the Latrobe valley (Proposal 8.4). Subsequently, the open-cut coal mine closure and restoration strategies were addressed at Action 6.8 in the Gippsland SWS.
23. I cannot comment further on the origin of the statement on page 132 of the Gippsland SWS.

Dated: 04 December 2015