QUEENSLAND COAL MINING BOARD OF INQUIRY

Coal Mining Safety and Health Act 1999

Establishment of a Board of Inquiry Notice (No 01) 2020

Before:

Mr Terry Martin SC,
Chairperson and Board Member

Mr Andrew Clough,
Board Member

At Court 17, Brisbane Magistrates Court
363 George Street, Brisbane QLD

On Wednesday, 10 March 2021 at 10am
(Day 15)

1   THE CHAIRPERSON: Yes, Ms O'Gorman.

2

3   MS O'GORMAN: Thank you, Mr Martin.

4

5   **<STEPHEN DONALD SMITH, on former affirmation: [10am]**

6

7   **<EXAMINATION BY MS O'GORMAN CONTINUING:**

8

9   MS O'GORMAN: Q.   Yesterday, you will recall, we got up
10   to the point in time chronologically of the inspectorate
11   being informed about the four exceedances that occurred on
12   longwall 104 on 21 April 2020.
13   A.   Yes.

14

15   Q.   And we went through the form 1A notifications that
16   your office received at or about that time?
17   A.   Yes.

18

19   Q.   I just want to ask you some questions about the fact
20   that some of those exceedances, up until that point in
21   time - that is, up until 21 April 2020 - occurred in
22   batches, as it were?
23   A.   Yes.

24

25   Q.   Earlier in the afternoon we spoke about the fact that
26   the inspectorate received notifications of exceedances on
27   longwall 104 occurring between 18 and 23 March 2020?
28   A.   Yes.

29

30   Q.   And there were seven methane exceedances that occurred
31   over that five-day period?
32   A.   Yes.

33

34   Q.   Because there was the one on the 18th, the one on the
35   19th, three on the 20th and then one on the 22nd and one on
36   the 23rd?
37   A.   That's right, yes.

38

39   Q.   And then, of course, by late yesterday afternoon, we
40   were looking at the fact that there were four methane
41   exceedances reported to your office as having occurred on
42   21 April 2020?
43   A.   That's right.

44

45   Q.   The seven that occurred in March, in that period
46   between 18 March and 23 March, largely were said to have
47   occurred because of failures of the goaf drainage plant

1   and, in particular, blockages across a particular goaf
2   drainage hole?
3   A.   Yes.
4
5   Q.   I think maybe one of them wasn't. The first one, to
6   be fair, seemed to have just been thought to have been
7   a scouring of the goaf?
8   A.   That's correct.
9
10   Q.   But the remaining six appeared to relate to either
11   blockages on a hole or a complete shutdown of a hole on at
12   least one or two occasions?
13   A.   Yes.
14
15   Q.   My question in relation to that batch of exceedances
16   is whether or not it would have been appropriate to require
17   the mine to demonstrate that it had in fact put in place
18   the preventative action that it had nominated - that is,
19   installing a dual skid so that maintenance could be
20   undertaken on a goaf drainage hole without compromising
21   goaf drainage - prior to allowing production at the mine to
22   continue? Is that something that you are able to comment
23   on?
24   A.   In terms of appropriateness to essentially suspend
25   operations until they had done that --
26
27   Q.   Well, sorry, I will just be clear. On 19 March you
28   were informed that there had been a methane exceedance that
29   was a result of maintenance activities being carried out on
30   a skid and exceedance occurring as a result of the
31   compromising of the goaf drainage facility. In those
32   circumstances, and in circumstances where your office,
33   I think you said, was informed that there was going to be
34   put in place a measure to prevent that sort of occurrence
35   occurring again - that is, the installing of a dual skid,
36   a second split skid - in your view, ought that not to have
37   occurred before production continued?
38   A.   Not necessarily, because that presupposes that there
39   is going to be another event with a goaf skid. I have
40   evidence that they have had an HPI as a consequence of the
41   flame arrestors blocking up and the miners focusing on, "We
42   will source a second skid and set it in place so that we
43   can move from one skid to the other so that when we have to
44   do the maintenance work, we've got the redundancy there."
45   At the time we received the notification, there is no
46   exceedance and the mine is managing the gas in the tailgate
47   again. There is no immediate unacceptable level of risk,

1   if you like, and there is no guarantee that there will be
2   another one.
3
4   Q.   That's the position certainly as of 19 March, when you
5   are notified about the first of the exceedances. What
6   about the position on 20 March, by which time at least in
7   the evening you have been notified about a further three
8   exceedances all with the same problem. And if not by
9   20 March, by 22 March, when you are notified about a third
10   one - another one, rather, more than a third, and again on
11   23 March, when you are notified about another one, ought
12   there not to have been a point at some time in that period
13   where the change that was required to be made to prevent
14   those HPIs occurring ought to have been made?
15   A.   Yes, I must - my recollection of the time is that
16   I never - when I received the HPI reports, I did not ask
17   the UMM at that time had they installed the second skid,
18   and that's one error on my part, if you like, on
19   reflection. I would just add to that, on reading the later
20   information, as I understand it, the sled was installed on
21   the 20th, so the answer would have been, "Yes, we have
22   installed the redundant device."
23
24   Q.   Do you know when that was done, when you were informed
25   about that?
26   A.   I wasn't informed verbally. I noticed that in
27   documentation when I was reviewing the HPIs and 5As.
28
29   Q.   Do you recall from your review of that documentation
30   what date it was that the second skid was installed?
31   A.   I believe it was on the 20th.
32
33   Q.   If that's correct and the second skid was installed on
34   the 20th, were there any concerns or ought there have been
35   any concerns raised by the further exceedances that
36   occurred on the 22nd and then on the 23rd in relation to
37   a similar issue?
38   A.   I go back to what I said yesterday. The failures -
39   the failure on the 22nd was to my mind inexplicable if they
40   had a second skid to operate, why the mine would think it
41   necessary to change the settings on the skid as an
42   alternative to using the second skid that I believe they
43   had in place.
44
45   Q.   Ought questions have been asked by someone at the
46   inspectorate of the mine on the 22nd, in those
47   circumstances?

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1   A.   The notification, when I received it, was that they
2   had taken action - they had a plan for preventing the skid
3   from shutting, and the plan failed. Again, I did not think
4   to ask if the second skid was there, so I did not have that
5   information. In answer to your question, I ought to have
6   asked.
7
8   Q.   I presume that answer holds, then, for the further
9   exceedance that occurred on 23 March, that perhaps further
10   questions ought to have been asked at that time about why
11   there was yet another exceedance related to a very similar
12   cause in circumstances where the preventative action
13   seemingly had been put in place?
14   A.   It was another opportunity for me to ask the question
15   that I didn't take, no.
16
17   Q.   Can we move forward, then, to the batch of exceedances
18   on 21 April?
19   A.   Yes.
20
21   Q.   Because, as we saw yesterday, there were four HPIs
22   notified to your office on that day, and I know that you
23   alluded to there having been some further exceedances on
24   that day. We will come to those. I just want to focus on
25   the four that you were notified about. I appreciate not
26   all of them were notified to your office on the 21st,
27   because it seems from the documents we reviewed yesterday
28   that the last of the four might actually have been notified
29   to your office on 22 April?
30   A.   The 23rd?
31
32   Q.   Or 23 April?
33   A.   I think.
34
35   Q.   In any event, on or around the period between 21 and
36   23 April, your office did become aware that there had been
37   four methane exceedances at the mine on or around 21 April?
38   A.   We did, yes.
39
40   Q.   The notifications given to your office indicated that
41   each of those exceedances were picked up on the sensor
42   which was installed in the shield 149 canopy?
43   A.   That's correct.
44
45   Q.   I've got some similar questions about those
46   exceedances that I had in respect of the earlier batch we
47   were just talking about. Once your office was informed of

1   one or perhaps at least the second exceedance occurring
2   close in time to each other related to what the mine, it
3   seemed, considered to be a similar cause, ought the
4   inspectorate not have been asking some further questions of
5   the mine as to what it was doing to ensure that there
6   wasn't going to be a repetition of those HPIs as a result
7   of that singular cause?
8   A.   I must say, I'm not familiar with the conversations
9   that did take place between Inspector Brennan and the mine
10   when those notifications came in. Now, my experience with
11   Inspector Brennan is that he does ask a lot of questions
12   when notifications do come in, and he is diligent in his
13   approach to exploring the cause of a HPI with the mine. So
14   whether questions were asked by Inspector Brennan and what
15   questions, I can't say.
16
17   Q.   All right. We will leave it there if you weren't
18   a part of those conversations.
19
20   Could we move forward to 5 May, because that was the
21   date that your office received the form 5As for each of the
22   notifications that you had received about the exceedances
23   for HPIs 8, 9 and 10?
24   A.   Yes.
25
26   Q.   Could I ask that document AAMC.001.009.0424 be put up
27   on the screen, please. You will recall that the exceedance
28   which related to HPI number 8 was one which was detected on
29   the shield 149 sensor, Mr Smith?
30   A.   Yes.
31
32   Q.   The document that we can see up there on the screen is
33   the form 5A received by your office on 5 May in relation to
34   it?
35   A.   Yes.
36
37   Q.   Could we go to page 2, please, Mr Operator, perhaps
38   over to page 3. Can we have a look there, Mr Smith, at the
39   section headed "Incident causes". You can see that section
40   of the form?
41   A.   I can.
42
43   Q.   We can see, can't we, that one of the causes is
44   identified as being:
45
46   *Gas make (SGE) greater than expected in*
47   *excess of system capacity.*

1
2   A.   Yes.
3
4   Q.   And:
5
6   *No Longwall Ventilation Set Up Work Order*
7   *for the new sensor installation location.*
8
9   A.   That's correct.
10
11   Q.   And also:
12
13   *Ventilation arrangements for TG drive area*
14   *not adequate to dilute a change in goaf*
15   *stream.*
16
17   A.   That's correct.
18
19   Q.   One of the preventative actions listed there is to
20   review the long-term sustainability of the section 243A
21   sensor under roof support 149 in consultation with DNRME?
22   A.   Yes.
23
24   Q.   We know from the evidence that you gave yesterday that
25   in fact at about this time, and even moving beyond this
26   date, there were a number of communications between the
27   mine and your office about the positioning of that sensor?
28   A.   That's right.
29
30   Q.   Then we can see other actions listed there, including
31   conducting a trial of alternate ventilation configuration
32   in the tailgate area and reporting to longwall team upon
33   completion?
34   A.   Yes.
35
36   Q.   Updating the longwall standard area management system,
37   based on a report from the trial ventilation arrangements
38   from vent and gas super?
39   A.   Yes.
40
41   Q.   And review and update the frictional ignition work
42   order to include the inspection of the brattice and
43   venturis located with tailgate drive area?
44   A.   Yes.
45
46   Q.   Do you know what inquiries, if any, your office made
47   with the mine about which of those were done and when?

1   A.   To my knowledge, no particular inquiries were made
2   with regard to this. I know I did not make any inquiries
3   with regard to this.
4
5   Q.   Should they have been made? Should inquiries have
6   been made? Should the inspectorate have followed up with
7   the mine?
8   A.   Circumstances on the following day changed everything.
9
10   Q.   What about on 5 May, should inquiries have been made
11   on 5 May?
12   A.   You will note that this was received at 4.56pm on
13   5 May, so I doubt very much that an inspector would have
14   seen this at that time.
15
16   Q.   Can we go to the form 5A for HPI number 9. The
17   document is AAMC.001.009.0416. You will recall, Mr Smith,
18   that when we spoke about HPIs number 9 and 10 yesterday,
19   they appeared to you, at least on review, to relate to
20   failures of some brattice in the C heading?
21   A.   Yes.
22
23   Q.   Such that on those particular occasions, methane was
24   detected in the general body in excess of 2.5 per cent on
25   the outbye sensor, the one furthest away from the longwall
26   face?
27   A.   That's right, yes.
28
29   Q.   Let's have a look at this form 5A. The document up
30   there is the form 5A you received on this day, 5 May, in
31   relation to this exceedance?
32   A.   Yes.
33
34   Q.   Could we go, please, to page 2 or 3, to the heading
35   "Incident causes". Here the first organisational cause is
36   listed as:
37
38   *Less than adequate methane*
39   *pre-drainage/recovery/dilution.*
40
41   A.   Yes, it is.
42
43   Q.   That picks up some of the themes that we have noticed
44   in the earlier form 5As?
45   A.   It does.
46
47   Q.   There are some others listed there, being:

1
2   *Gate stopped shearer at shield 115, however*
3   *the methane was 2.12% and 2.24%.*
4
5   A.   Yes.
6
7   Q.   And:
8
9   *Less than adequate Ventilation Control*
10   *Devices to prevent goaf gases entering*
11   *C heading.*
12
13   A.   Yes.
14
15   Q.   In respect of the preventative action nominated on
16   that form, we can see that an additional shearer gate was
17   going to be installed at shield 90?
18   A.   Yes.
19
20   Q.   And there was going to be an upgrade and installation
21   in front of the longwall of ventilation control devices in
22   the tailgate?
23   A.   Yes.
24
25   Q.   I assume, given your answer in respect of the previous
26   form 5A that was received at the same time, that your
27   office having received that on late on 5 May and in light
28   of subsequent events on 6 May didn't follow up whether
29   those actions were undertaken by the mine?
30   A.   That's correct.
31
32   Q.   Can we move to the last of the form 5As that you
33   received on that day, and it involves document
34   AAMC.001.009.0420. If we could go, please, to page 2 or 3,
35   to the "Incident causes", again, like with the previous
36   one, we can see here nominated as a cause:
37
38   *Less than adequate methane*
39   *pre-drainage/recovery/dilution.*
40
41   A.   Yes, we can.
42
43   Q.   Also, the same cause with respect to the gate having
44   stopped the shearer at shield 115?
45   A.   That's correct.
46
47   Q.   And there is the reference to the less than adequate

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 1    ventilation control devices?
 2    A.   Yes.
 3
 4    Q.   Similarly we can see that the preventative actions
 5    were precisely the same as nominated for the previous
 6    form 5A?
 7    A.   Yes.
 8
 9    Q.   That takes us to the end of the documents that your
10    office was provided with prior to the explosion on 6 May
11    2020.  Can I ask you this:  by 5 May, do you agree that the
12    circumstances known to the inspectorate were these -
13    firstly, the mine had indicated on a number of occasions
14    that it had undertaken less than adequate pre-drainage of
15    the P seam?
16    A.   That's correct.
17
18    Q.   Also, that it was experiencing greater than expected
19    gas make, at least in part as a result of the failure to
20    undertake adequate pre-drainage of the P seam?
21    A.   Yes.
22
23    Q.   Also, you were aware that the mine had nominated that
24    there had been less than adequate methane recovery and
25    dilution processes in place?
26    A.   Yes.
27
28    Q.   Your office was also aware that there had been, by
29    this stage, 14 methane exceedance HPIs on that longwall in
30    about eight weeks of operation?
31    A.   Yes.
32
33    Q.   Also, the last one of those HPIs identified to your
34    office on 21 April involved an exceedance such that there
35    was present methane in the explosive range and a duration
36    of exceedance above 2.5 per cent for 10 minutes?
37    A.   Yes.
38
39    Q.   Also, that your office was aware that the mine was
40    going to be or was presently mining through a fault and
41    that that would pose attendant problems for the mine?
42    A.   Yes.
43
44    Q.   In light of all of those circumstances that I have
45    just nominated, should it have been that by at least 5 May
46    2020, the inspectorate had taken action to ensure that
47    corrective or remedial action was undertaken by the mine in
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 1       respect of those repeated HPIs?
 2       A.   If I can go back to the HPIs in batches, the --
 3
 4       Q.   Well, before you do, my question is really
 5       a relatively straightforward one.  I will just ask it again
 6       and I will ask you, if you can, to answer it directly.
 7       Should the inspectorate not by 5 May, at the very least, in
 8       the circumstances known to it, have required the mine to
 9       undertake timely corrective or remedial action in respect
10       of those repeated HPIs?
11       A.   In the context of the HPIs, the mine had already
12       indicated that they had taken action with some of the HPIs
13       and the results had been evident, in that that form of HPI
14       had ceased, so the requirement for the inspectorate to
15       direct the mine to take further actions seems, to me, to be
16       unnecessary.
17
18       Q.   Mr Operator, could we bring up on the screen, please,
19       section 128 of the Act.  Mr Smith, you can see there
20       section 128 of the Act, the section which sets out the
21       functions of inspectors and inspection officers?
22       A.   I can.
23
24       Q.   You will see in paragraph (g) one of the functions
25       that I took you to at the beginning of questions yesterday?
26       A.   Yes.
27
28       Q.   Paragraph (g) says, does it not, that inspectors and
29       inspection officers have the following functions:
30
31            *If unsafe practices or conditions at coal*
32            *mines are detected, to ensure timely*
33            *corrective or remedial action is being*
34            *taken and, if not, require it to be taken.*
35
36       You can see that section there?
37       A.   I can.
38
39       Q.   My question is this:  notwithstanding the fact that
40       the mine appeared to you to be addressing the precise
41       specific causes of a number of the HPIs that you have
42       talked about, was it not the case that by 5 May, the number
43       of repeated HPIs over a two-month period were such to
44       demonstrate that there were unsafe conditions at the mine?
45       A.   At the time of each exceedance, yes.
46
47       Q.   And what about generally speaking?  I'm talking about
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1 the eight-week period between 9 March and 5 May 2020. On
2 and by 5 May 2020, ought it not to have been apparent to
3 the inspectorate, given the repeated number of HPIs in that
4 period of time, that conditions at that coal mine were
5 unsafe?
6 A. As a general statement, I would not say that, no.
7
8 Q. Let me turn, then, to the exceedances that you weren't
9 notified about on 21 April. If we could have document
10 AAMC.001.009.0568 brought up, please, this is one of the
11 learning from incidents reports in respect of a number of
12 the exceedances at the mine, and you can see which
13 exceedances there on the front of the report?
14 A. Yes.
15
16 Q. This form wasn't provided to you either before the
17 explosion on 6 May or even subsequently, other than to
18 review as part of giving your evidence; is that right?
19 A. That's correct.
20
21 Q. Could we go, please, to pages 11 and 12 of the
22 document. If you have a look at those pages, you can see
23 that between 21 April and 23 April there were said to be
24 eight events involving methane exceedances at the mine?
25 A. I can.
26
27 Q. Four of those were notified to your office, as we have
28 discussed?
29 A. That's right.
30
31 Q. They were events 1, 2, 3 and 6?
32 A. That's right.
33
34 Q. Event 4 was not notified to your office?
35 A. I have no record of it, no.
36
37 Q. It appears on the face of this document at least to
38 have involved a reading on the shield 149 sensor of a peak
39 of 2.9 per cent methane at about 2.33 in the afternoon?
40 A. Yes, it does.
41
42 Q. That was after three earlier methane exceedances?
43 A. Yes.
44
45 Q. In respect of event 5, on the face of this document at
46 least, it appears that there was another methane exceedance
47 on the shield 149 sensor which peaked at 2.53 per cent at

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 1      4.50 that day?
 2      A.   That's correct.
 3
 4      Q.   And again, to your knowledge, that wasn't reported to
 5      your office?
 6      A.   Not to my knowledge.
 7
 8      Q.   If you have a look at event 7, it appears that on
 9      22 April, the next day, the shield 149 sensor detected
10      a peak reading of methane of 2.67 per cent at about 3.17 in
11      the morning?
12      A.   Yes.
13
14      Q.   Again, to your knowledge, that wasn't reported to your
15      office?
16      A.   To my knowledge, no.
17
18      Q.   Finally, event 8 appears to indicate that still on
19      22 April, the shield 149 sensor detected five discrete
20      peaks of exceedances above 2.5 per cent, and they are
21      nominated there as being 2.67 per cent, 2.59 per cent,
22      2.9 per cent, 3 per cent and 2.92 per cent, between 9.50 in
23      the morning and 10.02 in the morning?
24      A.   Yes.
25
26      Q.   Have you at any point been given an explanation as to
27      why they were not reported as HPIs?  Had you had knowledge
28      of those at all prior to reviewing this document?
29      A.   Not until I had reviewed this document.
30
31      Q.   In your statement, if I understand it correctly, at
32      paragraph 202 - I might just read it to you - you say this:
33
34           If the Inspectorate had knowledge of the
35           content of the LFIs, including that some of
36           the canopy sensor exceedances were not
37           reported to the Inspectorate, intervention
38           by the Inspectorate would have occurred.
39
40      A.   Yes.
41
42      Q.   Can you explain to us what you mean by that?  What
43      intervention would have occurred if you had been told about
44      these four methane exceedances?
45      A.   When I made that - when I put those words in my
46      statement, what was in my mind was finding out that I had
47      not been informed of the methane exceedance would have
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1   initiated, firstly, a phone call to the underground mine
2   manager and the SSE to find out why they had decided these
3   events were not worthy of informing the inspectorate -
4   firstly. Then the second matter would be, as I was
5   intending to go to the mine in a couple of weeks' time,
6   I may very well have brought forward that inspection. That
7   was what was in my mind.
8
9   Q.   When you wrote that?
10   A.   When I wrote that paragraph.
11
12   Q.   So it is not a reference to the fact that the
13   inspectorate would have taken any particular decisive
14   action; simply that it would have been a further matter to
15   be raised at that planned inspection on the 13th or 14th?
16   A.   It may have well have brought the planned inspection
17   forward to the next day.
18
19   MS O'GORMAN: If I might just have a moment, Mr Martin?
20   Those are the questions that I have for Mr Smith,
21   thank you.
22
23   THE CHAIRPERSON: Thank you. Mr Holt?
24
25   **<EXAMINATION BY MR HOLT**:
26
27   MR HOLT: Q.   Good morning, Mr Smith. My name is
28   Saul Holt. I'm one of the barristers for the Anglo
29   companies who have been given leave to appear at the
30   Inquiry. Now, just some basics to start with. You
31   explained to, I think, Ms O'Gorman yesterday afternoon
32   about your own experience in history both in coal mining
33   and also as an inspector with the inspectorate?
34   A.   Yes.
35
36   Q.   Obviously that gives you a particular suite of
37   expertise around coal mining and underground coal mining in
38   particular?
39   A.   It does.
40
41   Q.   You explained also that within your team and the
42   inspectorate more broadly are some other specialisations -
43   electrical, mechanical, those sorts of things as well?
44   A.   There is.
45
46   Q.   Presumably you work together as a team?
47   A.   We do.

1
2   Q.   And especially, I imagine, in your office, where you
3   are managing a particular set of mines as kind of a group
4   of mines that you are responsible for?
5   A.   Yes.
6
7   Q.   You become therefore not just expert in longwall
8   mining or underground mining and the various issues that
9   arise both individually and as a group, but also in the
10   particular mining conditions that exist for the group of
11   mines that you are responsible for?
12   A.   We do become very well informed, yes.
13
14   Q.   And not just of the Bowen Basin and what it means to
15   mine in the Bowen, to longwall mine in the Bowen, but also
16   the particular issues for particular mines as they are
17   moving forward in their development processes?
18   A.   Yes.
19
20   Q.   Because these are long, long time period operations;
21   right?
22   A.   Yes.
23
24   Q.   You get to know the teams pretty well, you get to know
25   the set-up pretty well, you get to know the issues pretty
26   well?
27   A.   We do.
28
29   Q.   Indeed, part of being a good inspector and, with
30   respect, running a good team is about making sure that it's
31   not just the words in a form 1A or the words in a form 5A
32   that are informing you about what's going on at the mine,
33   but knowledge that comes from a tonne of other sources and
34   interactions and materials as well?
35   A.   As well, yes.
36
37   Q.   I will come back to that in a moment - actually, no,
38   let's deal with that now. It comes in large measure from
39   the personal relationships that you develop - I don't mean
40   inappropriate; I mean just relationships that inspectors
41   develop - with the senior folk on site?
42   A.   Yes.
43
44   Q.   Here, at Grosvenor, you would have been very familiar
45   at any point in time, if Grosvenor were your
46   responsibility, with the SSE, the underground mine manager
47   and the other members of the senior leadership team?

1 A.   Those that we have interaction - regular interaction
2 with, yes.
3
4 Q.   You would be aware, though, of course, that they don't
5 just sit on their own trying to run a massive coal mine;
6 they have teams underneath them of experts with expertise
7 in different areas dealing with seamgas management, for
8 example, dealing with geotechnical issues, dealing with
9 planning for the next longwall and development, all those
10 sorts of things as well?
11 A.   Yes.
12
13 Q.   You are also aware that for a company like Anglo, they
14 have in Brisbane a set of experts also, people who are
15 providing input into the mine, expert advice and expert
16 assistance as well, and your expectation as well is that
17 even within Grosvenor itself, for example - again, your
18 expectation is not just the way in which Grosvenor manages
19 an exceedance by filling in the words that we have seen on
20 a 5A but that it would have other underlying processes that
21 would have got it to the point of deciding how it was going
22 to respond to an exceedance?
23 A.   Yes.
24
25 Q.   For example - and you would have been aware of this -
26 the LFI process that we are now very familiar with?
27 A.   Yes.
28
29 Q.   Learning from incidents, where a group is brought
30 together to look at a particular incident, try and figure
31 out why it happened and come up with solutions for it,
32 analysing the data using various tools and techniques?
33 A.   Yes.
34
35 Q.   I won't be boring and go through it again, like we did
36 last time. In addition, at Grosvenor, you are also aware
37 of, and your inspectors are also aware of, a group that was
38 established on an ad hoc basis, that is, on an "as required
39 to respond to a particular situation" basis, called the
40 IMT?
41 A.   Yes.
42
43 Q.   The incident management team, which gets formed to
44 respond to one of these exceedances?
45 A.   Yes.
46
47 Q.   Again, when you are reading the 1A, or the 5A in

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1 particular, and you see the words in it, you know that
2 underlying those words are a series of processes which the
3 mine is operating under; right?
4 A.   Yes.
5
6 Q.   In addition, and in case it is not obvious from what
7 you were saying today and yesterday, your expectation would
8 be that the mine wouldn't want to have further exceedances;
9 right?
10 A.   That is my expectation, yes.
11
12 Q.   Because if they have exceedances, it trips power to
13 the longwall, to the shearer and the cutter, so they can't
14 cut coal any more?
15 A.   Yes.
16
17 Q.   It creates a whole lot of regulatory burden to come
18 and deal with you folk. I'm sure it's very pleasant, but
19 you don't want to be doing that every day?
20 A.   No.
21
22 Q.   So your expectation is that the mine, through these
23 professional processes that it has in place, is dealing
24 with these issues?
25 A.   Yes.
26
27 Q.   Ms O'Gorman - I will come to it in detail later - was
28 talking to you about timely responses to particular issues
29 as they arise?
30 A.   Yes.
31
32 Q.   If we take that flame arrestor issue, for example, so
33 those first four or five exceedances, HPIs, that occurred
34 on longwall 104?
35 A.   Yes.
36
37 Q.   What we see is that those occur over a matter of,
38 I think, about 72 hours or a few days, no more than that,
39 those flame arrestor issues?
40 A.   Yes.
41
42 Q.   We then see no more of them again?
43 A.   That's right.
44
45 Q.   So in terms of you being comfortable that the mine is
46 responding in a timely fashion to a particular issue, it
47 tends to be borne out in that chronology, doesn't it?

```
 1      A.   It does.
 2
 3      Q.   In terms of those sources of information that the
 4      inspectorate has beyond the bare words of a 5A - and
 5      I ought say it's clear enough, isn't it, looking at those
 6      5As, that they can be improved?
 7      A.   Yes.
 8
 9      Q.   No-one can read them and go, "That's an awesome 5A";
10      right?
11      A.   No.
12
13      Q.   Just as the inspectorate has found things for
14      improvement out of this process, I imagine you would expect
15      that Anglo has as well?
16      A.   I hope so.
17
18      Q.   Again, though, those 5As, if you wanted to go and
19      drill into the LFIs that sit under them, the IMT minutes
20      that sit under them and the processes, you would expect to
21      see diligent and professional work that has led to those
22      conclusions?
23      A.   Yes.
24
25      Q.   What can be done better, unquestionably, at the 5As is
26      communicating the detail of that back to the inspectorate?
27      A.   Yes.
28
29      Q.   Thank you.  In addition, there are ad hoc
30      communications, aren't there, between the inspectorate and
31      the mines, different inspectors getting on the phone to
32      Mr Niehaus or Mr Griffiths or others that they need to?
33      A.   That's correct.
34
35      Q.   And also the other way around, as we have seen, too?
36      A.   That's correct.
37
38      Q.   Indeed, as your statement explains in a lot of
39      detail - we didn't go to it much in the last day or so -
40      there were times when there was an exchange of ideas
41      between inspectors and the mine about how to manage
42      challenging issues?
43      A.   Yes.
44
45      Q.   Not only was the senior management at Grosvenor open
46      to those conversations, it actually implemented some of
47      those proposals at different times in response to
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1   suggestions made by the inspectorate?
2   A.   They did.
3
4   Q.   That's a function I would imagine you would see of
5   a good relationship between a mine and an inspectorate who
6   have to work together over a very long period of time?
7   A.   Certainly a sign of an effective relationship, yes.
8
9   Q.   In addition to that kind of ad hoc communication,
10  there are also, as we know, mine inspections both with and
11  without notice?
12  A.   Yes, there are.
13
14  Q.   We see examples of those in the mine record entry for
15  Grosvenor over the years?
16  A.   We do, yes.
17
18  Q.   They can be over a number of hours or even over
19  a number of days?
20  A.   Yes.
21
22  Q.   They can be targeted, as we will see, at particular
23  topics or issues of concern?
24  A.   Yes.
25
26  Q.   And they involve talking both to senior management on
27  the site and also to coal mine workers?
28  A.   They do.
29
30  Q.   So you don't just go, "Let's look at the fancy
31  PowerPoint presentation that the SLT are presenting"; you
32  actually go and talk to the folk who know what's going on
33  on the face?
34  A.   That's right.
35
36  Q.   In addition, you can look, and do look, as the mine
37  record entries show, at gas management data?
38  A.   We do.
39
40  Q.   You will ask to be shown processes and systems to see
41  how well they work or not?
42  A.   We do.
43
44  Q.   We will come back to one of those in a little while.
45  You might review aspects of the SHMS?
46  A.   Yes.
47
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1     Q.   Again, you have access to documents and people to
2     satisfy the inquiries that you have?
3     A.   We do.
4
5     Q.   Following those meetings, those inspections, again
6     what we see in your statement and in the mine record
7     entries is often communication between inspectors and the
8     mine about particular issues that have emerged or been
9     discussed on the visit?
10    A.   We do.
11
12    Q.   Email responses, suggestions, discussions, those sorts
13    of things?
14    A.   That's correct.
15
16    Q.   You don't always agree, right?
17    A.   No.
18
19    Q.   It's not always skipping down the roadway hand in
20    hand?
21    A.   No, we don't.
22
23    Q.   There are plenty of robust conversations that go on
24    between the inspectorate and senior management of Grosvenor
25    and of any mine?
26    A.   Yes.
27
28    Q.   In addition, we saw, for example, yesterday the
29    17 April email from Mr Niehaus, where Mr Niehaus was
30    talking about an anticipated complex situation of strata
31    management and gas management that he might have coming up.
32    A.   He presented to me a hypothetical, as such.
33
34    Q.   I'm not trying to trap you.
35    A.   No, no, no.  It's just in how I perceived the
36    conversation with Inspector Nugent and then the email,
37    going, okay, you've had an experience previously and you've
38    got - you're anticipating similar conditions, so
39    hypothetically what would be the situation were that to
40    eventuate?
41
42    Q.   But again, quite apart from how one characterises the
43    communication, the fact that those kinds of communications
44    are occurring, that the underground mine manager is wanting
45    to explore those things with the inspectorate, would
46    ultimately be a positive?
47    A.   It is a positive.  It is not a negative.
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TRA.500.015.0021

1
2   Q.   Thank you. In addition to those kinds of
3   communications, the information that you have, also as
4   a matter of formality under the regulation, as
5   a requirement under the regulation, the inspectorate is
6   provided with various documents about each longwall panel
7   as it is going ahead?
8   A.   That's correct.
9
10   Q.   I should say I'm not suggesting for a moment that the
11   inspectorate's job is to approve those plans or to read
12   them in detail, but nonetheless they are available to you
13   as part of your knowledge base, to the extent that you want
14   to refer to it, about the mine?
15   A.   They are.
16
17   Q.   That includes, by way of example, the risk assessment
18   for the second workings of a longwall before operations
19   commence?
20   A.   That's correct.
21
22   Q.   And the standard operating practices for second
23   workings for each longwall?
24   A.   That's correct.
25
26   Q.   They include things like discussion of and
27   representation of hazard maps, for example, pointing out
28   the detail of the understanding of the longwall that's to
29   be mined and identifying the kinds of hazards that might
30   arise?
31   A.   That's right.
32
33   Q.   Can we just pop an example of that up, please, because
34   it is one we will come back to. Could I have, please,
35   AGM.002.001.0019, and if we could go to page 13 of that,
36   please, figure 4. Again, we will look at this a bit during
37   the course of this Board of Inquiry, I'm sure, but this is
38   what I was describing as the hazard map for longwall 104?
39   A.   That's right.
40
41   Q.   Again, I'm not asking you to give a technical
42   description of anything, but you would recognise that what
43   we're looking at here is a matter of chainage along the
44   horizontal axis showing us how the longwall is going to
45   progress?
46   A.   Correct.
47

.10/03/2021 (15)   1404   S D SMITH (Mr Holt)
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1   Q.   And then each of the bands that we can see there
2   identifies different datasets to tell you a different thing
3   about the longwall that you are approaching and the kinds
4   of hazards that exist within it?
5   A.   Yes.
6
7   Q.   So, for example, if we look at the third one down,
8   that is showing the geophysical strata rating, or the GSR
9   rating, for the roof, to help you understand as a matter of
10   hazard what the roof conditions are going to be like?
11   A.   That's right.
12
13   Q.   Then if we go down to the next one, we can see
14   borehole structures, gas compliance, gas drainage and
15   hazards. Through the third one up from the bottom, we can
16   see that?
17   A.   Yes.
18
19   Q.   We can't do it on the document that is here, but we
20   will ensure that the Board is able to see it. I'm not
21   asking you to zoom in because it won't work here - we'll
22   just get pixels - but if you zoom in on that hazard, you
23   can see it to quite an extraordinary level of detail, can't
24   you, the things that have been mapped as potential hazards
25   in the longwall as one goes through?
26   A.   Yes.
27
28   Q.   So the mine has mapped down, for example, to where
29   someone lost a drill bit in a previous inseam operation,
30   for example. That's the kind of planning that you see and
31   informs your understanding of the way in which a mine like
32   Grosvenor is planning for and working through its
33   operations?
34   A.   Yes.
35
36   Q.   Can we then go back, on that basis, to some kind of
37   basic things about these mines, particularly in the Bowen
38   Basin - I guess Grosvenor in particular in its development.
39   As we all know, longwall coal mines in the Bowen deal with
40   very gassy coal seams?
41   A.   Yes.
42
43   Q.   The Goonyella Middle seam, the GML, is something
44   approaching 100 per cent methane?
45   A.   Yes.
46
47   Q.   There are also, as we know, other seams within the

1   stratigraphy that also are gassy and need to be managed?
2   A.   Yes.
3
4   Q.   One of those is the P seam, which I will come back to
5   in a moment. Speaking within the Bowen but I guess more
6   generally as well, managing methane is a constant issue and
7   balance for longwall coal mining operations, isn't it?
8   A.   Yes, it is.
9
10   Q.   It is one of the key things you are trying to manage
11   all the time?
12   A.   Yes.
13
14   Q.   Both through your planning and risk assessment
15   process?
16   A.   Yes.
17
18   Q.   But also to be responsive when the conditions change
19   and issues arise, as they do?
20   A.   That's right.
21
22   Q.   The thing about methane is that you want it - indeed,
23   you must have it, for obvious reasons - off the longwall
24   face and out of the areas where coal mine workers might be
25   present or working?
26   A.   That's right.
27
28   Q.   That's obviously so that coal mine workers have
29   a respirable atmosphere but also to avoid the risk of
30   explosion?
31   A.   Yes.
32
33   Q.   But at the same time, you want to have as high
34   a concentration of methane as possible in the goaf behind
35   you, right, as you are mining forward?
36   A.   That's correct.
37
38   Q.   Obviously enough, you need that to be above the upper
39   explosive limit of methane - that is, above 15 per cent?
40   A.   Yes.
41
42   Q.   But you actually want it to be way closer to
43   100 per cent in the Bowen, so that you remove the risk of
44   spontaneous combustion from oxidation of the coal through
45   oxygen?
46   A.   You want it to exclude the oxygen.
47

1   Q.   Absolutely. So the balance always - it's not about
2   removing all of the methane from this whole area by
3   pre-drainage. What you are trying to do is to make sure
4   you can manage the methane in the areas where coal mine
5   workers will be and on the longwall face, while ensuring
6   that it sits in very high concentrations behind you in the
7   goaf?
8   A.   That's right.
9
10   Q.   The processes to do that are gas drainage, that is,
11   removal from the immediate vicinity of the longwall face?
12   A.   Yes.
13
14   Q.   And also ventilation processes and systems?
15   A.   Yes.
16
17   Q.   I know I'm simplifying it, but basically the
18   management of the balance of that methane is a constant
19   battle, a constant balance between those things, between
20   your drainage and your ventilation system?
21   A.   Yes, and your operating speed.
22
23   Q.   Absolutely. That's a means of creating more methane,
24   right, by releasing it from the coal, so that's really
25   important as well. At the same time as all of that, you
26   have to manage the spontaneous combustion risk of too much
27   oxygen anywhere near coal; right?
28   A.   That's right.
29
30   Q.   Because you don't want coal to oxidate, or oxidise -
31   I can never remember which one it is - heat and create
32   a combustion source?
33   A.   That's right.
34
35   Q.   Every mine is different, if I can put it that way, in
36   terms of the way in which you have to manage those issues;
37   right?
38   A.   Yes, they are.
39
40   Q.   Indeed, every longwall panel can be different?
41   A.   Yes, they can be.
42
43   Q.   Indeed, you see, even in the course of the material we
44   have been through today, learnings from 101 to 102 to 103
45   to 104 are not just about learning about this area, but
46   they are actually recognising that the mining conditions
47   have changed both within and between a single longwall?

1   A.   That's right.

2

3   Q.   So when our learned friend Ms O'Gorman talks about
4   "ad hoc responses" to problems, and we know that "ad hoc"
5   simply means something which is responsive to a particular
6   problem or for a particular purpose, part of managing
7   a coal mine is ad hoc responses to conditions as they
8   change?
9   A.   Yes, it is.

10

11   Q.   It is a combination of good planning, good risk
12   assessment, really smart people in the right roles and good
13   capacity to adapt to the necessarily changing conditions
14   underground?
15   A.   Yes.

16

17   Q.   Now, as far as the P seam is concerned, just because
18   it has got such a big guernsey already in the last day or
19   so, are you aware that Mr Andrew Self, who is one of the
20   experts we understand who will be called before the Board,
21   has indicated that he understands that the P seam has not
22   otherwise been drained by anyone mining the Goonyella
23   Middle seam?
24   A.   I'm not aware of that, no.

25

26   Q.   If he says that, I take it you wouldn't dispute it -
27   that drainage of the P seam is not something that you have
28   come across as something regularly done by those who mine
29   the --
30   A.   It's not information that I have available.

31

32   Q.   I understand, thank you. You are aware, though, that
33   Grosvenor was looking to do drainage of the P seam as part
34   of the process that it explained in its second workings
35   document and its risk assessments to look at ways of
36   managing what was unquestionably an underestimated gas make
37   underground?
38   A.   Right.

39

40   Q.   There were attempts made to drain the P seam using
41   some horizontal wells, which failed?
42   A.   Yes.

43

44   Q.   Indeed, I take it you are not aware that Mr Williams,
45   again another expert, has said that's not surprising
46   because it is a really hard thing to do?
47   A.   Yes, I'm not aware of Mr Williams' words, no.

1
2   Q.   If we move then to HPIs, can I put this proposition to
3   you, and it maybe captures some of the debate that you were
4   having with our learned friend Ms O'Gorman and with
5   Mr Hunter yesterday. The reality is that not all HPIs
6   related to methane exceedances are the same?
7   A.   That's correct.
8
9   Q.   It is not a question of just going 3 per cent equals
10   3 per cent equals 3 per cent?
11   A.   That's correct.
12
13   Q.   There are a tonne of variables that you want to look
14   for, and indeed a good inspector and a good mine operator
15   would be looking for, to make a proper, detailed and
16   sophisticated assessment of each HPI?
17   A.   Yes.
18
19   Q.   They include things like obviously the level of
20   methane, so what level the methanometer has got to?
21   A.   Yes.
22
23   Q.   That's because 2.51 for a few seconds is vastly
24   different from 7 per cent for a day and a half?
25   A.   Yes.
26
27   Q.   You also look at the speed at which or the time which
28   it has taken for the ventilation system to bring any
29   particular spike back under control?
30   A.   Yes.
31
32   Q.   So if you can see that a cause has been identified and
33   actually you can see in the data that the exceedance has
34   been brought back down under 2.5 quickly, that affects
35   obviously the way in which you assess the HPI and what you
36   might need to do about it?
37   A.   Yes.
38
39   Q.   The other things, of course, are the trend data, so
40   what have the methanometers been doing over time - you want
41   to look at that and you would expect the mine to look at
42   that?
43   A.   I would.
44
45   Q.   The location, so which of the sensors?
46   A.   Yes.
47

1   Q.   And if one sensor is peaking, what is happening to the
2   others, because that might tell you something important?
3   A.   That's right.
4
5   Q.   The reason given: is there something obvious, as
6   there are here on a few of them, something really obvious,
7   where the mine has gone, "Look, we know what happened.
8   Someone pulled a venturi off and didn't put it back on, and
9   so the goaf stream scoured the 149 sensor", just for
10   example --
11   A.   Yes.
12
13   Q.   -- as we know happened on one of these cases?
14   A.   Yes.
15
16   Q.   Because that's not giving you an indication of
17   a long-term problem; that's giving you an indication of
18   something which was a mistake which needs solving
19   immediately and systems put in place to avoid its
20   repetition?
21   A.   That's right.
22
23   Q.   And that's what you would be looking for from the mine
24   in those kinds of HPIs?
25   A.   Yes.
26
27   Q.   In addition, of course, you don't just get what's in
28   the 1A and the 5A. You also, as we discussed before, take
29   into account your own knowledge of this mine and its own
30   processes?
31   A.   Yes, you do.
32
33   Q.   And its own history?
34   A.   Yes.
35
36   Q.   And the conversations you might have with someone like
37   Mr Niehaus about the reasons for it, what's preceded it,
38   what might be coming, what other things are in the
39   pipeline, those sorts of things?
40   A.   Yes, those conversations are an opportunity to expand
41   the knowledge base.
42
43   Q.   In this case, in this Board, both at the first hearing
44   and today, you have identified and the inspectorate has
45   identified that there are improvements that could be made
46   with the way in which HPIs are recorded and considered by
47   the inspectorate?

1   A.   Yes.
2
3   Q.   To make sure they have been considered as a group;
4   right? But here, for the benefit of the Board, you have
5   gone through, given your experience and history, every
6   single one of the HPIs on 103 and 104 and looked at them
7   both individually and as a whole?
8   A.   Yes.
9
10   Q.   So you have effectively, if I can put it that way,
11   done an end run around the systems problem that might
12   previously have existed, and you have given us the benefit
13   of looking at the whole suite of exceedances that might
14   have occurred?
15   A.   That's what I've attempted to do, yes.
16
17   Q.   You weren't taken in any detail, or maybe even at all,
18   to your statement in that regard, but your statement goes
19   through every single one of these exceedances and explains
20   the background knowledge the inspectorate had, how the data
21   was interpreted and why ultimately you concluded that the
22   response that was proposed by the mine was sufficient for
23   those purposes?
24   A.   It does.
25
26   Q.   There was no need for any further step to be taken.
27   In particular, your statement refers at various times to
28   your knowledge of other processes that were going on and in
29   particular the IMT, or incident management team, processes
30   that were going on at Grosvenor?
31   A.   That's right.
32
33   Q.   And indeed some communication that we will come to by
34   the mine to the inspectorate about the outcomes of that IMT
35   process?
36   A.   Yes.
37
38   Q.   I guess one of the things that Ms O'Gorman put to you
39   yesterday was whether there was a risk that you were - I'm
40   paraphrasing it, probably unfairly - putting on the
41   blinkers and looking at individual HPIs or individual
42   groups of HPIs and missing the big picture, if I could put
43   it that way. Do you understand that was what was being put
44   to you? It's not what I'm suggesting.
45   A.   I've got to say I don't recollect it specifically as
46   that way, but --
47

1 Q. That's all right. Let me put it this way, then. The
2 reality is, taking into account all of those variables, all
3 of those things that make each HPI or group of HPIs
4 different, what you have done in your statement is to
5 diligently analyse them as groups where they appear to have
6 a genuine common cause; right?
7 A. That's what I've attempted to do, yes.
8
9 Q. And not fall into the trap of seeing each one as an
10 individual event, pretending that none of the rest have
11 happened, so actually looking for those ways in which they
12 group together?
13 A. That's right.
14
15 Q. But equally not falling into the trap of saying,
16 "There are 14. Therefore, there is a problem", without
17 analysing what groups they fall into and how those causes
18 can be explained?
19 A. And what was happening on either side as well, that's
20 right.
21
22 Q. By way of example, because I suggest to you that that
23 approach makes perfect sense, there is no obvious
24 connection between an exceedance caused by a door failure
25 in a ventilation system, that C heading roadway issue we
26 have here, a specific issue caused by a door failure, and
27 the risk that a canopy sensor at 149 is detecting layering
28 in the goaf stream. Those are two entirely separate
29 questions?
30 A. That's right.
31
32 Q. And they should be dealt with separately?
33 A. Yes.
34
35 Q. Now, gas management - let's turn to longwall 103, and
36 we will go through 103 and 104 in the same way that you
37 have been taken through it, not quite in the same way.
38 Longwall 103 we know operated from December 2018 to
39 December 2019?
40 A. That's right.
41
42 Q. It came again with, as you would know, the statutorily
43 required risk assessment, second workings documents and so
44 on being prepared and provided to the department and
45 available as required?
46 A. That's correct, yes.
47

1   Q.   It occurred against the background, obviously enough,
2   of longwalls 101 and 102?
3   A.   Yes.
4
5   Q.   Without taking time, because the material is all
6   before the Board, would you agree with me that what the
7   second workings, the risk assessment for the secondary
8   extraction document and also the risk assessment document
9   repeatedly do is to describe what Grosvenor encountered in
10   101 and 102, particularly in relation to gas make and
11   exceedances, those kinds of issues, and to explain what
12   steps they were seeking to take in 103 to try and
13   ameliorate those issues?
14   A.   I would agree with you, yes.
15
16   Q.   That included discussion of, for example, the P seam?
17   A.   Yes.
18
19   Q.   And it included bringing into play for 103 the lessons
20   that had been learnt in the first 400 metres of the advance
21   of longwall 102?
22   A.   Yes.
23
24   Q.   In terms of trials as occurred during 103 of
25   closer-spaced goaf wells on the tailgate side?
26   A.   Yes.
27
28   Q.   And also ultimately for the addition of some
29   wider-spaced goaf holes on the maingate side?
30   A.   Yes.
31
32   Q.   In addition during 103, a recognition, because of the
33   Isaac River which flows through that area and therefore
34   would make drilling straight down impossible, of the need
35   for slanted wells to assist in drainage?
36   A.   Yes.
37
38   Q.   But also a recognition that there had been - again,
39   this is all in that planning process - an underestimating
40   of the likely gas make which we were seeing?
41   A.   Yes.
42
43   Q.   In fact, part of the story of this is that the gas
44   make becomes unexpectedly greater and greater and greater
45   as we go through --
46   A.   Right.
47

1   Q.   -- the various longwall panels. Now, as we then go
2   through into 103, which, as we know, occurs in 2019, you
3   are aware I think now - you might not have been at the
4   time - that Anglo held a two-day gas management workshop
5   in March 2019?
6   A.   No, I'm not.

8   Q.   There was evidence given at the first set of hearings
9   about that.
10   A.   Right.

12   Q.   Let me ask you questions in this way, then. Firstly,
13   having a two-day focus on management of gas at Grosvenor
14   a few panels in, obviously just at least as a matter of
15   theory, would be a sensible thing to do --
16   A.   Yes.

18   Q.   -- especially given the issues that had arisen. And
19   it would be sensible in that context to incorporate both
20   the folk from the site who were going to be responsible in
21   their own areas of expertise for dealing with Grosvenor
22   going forward?
23   A.   Yes, it would.

25   Q.   And also the technical and operations folk at Brisbane
26   with Anglo, the experts that sit centrally at Anglo?
27   A.   Yes.

29   Q.   It would also be sensible, wouldn't it, to bring in
30   invited guests, recognised industry experts to assist in
31   that planning process?
32   A.   It would.

34   Q.   One of the people it would be smart to bring in -
35   I can tell you they did - would be someone like
36   Ray Williams at that point?
37   A.   Yes, it would.

39   Q.   To help with that, ideas, external, black hat wearing,
40   I suppose, testing ideas and those sorts of things, in
41   about March 2019. Now, in addition - and again I don't
42   know whether you are aware of this or not - there was
43   a follow-up gas management workshop that we heard about in
44   the last hearing in October 2019?
45   A.   Okay.

47   Q.   Again, you would hope and expect that that kind of

1　　　big-picture, "Let's step out of our operational role for
2　　　a moment and really look at these issues hard, with the
3　　　benefit of expert help" would be a good thing to do?
4　　　A.　　It would.
5
6　　　Q.　　It would be an indication of a mature approach to
7　　　managing those kinds of issues?
8　　　A.　　Yes.
9
10　　　Q.　　And taking advice from people like Roy Moreby, who you
11　　　would be familiar with, probably the guru of gas prediction
12　　　here, would be a smart thing to do as well?
13　　　A.　　Yes.　It would be wise.
14
15　　　Q.　　Ultimately, managing these issues was not the
16　　　inspectorate's problem, it was Anglo's job; right?
17　　　A.　　That's correct.
18
19　　　Q.　　Your job was just to make sure they were doing their
20　　　job?
21　　　A.　　Yes.
22
23　　　Q.　　Let's deal, then, with the HPIs and longwall 103 over
24　　　the period of time that we're interested in.　Exceedances
25　　　obviously happen only in locations where there is
26　　　a methanometer or a methane sensor.　That's obvious enough?
27　　　A.　　That's right.
28
29　　　Q.　　In the longwall 103 face, I don't necessarily expect
30　　　you to know with precision, given the timing, but would you
31　　　agree that there would have been methane sensors in six
32　　　locations on 103?　Even ballpark, you would accept that
33　　　would be about right?
34　　　A.　　Yes, ballpark.
35
36　　　Q.　　Does this configuration sound sensible:　two on the
37　　　maingate drive, two on the tailgate drive, two on the
38　　　shearer and two in the tailgate - one inbye and one outbye?
39　　　A.　　Yes.
40
41　　　Q.　　Could we bring up a table of those exceedances just so
42　　　we can get a sense of the chronology, AAMC.008.018.0001.
43　　　This is just a table that has been put together by those
44　　　instructing me so we can see all of them kind of in a row,
45　　　with the sensors upon which the exceedances were measured.
46　　　Obviously enough, it doesn't include all six, because the
47　　　reality of 103 is that exceedances were only ever noted at

1   these three sensors?
2   A.   That's right.
3
4   Q.   At these two sensors, I'm sorry. We can see there the
5   tailgate sensor 400 metres outbye, which is called the
6   inbye sensor?
7   A.   Yes.
8
9   Q.   And then the tailgate sensor, which is at
10   3-4 cut-through, which we know is the outbye sensor?
11   A.   That's right.
12
13   Q.   Just so we can drill into this for a moment, the
14   tailgate sensor, that is, the 400 metre one, is in the
15   location which 243A referred to?
16   A.   Yes.
17
18   Q.   Yes, 400 metres --
19   A.   Zero to 400 metres, somewhere in that range.
20
21   Q.   Now back to 150, but at that point 400. Just so we're
22   all clear, there was at all times a methanometer in the
23   place that would comply with the 243A sensor location wise?
24   A.   Yes.
25
26   Q.   What needed to happen at one point was a change in
27   when it tripped the power to the shearer and the AFC?
28   A.   That's correct.
29
30   Q.   But it was always there?
31   A.   Yes.
32
33   Q.   Again, we can see there as we look through the timing,
34   we're talking here about 2 July, 3 July, 11 July, the 14th,
35   15th and so on, so those July ones are all happening within
36   a pretty short space of time?
37   A.   They are.
38
39   Q.   Again, not all the data you need here is here, but it
40   does tell you about what the levels are on each of those
41   two sensors for each of those HPI exceedances?
42   A.   That's correct.
43
44   Q.   You have been through the numbers, and they are all in
45   your statement, so I'm not going to take you through them
46   in detail in terms of how long each of these went for and
47   the level of the exceedance in terms of concentration, but

1　the highest of those exceedances was the 24 July exceedance
2　at 3.39 per cent?
3　A.　That's right.
4
5　Q.　And that took about two minutes on the inbye sensor
6　for the gas to be brought back under control by the
7　ventilation system?
8　A.　Yes.
9
10　Q.　Eleven out of those 13 don't go over 2.8 per cent, so
11　they are sitting within 3 percentage points of that 2.5
12　limit?
13　A.　Yes.
14
15　Q.　And there are a couple of exceptions, of course, that
16　we will come to, but most of them are dealt with, that is,
17　brought back under control by the ventilation system or by
18　steps taken by the operator, within seconds or minutes?
19　A.　Yes.
20
21　Q.　Again, you have explained in your statement why, in
22　respect of each, and also explained how they build on each
23　other, the inspectorate was comfortable with the response
24　to those HPIs and that no further formal action was
25　required at that point?
26　A.　That's correct.
27
28　Q.　Leaving that up on the screen, I just want to now talk
29　about how these HPIs that we see in this chronological form
30　correlate with the conversations and communications that
31　were going on between Anglo and the inspectorate at the
32　relevant time.　Can we start on that basis with 2 July,
33　because it is the first one.　On 2 July 2019,
34　Inspector Brennan - that's Keith Brennan - attended at the
35　mine?
36　A.　That's right.
37
38　Q.　There was a mine record entry, as there needed to be,
39　about that?
40　A.　Yes.
41
42　Q.　We have produced this, so I hope it is already on the
43　court book, AAMC.008.017.0003.　Might we make that bigger?
44　Now, this is 2 July.　We can see there, without reading the
45　whole thing, that he arrives on site at 6.45, has a brief
46　meeting with Wouter Niehaus and then goes to the bull gang
47　pre-start meeting.　The under-manager provides a review of

 1   activities and high potential incidents that had occurred
 2   during the previous tour, which included gas exceedances,
 3   in particular, which was what he was interested in?
 4   A.   Yes.
 5
 6   Q.   He then goes to the control room, we can see there
 7   under the heading "Gas Data - Control Room", accompanied by
 8   Mr Niehaus, and reviews the data from Citect following the
 9   numerous methane exceedances that had occurred?
10   A.   Yes.
11
12   Q.   And he has - it's summarised here, but it's obviously
13   the consequence of a technical discussion involving the
14   review of Citect data and a discussion with the relevant
15   onsite folk about why those things had occurred?
16   A.   Yes.
17
18   Q.   Then there is a discussion of controls introduced to
19   reduce exceedances?
20   A.   Yes, there is.
21
22   Q.   Again, if I can interrupt myself, all of this forms
23   part of the knowledge that the inspectors have got when
24   they are assessing the HPIs that then come in following?
25   A.   Yes.
26
27   Q.   Not only does it help you understand what the mine are
28   doing, what processes they have got in place, but it also
29   helps you interpret what's in the 5As and 1As, doesn't it?
30   A.   It does.
31
32   Q.   Which is pretty important, because for a fresh reader,
33   you look at them and go, "What does that mean?", but the
34   inspectors were aware of what was actually going on at the
35   mine site; right?
36   A.   Yes.
37
38   Q.   If we then go over the page, please, and pause there,
39   what we can see there is that the MRE has included
40   a screenshot demonstrating the kind of control or the kind
41   of information that is available in the gas control room at
42   any point in time at those various methanometers?
43   A.   That's right.
44
45   Q.   Which allows obviously a person who knows what they
46   are doing to be looking at the relationships and the trends
47   between them?

```
 1      A.   That's right.
 2
 3      Q.   Then in particular, because it mattered, underneath
 4      that particular screenshot, lateral gas drainage hole
 5      GRO3L016 located at 1760 chainage is due to come online,
 6      and then there is, again from the inspector, data that has
 7      been provided by the mine to understand where that
 8      particular goaf hole was located?
 9      A.   Yes.
10
11      Q.   And why it mattered as to when it came online and how?
12      A.   Yes.
13
14      Q.   And what the challenges about that were; right?
15      A.   Yes.
16
17      Q.   The other thing, of course, that you would be aware of
18      at Grosvenor in particular, is that as well as having the
19      Citect data and being able to observe at any point in time
20      what gas levels are, Grosvenor also operates a smart system
21      based on algorithms to automate, to engineer in hard
22      solutions, so that when the shearer gets to a certain
23      point, if gases are at certain levels on certain
24      methanometers, then the shearer is automatically slowed or
25      automatically stopped?
26      A.   Yes.
27
28      Q.   That's not something you see in every longwall mine,
29      is it, that technology?
30      A.   It's on - I am seeing it on more mines, on more
31      longwall mines.
32
33      Q.   But it's relatively new technology?
34      A.   To me, it's relatively new, yes.
35
36      Q.   And again, if we look at - at some point in the first
37      hearings, I think it may have been with Mr Rice, we were
38      talking about controls and the hierarchy of controls and
39      which are the good ones and which are less good ones;
40      right?
41      A.   Yes.
42
43      Q.   The less good ones are the ambulance at the bottom of
44      the cliff.  The good ones are hardwired engineering
45      controls?
46      A.   Yes.
47
```

1   Q.   Knowing that Grosvenor had the capacity to, and indeed
2   did, manage its shearer movement using hardwired
3   engineering solutions which say, "If you get to chock 115
4   and methane at this particular sensor is at this particular
5   level, then you slow to speed X, or if it is at this level,
6   then you stop" is very important, isn't it, because it
7   manages that production of gas from the actual cutting
8   process?
9   A.   That's right.

11   Q.   Again, I won't take you through the detail of it, but
12   as you look at the documents, it becomes clear - what we
13   see through all of this is this reference, especially early
14   on in the longwalls, to tweaking those parameters, to
15   tweaking those numbers?
16   A.   Yes.

18   Q.   What do we do at 115 chock? We've to drop that a
19   little bit. We've got to change that a touch. Again,
20   knowing that that's what the mine was doing would have
21   given you confidence to know that they could manage those
22   issues that were arising?
23   A.   When it works, yes.

25   Q.   Absolutely.
26   A.   That's right.

28   Q.   And that's the thing about it, right? There are some
29   mines who have had it and chosen to stop using it --
30   A.   Yes.

32   Q.   -- because it is one of those things that requires
33   constant tweaking. But if you can get it right, then it
34   removes human intervention and it means you have hardwired
35   engineering controls in place to manage those exceedances?
36   A.   Yes.

38   Q.   It is certainly something you want mines exploring,
39   isn't it?
40   A.   I do. It doesn't remove the human, because the
41   human - because, as you pointed out earlier on, the
42   circumstances are very dynamic and fluid.

44   Q.   Of course.
45   A.   So sometimes that particular hardwired control may
46   actually be not what you want.

1   Q.   Yes, and we see a couple of examples of that.
2   A.   So we still need the humans interpreting.
3
4   Q.   Yes, I'm not suggesting you don't, but a system that
5   says, "Audible alarm, human being to do something" is not
6   as good as a system that says, "We know that if the methane
7   is at this level and the shearer is here at 115, then we
8   should slow"?
9   A.   Yes.
10
11   Q.   And the system wires that in to happen?
12   A.   Yes.
13
14   Q.   Thank you. Just following through that mine record
15   entry, in addition, if we could go over the page, please,
16   we can see that there is an opening meeting attended
17   initially by Glen Britton for a period of time, with the
18   SSE and the UMM. The meeting reviewed recent gas
19   exceedances and HPIs?
20   A.   Yes.
21
22   Q.   Reviewed questions and responses between Mr Griffiths,
23   the SSE and the Inspector of Mines, Mr Brown?
24   A.   Yes.
25
26   Q.   Covering trigger points, possible reduction of shearer
27   speed, barometric lows and highs, diurnal effects and goaf
28   drainage?
29   A.   Yes.
30
31   Q.   Again, at this very period, these kinds of detailed
32   discussions are happening on site?
33   A.   Yes.
34
35   Q.   Mr Britton indicated, didn't he, that substantial
36   funding had been budgeted for gas drainage?
37   A.   He did.
38
39   Q.   And given that he was a person central at Anglo,
40   I suppose, it would have been comforting, I would imagine,
41   for an inspector to hear that?
42   A.   Provides some confidence that the money will be
43   available, yes.
44
45   Q.   And as you may know, we heard through the course of
46   the first hearing that in fact through project 17,000,
47   which was intended to increase drainage capacity at

1 Grosvenor to 17,000 litres per second, there were
2 substantial moneys budgeted for that purpose?
3 A.   Yes.
4
5 Q.   Both in terms of short-term solutions, that is, just
6 increased drainage from wells, and then the longer-term,
7 more expensive solutions about increasing the gas plant
8 facility on the site as well?
9 A.   Yes.
10
11 Q.   Again, aware of all of that from these discussions?
12 A.   Yes.
13
14 Q.   Then, of course, we see a description of the
15 underground inspection, which included what is described as
16 an excellent overview of the Citect system by a coal mine
17 worker who was able to access all of that information?
18 A.   Yes.
19
20 Q.   Again, a discussion by the inspector on that occasion
21 of precise methane levels at different monitors?
22 A.   Yes.
23
24 Q.   Again, exactly the kind of more granular knowledge
25 that one might not pick up from just reading the 1As and
26 5As?
27 A.   That's right.
28
29 Q.   While the inspector was there, as you noted yesterday,
30 there was in fact an HPI?
31 A.   Yes.
32
33 Q.   There was in fact an exceedance on site?
34 A.   Yes.
35
36 Q.   That's described on page 5 of 6. iPads were being
37 introduced at that stage for statutory inspections, and
38 that was part of familiarisation with it as well, wasn't
39 it?
40 A.   Yes, it was.
41
42 Q.   Again, a good thing to allow inspectors to have easy
43 access to data as they needed to?
44 A.   Yes.
45
46 Q.   The high potential incident is then described there,
47 and I want to spend a moment, please, if we can, on the

1   result of that exceedance occurring. The inspector was
2   informed by Mr Niehaus that the longwall would be stood for
3   36 hours?
4   A.   Yes.

6   Q.   That means stopping mining to figure out what
7   happened?
8   A.   Yes.

10   Q.   Again, that was something that I think Mr Hunter or
11   Ms O'Gorman referred to - the appropriateness or not in
12   some circumstances of actually just stopping to figure out
13   what was going on. That's exactly what happens here?
14   A.   That's right.

16   Q.   During that stand down, an IMT would be formed. The
17   IMT would explore placing the bleeder roads on return
18   ventilation, slowing shearer speed and uni-di cutting. The
19   bleeder road on return ventilation was something that had
20   been specifically raised by the inspector?
21   A.   It was.

23   Q.   Then importantly, on 4 July, the inspector received
24   the minutes from the IMT, with an objective, but then also,
25   as we can see in the dot points down the page, the minutes
26   from the IMT meeting in terms of what the actual plan was,
27   immediate short, medium and long term, for improving those
28   issues?
29   A.   Yes.

31   Q.   So the inspector at this point, by 4 July, two days
32   after his inspection, has actually got what in effect looks
33   here like a plan?
34   A.   Yes.

36   Q.   Again, you would expect, without needing to actually
37   go and check, because they have described it, that there
38   would have been an incident management team process that
39   underlay this, which would have involved documented review
40   of the data?
41   A.   Yes.

43   Q.   An assessment of the options?
44   A.   Yes.

46   Q.   The putting together of a plan?
47   A.   That's right.

1
2   Q.   Allocation of responsibility, as we saw during the
3   course of the first hearings, via Enablon or other task
4   management systems to particular folk to do those tasks?
5   A.   That's correct.
6
7   Q.   And a review process?
8   A.   Yes.
9
10   Q.   None of that is your job to do?
11   A.   No.
12
13   Q.   But that's how you understand the mine operates when
14   it deals with these kinds of issues?
15   A.   Yes, it is.
16
17   Q.   It kind of helps in that sense in that our learned
18   friend Mr Hunter yesterday took you through a series of 5As
19   about these very incidents, about these very exceedances,
20   all of which referred in very shorthand form - and I have
21   already acknowledged the legitimate criticism of that - to
22   the intention to create a plan, in effect?
23   A.   Yes.
24
25   Q.   But the reality was that the inspectorate not only
26   knew that there was a plan formed by the IMT but in fact
27   had the detail of it in the form of those minutes from
28   4 July?
29   A.   That's correct.
30
31   Q.   Would you imagine that would help the inspectorate to
32   look at that and go, "Well, that doesn't tell me much on
33   its face, but I actually know what it is referring to"?
34   A.   That's right.
35
36   Q.   Again, not perfect process?
37   A.   No.
38
39   Q.   But understandable when you look at it in those terms?
40   A.   That's right.
41
42   Q.   Could we have a look, please, at an email of 11 July,
43   again, just working through that sequence of events,
44   RSH.001.002.0304. This is an email referred to in your
45   statement. It is from Mr Niehaus, the underground mine
46   manager, who is sending an email to Mr Brennan and to
47   Mr Woods with additional information about methane

1   management at Grosvenor, referring specifically to another
2   process:

4   *... a meeting yesterday to assess the*
5   *business plan risks and risks posed by*
6   *inadequate gas drainage capabilities at*
7   *Grosvenor. The current expansion plan to*
8   *increase our gas drainage capabilities from*
9   *9,000 litres per second to [13,000] ...*

11 and then ultimately to increase gas drainage capacity - it
12 says there to "1500", but in context that must be a typo.
13 It must be "15,000", I suggest?
14 A.   Yes.

16 Q.   Then also further referral to the ventilation change,
17 if we can go up to the second dot point, which was the one
18 that Mr Brennan had been discussing in particular?
19 A.   That's correct.

21 Q.   One of the points that you make in your statement,
22 might I respectfully suggest correctly, is that those first
23 set of exceedances on longwall 103, you were reviewing and
24 saying, in effect, look, we understood why that was
25 continuing to happen in the sense that the ventilation
26 change that was proposed - at least, that was what was
27 planned, and indeed it worked - which would have reduced
28 the available methane by about 0.5 per cent took some time
29 to implement?
30 A.   Yes.

32 Q.   The point you make in your statement is that it took
33 some time to implement not because people were being slow
34 or incompetent, but because ventilation changes have to be
35 planned and executed carefully?
36 A.   They do.

38 Q.   You can't just go, "We will just whack the air around
39 another way." You risk assess it and you do it properly?
40 A.   That's right.

42 Q.   The time frame this took, in your assessment when you
43 went back and looked at it, was reasonable and appropriate
44 and professional?
45 A.   Yes.

47 Q.   That allowed you to - if we could go back to that

1   table, please, Mr Operator, the table of exceedances for
2   103, the number of which I have now lost but which you may,
3   because you're good at this, have already available. What
4   we can now see, having now understood the history of
5   things, is that the 2nd is the date that Mr Brennan is
6   there, when all those conversations are happening?
7   A.   That's correct.

8

9   Q.   The minutes with the planner on the 4th, further
10   information has been provided on the 11th, including about
11   the ventilation change, right, and that's why you were
12   comfortable saying, "I can deal with those as a group"?
13   A.   Yes.

14

15   Q.   Now, just one final MRE in this context. Could we go,
16   please, to an MRE for 8 August 2019, so again throughout
17   the period where you were taken to the 5As by our learned
18   friend Mr Hunter yesterday. AAMC.008.017.0001.

19

20   THE CHAIRPERSON: Q.   Mr Smith, while that is being done,
21   you get the information I think on 4 and 11 July and you
22   well know that a plan is being constructed and implemented.
23   In the meantime, though, there continued to be methane
24   exceedances; is that right?
25   A.   That's correct.

26

27   Q.   How does that figure into your object to ensure that
28   the mine is safe? The plan is under way, but in the
29   interim, before the plan is implemented, what is done?
30   A.   In terms of each - in terms of what happens with each
31   of the exceedances, is that the context of the question?

32

33   Q.   Well, you know that the plan is coming, and I think
34   Mr Holt pointed out that a good plan is going to take
35   a while to be created and implemented.
36   A.   Yes.

37

38   Q.   In the meantime, are repeated HPIs acceptable?
39   A.   An HPI is not acceptable.

40

41   Q.   I beg your pardon?
42   A.   An HPI is not acceptable, but in the context of
43   understanding that the mine has to take steps to develop
44   their plan and develop the actions, my expectation is that
45   the mine will operate at all times to avoid HPIs. That's
46   their function.

47

```
1    Q.    But whilst the plan is being developed and
2    implemented, the mine is still getting HPIs.  I thought
3    from the evidence we heard in the first tranche that HPIs
4    are regarded as a near miss?
5    A.    They are.
6
7    Q.    So should anything be done?  Should, as was done at
8    one stage early in the piece, production be stopped whilst
9    the plan is being created and implemented?
10   A.    In this particular circumstance, the mine had actually
11   stopped production for the 36 hours.
12
13   Q.    That's what I'm referring to.  They had already done
14   that.
15   A.    They had already done that.  They had formed their
16   incident management team and they had formulated a plan.
17   The occurrence of additional HPIs is certainly unwanted and
18   from a regulatory perspective is unacceptable.  Being able
19   to say that, as an inspector, I know they are going to have
20   more HPIs before they have finished and implemented the
21   plan is another question entirely.
22
23   Q.    But when they did, after they gave you information on
24   the 11th, they still had more - I've just lost that note
25   there, but they seemed to have more over the next few days?
26   A.    Yes, they did have some more as they were heading into
27   their planned ventilation change, and then they had one
28   when they did the ventilation change in and of itself.
29
30   Q.    I just get the impression, and I might be completely
31   wrong, that it is regarded as acceptable - as long as the
32   mine has a plan to address the problem, it is acceptable to
33   keep mining until that is implemented?
34   A.    That's correct, yes.
35
36   Q.    That is correct?
37   A.    Yes.
38
39   THE CHAIRPERSON:    Thank you.
40
41   MR HOLT:    Q.    Could I just pick that point up, if I may?
42   A.    Yes.
43
44   Q.    You describe at one point in your statement, I think
45   it is picked up from something that one of the inspectors
46   said - I'm not going to verbal the wrong person - that
47   decisions about continuing to mine are themselves
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 1        a balance; that is, that there are risks in stopping mining
 2        just as there might be risks in continuing to mine?
 3        A.    That's correct.
 4
 5        Q.    And so you have to be balancing, as we discussed at
 6        the outset, those kinds of issues all the time?
 7        A.    That's correct.
 8
 9        Q.    Standing a longwall carries a risk of spontaneous
10        combustion, for example --
11        A.    It does.
12
13        Q.    -- for a period of time.  And so when you are dealing
14        then with the question of what the mine is doing in
15        response, of course you are going to have regard to the
16        medium- and long-term planning, but you are also going to
17        have regard to the immediate changes that the mine is
18        looking to make, aren't you?
19        A.    That's correct.
20
21        Q.    As we will come to - and it might be after the morning
22        break, Mr Martin - in relation to those earlier exceedances
23        there was a planned short-term change, which was going to
24        be the change to the ventilation system?
25        A.    That's right.
26
27        Q.    Longer-term changes, in terms of increased goaf
28        drainage capacity, and also changes to the way in which the
29        shearer was functioning, that it was being set to trip?
30        A.    That's right.
31
32        Q.    And so it wasn't just a question of saying, "We're
33        unhappy with what you are doing at the moment, but you can
34        carry on because in a few weeks you will be okay"; it was
35        more sophisticated than that, in effect, which was, "We are
36        satisfied you are taking immediate short-, medium- and
37        long-term steps to try and deal with this"?
38        A.    That's what I believe, yes.
39
40        Q.    Equally, as we said before - and Mr Martin described
41        an HPI as a near miss - without in any sense suggesting
42        that HPIs are not significant or serious or ought not be
43        taken as such, as we described at the outset, there is
44        a world of difference between different kinds of HPIs,
45        isn't there --
46        A.    Yes.
47
```

1   Q.   -- in terms of what they mean. Here, for example, the
2   HPIs that occurred on the 3rd and 11th, which were the
3   second two of those, and on the 14th, were, for example,
4   2.52, 2.55, 2.52, and brought back under 2.5 within
5   60 seconds, 180 seconds and 60 seconds respectively?
6   A.   Yes.
7
8   Q.   Again, without saying that's okay, because that's the
9   statutory limit and so it is not okay, but without saying
10   that's okay, that's the kind of information you take into
11   account in deciding what the nature of the response ought
12   be at that point?
13   A.   That's right.
14
15   THE CHAIRPERSON: Q.   Sorry, just to finish off, though,
16   you do recognise that any time there is an uncontrolled
17   exceedance, it has the potential to rise well above 2.5 and
18   into the explosive zone?
19   A.   Yes. Yes. That's correct.
20
21   Q.   I mean, we're not looking at things in hindsight once
22   one happens; you don't know what the next one's going to
23   be, do you?
24   A.   No, you don't.
25
26   Q.   But you have got a history, as Mr Holt points out.
27   A.   That's right.
28
29   THE CHAIRPERSON: Mr Holt, would that be a convenient
30   time?
31
32   MR HOLT: Thank you.
33
34   THE CHAIRPERSON: Just a quarter of an hour, thank you.
35
36   **SHORT ADJOURNMENT**
37
38   THE CHAIRPERSON: Yes, thank you, Mr Holt.
39
40   MR HOLT: Thank you, Mr Martin.
41
42   Q.   Mr Smith, just before the break I was going to take
43   you to a mine record entry for 8 August 2019. Just before
44   we do that, would we bring up the table, please,
45   Mr Operator, just so we can contextualise this. We've been
46   through what happened on the 2nd, we've been through the
47   minutes of the IMT that were provided on the 4th, and an

1 email on the 11th, and now we're on 8 August, which we can
2 see, the context of this, is about three-quarters of the
3 way down the table. Can you see that?
4 A. Correct, yes.

5

6 Q. If we could now go to AAMC.008.017.0001, this was
7 a mine record entry in relation primarily to what was
8 called a safety reset meeting?
9 A. That's correct.

10

11 Q. This was a process that was done I think at all mines,
12 from memory, where the mines had to go through a safety
13 reset process with their staff as a result of a direction
14 that was given?
15 A. They did, yes.

16

17 Q. The safety reset is not relevant for present purposes
18 but described under that first heading, and then the
19 inspector on this occasion, Mr Brown, took the opportunity
20 to visit the technical services department --
21 A. He did.

22

23 Q. -- which you understand is run by Mr Logan Mohr --
24 A. I do.

25

26 Q. -- and his team, and attended there to:

27

28 *... receive an update of gas drainage*
29 *activities as part of the follow up for*
30 *methane exceedances on the longwall, and*
31 *also incidents involving methane*
32 *discharging from the floor in development.*

33

34 A. That's right.

35

36 Q. Again, an example, quite apart from what is said in
37 the 1As and the 5As, of the kinds of interactions that are
38 happening between inspectors and the mines about issues as
39 significant as exceedances?
40 A. It is.

41

42 Q. Mr Brown here obviously, to state the obvious, not
43 Mr Brennan - but it is an indication, isn't it, of the way
44 in which, even though there are different inspectors, they
45 are across the same kinds of issues and are following them
46 up on visits to the mine?
47 A. They are.

1
2   Q.   I've just taken you through at the bottom of page 1
3   what the purpose of going to tech services was. Then if we
4   go down to the next page, please, and call out that last
5   paragraph:
6
7   *As a result of the meeting I was satisfied*
8   *that plans are progressing to improving the*
9   *gas drainage system in a staged and*
10   *controlled manner. We discussed the fine*
11   *balance between reducing or eliminating*
12   *methane exceedances and not creating*
13   *another hazard involving spontaneous*
14   *combustion.*
15
16   That's precisely the balance that we were talking about
17   before, isn't it?
18   A.   It is.
19
20   Q.   If we can then go back to the table, please, if I can
21   use the shorthand, Mr Operator, and having now talked
22   through some of those interactions between the mine and the
23   inspectorate that were going on at about that period, can
24   we then talk about the exceedances themselves. You went
25   through a lot of this detail yesterday with Mr Hunter, so
26   I won't need to do it in anything like the same level of
27   detail, but it is right, isn't it, that the first four of
28   the exceedances that we can see there, all of which
29   involved exceedances the highest of which was 2.79, were
30   part of that initial - effectively what you saw as being
31   that discussion and planning around the ventilation roadway
32   change?
33   A.   That's right.
34
35   Q.   And also, as I will take you to in a moment,
36   understanding that the mine was also intending to
37   immediately make changes to the way in which the smart
38   algorithm worked for the shearer?
39   A.   Yes.
40
41   Q.   To try to change the speed or stopping of the shearer
42   to avoid those exceedances occurring, quite apart from the
43   underlying issue?
44   A.   Yes.
45
46   Q.   And then in addition, what we saw, indeed, as we heard
47   yesterday and today on multiple occasions, is in almost

1   every document the mine continued to recognise that one of
2   the underlying issues was the absence of sufficient
3   pre-drainage in light of the estimates of gas make?
4   A.   Yes.
5
6   Q.   Indeed, might I respectfully suggest this, that you
7   actually would want a coal mine operator to be constantly
8   aware of and indeed constantly repeating that kind of an
9   issue to ensure that mines continue to be focused on
10   short-, medium- and long-term ways of dealing with that
11   issue?
12   A.   Yes.
13
14   Q.   Because ultimately as you deal with that issue, all of
15   these other issues become easier to manage?
16   A.   Yes.
17
18   Q.   So again that sign of understanding, on a repeated
19   basis, the underlying issue about drainage and the way of
20   improving that up to 17,000 litres per second is something
21   you would want to see?
22   A.   Yes, it is.
23
24   Q.   As well as, as we were discussing before the break,
25   short-term immediate solutions to immediate problems?
26   A.   Yes.
27
28   Q.   If we could have a look, then, please, at the 5A for
29   2 July, AAMC.001.009.0336, which is the front page, and if
30   we could go immediately to 338, so two pages in. Could we,
31   for my benefit, blow up 25 for a moment. What we can see
32   there, although our learned friend Mr Hunter focused on the
33   first part, which was "Develop a plan to increase goaf
34   drainage capacity" - well, let's deal with that for
35   a moment. By the time this 5A comes in, you have already
36   had the IMT minutes of 4 July come through?
37   A.   That's right.
38
39   Q.   Which talked about specific steps to be taken in terms
40   of blowers being acquired, skids being acquired and then
41   the long-term planning to increase drainage capacity to
42   13,000 and then ultimately, as you know, to 17,000?
43   A.   That's right.
44
45   Q.   You may or may not be able to comment - 17,000 litres
46   per second is huge drainage capacity, isn't it?
47   A.   In the overall context of Grosvenor, it's two to three

1 times what they were actually pulling from the goaf, is my
2 understanding.
3
4 Q.   It reflected, as we know, earlier estimates,
5 projections done by highly qualified consultants, in the
6 orders of 6,000 and then 10,000 litres per second, and so
7 it represented a need for a very significant change-up,
8 didn't it?
9 A.   It did.
10
11 Q.   As we talked about before, you were aware - indeed, we
12 heard in the first tranche of hearings - of the investment
13 that was being put into that process?
14 A.   Yes.
15
16 Q.   Under the heading of "Project 17,000"?
17 A.   Yes.
18
19 Q.   We can see that although it says "Develop a plan", and
20 one can well understand the criticism of that that was made
21 at least implicitly yesterday, in fact the inspectorate had
22 the dot point details of a plan?
23 A.   We did.
24
25 Q.   And would have understood that there were other
26 documents and processes that underlay that?
27 A.   That's right.
28
29 Q.   We then go on and see - sorry, we should just perch on
30 the "meet business plan productivity targets". I think you
31 made the point yesterday, but ultimately the point of
32 a coal mine is to mine safely?
33 A.   Yes, it is.
34
35 Q.   So you can't run a coal mine sensibly if you are
36 having to stop because of exceedances all the time?
37 A.   No, you can't.
38
39 Q.   So the need to manage methane to levels that meet
40 business plan productivity targets means managing methane
41 to a level which is acceptable to the regulator - in fact,
42 just lawful and consistent with the regulations?
43 A.   That's one of their missions, yes.
44
45 Q.   The next part was:
46
47   *Review shearer stop position in Tailgate*

---

1   *from #115 towards the Maingate to reduce*
2   *the effect of the shearer flushing gas into*
3   *the mine general body atmosphere when*
4   *stopped during periods of low barometer.*
5
6   Do you see that?
7   A.   Yes, I do.
8
9   Q.   That is not contingent on the ventilation change?
10   That's not about that issue, is it?
11   A.   No, it's not.
12
13   Q.   That's about, as we talked about before, something to
14   be done immediately, which is changing the way in which the
15   shearer is programmed and not just generally speaking, not
16   just aspirationally, but at a particular point, at
17   chock 115, which had been identified by the mine as being
18   the place where the change needed to be made?
19   A.   Yes.
20
21   Q.   In addition to that, we've then got:
22
23   *Complete ventilation change(s) to reverse*
24   *tailgate 101 perimeter road as per IMT*
25   *direction.*
26
27   A.   Yes.
28
29   Q.   Again, you would understand, though a fresh reader to
30   this might not, but you would understand and your
31   inspectors would understand, IMT - incident management team
32   formed to deal with these exceedances?
33   A.   That's right.
34
35   Q.   So again whilst lots of criticisms could be made of
36   the absence of detail, and improvements to the 5As can and
37   are being made, there are effectively three things
38   identified there, one of which is immediate, the second of
39   which is happening soon but safely, that is, the
40   ventilation change, and the third, which is the plan to
41   increase drainage capacity, the detail of which you had
42   been given a few days earlier?
43   A.   Yes.
44
45   Q.   As we have noted, you have reviewed the learning from
46   incident reports as part of your preparation for this?
47   A.   I have.

1
2   Q.   Not at the time, I understand that.
3   A.   No.
4
5   Q.   The learning from incidents report for this incident
6   we don't need to go to, but as you would expect it does, it
7   allocates these tasks in more detail to particular
8   individuals?
9   A.   Yes.
10
11   Q.   And it has a plan then for review of that task
12   completion?
13   A.   It does.
14
15   Q.   And for evaluation of that task completion also?
16   A.   That's right.
17
18   Q.   All of which are noted as being recorded in the
19   Enablon system?
20   A.   Yes.
21
22   Q.   Which again, without you as an inspector needing to go
23   and hold the company's hand, you would expect to have been
24   the position?
25   A.   I would.
26
27   Q.   Could we go back to the table, please, Mr Operator.
28   I'm sorry, no, we'll do it now that we're there. 11 July,
29   which is the third one - that was again an issue that you
30   saw as being essentially captured by the other changes,
31   particularly a ventilation change, that would need to be
32   made, but it was also associated with a floor blower,
33   wasn't it?
34   A.   Yes, it was.
35
36   Q.   Could we have a look, please, at AAMC.001.009.0344,
37   Mr Operator, and go to 0346 of that. And again could we
38   call out paragraph 25:
39
40   *Identify areas of high-risk floor gas*
41   *release and implement action plan for floor*
42   *gas drainage to remediate future areas of*
43   *concern.*
44
45   Do you see that?
46   A.   I do.
47

```
1    Q.   Again, this would make sense of your expectation that
2    the solution that was being proposed or the response that
3    was being proposed would relate back to one of the reasons
4    why the thing occurred?
5    A.   Exactly.
6
7    Q.   And what the 1A explained was that there was a floor
8    blower in this area?
9    A.   Yes.
10
11   Q.   Floor blowers, as we learnt during the first tranche
12   of hearings, are not wanted but not necessarily uncommon?
13   A.   No.
14
15   Q.   Sometimes, as I think it was at Grasstree we learnt,
16   there were none for most of the longwall, and then they had
17   some periods of issues?
18   A.   Yes.
19
20   Q.   Part of the planning, as we saw before, with that
21   hazard map for 103 was actually about identifying where
22   there had been some floor blower issues in earlier panels
23   in order to understand that those were the areas that would
24   be targeted for what are called floor touches, for example?
25   A.   Yes.
26
27   Q.   Again, all information indicating that the mine was
28   aware of that issue, managing it on a planning basis, but
29   also here responding to it on an ad hoc basis?
30   A.   Yes.
31
32   Q.   Again, because you have now had the advantage of
33   seeing the LFI report for this incident, you will know that
34   it is not just these words; there was in fact a plan to do
35   this allocated to a person, with a due date and a review
36   process, in Enablon?
37   A.   That's right.
38
39   Q.   Can we go back to the table.  We can then see the
40   fifth one, that's the 15th, and you noted before, with
41   respect correctly, that this one actually occurred on the
42   day the ventilation change was happening?
43   A.   That's right.
44
45   Q.   And it was associated with the process of the
46   ventilation change?
47   A.   Yes, it was.
```

1
2   Q.   So to that extent, as a specific issue - and again,
3   looking at the detail of every single incident - it
4   occurred because of the way in which the ventilation change
5   was done?
6   A.   That's right.
7
8   Q.   In particular, what was identified as being an issue
9   there was that the ventilation officer who was involved,
10   the person who was doing the ventilation change, was
11   concerned because he was getting to the end of the amount
12   of time he could lawfully be working and so did
13   a particular process more quickly than would normally be
14   done?
15   A.   That's right.
16
17   Q.   That resulted, in the assessment that was made in the
18   LFI report, for example, and elsewhere, in this exceedance
19   occurring, in effect?
20   A.   Yes.
21
22   Q.   Again, being brought under control pretty quickly, but
23   nonetheless occurring?
24   A.   Yes.
25
26   Q.   You saw, as you would expect to have seen in the LFI,
27   that one of the changes that was sought to be made was
28   management of precisely that human issue, I suppose?
29   A.   Yes.
30
31   Q.   Making sure that when you are doing a ventilation
32   change, those issues are being managed better?
33   A.   Yes.
34
35   Q.   But again, you would see that one as having been
36   a very specific issue related to a very specific
37   ventilation change?
38   A.   I did.
39
40   Q.   Could we go back to the table, please, Mr Operator.
41   Then over the next four days, or period of four days, so
42   21 to 24 July 2019, we see a series of five, which, if
43   I could put it this way in terms of summary, were
44   fundamentally about getting the right settings on the
45   shearer smarts to manage the particular strata situation
46   that the longwall was facing at that point in time?
47   A.   A combination of, as I saw it, the strata control

1   management on the face and in the tailgate and ensuring
2   that they operated the face.
3
4   Q.   Again, your expectation was that the response to that
5   was both an immediate change being made to the way in which
6   the longwall was being managed?
7   A.   Yes.
8
9   Q.   And also, then, so that it wasn't lost in any way, the
10   plan to continue to increase goaf drainage capacity?
11   A.   That's right.
12
13   Q.   Could we have a look, please, at the 5A for the
14   24 July incident, which is AAMC.001.009.0364, and if we
15   could go to the familiar second or third page, please.
16   Again, we see the reference that you were taken to by
17   Mr Hunter:
18
19   *Develop a plan to increase goaf drainage*
20   *capacity for peak SGE areas ...*
21
22   I won't repeat the questions I asked about that in terms of
23   what you had already been told, but in addition a specific
24   entry:
25
26   *Pitch alarms set to Citect, add the*
27   *requirement for acknowledgment and time*
28   *stamp when accepted.*
29
30   A.   Yes.
31
32   Q.   Which, as you have now had the opportunity to do, you
33   can go back and look at the LFI, you understand was
34   actually a very considered set of changes to deal with
35   those issues?
36   A.   Yes.
37
38   Q.   Could we go back to the table, please, and we come to
39   17 August, so we're three or four weeks later, on
40   17 August. What we can see there again in the material
41   that was provided to the inspectorate, and you have now had
42   a chance to look at the LFI, was that this was likely
43   related to a goaf fall, because a coal mine worker in fact
44   identified that he had heard a goaf fall at about the time
45   that things were occurring?
46   A.   That's right.
47

---

1   Q.   Goaf falls are, in a general sense, things that happen
2   and will extrude methane onto the face from the goaf?
3   A.   They can.
4
5   Q.   That is partly because of that whole phenomenon we
6   were talking about at the outset, that there will be
7   methane in the goaf because you want there to be methane in
8   the goaf?
9   A.   Yes.
10
11   Q.   That's part of why the regulations recognise - I'm not
12   saying this is an exemption; it was reported as an HPI -
13   but as a causal factor, as a reason why this occurred, it
14   is a recognised phenomenon that there will be goaf falls,
15   which will lead to short spikes of methane in the workings?
16   A.   They can, yes.
17
18   Q.   We should, though, perch on the 5A for this one, which
19   is at AAMC.001.009.0376, and if we can go to page 0378,
20   please, and call out the bottom part. Here what we see is
21   again, as you would expect, though I imagine now would want
22   more detail, that the control measures and actions include
23   identifying the risk of roof collapse and implementing an
24   action plan, to install additional goaf drainage capacity,
25   and then specifically noting that that action already
26   exists in the system from the action plan, with a number
27   that you would expect to be an internal reference number?
28   A.   That's right.
29
30   Q.   And then:
31
32   *Purchase additional Gas Monitoring Skids,*
33   *VPS upgrade including 6th vac pumps.*
34   *Purchase blower skids to greater than 5,000*
35   *litres capacity with flaring. Additional*
36   *reticulation lines if required by modelling*
37   *to accommodate additional gas drainage*
38   *capacity.*
39
40   A.   That's right.
41
42   Q.   So again, a level of detail consistent with what you
43   had seen in those IMT minutes?
44   A.   Yes.
45
46   Q.   But also, since you have had a chance to go back and
47   look at the LFI, the LFI also allocates again each of those

1   tasks in more detail to specific people, with time frames
2   and review processes associated with them?
3   A.   Yes.
4
5   Q.   Which is exactly what you would hope would be the
6   case?
7   A.   Yes.
8
9   Q.   If we can go back to the table, and again without the
10   need to go into the detail of the documents, on 19 October,
11   so effectively two months later - which I imagine from the
12   inspectorate's perspective would be an indication that the
13   things that you had identified as being specific issues
14   capable of resolution looked like they had been resolved?
15   A.   That's right.
16
17   Q.   But then on the 19th there was another issue relating
18   to, in particular, the configuration of the longwall at
19   that point in time in low barometric pressure?
20   A.   Yes.
21
22   Q.   And the need then for associated shearer changes to
23   manage that gas make in those circumstances?
24   A.   That's right.
25
26   Q.   And again, the first one of those issues in a very
27   long time - not to devalue it, but recognising that there
28   was a plan for change effectively in place involving the
29   change in the way in which the longwall would be cut?
30   A.   That's right.
31
32   Q.   Then the final one on 7 November, again, a floor
33   blower, which cleared reasonably quickly and occurred right
34   at the end of that longwall period?
35   A.   Yes.
36
37   Q.   You might recall yesterday, Mr Hunter took you to the
38   5A for the 7 November incident and noted that the plan in
39   response effectively was to deal with floor blowers in a
40   later panel?
41   A.   That's right.
42
43   Q.   The reality, of course, here, is that this panel was
44   effectively nearly finished?
45   A.   Within six weeks.
46
47   Q.   And so in terms of dealing with a floor blower, which

1   is something that it is difficult to predict and manage
2   immediately and had not really been a feature of this
3   longwall, I imagine your assessment was that that was
4   a reasonable response?
5   A.   Yes.
6
7   Q.   Recognising of course that all of these exceedances
8   occur in a context where, for obvious reasons, an
9   exceedance of lower methane levels, say 2 per cent or
10   1.8 per cent, depending on the methanometer, result in
11   power being cut to the AFC and shearer and power being cut
12   to the longwall?
13   A.   That's right, it does.
14
15   Q.   Can we turn then to longwall 104. Longwall 104
16   commences on 9 March 2020. One of the issues obviously
17   that this Board of Inquiry has been concerned with is the
18   question of the decision to continue to mine versus the
19   decision to stop - that balance that goes on. You may or
20   may not know, but in the first tranche of hearings,
21   evidence was given by Mr Mitchelson of Anglo that in
22   relation to Grosvenor and longwall 104, a conscious choice
23   was made to set the business plan for Grosvenor at
24   75 per cent of production that had been achieved on
25   longwall 103?
26   A.   Right.
27
28   Q.   And that was precisely in order to give the mine the
29   capacity to be able to manage those kinds of issues, these
30   kinds of gas management issues, without any production
31   pressure at all?
32   A.   Okay.
33
34   Q.   And again, if that were done, that would be a good
35   thing to do; right?
36   A.   Yes.
37
38   Q.   It would be sensible to remove that kind of pressure?
39   A.   Yes.
40
41   Q.   Again, without going through the detail of it, you are
42   aware from the second workings documents and the risk
43   assessments that were done for longwall 104 that they again
44   sought to pick up the learnings of 103?
45   A.   They did.
46
47   Q.   And, in particular, specifically addressed the need to

1   deal with management of methane in the tailgate?
2   A.   They did.
3
4   Q.   In light of the issues that we've just been through
5   that had occurred with 103?
6   A.   That's correct.
7
8   Q.   And significant steps were taken, as were recorded in
9   the SOP and the second workings document, to increase goaf
10   drainage capacity particularly in that early period of the
11   longwall?
12   A.   Yes.
13
14   Q.   Including, again, the drilling of 25 metre spaced goaf
15   holes on the tailgate side and also, again, goaf holes
16   wider spaced on the maingate side, which weren't usually
17   done?
18   A.   That's right.
19
20   Q.   In addition, there was an attempt to pre-drain the
21   P seam using horizontal wells?
22   A.   Yes.
23
24   Q.   Again, for reasons which will be explored later in the
25   hearing, the attempt to do that failed?
26   A.   Right.
27
28   Q.   Indeed, as we understand it, there will be some
29   evidence given that that is actually a really hard thing to
30   do, is to pre-drain the P seam, given the nature of the
31   P seam.
32   A.   Right.
33
34   Q.   Now, in addition to all of that, what ultimately
35   happens in relation to the horizontal for the P seam is
36   that it ends up being intersected by the Dom fault, by one
37   of the faults that's there, and one of the vertical goaf
38   wells.
39   A.   Right.
40
41   Q.   You might recall that it was that goaf well, the one
42   that ultimately, it seems, got linked to the P seam, which
43   was trying to drain, which was particularly high flowing?
44   A.   Yes.
45
46   Q.   And which was the one that caused the flame arrestor
47   issues, which you were talking about with Ms O'Gorman this

1   morning?
2   A.   Yes.
3
4   Q.   So even though the attempt to pre-drain the P seam
5   itself had been unsuccessful, there was a goaf well that
6   was drawing an awful lot of gas, and it was doing so, it
7   seems, because it in fact was successfully linked to the
8   P seam?
9   A.   Okay.
10
11   Q.   As I say, that's the goaf well which the flame
12   arrestor issues occurred on. All right. So in that
13   context, you were also aware that Anglo was, through
14   Grosvenor, continuing to implement project 17,000?
15   A.   Right.
16
17   Q.   Tell me if you don't know, but again we see it through
18   the SOP documents and through the second workings
19   documents, that wasn't just happening with a view to there
20   being suddenly 17,000 litres per second in six months' time
21   or a year's time. There were different stages of that
22   being implemented, which we saw in those IMT minutes?
23   A.   Yes, that's right.
24
25   Q.   They included the acquisition of three blower flare
26   units at 7,500 litres per second capacity to supplement
27   existing vacuum plant for the beginning of 104?
28   A.   Right.
29
30   Q.   Increasing the vacuum plant to six pumps from five, to
31   give an additional 2,000 litres per second capacity?
32   A.   Yes.
33
34   Q.   Trial of the twin lateral goaf holes in the P seam
35   that I have told you about?
36   A.   Yes.
37
38   Q.   And again, as we have noted, that use of much more
39   closely spaced goaf wells, which had been trialled at the
40   end of 103 with a level of success?
41   A.   Yes.
42
43   Q.   Now, in terms of the flame arrestor issue in 104,
44   which was that first set of exceedances all related to the
45   flame arrestor issue, as the LFI which you have now had
46   a chance to review explains, it was the fact that it was
47   such a high-flowing goaf well, which was a good thing

1 because it was linked to the P seam, that meant that the
2 flame arrestor was harder to manage than it had been on
3 other wells. Do you recall that from the LFI?
4 A.   I do.
5
6 Q.   That's in particular because it was taking in dirt and
7 so on, which caused the flame arrestor to become blocked?
8 A.   Yes.
9
10 Q.   Or partially blocked, because of the very high flow of
11 methane that's coming out of it; right?
12 A.   And the lack of a casing.
13
14 Q.   Absolutely.
15 A.   Yes.
16
17 Q.   Because it wasn't thought that that would be what it
18 would do, but it worked effectively in that way. All
19 right. Now, if we can talk about 104 and the setout of the
20 methanometers on 104, in addition to the methanometers that
21 you accepted were there on 103, there was also what we have
22 called the 149 canopy sensor?
23 A.   That's right.
24
25 Q.   Which I will come back to. Now, that was in addition
26 to that 400 metre outbye sensor?
27 A.   It was.
28
29 Q.   And also the one at 3-4 cut-through?
30 A.   Yes.
31
32 Q.   Can I get you to have a look at this diagram, please,
33 which is AAMC.008.014.0001. I should say, this is as at
34 6 May.
35 A.   Yes.
36
37 Q.   Obviously earlier the goaf area is going to be
38 smaller; right?
39 A.   Yes.
40
41 Q.   So we're mining away from the goaf area, and the goaf
42 is coming in behind. This is just to help us identify
43 where those various locations of sensors are. So we have
44 a sensor (shearer A) and (shearer B); we can see that?
45 A.   Yes.
46
47 Q.   Those are not in issue in this case at all. We

1   haven't had any triggers on those, exceedances on those.
2   The maingate drive A and B, it has the methanometers down
3   the bottom there as well that we can see. The canopy 149
4   sensor, obviously up in the canopy of chock 149 at the
5   tailgate end. And then the two tailgate drive sensors A
6   and B?
7   A.   Yes.
8
9   Q.   Then we have the inbye sensor, that's the 400 metre
10   one?
11   A.   Yes.
12
13   Q.   The one that, before the last set of changes, would
14   have complied with 243A?
15   A.   Yes.
16
17   Q.   It's 400 metres down the tailgate roadway. Then off
18   the map, on the left-hand side, there is an arrow pointing
19   to the location of the methanometer at 3-4 cut-through,
20   which at this point was about 4 kilometres from the face?
21   A.   Yes.
22
23   Q.   Thank you. Can I then pull up a similar table to the
24   one we had for 103, Mr Operator. This is
25   AAMC.008.014.0003. I am sorry, I gave you the wrong
26   number. We want 018.0002. No. Could this come down?
27   Sorry, there is just some controversy about one column,
28   which we have removed. I want to make sure I have the
29   right document, Mr Martin. Could we try AAMC.008.018.0002.
30   My mistake. Yes, thank you.
31
32   So this is the table again, just to give us a sense of
33   those timings that we were talking about previously, and
34   also the particular sensors we're talking about. We can
35   see what's described as the 243A sensor. That's not there
36   to create controversy. That's just what it was originally
37   intended for. We will call it the 149 or canopy sensor.
38   A.   That's fine.
39
40   Q.   Then we've got the tailgate sensor, which is the
41   400 metre sensor, and then the 3-4 cut-through sensor,
42   which is the one 4 kilometres down the tailgate roadway.
43   Again, we can see there the levels that were reached on
44   each, which is part of that set of data that you have when
45   you are assessing form 1As and form 5As?
46   A.   That's correct.
47

1   Q.   The first four all involved a very particular issue
2   associated with that flame arrestor, didn't they?
3   A.   They did.

4
5   Q.   Sorry, the first one may have been a scouring --
6   A.   That's right.

7
8   Q.   -- but at least the three after that involved the
9   flame arrestor issue, and might I suggest that's obviously
10   a very specific issue?
11   A.   It is.

12
13   Q.   In the sense that we can see that a very
14   high-performing goaf well in the early stages of the
15   retreat of the longwall - which is obviously going to
16   really matter at that early stage of the retreat, right?
17   A.   It does.

18
19   Q.   All of your wells won't have come online yet?
20   A.   No.

21
22   Q.   So if you have a high-performing well, which is what
23   you want at that point, then if something is an issue with
24   that, then you can see the very specific reason why these
25   exceedances occur?
26   A.   That's correct.

27
28   Q.   And that was identified by the mine, not immediately
29   but relatively quickly?
30   A.   Yes.

31
32   Q.   Again, there are issues that will emerge underground
33   where what happens is immediately obvious, and others where
34   you need to get people together to really think about what
35   has happened and put the data together?
36   A.   That's right.

37
38   Q.   So what happens here is that over that three-day
39   period, we see the exceedances that result from that as
40   a result of the unexpectedly high flow in that goaf well,
41   and ultimately, then, there was an engineering solution to
42   that, right?
43   A.   There was.

44
45   Q.   The engineering solution was not just to get
46   redundancy by getting an additional goaf skid, but it was
47   also about improving the communication between the surface

1 and underground in relation to when and how the flame
2 arrestor was cleaned and dealt with?
3 A.   It was, yes.
4
5 Q.   So it wasn't just a simple problem and a band-aid
6 solution; it was a specific problem with an engineered
7 solution tailored to that specific problem?
8 A.   That's right.
9
10 Q.   Which then doesn't emerge again?
11 A.   That's right.
12
13 Q.   The next one, if I can refer to number 6 - well, it
14 doesn't have a number, but on 22 March 2020, can I suggest
15 again, with the need to actually drill into why
16 a particular exceedance occurred, this was in effect an
17 electrical issue in the sense that there was a change being
18 made to the oxygen trigger on the surface from 12 per cent
19 to 8 per cent, and as a result of that not occurring
20 properly, the goaf well closed?
21 A.   Yes.
22
23 Q.   And it did so on an automated basis, as it was
24 designed to do?
25 A.   I think, to be correct, they changed the setting from
26 8 per cent to 12 per cent.
27
28 Q.   I'm sorry, yes.
29 A.   So that it wouldn't close when they did the work that
30 they intended to do.
31
32 Q.   Yes.
33 A.   And that change that they made did not have the result
34 that they anticipated it would have, and the goaf hole
35 closed anyway.
36
37 Q.   So the solution to that again was an engineering
38 solution. It was an electrical solution, in effect, to
39 ensure that that situation could not occur again?
40 A.   Yes.
41
42 Q.   But again, a very specific reason, shutting off
43 a high-flowing goaf hole at a particular point in time?
44 A.   Yes, yes.
45
46 Q.   If we then go to the next one, which is on 23 March
47 2020, and then 6 April and 7 April, the ones that are noted

```
 1    as exceedances on the outbye sensor, that is, the
 2    3-4 cut-through sensor?
 3    A.    That's correct.
 4
 5    Q.    All three of those were related, weren't they, to
 6    issues associated with the ventilation setup around
 7    C heading roadway?
 8    A.    That's correct.
 9
10    Q.    That was a particular setup for ventilation that was
11    put into place to deal with the differential between
12    longwalls 103 and 104 --
13    A.    Right.
14
15    Q.    -- and a particular existence of the roadways there?
16    And would you agree with me - I can take you to it if we
17    need to - that that ventilation plan was set out in the
18    second workings document?
19    A.    It was.
20
21    Q.    So therefore ultimately known, if anyone wanted to
22    look, that that was the proposal for it?
23    A.    Yes.
24
25    Q.    The reality of the issues that arose in relation to
26    that ventilation issue is that there was an unexpected
27    failure of some double doors, which again resulted in an
28    engineering solution to those?
29    A.    Yes.
30
31    Q.    And then, in addition, there was an issue with some
32    brattice being blown by the effects of a goaf fall?
33    A.    Yes.
34
35    Q.    And again, that required a repair?
36    A.    Yes, it did.
37
38    Q.    Managing the goaf stream and methane underground in
39    those circumstances requires those sorts of engineering
40    solutions, doesn't it?
41    A.    It does.
42
43    Q.    So you will set up brattice wings, we've heard about
44    Sherwood curtains in the first tranche of hearings?
45    A.    Yes.
46
47    Q.    You will be checking your seals, you will be dealing
```

1   with your doors - those are standard ways of managing
2   ventilation and managing methane flow in an underground
3   coal mine?
4   A.   Very basic mining practices, yes.
5
6   Q.   So the issues that occurred in this context and
7   resulted in those exceedances were, again, attributable to
8   an immediate cause and able to be fixed?
9   A.   Yes.
10
11   Q.   In particular, it is important to note, isn't it, as
12   I think you do in your statement, that because this related
13   to the C heading roadway, the methane exceedance here
14   reported to that sensor which is up to 4 kilometres down
15   the tailgate roadway?
16   A.   That's right.
17
18   Q.   And because effectively it must necessarily have gone
19   down that C heading roadway, it missed the longwall face?
20   A.   That's right.
21
22   Q.   So it effectively went in an area that would not have
23   been of great concern in the general scheme of things?
24   A.   It didn't go past any electrical ignition sources or
25   mechanical ignition sources, which an exceedance coming
26   directly from the goaf out the tailgate roadway would, yes.
27
28   Q.   Can I then take you to the 149 sensor readings, which
29   make up, as we read it, five of the exceedances that occur
30   here?
31   A.   Yes.
32
33   Q.   And again, at the risk of going over old ground, what
34   is clear, isn't it, on those 149 sensor exceedances is that
35   they only report to the 149 sensor?
36   A.   That's correct.
37
38   Q.   So there is no indication on anything else, any other
39   methanometer, including all of the ones that I took you to
40   before in and around that area, of exceedances at that
41   point in time?
42   A.   No, there is not, that's right.
43
44   Q.   You were aware, I think we discussed this last time,
45   that the 149 sensor was placed there by Grosvenor with
46   a view to complying with section 243A of the regulation?
47   A.   It was.

1
2   Q.   And the rationale - and I understand that there was
3   a disagreement and ultimately the regulator wins because
4   the regulator wins in those settings - ultimately you
5   understood that the rationale was that the canopy sensor
6   was as close as could be got to an area of concern - that
7   is, the area where the sprocket is - and, in particular,
8   that the 400 metre sensor wouldn't be reading methane until
9   it had had to travel for about two minutes to get there?
10   A.   That's right.
11
12   Q.   That was the rationale behind it; right?
13   A.   Yes.
14
15   Q.   So the 400 metre sensor was kept, so it still existed
16   there in the mine, but this extra sensor was put on the
17   149 canopy?
18   A.   That's right.
19
20   Q.   As things turned out - and we can see it here, we saw
21   it in Grasstree and we saw it in Moranbah - it appears that
22   what the 149 sensor was measuring on these occasions is
23   likely one of two things: one is layering, as you have
24   noted in your statement?
25   A.   Yes.
26
27   Q.   And the other is the potential for it to be measuring
28   goaf stream if the chocks are pushed out far enough into
29   the tailgate roadway?
30   A.   That's right.
31
32   Q.   Neither of those are general body?
33   A.   In general, no, that's right.
34
35   Q.   And as you said before, with respect entirely
36   correctly, actually, that sequence of events has resulted
37   in the fortuitous situation that there is now good
38   information being got about an area of potential methane
39   concentrations in underground coal mines?
40   A.   That's correct.
41
42   Q.   Your view is it should stay and it is a good thing
43   because we are learning good things from it?
44   A.   I personally would leave it there, yes.
45
46   Q.   I understand. And the mine has kept it there, right?
47   A.   Yes, they have.

1
2   Q.   As the other Anglo mines have done?
3   A.   Yes, they have.
4
5   Q.   What they have done is they have managed it in
6   perfectly sensible ways, including setting up localised
7   ventilation solutions to ensure that the goaf stream is
8   being pushed out and around that sensor to avoid the sensor
9   from measuring goaf stream?
10   A.   Yes.
11
12   Q.   That necessarily helps to contextualise the 149
13   exceedances, doesn't it?
14   A.   It does.
15
16   Q.   Again, though, they were still - obviously enough,
17   those ones that we see there were reported to the
18   inspectorate as HPIs?
19   A.   They were.
20
21   Q.   They resulted, as we have seen, in 1As and 5As.
22   A.   They did, yes.
23
24   Q.   Again, localised solutions, including ventilation
25   systems in the form of brattice and venturis to take the
26   air around were what were proposed as solutions?
27   A.   That's right.
28
29   Q.   Ultimately, those solutions ended up appearing to work
30   in the period of time that you had to assess that?
31   A.   They did.
32
33   Q.   Now, having said all of that, that then takes us to
34   the last of the exceedances on 21 April 2020, which is the
35   5.04 per cent?
36   A.   That's right.
37
38   Q.   Obviously, anything which has a 5 in front of it with
39   methane is a concern, because of what we know about the
40   lower explosive limit or the lower flammable limit of
41   methane?
42   A.   That's correct.
43
44   Q.   But again, as with all things, it is important to be
45   really precise about how and why something occurs; right?
46   A.   That's right.
47

1   Q.   Because ultimately what occurs in relation to that
2   last HPI, as you know, is that a coal mine worker dealing
3   with another issue on the armoured face conveyor took
4   a hose off a venturi and used it for a different purpose.
5   A.   That's correct.
6
7   Q.   And the venturi in that circumstance was in fact the
8   venturi that was being used with the brattice for the
9   localised ventilation solution to keep the goaf stream
10   around the canopy, so that it didn't trigger the canopy
11   sensor?
12   A.   Yes.
13
14   Q.   The result of that, obviously, is that the almost
15   certainty, I would suggest, but at least the reasonable
16   conclusion is that that 5 per cent was measuring goaf
17   stream as a result of the removal of that local ventilation
18   solution?
19   A.   That was my conclusion.
20
21   Q.   So not measuring general body methane but measuring
22   goaf stream?
23   A.   Yes.
24
25   Q.   Again, you understood that an obvious engineering
26   solution to that issue was implemented - that is, to put
27   a T-piece on that particular airline so that it could be
28   used for multiple purposes?
29   A.   To remove the opportunity for a coal mine worker to
30   eliminate the control the mine required to keep the
31   ventilation appropriate under the canopy, yes.
32
33   Q.   And also a big sign saying, "Don't do this without
34   talking to the ERZ controller". Again, perfectly sensible
35   localised responsive solutions to a particular issue?
36   A.   Yes.
37
38   Q.   Again, during the course of longwall 104 there were
39   multiple interactions between the inspectorate and the team
40   at Grosvenor, quite apart from what was being communicated
41   by the 1As and the 5As?
42   A.   That's right.
43
44   Q.   Just as you would expect there to be?
45   A.   Yes.
46
47   Q.   Of the same kinds - I won't go through them all

```
1    again - that we talked about on 103?
2    A.   That's correct.
3
4    Q.   If we can just perch on an example in a mine record
5    entry of 19 March 2020 - Mr Operator, this is
6    AGM.002.001.2164.  As I say, this is an entry on 19 March
7    2020.  It is the first time we see a coronavirus check
8    being done at the outset, so that tells us when that was.
9    Again, this records a meeting between Mr Stephen Smith, but
10   not you, the other Stephen Smith, deputy shift
11   under-manager, Mr Niehaus and Mr Brownett,
12   Inspector Brownett?
13   A.   Yes.
14
15   Q.   I think he was someone you describe as being
16   particularly diligent in terms of following issues?
17   A.   Yes.
18
19   Q.   And again, Mr Niehaus gives - as we can see, if we can
20   scroll down the page, please, Mr Operator - an update
21   summary of the mine, including where the retreat of the
22   first goaf formation was, what was happening in terms of
23   the goaf drainage wells which were operating, and all that
24   sort of technical detail?
25   A.   That's correct, yes.
26
27   Q.   Which allows the inspector to be on top of the kind of
28   issues that are being managed in the immediate retreat of
29   a longwall?
30   A.   That's right.
31
32   Q.   Because one of the challenges in the immediate retreat
33   of the longwall, as had been seen in Grosvenor previously,
34   is just how quickly or slowly the goaf wells come online?
35   A.   That's right.
36
37   Q.   In order to be able to be taking enough out at an
38   early stage?
39   A.   Yes.
40
41   Q.   You would appreciate from these kind of
42   communications, but also from the second workings and the
43   risk assessment, that that was exactly the issue that much
44   of the planning was associated with?
45   A.   It was.
46
47   Q.   Again, we can probably just scroll down slowly through
```

1   the page to get a sense of the detail. If we can go then
2   to the last page - I'm sorry, could we go back up? Yes,
3   there we are. Just pause there, please. We can see there
4   that, as well as talking about goaf drainage, the inspector
5   was also getting information from a visit to the control
6   room, reviewing the gas alarm register?
7   A.   That's right.
8
9   Q.   And then an underground inspection that followed that?
10   A.   That's right.
11
12   Q.   If we can keep going down, please, and again a review
13   by the inspector on that occasion of tailgate general body
14   gas readings --
15   A.   That's right.
16
17   Q.   -- taken by the ERZ controller, goaf stream gas
18   recording, relevant in the context we've just been talking
19   about?
20   A.   Yes, that's right.
21
22   Q.   Methane off the scale, but it's the goaf stream.
23   A.   That's right.
24
25   Q.   Unsurprising. And again, a detailed understanding
26   from the information given of the longwall ventilation,
27   quantity and so on?
28   A.   That's right.
29
30   Q.   You describe Mr Brownett as being a diligent
31   inspector, and this bears that out, doesn't it?
32   A.   I believe so.
33
34   Q.   Can we just then keep going to the last page, please.
35   The close out of the meeting included a discussion
36   involving Mr Niehaus, the underground mine manager, and
37   Mr Bevin Mulcahy, the gas drainage engineer, about planned
38   actions to control gas levels on the longwall 104 return.
39   So again, apart from the 1A and 5As, this is an indication
40   of the way in which this issue was live, being discussed
41   between the mine and the inspectorate?
42   A.   That's right.
43
44   Q.   Thank you. If we could then go back to the table,
45   please. Again, as we discussed with 103 - and so I will
46   just do it briefly in relation to 104 - as well as the 1As
47   and the 5As that you were receiving, you were aware and

1   expected that the mine would have robust learning from
2   incident processes and incident management team processes?
3   A.   Yes.
4
5   Q.   And the IMT process in particular seems to have been
6   one that Grosvenor deployed during the course of this whole
7   period?
8   A.   That's right.
9
10   Q.   And that involved getting together the right group of
11   senior people to deal with an incident and respond to that
12   incident immediately?
13   A.   That's right.
14
15   Q.   Whereas the learning from incidents process is
16   intended to take that slightly longer-term view and
17   approach of things?
18   A.   Yes.
19
20   Q.   Our learned friend Ms O'Gorman yesterday noted that
21   you received a series of 5A forms from the mine on or about
22   15 April?
23   A.   That's right.
24
25   Q.   They all sort of came in at once?
26   A.   Yes.
27
28   Q.   That reflected, didn't it, the fact that there had
29   been a bunch of exceedances which had occurred in a short
30   time frame about two or three weeks earlier?
31   A.   That's correct.
32
33   Q.   And so it is not surprising that the 5As would have
34   come in at the same time?
35   A.   That's not a surprise, no.
36
37   Q.   Could we then go to one of those 5As which our learned
38   friend took you to this morning, or yesterday, maybe,
39   AAMC.001.009.0388, and if we could go to 0390 of that and
40   call out item 25. We have been through already. Mr Smith,
41   the kind of categorisation of the 104 exceedances that had
42   occurred up until about this point, and if we look at that
43   section 25 wording we can see, can't we, issues that relate
44   back to a number of the matters that we've already
45   discussed?
46   A.   Yes, we can, yes.
47

```
 1      Q.   So:
 2
 3           P seam drainage strategy for each longwall
 4           block to design and complete prior to
 5           longwall production phase.
 6
 7      That looks very much like a longer-term future strategy?
 8      A.   It does.
 9
10      Q.   But again, you want the mine thinking about that as
11      well, don't you?
12      A.   I do.
13
14      Q.
15           Investigate Citect alarm & messaging system
16           failure and implement controls to prevent a
17           re-occurrence.
18
19      That's about those issues associated with the flame
20      arrestor as well, isn't it?
21      A.    It is, and communication between the seamgas people
22      and the mine underground people.
23
24      Q.   Which was one of the things that was picked up from
25      the incident that could be improved to avoid those
26      situations occurring in the future?
27      A.    It was, that's right.
28
29      Q.   And again, it's actually positive that that has been
30      picked up?
31      A.    It is.
32
33      Q.   Those kind of human systems issues?
34      A.   Yes.
35
36      Q.   As well as the engineering issues?
37      A.   Yes.
38
39      Q.   Thank you:
40
41           Document the IMT process currently used
42           onsite for acknowledgment of action
43           allocation & understanding.
44
45      Now, again, because of your knowledge of it, you are aware
46      that that relates to the fact that the IMT had issued some
47      directives which it appeared hadn't been appropriately
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1    communicated or followed?
2    A.   That's right.
3
4    Q.   So there was a need to formalise the way in which that
5    was being done?
6    A.   Yes.
7
8    Q.   Again, this opportunity was taken for that to occur?
9    A.   It was.
10
11   Q.   And:
12
13        Investigate modifications to goaf skid
14        flame arrestor to allow current fleet to be
15        maintained whilst remaining in service.
16
17   That's the redundancy point?
18   A.   Yes.
19
20   Q.   Then:
21
22        Ventilation network for longwall tailgates
23        to assess for risk of failure when using
24        dual return roadways.
25
26   Again, that's picking up that C heading issue; right?
27   A.   It is.
28
29   Q.   Again:
30
31        Amend the gas drainage TARP to add guidance
32        for high flow goaf hole maintenance
33        practices.
34
35   Again, because we had this high flow hole likely linked to
36   the P seam, and it was sensible to adjust TARPs to be able
37   to deal with that?
38   A.   That's right.
39
40   Q.   Again, that's all just in one paragraph in a 5A, but
41   your reasonable expectation would be that the mine would
42   have disciplined processes underlying that to assess the
43   need for those tasks, to allocate them and to review them?
44   A.   Yes.
45
46   Q.   And indeed, having had the opportunity to review the
47   LFI processes, you would see that that's actually precisely
```

1   what happened?
2   A.   It is.
3
4   Q.   Could we just go to an example, please.
5   AAMC.001.003.0030, which is one of the LFIs. We are very
6   familiar with these. I don't think we have looked at one
7   yet today in these hearings, but from the first we are.
8   This is a learning from incidents report that you have seen
9   dated 3 April 2020?
10   A.   That's right.
11
12   Q.   Could we go over, please, to 0033. We can see there,
13   in "Description of incident", at the top, a recognition
14   that there was a four-day period with events from 18 March
15   to 23 March 2020?
16   A.   That's right.
17
18   Q.   And the decision made by the mine to investigate all
19   of them together?
20   A.   Yes.
21
22   Q.   Again, as we have discussed I think on a previous
23   occasion, a sensible approach --
24   A.   Yes.
25
26   Q.   -- to understand the links between them. Could we go
27   down, then, please, to 0046. Again, it is a lengthy
28   report, you would agree, which goes through the data and --
29   A.   It does.
30
31   Q.   -- various analytical strategies to try to understand
32   how the problems emerged?
33   A.   Yes.
34
35   Q.   And then "Preventative actions and recommendations".
36   There are what we can see - it might be being too generous
37   to say summarised in the 5A, but at least alluded to in the
38   5A, are a series of task descriptions addressed to those
39   particular issues which have been identified in that
40   process, and again, as we have discussed, allocated to
41   a person with a due date and with a task ID?
42   A.   That's right.
43
44   Q.   Again, if we can scroll whichever direction it is
45   toward the bottom of the page, please, we can see picked up
46   again at the bottom there, for example, "Amend the gas
47   drainage TARP", those issues being picked up, regulated and

```
 1      followed?
 2      A.   That's right.
 3
 4      Q.   Could we then go to 0068, please.  This is just an
 5      appendix, because you will know from these LFIs, often
 6      documents that are referred to are annexed as appendices to
 7      the reports?
 8      A.   Yes.
 9
10      Q.   So this is a memo from to Grosvenor under-managers and
11      control room operators about the filter and detonation
12      arrestor becoming blocked and of things that needed to be
13      done as a result of it?
14      A.   That's right.
15
16      Q.   That was exactly the communication, wasn't it, that
17      there was an issue with it being communicated and followed
18      appropriately?
19      A.   That's right.
20
21      Q.   Again, they have identified the steps that need to be
22      taken, identified an issue in terms of communication, and
23      sought to fix that through the LFI process?
24      A.   Yes.
25
26      Q.   Again, that's exactly what you would expect
27      a sophisticated operator to do?
28      A.   I would.
29
30      Q.   To learn from those mistakes?
31      A.   I would.
32
33      Q.   Could we then, please, in terms of a final topic, go
34      to the topic which you were taken to at the very end of
35      your evidence by Ms O'Gorman, which was unreported
36      exceedances, and in particular this related to an LFI,
37      learning from incidents, report for events on 21, 22 and
38      23 April, which you got to review in preparation for your
39      evidence today --
40      A.   I did.
41
42      Q.   -- or in this hearing.  Let's go to AAMC.001.009.0568,
43      and if we can scroll down, please - there is a table,
44      I apologise, I don't have the page reference for it.  If we
45      keep going, it is the one with the orange lines across it.
46      There we are.  0678.  The LFI deals with the gas history of
47      these particular days by events, in effect?
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 1      A.   Yes.
 2
 3      Q.   And a number of those events were reported as HPIs?
 4      A.   They were.
 5
 6      Q.   And four of them were not?
 7      A.   That's right.
 8
 9      Q.   In particular, if I can suggest this to you, what is
10      described as event 4 was a canopy sensor recording a peak
11      of 3 seconds?
12      A.   Right.
13
14      Q.   In those circumstances, a 3-second peak in the canopy
15      sensor - that is, 3 seconds over and then brought back
16      under control, in the canopy sensor with everything that we
17      have dealt with - would unquestionably, would you agree, be
18      a temporary increase brought back immediately under
19      control?
20      A.   By the ventilation system, yes.
21
22      Q.   I'm sorry?
23      A.   Yes.
24
25      Q.   By the ventilation system.  Exactly so.
26      A.   Yes.
27
28      Q.   And equally event 5 was, I suggest, 6 seconds?
29      A.   Right.
30
31      Q.   Same analysis would apply?
32      A.   Yes.
33
34      Q.   And then event 7, again - the precise time isn't
35      clear, but certainly less than 30 seconds?
36      A.   Right.
37
38      Q.   Again, similar description you would give to that?
39      A.   Yes.
40
41      Q.   That idea of "temporary", a temporary increase brought
42      back under control, in the regulation, obviously - I don't
43      mean this critically - isn't a term of art?  It is not
44      20 seconds, 30 seconds, 50 seconds?
45      A.   No, it is not.
46
47      Q.   And operators tend to use rules of thumb, don't they,
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1       for that?
2       A.    They can do, yes.
3
4       Q.    And a rule of thumb of 30 seconds was being applied at
5       this time.  Again, you might not agree with it, but would
6       you accept that as being not unreasonable for a temporary
7       increase brought back under control?
8       A.    I would agree it's not unreasonable.
9
10      Q.    And I'm not trying to say --
11      A.    What I would say is what surprised me reading these
12      was that some of these events occurred in and around the
13      times that notifications were being made to the inspector.
14
15      Q.    Absolutely.
16      A.    So to my way of thinking, the notifier was aware,
17      would have been aware, that these other events had
18      occurred, and it surprised me that they didn't make mention
19      of them.
20
21      Q.    I understand that.  I understand that's the point you
22      make.
23      A.    It is an opportunity to.
24
25      Q.    As you have said, and as we have said previously also,
26      these are all learning opportunities?
27      A.    Yes.
28
29      Q.    Indeed, in that vein, what we come to is the last one,
30      which is event 8, where there were five recorded individual
31      very little spikes, but all within a 12-minute period?
32      A.    Yes.
33
34      Q.    That wasn't reported?
35      A.    No.
36
37      Q.    And I think Anglo would accept that it should have
38      been.
39      A.    Yes.
40
41      Q.    And you would accept that it should have been, I
42      imagine?
43      A.    I would, yes, particularly when you learn the cause of
44      it.
45
46      Q.    I'm sorry?
47      A.    Particularly when you are made aware of the cause of
```

1   the spikes.
2
3   Q.   Yes. But again, the reality here, of course, is that
4   the LFI process and the report that was created by the LFI
5   process dealt with all of the data over that whole period
6   of time?
7   A.   It did.
8
9   Q.   And sought to learn lessons from it and deal with it
10   on that basis?
11   A.   That's right.
12
13   MR HOLT: Thank you, that's the cross-examination.
14
15   THE CHAIRPERSON: Mr Crawshaw?
16
17   **<EXAMINATION BY MR CRAWSHAW:**
18
19   MR CRAWSHAW: Thank you, Mr Chair.
20
21   Q.   Mr Smith, you have got your statement in front of you,
22   no doubt. At various points in your statement you say
23   words to the effect that, in your view, no further action
24   was required by the inspectors. Do you agree with that?
25   A.   I do.
26
27   Q.   Firstly, in your statement you were looking, in
28   expressing those opinions, at whether the inspectorate
29   should have done more?
30   A.   That's correct.
31
32   Q.   You were not addressing the question of whether the
33   coal mining company should have done more?
34   A.   No, I wasn't.
35
36   Q.   You were not addressing the question of whether the
37   labour hire company should have done more?
38   A.   No, I wasn't.
39
40   Q.   You weren't present at most of the investigations that
41   were carried out onsite?
42   A.   I'm sorry, I missed that question.
43
44   Q.   Are you hearing me properly?
45   A.   I - in general, yes, I am.
46
47   Q.   Good.

```
1      A.   But I missed all of the question, I'm sorry.
2
3      Q.   Sorry.  You weren't present at most of the
4      investigations that were carried out on site during this
5      period from July 2019 to May 2020?
6      A.   That's correct.  I wasn't - was not present for any of
7      them.
8
9      Q.   As you said this morning in relation to at least one
10     of those investigations, you don't know what conversations
11     occurred between your inspectors and management?
12     A.   No, I don't.  I don't keep a record of those, of that
13     information.  It may be passed to me in conversation in the
14     office or during a weekly meeting, but I don't recollect
15     any specifics, no.
16
17     Q.   So you are not really in any position to know whether
18     further action was required by the inspectors in relation
19     to any of those particular incidents?
20     A.   I made my comment based on my assessment of the
21     form 1As, the form 5As, the LFIs and the - sorry, not the
22     LFIs - and my knowledge of the MREs and other documents
23     provided.
24
25     Q.   But you are not in a position to know whether the
26     inspectors in those conversations raised other issues?
27     A.   No, I'm not, not unless they spoke with me
28     specifically.
29
30     Q.   Or whether they followed up on issues that had been
31     previously raised?
32     A.   That's correct.
33
34     Q.   And your answer may be different depending on which
35     longwall we are talking about or even depending on each
36     HPI, but when you proffer your view as to whether the
37     inspectorate should have done more, are you proffering
38     a view - the view that you had at the time that no further
39     action was taken, or are you proffering that view in
40     hindsight?  Please tell me if that's too general.
41     A.   It's a bit of both.  Some of it is hindsight, some of
42     it is at the time.
43
44     Q.   I presume you can't distinguish those two at this
45     point in time?
46     A.   Some of them I can distinguish.  Certainly with the
47     notifications that I received and the notifications with
```

1   regard to the canopy sensor in April of 2020, the decisions
2   that I made at the time. The ones in July, I've made those
3   in hindsight from reading the information - July of 2019,
4   sorry.
5
6   Q.   Sorry. From August to November 2019 you weren't as
7   hands-on, because you were acting as the deputy chief
8   inspector?
9   A.   That's correct.
10
11   Q.   So they are more likely to be hindsight observations
12   as well?
13   A.   That's correct.
14
15   Q.   Generally speaking, the opinions you offer in relation
16   to longwall 104 were your view at the time as well as in
17   hindsight?
18   A.   That's right.
19
20   Q.   I think you might have already answered this, but can
21   you just make it clear: would you have done anything
22   different, in hindsight, in response to the HPIs at
23   Grosvenor between July 2019 and May 2020?
24   A.   In hindsight, as I said earlier today, I missed the
25   opportunity to inquire as to whether the second goaf sled
26   had been installed and I took the confirmation that that
27   had occurred based on the fact that I did not receive
28   another phone call notifying me of a failure with the goaf
29   sled.
30
31   Similarly, had I been aware of the other exceedances
32   in the canopy towards the second half of April, then I may
33   well have brought forward my intent to conduct the
34   inspection at Grosvenor earlier than I did plan it for.
35
36   Q.   So are those matters that you now, in hindsight, say
37   you may have done more, matters that really only came to
38   your mind today when you were asked questions?
39   A.   I'm sorry, I'm --
40
41   Q.   You have mentioned two matters that were raised by
42   counsel assisting with you this morning. Prior to that,
43   were you of the opinion that more could have been done?
44   A.   The matter with the second sled was in my mind shortly
45   after I received the last notification. The matter with
46   regard to the canopy sensors, after I had had the
47   opportunity to review the LFIs. So in the last - that one

1   in the last few weeks. The other one towards the end
2   of March.
3
4   Q.   So nothing else comes to mind as to what you would
5   have done differently?
6   A.   Not at this stage, no.
7
8   Q.   I think you have mentioned in your evidence that you
9   now have a new system that throws up the history of HPIs on
10   repeated occurrences?
11   A.   That's correct.
12
13   Q.   Do I take it from your evidence that this would not
14   have made any difference to the inspectorate's response to
15   the HPIs at Grosvenor, if that system had been in place?
16   A.   No, I don't believe you can take that as read, no.
17
18   Q.   How would that system have made a difference to the
19   inspectorate's response at Grosvenor?
20   A.   Had that information - if that information was
21   available, it's in front of the inspector when they enter
22   the HPI into the system, into the database, and it gives
23   the inspector immediate feedback as to other HPIs. So it
24   provides that direct connection between the current HPI
25   that the inspector is dealing with and others that are in
26   the record.
27
28   Q.   But how would that have manifested itself in a
29   different response by the inspectorate to that that you
30   have given evidence about and which you have said, apart
31   from the two matters that you have mentioned, wouldn't be
32   any different in hindsight?
33   A.   It would give the inspector the opportunity to
34   consider the previous matters directly, and that then may
35   have led to the inspectors raising matters with other
36   inspectors or with myself.
37
38   Q.   And that didn't occur?
39   A.   Because - no, it didn't, in terms of the inspectors
40   going back through, checking all of the previous
41   exceedances, having a system that did that.
42
43   Q.   But the answer you gave me talked about raising the
44   matter with other inspectors or with you. That didn't
45   occur?
46   A.   It certainly did at various times, but I can't recall
47   any specific instances of that certainly in 2019.

1
2   Q.   What about in 2020?
3   A.   There was a - following the first two exceedances we
4   had a meeting, I had a meeting with Inspector Brownett and
5   Inspector Nugent about the exceedances that - his
6   inspection the day before.
7
8   A recent discussion with Inspector Brennan, who had
9   received the notifications with regard to the C heading
10   exceedances in longwall 104 reminded me that he and I did
11   meet in the office one day with regard to those. So there
12   were other interactions.
13
14   Q.   But you are not suggesting that you didn't know the
15   history of these HPIs when they kept recurring? You
16   personally - you knew the history?
17   A.   I knew the history of longwall 104, yes.
18
19   Q.   Well, you knew the history of 103 as well, didn't you?
20   A.   Not as well as I know the history of 104, no.
21
22   Q.   But you would expect the inspectors that were doing
23   the investigations on site knew the history of longwall 103
24   in terms of HPI incidents involving methane?
25   A.   I would, which as I understood it was the imperative
26   for the inspection on 2 July 2019 when Inspector Brennan
27   went to the mine following a couple of months of - a couple
28   of months of operation of longwall 103 where quite a few
29   exceedances had occurred, and Inspector Brennan attended
30   the site as a consequence of that.
31
32   Q.   Likewise, the inspectors who were investigating on
33   site in 2020 - you are not suggesting that they didn't know
34   the history of the methane HPIs?
35   A.   No, I'm not.
36
37   Q.   They didn't need any new system to throw up that
38   history for them, did they?
39   A.   No, they didn't.
40
41   THE CHAIRPERSON: Mr Crawshaw, would this be a convenient
42   time for lunch?
43
44   MR CRAWSHAW: I see the time. Sorry, yes.
45
46   THE CHAIRPERSON: That's all right. All right, 2.15,
47   thank you.

1
2   **LUNCHEON ADJOURNMENT**
3
4   THE CHAIRPERSON: Yes, thank you, Mr Crawshaw.
5
6   MR CRAWSHAW: Thanks, Mr Chair.
7
8   Q.   Mr Smith, the inspectorate holds weekly meetings every
9   Monday; is that right?
10   A.   That's correct.
11
12   Q.   From July 2019 until May 2020 you attended those
13   meetings?
14   A.   Yes, I did.
15
16   Q.   Even when you were acting deputy chief inspector?
17   A.   That's correct, yes, I did.
18
19   Q.   Were the methane gas exceedances at Grosvenor
20   discussed at any of those weekly meetings?
21   A.   I would expect some of them certainly would have been.
22   I can't recall exact circumstances.
23
24   Q.   I don't want you to be indulging in conjecture about
25   this. Do you remember or not?
26   A.   I don't remember any specific occurrences, no.
27
28   Q.   Are minutes kept of those meetings?
29   A.   They are.
30
31   Q.   You haven't had a look at them for the purposes of
32   making your statement?
33   A.   No, I haven't.
34
35   Q.   Can I just ask you this: during that period, did the
36   HPIs for methane exceedances at Grosvenor stand out as
37   unusual compared to the rest of the Queensland coal mines?
38   A.   I suggest that the history - the history that I've
39   been through would suggest that that was certainly the
40   case. To say it was front of my mind is certainly not the
41   case.
42
43   Q.   You mean it wasn't front of your mind during that time
44   period after you started and up until May 2020?
45   A.   That's correct.
46
47   Q.   But you have since had a look at the history, and the

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1      position is that they were unusual at Grosvenor compared to
2      the rest of the Queensland coal mines?
3      A.    In the history, there's two mines that stand out, and
4      Grosvenor is one of them.
5
6      Q.    What's the other one?
7      A.    It's another Anglo mine called Grasstree.
8
9      Q.    They stand out compared to other so-called gassy mines
10     in the Bowen Basin?
11     A.    They do.
12
13     Q.    I've diverted away from your statement.  Could we just
14     go to paragraphs 10 and 11.  In paragraph 10 you refer to
15     the different risks that may be introduced by stopping
16     production.  Do you see that?
17     A.    I do.  I do.
18
19     Q.    Is that a reference to what you have mentioned earlier
20     in your evidence about spontaneous combustion being a risk?
21     A.    It is, in addition to other principal hazards of
22     strata control.
23
24     Q.    Those risks, I take it, arise from initially starting
25     production, stopping and then starting production again?
26     A.    In my mind, they do, yes.
27
28     Q.    When you say in your mind, why do you say that?  Is it
29     a fact or not?
30     A.    I believe that to be the case, yes.
31
32     Q.    In paragraph 11(b) you refer to excessive drainage
33     holes having the potential to introduce other risks
34     associated with increased oxidisation in the goaf.
35     A.    That's correct.
36
37     Q.    Is that a reference again to spontaneous combustion?
38     A.    Yes, it is.
39
40     Q.    Of course, spontaneous combustion can also occur when
41     production is taking place?
42     A.    It can.
43
44     Q.    And it is of the utmost importance that all available
45     measures are taken to avoid spontaneous combustion?
46     A.    It is.
47
```

1   Q.   Was the risk of spontaneous combustion at Grosvenor
2   from July 2019 to May 2020 addressed by the inspectorate in
3   any of the documents that you examined for the purpose of
4   making your statement?
5   A.   It is mentioned in the MRE by Inspector Brown in
6   August 2019, when he spoke with the technical services
7   personnel at the mine and discussed the importance of
8   balancing the production of the longwall and the management
9   of the risks to ensure that both gas exceedances and the
10   chance of spontaneous combustion were both addressed.
11
12   Q.   Was it addressed on any other occasion, to your
13   knowledge?
14   A.   Not to my knowledge, not in any of the other
15   particular documents.
16
17   Q.   Was it discussed with you on any occasion in relation
18   to the Grosvenor mine?
19   A.   Not as a general conversation, no, not that I can
20   recall.
21
22   Q.   Not as a specific conversation either, I take it?
23   A.   No, that's correct.
24
25   Q.   Could we just have up, Mr Operator, document
26   AGM.002.001.0937. Can you see that document, Mr Smith?
27   A.   I can.
28
29   Q.   Have you seen that document before?
30   A.   I have.
31
32   Q.   When did you see that?
33   A.   I believe in April 2020.
34
35   Q.   Are you talking about the document that was sent to
36   you when you asked for a risk assessment?
37
38   MS HOLLIDAY: Can I just object at this stage. There is
39   a practice direction in place where if a person is going to
40   be cross-examined about a document, that has to be
41   identified to the Board. At least from RSHQ's perspective,
42   it was not known that this witness was going to be examined
43   upon this document.
44
45   THE CHAIRPERSON: Yes. Mr Crawshaw, you have seen the
46   practice direction.
47

```
 1      MR CRAWSHAW:   Yes, I'm sorry for this.  It only really
 2      arose when Ms O'Gorman took the witness to that document
 3      yesterday.
 4
 5      THE CHAIRPERSON:   So the document was shown yesterday?
 6
 7      MR CRAWSHAW:   That's what I'm trying to ascertain, whether
 8      this is the same document that was shown yesterday.
 9
10      MS HOLLIDAY:   No, it is not.
11
12      MR CRAWSHAW:   I only want to ask one question about it,
13      and that question really arose from the opening of counsel
14      assisting, Mr Hunter.
15
16      THE CHAIRPERSON:   All right.  Ms Holliday, I think it will
17      be faster simply to deal with it, and if a further problem
18      arises, we will address it then, I think.  Carry on,
19      Mr Crawshaw.
20
21      MR CRAWSHAW:   Q.   I think you told us that you saw that
22      in April 2020, Mr Smith?
23      A.   That's correct.
24
25      Q.   Are you saying that is the risk assessment that was
26      sent to you when you asked for the risk assessment on the
27      sensor?
28      A.   My apologies, Mr Crawshaw.  That's the risk assessment
29      for longwall 104 goaf drainage.
30
31      Q.   Yes.
32      A.   The risk assessment I had in my mind that I received
33      in April was the risk assessment for second workings.
34
35      Q.   Yes.
36      A.   My apologies.
37
38      Q.   I will come back to that in a minute.  I just wanted
39      to ask you one - so you haven't seen this document before?
40      A.   Not to my recollection, no.
41
42      Q.   You will see it was a WRAC to complete a broadbrush
43      risk assessment on the proposed goaf drainage for
44      longwall 104?
45      A.   I can see that, yes.
46
47      Q.   You have no knowledge of anyone in the inspectorate
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 1     seeing this?
 2     A.   I don't, no.
 3
 4     Q.   Could we just scroll ahead to page 0953.  You may have
 5     heard Mr Hunter's opening yesterday, where he referred to
 6     this matter of increased spontaneous combustion risk?
 7     A.   With all due respect to Mr Hunter, I did not listen to
 8     his opening address yesterday.
 9
10     Q.   Fair enough.  That might be the best thing to do in
11     the circumstances.  I know it might be hard to read, but if
12     you assume that the handwritten note says:
13
14         Increased spontaneous combustion risk due
15         to increased gas drainage has not been
16         assessed in this WRAC.
17
18         Additional WRAC required to assess &
19         control spon com risk.
20
21     And then there is the name Wouter Niehaus.  Then in the red
22     handwriting, there is a note which finishes:
23
24         To complete by 31/5/2020.
25
26     A.   I can - yes, I can see that.
27
28     Q.   Do you know whether there was any such exercise
29     carried out?
30     A.   No, not that I'm aware of, no.
31
32     Q.   Would it have made any difference to the attitude of
33     the inspectorate to production commencing in longwall 104
34     if it had seen this prior to production commencing?
35     A.   It may have.
36
37     Q.   Can I just ask you this more directly:  should
38     production in longwall 104 have even started in
39     circumstances where increased spontaneous combustion risk
40     due to gas drainage had not been assessed in the risk
41     assessment?
42     A.   No, it should not, in my view.  I'm presuming the note
43     is in reference to this specific risk assessment.  Am
44     I interpreting that correctly?
45
46     Q.   Well, I don't want to interpret it for you, but your
47     answers are given on the assumption that the note is
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1   referencing this particular risk assessment?
2   A.   That's right, yes.
3
4   Q.   I think we can move on on that basis. Just on the
5   question of risk assessments, you gave evidence in your
6   statement and indeed orally yesterday about requesting
7   a copy of a risk assessment that had been done regarding
8   the installation of the methane monitor?
9   A.   That's correct.
10
11   Q.   That's what you were referring to earlier?
12   A.   That's correct.
13
14   Q.   We may be able to avoid going to it. When you asked
15   for that risk assessment, you were sent a longer risk
16   assessment, which you referred to earlier in your evidence;
17   is that right?
18   A.   That's right. That's right.
19
20   Q.   You were asked some questions about that longer risk
21   assessment yesterday, particularly pages 64 and 67, but at
22   the time you received that document, were you more
23   concerned about looking at the risk assessment for the CHR
24   monitor rather than the broader risk assessment that had
25   previously taken place prior to production commencing?
26   A.   Yes, I was. The purpose of asking for the risk
27   assessment, or one of the purposes of asking for the risk
28   assessment, was that I had been informed that the proposal
29   to locate the 243A sensor in the canopy tip had been
30   included in the risk assessment, so I was focused on that.
31
32   Q.   But it was merely fortuitous that you received the
33   more comprehensive risk assessment that had occurred before
34   production commenced?
35   A.   It was the risk assessment associated with the SOP,
36   the SOP for secondary extraction. So as it was directly
37   related to their comment that - the comment that the sensor
38   was covered inside the risk assessment that I asked for
39   that particular one. We had - RSHQ had actually received
40   the risk assessment and the SOP back in early March via
41   Inspector Brown. I could not find it in our system at the
42   time, due to my skill set with regard to Lotus at the time,
43   and hence I asked for them to provide that copy.
44
45   Q.   Are you talking there about the broader risk
46   assessment that was carried out prior to production
47   commencing?

1 A. I am.

2

3 Q. So the inspectorate had that risk assessment. Do you
4 know any other risk assessments that it had prior to
5 production commencing in longwall 104, relevant to
6 longwall 104?
7 A. There was a sealing process that the mine undertook
8 around Christmas of 2019 to seal the roadway that led
9 around the back of the goafs of 103, 102 and 101. As part
10 of that sealing, there will have been a risk assessment
11 with that, but I have not referred to it at all. That's
12 the one that comes to mind as another possible risk
13 assessment provided to the department.

14

15 Q. But it should be fundamental to the assessment of
16 safety by the inspectorate to see any risk assessments
17 relating to current and upcoming work; would you agree?
18 A. With regard to the secondary extraction process?

19

20 Q. No, I'm asking you about risk assessment generally.
21 I'm asking you whether the inspectorate should see all risk
22 assessments?
23 A. No, not as a matter of form, no, I don't believe that
24 to be the case, no.

25

26 Q. But should it be the case?
27 A. No, I don't believe it needs to be the case, no.

28

29 Q. So you don't think --
30 A. If a --

31

32 Q. Sorry.
33 A. My apologies. I think too long and then start to
34 speak. An inspector of mines, during an inspection and an
35 audit or their attendance at a mine - it is quite within
36 their powers to review, to ask the mine to provide a risk
37 assessment, any and all risk assessments that they have had
38 performed at the mine. It's not something that necessarily
39 happens every time an inspector attends a mine, but it
40 happens occasionally, I'm sure.

41

42 Q. I want to suggest to you that it should happen
43 frequently.
44 A. Right.

45

46 Q. What do you say about that?
47 A. I think it should occur when the inspector believes

1   that they need to see the risk assessment to validate
2   a concern they might have or to validate controls that the
3   mine has said they intend to put in place or that they have
4   identified. It's not something that I can imagine that we
5   as an organisation could cope with if every mine that we
6   regulate was required to provide us with every risk
7   assessment. It would be far too many documents for us to
8   process, let alone actually review.

10   Q.   What about risk assessments of the nature that I have
11   just shown you and the other document that you said you saw
12   in March or the inspectorate saw in March 2020 - they are
13   more broad-ranging risk assessments, aren't they?
14   A.   They are. I would have expected the risk assessment
15   that you showed me a moment ago would have been
16   a consideration during the risk assessment done by the mine
17   for the secondary extractions of longwall 104.

19   Q.   Can I just ask you while we're dealing with documents
20   that you saw or didn't see, you say towards the end of your
21   statement that you didn't see certain LFIs and you have
22   given some evidence about that. Did the inspectorate know
23   that LFIs existed? I'm talking about prior to May 2020.
24   A.   I believe some inspectors were aware of their
25   existence. I can't speak - I can't say I was particularly
26   aware of their existence.

28   Q.   Just jumping back to your paragraph 9, where you are
29   giving evidence generally about longwalls 103 and 104, you
30   say that the form 5As identified pre-drainage as an issue,
31   and there are references to a less than adequate
32   pre-drainage program in the lower seams and gas make
33   greater than expected.
34   A.   That's correct.

36   Q.   As a result, the mine needed to develop and implement
37   strategies to manage risk and prevent recurrence.
38   A.   That's correct.

40   Q.   Then in paragraph 109 you also say - and this is in
41   relation to longwall 104 - that the mine recognised that
42   gas management treatment had not been developed. Is this
43   a reference to the same problem that Ms O'Gorman took you
44   to yesterday in relation to P seam or is it a more general
45   problem?
46   A.   I took it as a more general - I read it as a more
47   general acknowledgment by the mine that their overall gas

1   drainage program has not been sufficient to give them
2   unconstrained production.
3
4   Q.   In relation to the strategies that had to be
5   developed, what can you tell us about the follow-up carried
6   out by the inspectorate to see that gas management
7   treatment had been developed?
8   A.   The strategies that I'm referring to are in general
9   the strategies that the mine would have to implement in
10 order to manage their - to constrain their production to
11 cope with the fact that they had a higher gas load than
12 they anticipated they would have because of the less than
13 adequate pre-drainage. So it's in reference to the
14 strategies required to constrain production and along with,
15 as in their IMT minutes, the plan in their IMT minutes, the
16 acquisition and installation of additional gas drainage
17 equipment over time.
18
19 Q.   In paragraph 109 you are saying that the inspectorate
20 raised this problem on the need for such strategies as far
21 back as 15 October 2019.
22 A.   That's right.
23
24 Q.   It would have been your expectation that those
25 strategies would be in place by the time production
26 commenced on longwall 104?
27 A.   Yes, those that --
28
29 Q.   I'm sorry? I missed that answer.
30 A.   That's okay. Yes, it was my expectation that the mine
31 would implement suitable strategies so that they could
32 constrain production and eliminate the gas exceedances
33 caused by not constraining the production.
34
35 Q.   To your knowledge, did the inspectorate follow up
36 whether gas management treatment had been developed prior
37 to production commencing in longwall 104?
38 A.   Not as a specific agenda, no. No.
39
40 Q.   When you say "Not as a specific agenda", you have no
41 knowledge of that occurring at all, I take it?
42 A.   No, that's correct.
43
44 Q.   So after production commenced, it came to the
45 inspectorate's knowledge that this fundamental problem in
46 P seam, at least, was present?
47 A.   That's correct.

1
2   Q.   I wasn't quite clear about your evidence yesterday.
3   You saw it as a fundamental problem yourself in hindsight?
4   A.   I do.
5
6   Q.   Did you know about it at the time?
7   A.   No.
8
9   Q.   But in hindsight, which to some extent you are using
10   in giving your evidence, you agree that it was
11   a fundamental problem?
12   A.   Yes, I do, but a fundamental problem that the mine had
13   to manage.
14
15   Q.   Yes. I'm not suggesting you should manage it, but it
16   would have been better if it had been addressed prior to
17   the production commencing; isn't that correct?
18   A.   If the mine had completed their P seam strategy, it
19   should have reduced the gas load on longwall 104 for them,
20   had it been successful, and that would be, of course,
21   preferable to have in place before they started the
22   longwall. The fact was, as they pointed out to us in
23   October, that they knew they would not be in that position
24   and that they would have to operate the mine with
25   constraints on their production as a consequence.
26
27   Q.   Are you saying they knew back in October that there
28   would be a problem with P seam gas drainage?
29   A.   No. No, I'm not saying that. I'm saying that they
30   told us in October that they knew they had not done enough
31   with regard to managing the gas load on the longwall. In
32   specific terms, I didn't have that and I don't have that to
33   say that it was specific to the P seam or specific to
34   managing the floor gas emissions and so on. It's just an
35   acknowledgment by the mine that they would have to - they
36   would be in a position where they could not operate
37   production without constraints.
38
39   Q.   Are you saying that didn't bother the inspectorate?
40   A.   Well, up until - from August through till the end of
41   longwall 103, Grosvenor had successfully significantly
42   reduced the occasions on which they had a gas exceedance in
43   their tailgate, so they had, to my way of thinking,
44   demonstrated the capacity to be able to manage the longwall
45   and operate and produce with appropriate constraints in
46   place when they set their mind to it.
47

1   Q.   So you put your mind to that question at the time, did
2   you, before production commenced on longwall 104?
3   A.   No, I did not.

4

5   Q.   So you can't make a simplistic equation of what
6   happened on longwall 103 with what might happen on
7   longwall 104 in terms of risk, can you?
8   A.   Looking back at the information, I can clearly see
9   that with the work commenced by Inspector Brennan in July
10   2019, Grosvenor took significant steps to reduce the
11   occurrence of gas exceedances on longwall 103, which to me
12   demonstrates that they had the capability of operating the
13   longwall effectively but not with production unconstrained.

14

15   Q.   You have said that. My question is - and I suppose it
16   is more a suggestion to you - that you can't make
17   a simplistic equation of longwall 104 with longwall 103 in
18   terms of the risks that might arise and the management of
19   those risks?
20   A.   The equation that I'm working through is one that in
21   longwall 103, Grosvenor has had difficulty managing the gas
22   load in longwall 103, and when they set their mind to that
23   management of gas load, they were able to reduce it
24   significantly and that they were going to face very similar
25   issues when they were mining in longwall 104. So they had
26   demonstrated the capacity to manage the situation when they
27   were finishing longwall 103. I would have no reason to
28   think that they could not apply themselves to the same
29   challenge in longwall 104.

30

31   Q.   So you acted on the basis that the risks were going to
32   be similar in longwall 104 to longwall 103?
33   A.   I acted on the basis that the challenge for the mine
34   is to manage the risk with the tools that they had
35   available to them and that it would be similar to 103, if
36   not a little worse.

37

38   Q.   So is the answer to my question yes or no? Did you
39   equate the risks between the two longwalls?
40   A.   When I review the situation following the - to prepare
41   my statement, I do equate them directly, yes. At the time
42   of the commencement of longwall 104, I had no - I had not
43   done that work, as such, so I was not in a position to make
44   that calculation, if you like.

45

46   Q.   So was there a fault in longwall 103?
47   A.   I'm not familiar with the structures in longwall 103

1 at all, but I imagine that as there are some faults in
2 longwall 104, some of those may well appear in longwall 103
3 and some won't.
4
5 Q. The reason why you have a separate risk assessment
6 when you go from one longwall to the other is that
7 different risks might arise; isn't that the case?
8 A. That's correct.
9
10 Q. I think you talked in your oral evidence about the
11 need for the coal mining company to be on top of its game
12 because of the problems that you already knew about in
13 longwall 104?
14 A. That's correct.
15
16 Q. Was that a hindsight opinion or was that your opinion
17 at the time?
18 A. It's certainly my opinion now. At the time of
19 commencement of longwall 104, my understanding is that -
20 I can't recall actually having any particular opinion one
21 way or the other.
22
23 Q. But you think they had been at the top of their game
24 in longwall 103, do you?
25 A. I think they have improved - they improved their
26 performance in the months August, September, October,
27 November, December compared to the months immediately
28 preceding that.
29
30 Q. That's based on the number of methane HPIs decreasing
31 during that time?
32 A. That's correct.
33
34 Q. So your measure of performance in terms of the company
35 being at the top of its game or otherwise is dependent on
36 the number of methane HPIs that are occurring?
37 A. It's certainly one of the measures that I use, yes.
38
39 Q. Well, on that basis, you must have been pretty worried
40 by April 2020?
41 A. I was very disappointed by April 2020.
42
43 Q. You knew by then that they weren't at the top of their
44 game?
45 A. I knew by then that they had had exceedances that were
46 generated by fundamental basic mining issues.
47

```
1    Q.   I'm nearly finished.  I just want to take you back to
2    paragraph 14 for a minute, where you give an overall
3    opinion about longwall 104 and whether the inspectorate
4    ought to have deployed an inspector to the site at the time
5    or issued a directive.  You see that?
6    A.   I do.
7
8    Q.   You say what are the relevant factors.  Do I take it
9    that what you are saying in paragraph 14, although not
10   expressly, is that at the time, and in hindsight, the
11   exceedances were not such that the inspectorate ought to
12   have deployed an inspector to the site at the time or
13   issued a directive?
14   A.   That's right.
15
16   Q.   And that was the view you formed prior to the
17   explosion?
18   A.   That's correct.  I say that in the context that the
19   first two exceedances, there was an inspector at the mine
20   at the time, that there had been an intervention at the
21   mine with regard to the 243A sensor in early April 2020,
22   and because of the nature of the other exceedances.  And
23   towards the end, I was planning a site - the deployment of
24   myself to the mine for early May.
25
26   Q.   That wasn't at your initiative, though, was it?
27   A.   That was a direction from the chief inspector at the
28   time, yes.
29
30   Q.   You were of the view that there was no directive
31   required; that's what you just told me?
32   A.   That's correct.
33
34   Q.   But the chief inspector was of a different view,
35   because he directed you to undertake an inspection?
36
37   MS HOLLIDAY:   I have to object to that one, Mr Martin.
38   There is a difference between a directive pursuant to the
39   legislation and a direction to go to a mine, and it needs
40   to be clear, that question, because it is an important one.
41
42   THE CHAIRPERSON:   Yes, all right.  I think the witness is
43   in a position to reply to it, isn't he?  Yes, Mr Smith?
44
45   THE WITNESS:   The chief inspector's direction to me was
46   that he wished me to attend each of the mines which I had
47   issued a directive with regard to the section 243A sensors
```

1   to, so it was a direction from the chief inspector, as
2   opposed to a directive.
3
4   MR CRAWSHAW: Q.   I think that's what Ms Holliday just
5   said, yes.
6   A.   Yes. So it was my intent to - my plan was to visit
7   both Grosvenor and Moranbah North in, I think, the second
8   week of May and Grasstree mine either the week earlier or
9   the week after that.
10
11   Q.   When did the chief inspector actually direct you to do
12   that?
13   A.   I do not have the exact date or time for that.
14   I believe it was at one of our Monday morning - during one
15   of our Monday morning weekly meetings. I've been through
16   the minutes for the ones around that time and I can't find
17   a record of it, so I can't say whether it was the week
18   prior - the week of the canopy sensor exceedances around 21
19   and 22 April or whether it was the week later. I can't
20   answer that with any accuracy at all. I just know - I know
21   it was around that time.
22
23   Q.   Had you actually scheduled any inspections for those
24   three mines?
25   A.   I had, yes, following that direction.
26
27   Q.   All three of them?
28   A.   Yes, I had.
29
30   Q.   So when was the inspection scheduled for Grasstree and
31   Moranbah North?
32   A.   I think the inspection for Moranbah North was
33   scheduled for - it was scheduled for the 14th, I think, of
34   May, and for Grasstree I think the following week or the
35   week after. For Grosvenor it was - because Grosvenor and
36   Moranbah North are easily reached from the town of
37   Moranbah, they were on consecutive days, so one on the
38   13th, I think, and one on the 14th.
39
40   Q.   Did those inspections occur?
41   A.   No, they did not. I did do an inspection at Grasstree
42   some weeks later. The exact date I can't recall,
43   Mr Crawshaw.
44
45   Q.   Can I just ask you one final question. In hindsight,
46   do you think it would have made any difference if you had
47   gone to the Grosvenor mine before the explosion?

1   A.   It may well have. It would depend upon what the
2   results of the inspection were.
3
4   Q.   So basically you are telling me it's hypothetical,
5   which it is?
6   A.   Yes, it is. Yes, it is.
7
8   Q.   What factors do you think would have made such an
9   inspection make a difference?
10   A.   The answers to my queries with regard to how the mine
11   was managing the local ventilation at the tailgate to
12   eliminate the tailgate sensor from being a cause of
13   exceedances to the mine; how they were proposing to ensure
14   that each of the ERZCs who might be responsible for the
15   longwall were going to be able to manage that effectively;
16   plus confirming that the 243A sensor was in the appropriate
17   location may have also stimulated some change with regard
18   to ventilation or positioning. I will never know the
19   answer to that, Mr Crawshaw, I'm afraid.
20
21   Q.   You didn't propose to ask them about the fundamental
22   problem in P seam gas drainage?
23   A.   No. No, I did not. That was not in my mind at all.
24
25   Q.   You didn't propose to ask them about spontaneous
26   combustion?
27   A.   I would have taken copies of the recent HPIs that
28   I had received from the mine with me and spoken with them
29   about their preventative and corrective actions that they
30   have included in those documents to see how they were
31   progressing with those matters. As those matters pertain
32   to spontaneous combustion or gas management, I would have
33   expected to discuss those matters with them.
34
35   Q.   So you would have discussed gas drainage?
36   A.   In the context of what they were doing with regard to
37   the reports that they had made to us in writing and the
38   actions that they proposed to take, yes.
39
40   Q.   Those reports didn't mention spontaneous combustion,
41   did they?
42   A.   Not that I recall, no.
43
44   MR CRAWSHAW: Thank you, Mr Chair.
45
46   THE CHAIRPERSON: Yes, thank you. Ms Grant, are you with
47   us?

1
2   MS GRANT: I am, Mr Martin, and I have no questions of the
3   witness.
4
5   THE CHAIRPERSON: Thank you. Mr Trost?
6
7   MR TROST: Thank you, Mr Chair.
8
9   **<EXAMINATION BY MR TROST:**
10
11   MR TROST: Q.   Mr Smith, I'm counsel representing one of
12   the injured workers. Mr Smith, do you agree that there are
13   lots of moving parts in any underground mine, lots of
14   factors that can impact on the level of methane in a mine?
15   A.   I would.
16
17   Q.   And these factors can cause spikes that might not
18   necessarily be exceedances?
19   A.   They can.
20
21   Q.   But the obligation according to the regulation
22   remains, does it not, that the operator has to keep methane
23   levels below the required level of 2.5 per cent?
24   A.   That's correct.
25
26   Q.   Ideally, closer to the face where the shearer is
27   operating, it would be even lower than that. Obviously
28   there are systems that might shut things down at even
29   2 per cent, as I think was the case here, but you want to
30   keep it as low as possible, close to zero per cent?
31   A.   As minimum as possible, yes.
32
33   Q.   Some of these factors include things like pre-drainage
34   efficacy - yes?
35   A.   Yes.
36
37   Q.   Geological issues, like desorption from other
38   geological areas around the longwall?
39   A.   Yes.
40
41   Q.   There can be faults, as we have seen in longwalls 103
42   and 104?
43   A.   Yes.
44
45   Q.   There are strata issues, barometric pressure changes,
46   floor blower issues - those are all other factors that can
47   impact on methane levels?

```
 1    A.    They are.
 2
 3    Q.    And then once you are mining, as well, there are other
 4    factors that come into play:  you have moving machinery
 5    which can impact on ventilation flows; there are goaf falls
 6    that are an expected and continuing phenomenon in the
 7    process of mining a longwall; as I have mentioned,
 8    ventilation and production rates also.  All of these
 9    factors also can impact on methane levels?
10    A.    They can.
11
12    Q.    Human error can also have an impact on methane levels?
13    A.    It can.
14
15    Q.    And we've seen that in this case where some
16    maintenance issues arose.  For instance, on one of the
17    sleds, a filter effectively got blocked.  That's the fire -
18    sorry, what's the --
19    A.    The flame arrestors.
20
21    Q.    The flame arrestors, that's right.
22    A.    Yes.
23
24    Q.    And there can be just human error with setting the
25    limit at 12 per cent that doesn't actually work?
26    A.    That did not do the job, that's right.
27
28    Q.    But despite all of these factors, which you have
29    acknowledged are well known in the process of mining
30    a longwall, there is still an obligation, is there not, to
31    keep the methane level below 2.5 per cent?
32    A.    There is.
33
34    Q.    The reason for that is that you want to keep it from
35    being dangerous, because ultimately it is kept below
36    2.5 per cent because people are being sent down there to do
37    work?
38    A.    That's right.
39
40    Q.    And you want to keep them as free from danger as
41    possible in what is already a dangerous situation?
42    A.    That's correct.
43
44    Q.    You would also acknowledge that it is more difficult
45    to keep methane under control when a longwall first starts,
46    because goaf drainage hasn't necessarily come online?
47    A.    If that is the case, then you increase the degree of
```

1   difficulty of managing it, yes.
2
3   Q.   Those are all known factors?
4   A.   Yes.
5
6   Q.   With longwall 104 in particular, the need for
7   effective pre-drainage had been acknowledged before mining
8   started on the longwall?
9   A.   It had.
10
11   Q.   Anglo was also aware of the issues with longwall 103,
12   and you were also aware of them, as the inspectorate?
13   A.   In terms of the?
14
15   Q.   In terms of the fact that it was a gassy longwall
16   already and there were already issues with controlling
17   methane exceedances?
18   A.   Yes.
19
20   Q.   In that context, turning to your statement, you have
21   analysed the exceedances with respect to longwalls 103 and
22   104?
23   A.   I have.
24
25   Q.   And in respect of each of those, you stated that no
26   further action should have been taken by the inspectorate
27   at that time?
28   A.   That's right.
29
30   Q.   Some of the causes identified in those form 1As and
31   5As were very discrete causes?
32   A.   Yes.
33
34   Q.   We already mentioned the blocked filter with the flame
35   arrestor. There was a drainage shut-off. There was
36   reference to brattice stoppings and floor blowers, the
37   shearer stop positions?
38   A.   Yes.
39
40   Q.   All fairly discrete causes of these particular
41   exceedances?
42   A.   That's correct.
43
44   Q.   Was it concerning to you, either in hindsight or at
45   the time if you happened to review them, that it was these
46   single fairly discrete failures that were apparently
47   causing exceedances?

1   A.   It was concerning to me with respect to longwall 104
2   initially, the exceedances with regard to the goaf sleds,
3   it was indicative to me that they were having trouble
4   managing the basics of managing the goaf sleds on the
5   surface and that they had not thought at the start that
6   perhaps they might need redundancy up there and the ability
7   to switch between sleds so that they could do maintenance.
8   That, to me, is an example of a missed opportunity by the
9   mine to avoid the exceedances by neglecting or not seeing
10   that opportunity.
11
12   Q.   So that was something that ought to have been
13   considered before commencing the longwall?
14   A.   I believe so, yes.
15
16   THE CHAIRPERSON: Q.   Mr Smith, were you aware that by
17   1 May the SSE was expressing that the methane levels at the
18   tailgate were on the brink of unmanageable?
19   A.   I was not.
20
21   Q.   Would that have impacted in any way on the
22   inspectorate's functions and duties in relation to the mine
23   had you known that?
24   A.   If I'd known the SSE had the view that managing the
25   tailgate gas was approaching unmanageable, yes, it would
26   have. It may have stimulated a suggestion that they stop
27   mining until they figure out how to manage them.
28
29   THE CHAIRPERSON: Yes, Mr Trost.
30
31   MR TROST: Q.   Mr Smith, in your statement you considered
32   that addressing those fairly discrete single issues was
33   satisfactory for the inspectorate. Is that, albeit a very
34   brief summary, correct?
35   A.   Yes. For the individual occurrences, yes.
36
37   Q.   Obviously this is largely with the benefit of
38   hindsight, but in your view, would that have then wiped the
39   slate clean, as it were, and satisfied the inspectorate
40   that Anglo would, from that point on, comply with its
41   obligation to keep the mine safe, as in keep the methane
42   levels under 2.5 per cent?
43   A.   When you say "wiped the slate clean", no. The HPI
44   history is there for - I'll say for eternity, but as long
45   as the database holds it. But with regard to that
46   particular - at that particular point in time, the
47   unacceptable level of risk has been managed away and the

1   mine no longer has an unacceptable level of risk.
2
3   Q.   Is that a stated process or an adopted process from
4   the inspectorate that where a particular exceedance has
5   been dealt with, notwithstanding exceedances that have
6   happened before, that is sufficient --
7   A.   No, it's not. That's from - if I could take you to
8   August - sorry, July 2019, the visit to the mine by
9   Inspector Brennan was in early July, and in the period
10   prior to the period being covered by this inquiry, in
11   June, May and April 2019, there had been a rash - a suite
12   of exceedances had been reported to the inspectorate, and
13   those exceedances were responded to by Inspector Brennan on
14   that visit. So it's not, "Wipe the slate clean, forget
15   about it, everything's okay." It's, "What's the history?
16   What's going on?"
17
18   I might add there that prior to April, I think, 2019,
19   for the financial year, Grosvenor had up until that point
20   in time made a significant reduction in the number of gas
21   exceedances, and that performance was badly affected by the
22   exceedances that occurred in the April/May/June period of
23   that time. Consequently, Inspector Brennan's visit to the
24   mine and the plan to change their behaviour and their
25   activities and to reverse the ventilation and do the
26   immediate short-term and longer-term actions that they
27   identified in the IMT at that time.
28
29   Q.   Going back to the regulation, which is an obligation
30   to keep the levels from even getting to 2.5 per cent, you
31   are saying that is the obligation or that is the process
32   that the inspectorate takes, that it looks at a mine and
33   considers the number of exceedances - because that's
34   a failure, isn't it, to keep under 2.5 per cent, if there
35   is an exceedance?
36   A.   It is, yes.
37
38   Q.   Would it be the inspectorate's view, therefore, that
39   where there are ongoing exceedances, there is a failure to
40   comply with the regulation on an ongoing basis?
41   A.   Yes, there is.
42
43   Q.   And would that flag that there might be a future
44   inability for a mine to comply with that obligation, keep
45   it under 2.5 per cent, notwithstanding that they had
46   addressed a previous exceedance?
47   A.   That might flag it, yes, absolutely. You can see in

1   2019 that the inspectorate has responded to that, and even
2   prior to that, with some of the other interventions that
3   the inspectorate undertook between 2016 through to 2019.
4
5   Q.   So was it also concerning that it sometimes took Anglo
6   several attempts to keep exceedances from reoccurring from
7   what were largely similar causes?
8   A.   Depending on the cause of the exceedance, yes. If
9   there is an immediate relatively simple fix for it and that
10   kept occurring, that would be of concern. If the
11   exceedance required more work to determine an appropriate
12   resolution for it, then the fact that that might take
13   a week or two weeks is understandable. So if you are going
14   to reverse the ventilation, you can't do that today. You
15   have to do the work.
16
17   Q.   But the obligation remains over that one or two
18   weeks --
19   A.   To keep - yes, absolutely. It never goes away. The
20   obligation never leaves.
21
22   Q.   That's obviously what the inspectorate is there for -
23   to enforce that obligation?
24   A.   Yes.
25
26   Q.   So when that kept occurring and when exceedances
27   occurred either as a result of the same sort of discrete,
28   fairly basic mining practices, I think was your phrase that
29   you used yesterday, or because they were investigating
30   potential other factors that were at play, didn't that
31   suggest to you that at least with longwall 104, by the time
32   it got to March and April 2020, it was too often teetering
33   on the edge of a methane exceedance?
34   A.   The exceedances through March and April were certainly
35   indicative that the mine had to stay very focused on their
36   management activities and the operation of the longwall to
37   ensure they didn't get exceedances, that they had very
38   little room to move, if you like.
39
40   Q.   And if there is little room to move because there are
41   these ongoing issues that we have identified in April and
42   March 2020, and you have already acknowledged that there
43   are a myriad of other factors that can also impact on the
44   levels of methane within a mine - barometric issues,
45   geological issues, those sorts of things - wasn't it of an
46   even bigger concern that if Anglo wasn't able to
47   necessarily manage these exceedances then, with all of that

1 knowledge from longwall 103, either because of simple
2 discrete errors that caused exceedances or taking an
3 approach such as reversing ventilation, if they weren't
4 able to control exceedances in those circumstances, that if
5 these other factors also came into play, there was an even
6 bigger risk of an even bigger exceedance?
7 A.   I don't think I can reach that conclusion
8 particularly.
9
10 Q.   Would you accept that where there are multiple reasons
11 for methane levels to peak, even if it doesn't quite
12 achieve exceedance, if they play out at the same time, it
13 is far more likely that there will be an exceedance and,
14 indeed, far more likely that it will reach the combustible
15 level?
16 A.   No, I don't believe so, not given the controls used by
17 the mine during production to manage the movements on the
18 face, which are related - which they use all the data, all
19 the information that they are collecting in real time from
20 the monitors in all the locations that Mr Holt took us
21 through earlier today, that those algorithms and those
22 settings are designed to prevent that occurring, if you
23 like - that a barometric low, for example, will occur when
24 the shearer is releasing a significant amount of gas from
25 the face itself.
26
27 Q.   But these real-time assessments and also, pre starting
28 the longwall, the geological assessments and learnings from
29 previous longwalls - those are already all taken into
30 account, presumably to try to keep methane levels well
31 below 2 per cent so that you can continue production?
32 A.   Yes, I would expect that, yes.
33
34 Q.   But despite all of those systems being in place,
35 exceedances continued to occur?
36 A.   They did.
37
38 Q.   You acknowledged to my learned friend Mr Holt earlier
39 that there is a constant battle or balance between
40 ventilation and drainage?
41 A.   Yes.
42
43 Q.   That every longwall is different - yes?
44 A.   Yes.
45
46 Q.   That there is a need to adapt to any HPI?
47 A.   That's correct.

1
2   Q.   That there are a tonne of variables involved in
3   assessing an HPI?
4   A.   Yes.
5
6   Q.   You also acknowledged that the mine was clearly
7   underestimating gas make in longwall 104 - yes?
8   A.   Right.
9
10   Q.   You acknowledged that the mine went through some
11   fairly complex responses to the exceedances?
12   A.   Yes.
13
14   Q.   We've already discussed that the obligation to keep
15   methane levels under 2.5 per cent for the safety of workers
16   remains; correct?
17   A.   That's right.
18
19   Q.   So in circumstances where this battle or balance of
20   ventilation and drainage and the adaptation to the longwall
21   and these responses to all of these factors weren't
22   working, you just said to my learned friend Mr Crawshaw
23   that you were very disappointed by what had happened in
24   April 2020 - where these weren't working, and where their
25   assessments and their studies had already underestimated
26   gas make and where these variables considered did not stop
27   HPIs, didn't that make you think that the risk of sending
28   workers underground was unacceptable?
29   A.   No, it did not.
30
31   Q.   Did it not concern you at that time that knowing all
32   that you know and that Anglo had informed you of and the
33   difficulties in controlling these HPIs - didn't that ever
34   make you think that perhaps, at least in hindsight, Anglo
35   couldn't meet its obligations under the regulation to keep
36   methane under 2.5 per cent?
37   A.   I hadn't formed that opinion, no.
38
39   Q.   In general terms, Mr Smith, where there are very
40   difficult conditions at a longwall or a mine site in
41   general, but where the regulations obviously still apply -
42   and that's for the purpose of keeping workers safe - would
43   you expect that a mine operator would be required to set
44   even higher standards of monitoring, control measures, in
45   response to those difficult conditions?
46   A.   I would expect them to appropriately risk assess their
47   proposed activities and to identify suitable controls for

1   the risks that they identify, and if those suitable
2   controls were developed to increase the level of control at
3   the mine - and using a longwall as an example, for example,
4   by changing the points that a detector affects the
5   operation of the longwall and making it lower - then
6   I would expect them to implement those.
7
8   Q.   Having implemented those sorts of measures, have you
9   ever come across or could you ever foresee a point where
10   because those measures aren't effective, it's not possible
11   to comply with the regulations and that therefore the mine,
12   or a specific longwall, even, can't operate with people
13   underground?
14   A.   Could that happen, is your question?
15
16   Q.   Has it happened or could you foresee it happening?
17   A.   Hypothetically it could certainly happen.
18
19   Q.   In your view, or the inspectorate's view, it is the
20   operator's job to shut down the mine either temporarily or
21   permanently if it cannot comply with that obligation to
22   keep methane levels below 2.5 per cent?
23   A.   If the operator is aware that they have no chance of
24   keeping it below - within the regulatory limits, then they
25   would be obliged to.
26
27   Q.   There was talk - and there is mention in your
28   statement that stopping production can raise the risk of
29   spontaneous combustion, of course?
30   A.   It can.
31
32   Q.   But of course that doesn't put people's lives at risk
33   if you have extracted the people?
34   A.   That's right.
35
36   Q.   So it is the inspectorate's job to also make an
37   assessment of the measures that the mine is taking and
38   potentially shut down a mine if it can't comply with the
39   regulation?
40   A.   If we form that opinion, yes, it is our role.
41
42   Q.   Just turning back to longwall 104, in hindsight and in
43   light of these ongoing HPIs that continued to occur despite
44   measures being put in place - in hindsight, do you consider
45   that Anglo could not comply with its obligations under the
46   regulation?
47   A.   No, I don't.

1
2   MR TROST: That's all the questions I have.
3
4   THE CHAIRPERSON: Mr O'Brien?
5
6   MR O'BRIEN: No, thank you.
7
8   THE CHAIRPERSON: Ms Holliday.
9
10   **<EXAMINATION BY MS HOLLIDAY:**
11
12   MS HOLLIDAY: Q.   Mr Smith, if I can firstly take you
13   back to three aspects of your evidence yesterday. The
14   first was questioning from Ms O'Gorman in relation to HPIs
15   numbers 14 to 20 and the fact that the inspectorate
16   received those form 5As on the same day, on 15 April 2020.
17   You were asked whether yourself or anyone else, on or after
18   15 April, had reviewed those form 5As, and your answer was:
19
20   *Not that I'm aware of, no. I didn't.*
21
22   I take it from the answer that you gave that you viewed the
23   question as one of whether or not anyone had collectively
24   reviewed those form 5As?
25   A.   I believe I did.
26
27   Q.   Because the individual form 5As were reviewed, weren't
28   they, by the individual inspectors to which they were
29   allocated for management?
30   A.   Mine were, certainly.
31
32   Q.   And they were three of the exceedances?
33   A.   Yes.
34
35   Q.   You have also now - and I'm not saying that you did at
36   the time, but Mr Brownett and Mr Brown have provided
37   statements for the purpose of the Board of Inquiry?
38   A.   Yes.
39
40   Q.   They detail in their respective statements that they
41   reviewed the form 5As that they received in relation to
42   each of those relevant exceedances?
43   A.   Yes.
44
45   Q.   Indeed, in the first tranche of hearings, you gave
46   evidence - and this is just for the record - at
47   TRA.500.002.0001 at 0034 line 19 - that you expected the

1 individual inspectors to review the form 5As at the time
2 that they were received from the mine?
3 A.   That's correct.
4
5 Q.   And that's what occurred here?
6 A.   Yes.
7
8 Q.   In relation to collective review of those form 5As,
9 you are aware that there are improvements to the process of
10 the inspectorate reviewing not just form 5As but HPIs
11 generally, more collectively?
12 A.   Yes.
13
14 Q.   And you are aware that Mr Newman, or Chief Inspector
15 Newman, gave a statutory declaration to the Board of
16 Inquiry for the first tranche of hearings that details the
17 improvements that are to be made?
18 A.   Yes.
19
20 Q.   I have used the words, future tense, "are to be made",
21 but you are aware, aren't you, that stage one of those
22 proposed changes has already been implemented?
23 A.   They have.
24
25 Q.   So that means that when a form 5A is received from
26 a mine, where it is determined that the actions contained
27 in the form 5A are adequate and there is no trend of
28 repeated HPIs, a file note is now recorded in Lotus Notes
29 by the nominated inspector; that's correct?
30 A.   That's correct.
31
32 Q.   If follow-up action is required, a file note in Lotus
33 Notes will detail the actions that are required?
34 A.   That's right.
35
36 Q.   And then of course those actions are taken?
37 A.   Yes.
38
39 Q.   Just prior to that evidence, you were asked by
40 Ms O'Gorman whether having received those form 5As - so
41 again those collective form 5As in relation to HPIs
42 numbers 14 to 20 - the inspectorate contacted the mine or
43 did anything else to prevent further HPIs on longwall 104.
44 Now, in relation to any other action that was taken by the
45 inspectorate following receipt of those form 5As on
46 15 April 2020, it is correct, isn't it, that in fact on
47 that day there is an inspection taking place at the mine?

1   A.   That's correct.

2

3   Q.   And further, there has been some evidence given in
4   relation to an email that was sent by the mine on 17 April
5   2020, but that email wasn't the only communication around
6   that content, was it? There was a number of conversations
7   before the email was sent and there was a number of
8   follow-up conversations as well, wasn't there?
9   A.   That's correct.

10

11   Q.   In your evidence this morning to Ms O'Gorman, you
12   spoke about the fact that Inspector Brennan is a thorough
13   inspector in terms of following up with the mines, and
14   indeed it is the case, isn't it, that on 21 and 22 April
15   2020 he, in conversations with the underground mine
16   manager, discussed the HPIs generally and also mechanisms
17   by which those exceedances could be reduced if not
18   eliminated?
19   A.   That's correct.

20

21   Q.   If I can take you now to another portion of the
22   evidence to which you were taken yesterday by Ms O'Gorman,
23   and it was in relation to the second workings and the
24   notification to the inspectorate in relation to those
25   second workings. The words that Ms O'Gorman used yesterday
26   were whether or not the document - and she referred to it
27   as a particularly large document, referring to the second
28   workings risk assessment --
29   A.   Yes.

30

31   Q.   She asked firstly whether it was reviewed by the
32   inspectorate before mining was commenced, and later she
33   said it would have been provided to the inspectorate prior
34   to commencement of longwall 104. You made the point that
35   it was received in the first week of March, and the
36   longwall started on 9 March. It's correct, isn't it, that
37   the legislation - we might actually bring up, Mr Operator,
38   the relevant portion of the regulation, which is
39   section 320 of the regulation. If we can scroll down to
40   section 320, firstly, the legislation provides at
41   subsection (1) that:

42

43   *Before second workings are started ... the*
44   *site senior executive for the mine must*
45   *give an inspector notice about the proposed*
46   *second workings.*

47

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1   A.   That's correct.
2
3   Q.   The provision at the moment doesn't stipulate when
4   that notice has to be given?
5   A.   No, it doesn't.
6
7   Q.   Or indeed even what the contents of that notice need
8   to be?
9   A.   No.
10
11   Q.   In relation to this particular case, the notice was
12   given three days prior - that's correct, isn't it?
13   A.   That's correct.
14
15   Q.   And in terms of what the email contained - I'll take
16   you to, Mr Operator, RSH.002.040.0001. That's a copy, is
17   it not, if we scroll down the page a little bit, of an
18   email from the underground mine manager to Mr Brown of the
19   inspectorate?
20   A.   That's correct.
21
22   Q.   It is providing notice of second workings.
23   Mr Operator, if we can just scroll up so we can see the
24   commencement of the email. It is headed "Notice to
25   Commence Second Workings", is the subject, and attaching
26   documents to give official notice as per section 320?
27   A.   Yes, it is.
28
29   Q.   You can see there that it is sent, of course, at
30   11.30am on 6 March?
31   A.   Yes, it is.
32
33   Q.   Longwall production started on the Monday, 9 March.
34   It contains as attachments the "Notice to Commence Second
35   Working letter" and then the relevant documents - the "Risk
36   Assessment" and the "Standard Operating Procedure"; that's
37   correct? In relation to the letter itself that accompanied
38   that email, and it is that first dot point there, the
39   "Notice to Commence Second Working letter", Mr Operator, if
40   we can go to RSH.002.040.0168 - I will just read it out.
41   It should be there. I will have it located. It is the
42   letter that notifies of the intention to commence second
43   workings, and it refers to the fact that section 317 of the
44   regulation and section 318 of the regulation have been
45   complied with.
46   A.   Yes.
47

```
1     Q.    And that - and I quote:
2
3           ... the risk assessment has addressed [all]
4           the hazards adequately and that there was
5           no significant change as defined in
6           Section 320 that impacts the mining
7           method ...
8
9     So that's the notice that is given to the inspectorate?
10    A.    Yes.
11
12    Q.    If we can go back to the regulation again, that at the
13    moment complies with the regulation, because it's notice
14    that is given about proposed second workings?
15    A.    That's correct.
16
17    Q.    So at the moment it doesn't require any independent
18    third party technical specialists to review the second
19    workings document before it's submitted to the
20    inspectorate; that's correct?
21    A.    That's correct.
22
23    Q.    Indeed, that may happen, but in terms of it being
24    required under the legislation, that's not necessary?
25    A.    That's right, yes.
26
27    Q.    So it could be that a mine has its own technical
28    specialists --
29    A.    Yes.
30
31    Q.    -- undertake the necessary work to complete the risk
32    assessment, but there is no true independent third party
33    looking at those documents to assess whether or not the
34    risk is adequate?
35    A.    That's right.
36
37    Q.    When you look at section 317 of the regulations and
38    you are looking at the types of matters that need to be
39    included in a risk assessment - and they are set out there
40    at paragraph (2) - they are clearly highly technical
41    matters; you would agree?
42    A.    They are.
43
44    Q.    Where in many, if not all, cases, additional
45    subspecialised expertise would be required?
46    A.    It would.
47
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1     Q.    That would include such people as a strata control
2     engineer, by way of one example?
3     A.    Yes.
4
5     Q.    If you go down to section 318, Mr Operator, it sets
6     out what must be included in the standard operating
7     procedure.  Again, the procedure must provide for
8     establishing, under subsection (5), a number of highly
9     technical fields?
10    A.    Yes.
11
12    Q.    Are you aware that a recommendation is to be made such
13    that the following can be given effect to, and that is that
14    the mine must ensure that a full strata engineering and
15    separate gas and ventilation management review is conducted
16    by competent independent third party strata control
17    engineer and gas management engineers, that that has to be
18    undertaken of the second workings risk assessment and the
19    standard operating procedure?
20    A.    I have recently become aware, yes.
21
22    Q.    And that that independently reviewed second workings
23    risk assessment and SOP then have to be submitted to the
24    regulator six months prior to the second workings
25    commencing?
26    A.    Yes, I've been made aware of that recently as well.
27
28    Q.    That recommendation, if enacted, would ensure that
29    there is sufficient time of notice given to the regulator?
30    A.    That's right.
31
32    Q.    It would also ensure that there has been an
33    independent assessment of those risk assessment and SOP
34    documents?
35    A.    It would.
36
37    Q.    By suitably qualified experts?
38    A.    That's right.
39
40    Q.    You have been asked many questions over the past two
41    days, and Mr Holt was asking you effectively about
42    a chronology, from the start of longwall 103 through to
43    longwall 104, of interaction between the mine and
44    inspectorate in relation to gas management.
45    A.    Yes.
46
47    Q.    Now, of course, that chronology doesn't take into
```

1 account the myriad of other interactions that the
2 inspectorate was having with the mine about other issues.
3 This Board of Inquiry is focusing only on gas exceedances,
4 and that's the reason why the chronology only includes
5 matters relevant to that; do you accept that?
6 A.   I do.
7
8 Q.   At the very start of the relevant HPIs to the terms of
9 reference, there was engagement by the inspectorate at the
10 mine in the form of an inspection by Mr Brennan?
11 A.   That's correct.
12
13 Q.   Mr Holt has taken you through that mine record entry
14 which sets out what Mr Brennan and therefore the
15 inspectorate was informed in relation to steps that the
16 mine was putting into place, both short term and long
17 term, in relation to managing gas exceedances at Grosvenor?
18 A.   That's correct.
19
20 Q.   Indeed, upon request, the mine provided to the
21 inspectorate some IMT minutes of 4 July 2019?
22 A.   That's correct.
23
24 Q.   Those minutes set out the plan of medium- and
25 long-term strategies for addressing gas exceedances?
26 A.   They do.
27
28 Q.   You also knew that there was a short-term strategy
29 that was proposed, and it was actually suggested by
30 Mr Brennan, to put ventilation on return?
31 A.   That's correct.
32
33 Q.   That in fact occurred on 16 July 2019?
34 A.   15th.
35
36 Q.   15 July, that's right, one day before the underground
37 mine manager had indicated that it would occur, on 16 July
38 2019?
39 A.   That's correct.
40
41 Q.   He had notified that to the inspectorate on an email
42 of 11 July 2019?
43 A.   That's right.
44
45 Q.   Mr Holt didn't bring your attention to some other
46 documents, but they show, don't they, that there were other
47 steps being put in place by the mine, not just the

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 1    ventilation being put in reverse, and we might bring one of
 2    those up now.  It is AAMC.001.009.0273.  You would
 3    recognise that as the form 1A in relation to HPI number 3
 4    on 23 July 2019?
 5    A.   Yes.
 6
 7    Q.   If I can take you to the second page of that, you can
 8    see there the third dot point, that the longwall was
 9    producing in uni-di to reduce the impact of gas production
10    when the shearer was cutting towards the tailgate.  Indeed,
11    that was one of the suggestions Mr Brennan when he met with
12    the mine in July --
13    A.   That's correct.
14
15    Q.   -- at the beginning of July 2019, and further it is
16    one of the recommendations or suggestions or proposals that
17    you put forward in your statement at paragraph 11 as to
18    what a mine can do when it needs to constrain production
19    because it knows that there are going to be issues in
20    relation to gas?
21    A.   That's correct.
22
23    Q.   Mr Operator, can we go to RSH.002.116.0001 and go to
24    the second page of that document.  That's an incident
25    notification form, or Lotus Notes, as it has been called in
26    the Board of Inquiry.  It relates to that same exceedance,
27    HPI number 3.  You can see, if we can focus in on the
28    top-left section under "Instructions or advice given to
29    Mine/Operation", this part of Lotus Notes can be used by an
30    inspector, can't it, to manually enter details of
31    conversations that have been had with the mine?
32    A.   That's correct.
33
34    Q.   And indeed that's exactly what happened here - that it
35    detailed a conversation that had been had by the inspector
36    with the underground mine manager, Mr Niehaus?
37    A.   Yes.
38
39    Q.   It details that, again, there was a discussion about
40    goaf gas drainage, that the barometer was on low, that
41    there was then probing and asking about the gas reservoir
42    in the lower seams, and the underground mine manager
43    provided information in relation to what the mine was doing
44    to further investigate matters in relation to where methane
45    was coming from to contribute to the gas make?
46    A.   That's correct.
47
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 1      Q.    The last two sentences there, that the inspector asked
 2      if the uni-di had made any improvement, and the response
 3      was yes, and it had reduced the frequency of exceedances?
 4      A.    Yes.
 5
 6      Q.    That was 23 July 2019.  Mr Holt then took you to the
 7      MRE of the safety reset meeting of 6 August 2019.
 8      A.    Yes.
 9
10      Q.    Mr Brown used that safety reset meeting as an
11      opportunity, whilst at the mine, to get an update of the
12      gas drainage activities that the mine was implementing.
13      A.    He did.
14
15      Q.    The MRE notes that the inspector was satisfied that
16      the plans were progressing to improve the gas drainage
17      system.
18      A.    It does.
19
20      Q.    There was a discussion of what you detail at
21      paragraph 9 of your statement of that fine balance that's
22      necessary between reducing or eliminating methane
23      exceedances and not creating another hazard of spontaneous
24      combustion?
25      A.    There was, that's right.
26
27      Q.    I suggest to you that when you have reread that MRE,
28      it's clear, isn't it, that the inspector queried and
29      questioned and probed the mine in relation to issues to do
30      with its gas drainage activities?
31      A.    It is.
32
33      Q.    Mr Holt also took you to the form 5A in relation to
34      the 11th exceedance, and you informed Mr Holt that the
35      contents of that form 5A demonstrated that there was action
36      being taken in alignment with the medium- and long-term
37      strategies that were set out in the IMT minutes?
38      A.    That's right.
39
40      Q.    There was then another inspection at the mine, on
41      15 October 2019, and again you have been taken through that
42      MRE.  The inspectorate was informed that the mine would
43      proactively manage the risks?
44      A.    We were.
45
46      Q.    There were other inspections at the mine as well.  As
47      I commenced in terms of questioning of you that we're
```

1   focusing only on gas exceedances here, or management of
2   methane, but the inspectorate also went to the mine on
3   21 January 2020, 13 February 2020 and 19 February 2020,
4   didn't it?
5   A.   Yes.
6
7   Q.   And then longwall 104 started in March, on 9 March?
8   A.   That's right.
9
10   Q.   Then on 19 March, so only 10 days later, Mr Brownett
11   received a briefing during underground inspection on the
12   event that led to the high methane readings recorded in the
13   tailgate?
14   A.   That's correct.
15
16   Q.   You have been taken to that MRE as well. But it
17   wasn't just the inspection at the mine on that day, was it?
18   Mr Brownett - it was quite late at night - then had
19   a follow-up conversation with the mine?
20   A.   Yes.
21
22   Q.   Inquiring in relation to and ensuring that actions
23   were being put in place as had been proposed during the
24   inspection on 19 March 2020?
25   A.   Yes.
26
27   Q.   Then you and two other inspectors had a conversation
28   with the underground mine manager the next day, 20 March
29   2020?
30   A.   That's correct.
31
32   Q.   That conversation included a focus on where the mine
33   was up to with restoring its goaf well capacity?
34   A.   Yes.
35
36   Q.   The cleaning of filters and the additional goaf sled?
37   A.   Yes.
38
39   Q.   You in fact had the mine plan brought into the meeting
40   so that that could be discussed?
41   A.   Yes.
42
43   Q.   And so that the explanation could be considered to be
44   adequate by reference to the actual mine plan?
45   A.   Yes.
46
47   Q.   There was then the issue of the directive in relation

1   to the 243A sensor on 9 April 2020?
2   A.   That's right.
3
4   Q.   I won't go through it now with you, but there was
5   a large amount of correspondence and interaction with the
6   mine leading up to and post that directive?
7   A.   There was.
8
9   Q.   You set that out in your statement from paragraphs 176
10   to 187?
11   A.   Yes.
12
13   Q.   Then on 15 April 2020 two inspectors were at the mine?
14   A.   That's right.
15
16   Q.   And questions were asked in relation to the 400 metre
17   sensor?
18   A.   Yes.
19
20   Q.   There was also an inspection of the longwall?
21   A.   Yes.
22
23   Q.   Then on 21 April 2020 - we've already detailed this -
24   Mr Brennan had a number of conversations on both that day
25   and 22 April 2020 in relation to the HPIs generally but
26   also mechanisms which the mine should employ to reduce
27   those exceedances?
28   A.   He did.
29
30   Q.   You were asked a question by Mr Martin this morning
31   that it is regarded as acceptable - as long as the mine has
32   a plan to address the problem, it is acceptable to keep
33   mining until that is implemented, in other words, that
34   there is an HPI, and as long as there is a plan in place,
35   that it is acceptable to keep mining. Now, I take it that
36   your answer to that question was in light of the questions
37   that were being asked by Mr Holt and it was referencing
38   those HPIs in early July 2019?
39   A.   Yes, that was my understanding.
40
41   Q.   Because each case has to be considered individually
42   with its own specific nuances, doesn't it?
43   A.   It does.
44
45   Q.   There would well and truly be cases, when an HPI
46   occurs, that a directive is taken to suspend operations,
47   and indeed that happened only a week or so ago?

```
 1      A.   That's right.
 2
 3      Q.   Even if the mine, that particular mine, had told you,
 4      "Don't worry, we've got a plan in place", that would not
 5      have satisfied the inspectorate, and they took that action
 6      because of the fact that there had been demonstrated an
 7      unacceptable level of risk?
 8      A.   That's right.
 9
10      Q.   But it is your evidence here that an unacceptable
11      level of risk was not demonstrated post the HPIs being
12      reported to the inspectorate?
13      A.   That's right.
14
15      THE CHAIRPERSON:   Mr Smith, you couldn't have given better
16      evidence yourself, I must say.  Carry on, please,
17      Ms Holliday.
18
19      MS HOLLIDAY:   Q.   And further that in relation to the
20      functions of the inspectorate at section 128 of the Act,
21      they, and each one of them, were discharged by the
22      inspectorate?
23      A.   That's right.
24
25      Q.   In relation to a question that Mr Crawshaw asked you,
26      he asked you about whether, as of March 2020, you were
27      aware of LFI reports?
28      A.   Yes.
29
30      Q.   And you said that you weren't.  It is the case,
31      though, isn't it, that you just didn't know them by that
32      name?  You were asked this question in the first tranche of
33      the proceedings, and you knew them as the name of
34      a 201 report or an investigation report or an ICAM report?
35      A.   Yes.
36
37      Q.   So you did know of their existence; you just didn't
38      know that that's the acronym that the mine used?
39      A.   That's right.
40
41      MS HOLLIDAY:   I have no other questions, thank you.
42
43      <EXAMINATION BY MS O'GORMAN:
44
45      MS O'GORMAN:   Q.   Mr Smith, during the course of
46      questioning by Mr Crawshaw, you were referred to a document
47      which was described as the risk assessment for the
```

1   longwall 104 goaf drainage?
2   A.   That's correct.
3
4   Q.   That was the document that was put up on the screen
5   when he was asking you questions. You could see it was
6   dated 15 January 2020?
7   A.   That's correct.
8
9   Q.   You will recall that at the commencement of that
10   document, it was made clear that the risk assessment had
11   been done with respect to potential issues or risks that
12   may result from the proposed goaf drainage plan for
13   longwall 104?
14   A.   Yes.
15
16   Q.   You are aware that the proposed goaf drainage plan for
17   longwall 104 included considerably more goaf drainage than
18   had been used in longwall 103?
19   A.   I'm not sure that I - I couldn't say that I was aware
20   of numbers, if you like, of proposed goaf holes or other -
21   goaf holes, inseam drainage or surface to seam drainage.
22   I wouldn't be comfortable to say that I knew exactly that
23   there was a significant difference between the two.
24
25   Q.   In fact, I think that you said to Mr Crawshaw that you
26   couldn't recall having seen that particular document that
27   was shown to you, the risk assessment document?
28   A.   That's correct.
29
30   Q.   And you are not familiar with the contents of it even
31   as you sit there today?
32   A.   That's correct.
33
34   Q.   You were taken to one of the pages on the document,
35   which was marked in some handwriting to the effect that,
36   "Risk of spontaneous combustion due to increased gas
37   drainage has not been assessed in this risk assessment"?
38   A.   That's correct.
39
40   Q.   You could see the handwritten notification there that
41   there was a task to be actioned by someone at the mine to
42   do that risk assessment with a due date given, being 31 May
43   2020?
44   A.   That's correct.
45
46   Q.   If you had known either before or shortly after
47   longwall 104 commenced that there had not been an

1   assessment of the spontaneous combustion risk posed by the
2   gas drainage that had been planned for longwall 104, would
3   that have caused you or the inspectorate concern?
4   A.   It would have caused me concern, yes.
5
6   Q.   And might it have influenced how you responded to the
7   various HPIs that occurred on that longwall?
8   A.   It may well have.
9
10   Q.   As I understood the gist of your evidence in respect
11   of questioning from various parties this afternoon, the
12   fact of the repeated 14 methane exceedance HPIs at
13   Grosvenor in March and April 2020 was essentially tolerable
14   to the inspectorate. Do I understand that to be your
15   position?
16   A.   The occurrence of the exceedances is not tolerable.
17   The action - the requirement of the mine, or the SSE and
18   the UMM at the mine, to take effective action to eliminate
19   the causes is what is required. So in terms of toleration,
20   no, an HPI is not tolerable.
21
22   Q.   We might be at cross-purposes. I'm not talking about
23   any one of the individual 14 HPIs. I did hear you say in
24   evidence earlier that each individual HPI is, by its
25   nature, unacceptable.
26   A.   Yes.
27
28   Q.   What I'm talking about is my understanding from the
29   questions that were asked of you this afternoon. My
30   understanding was that essentially by 5 May 2020, the
31   situation at Grosvenor, the fact that there had been
32   14 HPIs in March and April 2020, was a situation which was
33   tolerable to the inspectorate?
34   A.   It was a situation that, bearing in mind that an
35   inspection by myself was planned at the mine, I would be -
36   it would be of great interest to me how the mine was
37   intending to prevent future occurrences, particularly with
38   regard to the canopy sensor and what they intended to do in
39   that area of the mine. But there was no - to my mind,
40   there's no imperative for the inspectorate to take action
41   to require the mine to stop production.
42
43   Q.   If I can just ask you this by way of a final question:
44   if that situation were repeated again in the future, would
45   it still be the inspectorate's position that there would be
46   no imperative to take immediate action?
47   A.   The imperative to take immediate action is dependent

1   upon the circumstances at that time, so in terms of - as
2   I think I said in my answer to one of the questions today
3   or yesterday, had I been aware of the other exceedances on
4   the canopy sensor, it would have initiated firstly direct
5   contact with the mine to understand - to have them explain
6   why they thought it necessary not to let us know about
7   those exceedances in the first instance; and, secondly,
8   most likely, stimulated a visit to the mine to find out
9   exactly what they had found out about those particular
10   exceedances and any other matters.
11
12   Q.   Sorry, I don't want to cut you off.
13   A.   That's okay.
14
15   Q.   I guess what I'm asking you is this: as of 5 May
16   2020, the inspectorate was content, knowing what had
17   unfolded in the months before, to wait to conduct a planned
18   inspection at the mine on either 13 or 14 May 2020?
19   A.   I was content to wait until I could get to the mine,
20   yes.
21
22   Q.   My question is simply this: if you had your time over
23   again, or if that situation was to confront you again,
24   would you be content to wait for a planned inspection some
25   days hence, or would action be taken earlier?
26   A.   It may bring forward the action - the intent to visit
27   the mine and conduct an inspection. To say to you
28   absolutely it would have - I couldn't say absolutely it
29   would have, but there is a probability that it would have,
30   particularly with the additional exceedances disclosed
31   unknowingly to the department, if you like.
32
33   MS O'GORMAN: Those are all of the questions that I have,
34   thank you, Mr Martin.
35
36   THE CHAIRPERSON: Thank you, Mr Clough.
37
38   MR CLOUGH: Q.   Mr Smith, I only have a couple of
39   questions. I want to try to get a little bit of context in
40   general terms around paragraph 10 of your statement, which
41   talks about the balance between keeping production going
42   versus the risks associated with stopping production when
43   you have potentially another hazard that is happening
44   concurrently.
45   A.   Yes.
46
47   Q.   That's my words, but that's more or less what you

```
 1    said; is that correct?
 2    A.   That's correct.
 3
 4    Q.   Just by way of understanding the operation of
 5    longwalls, and we both understand the operations of
 6    longwalls, there are regular periods when you do stop
 7    a longwall producing as part of normal operations; do you
 8    agree with that?
 9    A.   That is correct.
10
11    Q.   Some of those stoppages can be in the order of
12    24 hours or more if it is a major component replacement
13    or --
14    A.   Correct.
15
16    Q.   So it's not to say you can't stop a longwall
17    producing?
18    A.   No, it's not.
19
20    Q.   There are also instances where continuing to produce
21    can exacerbate an existing hazard?
22    A.   Exactly.
23
24    Q.   One that comes to mind is going through broken ground?
25    A.   Yes.
26
27    Q.   Having to stop to PUR or consolidate?
28    A.   Yes.
29
30    Q.   I'm just making sure we're on the same page here,
31    because I have a concern that that paragraph could be
32    interpreted that you just keep going, irrespective of
33    a pending hazard.  Was that your intention?
34    A.   No, not at all.  I think the example that counsel
35    raised earlier on, which is that the inspectorate is made
36    aware of an event at a mine, and regardless of the
37    circumstances of the production equipment or production
38    capacity, the overwhelming need is to prevent people from
39    returning to the mine until the event that has happened
40    that has caused the withdrawal and the ceasing of
41    production is clearly understood and brought back into
42    control.
43
44        If I may - for example, if one of the detectors on the
45    longwall face saw in excess of its setting at which it is
46    supposed to trip the power, there is an exceedance, but
47    there is a failure of a significant control on the face,
```

1   and that, to me, changes the whole nature of that
2   particular HPI. To my way of assessing that event, it
3   would be, in that case, if you can't rely on your controls
4   to do the job that they are required to do, you need to
5   stop until you can assure us that you can, that they will
6   do the job that they are supposed to do.
7
8   Q.   If you need to stop the face for a considerable period
9   of time to address a hazard - and one of the risks you
10   mentioned was spontaneous combustion, I believe?
11   A.   Yes.
12
13   Q.   -- there are measures you can take to minimise that
14   risk during an extended stoppage?
15   A.   There are indeed.
16
17   Q.   Would you like to share what some of those measures
18   are?
19   A.   For example, in the current event, inerting the goaf
20   to ensure that you are eliminating the oxygen from the goaf
21   area. It is an option that is available to the mine if the
22   stoppage would appear to be one that may be extended.
23   That's always available to the mine.
24
25   Q.   And measures to perhaps limit oxygen getting into the
26   goaf - other measures?
27   A.   In terms of - they could potentially consider reducing
28   the ventilation pressures across the face. It depends on -
29   they might complete some stoppings that they haven't
30   actually completed at this time.
31
32   Q.   Yes, okay.
33   A.   There are a number of factors, but they will all be
34   dependent upon the circumstances that the longwall face is
35   in at that time.
36
37   Q.   Thanks for that. I just have one last question. It
38   just has arisen listening to this discussion about the
39   advice from Inspector Brennan in terms of putting the
40   perimeter roadway in longwall 103 on return and cutting in
41   uni-di.
42   A.   Yes.
43
44   Q.   Are you aware whether those controls were implemented
45   on longwall 104?
46   A.   On longwall 104 the perimeter - when longwall 104
47   commenced, the mine had sealed the perimeter road around

1   the back of longwalls 103, 102 and 101, so that was now
2   a sealed area. The ventilation for longwall 104 was
3   essentially - I was going to say standard U ventilation,
4   other than the fact that they had an intake shaft at the
5   back that they proposed to use to provide cooler
6   ventilation to the face by bringing the air through
7   coolers, around the back of the goaf and into the face to
8   join the standard U ventilation.

10   In terms of uni-di, I wasn't aware one way or the
11   other whether they were proposing to bi-di or uni-di
12   particularly on the face. Uni-di has the advantage of you
13   only cut half of the coal on a pass, so you only release
14   the methane generally from that half that you cut. If you
15   operate in bi-di, where you cut all of the seam in one go
16   and release all of the gas, I would guess that if you
17   operated slowly enough you could match the gas output of
18   uni-di, if that was your target.

20   So there is a way of operating in bi-di that releases
21   roughly the same amount of gas, provided you know how much
22   you have got in each section that you intend to cut.

24   It raises other issues in terms of strata control and
25   movement on the face. Uni-di - the AFC stays back and it
26   closes the walkway up for the coal mine workers as they
27   retreat back to the maingate to take the second cut, but it
28   does have the advantage in allowing the chocks to come
29   across and close the roof up rapidly.

31   MR CLOUGH: I have no more questions, thank you.

33   THE CHAIRPERSON: Thank you. Mr Smith, thank you for your
34   attendance. You are excused.

36   **<THE WITNESS WITHDREW**

38   THE CHAIRPERSON: Ladies and gentlemen - and I include
39   those in the public gallery and those who may be watching
40   on the stream - when the inquiry resumes tomorrow at 10am
41   it will be in private hearing.

43   Mr Adam Maggs, deputy or ERZ controller, who was on
44   shift and present at the longwall maingate at the time of
45   the serious accident spoke to Anglo personnel very shortly
46   after the events on 6 May. This interaction was
47   videorecorded.

1
2   The purpose of the private hearing is to play the
3   video to all parties to the inquiry and/or their legal
4   representatives. The description of the events given in
5   the video is helpful to the Inquiry. However, it also
6   contains poignant and emotional descriptions. Mr Maggs and
7   others went to the assistance of the injured workers
8   immediately at the time of the accident.
9
10   At the request of Mr Maggs, this video will not be
11 made public. Mr Maggs has also been interviewed by the
12 inspectorate. That interview was audio recorded and
13 a transcript of the interview has been made and passages
14 have been redacted in accordance with Mr Maggs' request.
15 The redacted transcript will be made available to the
16 public.
17
18   I expect that the private hearing will finish before
19 10.30 in the morning.
20
21   Nothing else before we adjourn? Yes, thank you.
22 10 o'clock.
23
24 **AT 4.15PM THE INQUIRY WAS ADJOURNED TO THURSDAY**,
25 **11 MARCH 2021 AT 10AM**
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#115 [1] - 1434:1

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0.5 [1] - 1425:28
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018.0002 [1] - 1445:26
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0378 [1] - 1439:19
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0953 [1] - 1471:4

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