

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 Tuesday, 4 August 2020 at 10am

1 THE CHAIRPERSON: Ladies and gentlemen, I am Terry Martin,
2 Chairperson and Board Member. Mr Andrew Clough and
3 I comprise the Board of Inquiry. Certain parties have been
4 given leave to appear at this inquiry. Could I have
5 appearances, please?
6

7 MR J R HUNTER QC: May it please, Mr Martin, I appear as
8 counsel assisting together with my learned friends
9 Mr G R Rice QC, and Ms R M O'Gorman. We appear to assist
10 the Board.
11

12 THE CHAIRPERSON: Thank you.
13

14 MR S HOLT QC: May it please the Board, I appear with my
15 learned friend Ms G B Dann of counsel. We appear for the
16 Anglo entities for whom leave has been granted and we are
17 instructed by Ashurst. May it please the Board.
18

19 THE CHAIRPERSON: Thank you, Mr Holt.
20

21 MS D A HOLLIDAY: May it please the Board, I appear with
22 my learned friends Mr L Dollar and Ms R C Taylor. I am
23 instructed by Resources Safety and Health Queensland for
24 Resources Safety and Health Queensland, which was formerly
25 the Department of Natural Resources, Mines and Energy.
26

27 THE CHAIRPERSON: Thank you.
28

29 MR P J RONEY QC: May it please the Board, I appear for
30 One Key Resources Pty Ltd, instructed by DLA Piper
31 Australia.
32

33 THE CHAIRPERSON: Thank you.
34

35 MR J P B TROST: May it please the Board, I appear on
36 behalf of one party, Dale Mulholland, who is an interested
37 party in this matter. I am instructed by Kartelo Law.
38

39 THE CHAIRPERSON: Thank you, Mr Trost. Yes.
40

41 MR G M RANKIN: May it please the Board, I appear for
42 Oaky Creek Holdings Pty Limited.
43

44 THE CHAIRPERSON: Thank you, Mr Rankin. Mr Crawshaw, you
45 are there somewhere?
46

47 MR CRAWSHAW: Yes. I don't know whether you can see me.

1 You should be able to, but if it pleases the Board,
2 I appear for the Construction, Forestry, Maritime, Mining
3 and Energy Union.

4
5 THE CHAIRPERSON: Yes, thank you, Mr Crawshaw. So do we
6 have everyone?

7
8 Ladies and gentlemen, the full terms of reference are
9 available on the Board's website. I will refer to them in
10 abbreviated form only.

11
12 The Board is to inquire into the serious accident at
13 Grosvenor mine on 6 May 2020, determine the nature and
14 cause of that accident and make findings about any factors
15 that contributed materially to the cause of the serious
16 accident.

17
18 The Board is also to inquire into various methane
19 exceedances at Grosvenor and Grasstree mines and a single
20 exceedance at each of Moranbah North and Oaky North mines.

21
22 The investigation into the serious accident at
23 Grosvenor continues, and expert reports are still being
24 completed. The Board has decided that it would be
25 premature to hold public hearings into the cause of the
26 accident at this stage. Consequently, it is expected that
27 both the accident and the methane exceedances at Grosvenor
28 mine will be the subject of public hearings a little later
29 in the year but hopefully next month.

30
31 Counsel assisting will outline the nature of this
32 first tranche of public hearings in a moment. Before he
33 does, I wish to say something to all of the parties who
34 have been given leave to appear at the inquiry and to the
35 mining community generally.

36
37 Whilst the evidence of parties and individuals is to
38 be scrutinised and witnesses asked difficult questions,
39 this inquiry is not a prosecution nor a witch-hunt.

40
41 The Board is to determine whether management systems
42 in existence at the mines or at corporate levels are
43 adequate to comply with relevant safety laws and standards
44 and to make recommendations directed to all relevant
45 parties for improving safety and health practices to
46 mitigate against the risk of similar incidents, including
47 recommendations in relation to employment arrangements

1 which may better ensure acceptable risk levels to workers.
2

3 The success of this inquiry will be judged by the
4 community is on what comes out of it by way of
5 recommendations to improve safety in the coal mining
6 industry. Undoubtedly, this inquiry was prompted by the
7 serious accident on 6 May. Whilst mine safety is in
8 everyone's interest, the best thing that all of us here can
9 do for the injured men and their family and friends is to
10 do our very best to achieve meaningful improvement in coal
11 mine safety.
12

13 I respectfully urge all parties with leave to appear,
14 but particularly the inspectorate, the mining companies,
15 the labour hire companies and the CFMMEU to scrutinise your
16 own positions, look within your own systems and practices
17 for improvement to safety, and then put forward
18 recommendations to that end.
19

20 No system is perfect. No matter how well you might
21 believe you are doing things, please have another critical
22 in-depth look.
23

24 With the money and effort put into this inquiry and
25 the combination of experience, expertise and knowledge here
26 concerned in the inquiry, it would be shameful if we could
27 not recommend real improvements in safety for coal miners.
28

29 Mr Hunter.
30

31 MR HUNTER: May it please the Board. On 6 May 2020
32 a methane explosion enveloped the longwall face at
33 panel 104 at the Grosvenor mine near Moranbah. Five miners
34 were injured and hospitalised, four of them with very
35 serious burns. That explosion, or "serious accident" as it
36 is called pursuant to the Coal Mining Safety and Health
37 Act, followed a series of 14 high potential incidents
38 involving exceedances of 2.5 per cent methane that had
39 occurred on the same longwall panel since 18 March 2020.
40 An exceedance of 2.5 per cent methane in the general body
41 is significant, because at a concentration of 5 per cent in
42 air, methane becomes explosive.
43

44 Those 14 HPIs on longwall 104 at Grosvenor were
45 preceded by another 13 events involving methane exceedances
46 on longwall 103 that occurred between 2 July and
47 17 November 2019. There had been a history of similar

1 events at Grosvenor since at least 2016, and it is expected
2 that evidence will show that both Anglo American and mine
3 inspectors had recognised gas management as being a problem
4 at Grosvenor.

5
6 This inquiry's terms of reference require it, amongst
7 other things, to inquire into the operations of not only
8 Grosvenor but also another three underground mines -
9 Grasstree, operated by Anglo Coal (Capcoal Management) Pty
10 Ltd; Moranbah North, operated by Anglo Coal (Moranbah North
11 Management) Pty Ltd; and Oaky Creek, operated by Oaky Creek
12 Holdings Pty Limited.

13
14 Those terms of reference require the investigation of
15 those mines because Grasstree also had a series of 11 HPis
16 involving methane on the longwall between 28 July 2019 and
17 11 April 2020, and there were single HPis of the same
18 character at Moranbah North and Oaky Creek on 20 July 2019
19 and 6 December 2019 respectively.

20
21 The issues for consideration by the Board include
22 assessment of the probable cause of these incidents, of the
23 mines' response to them and of the oversight given to them
24 by inspectors under the Act.

25
26 As foreshadowed, it is expected that the public
27 hearings of the Board will take place in two stages. The
28 first, commencing today, will involve gaining an
29 understanding of the work of the inspectorate now known as
30 Resources Safety and Health Queensland, including workload,
31 experience, information management. To that end, the
32 executive director of Resources Safety and Health
33 Queensland, Mark Stone, will give evidence as the first
34 witness; he will be followed by Chief Inspector Peter
35 Newman.

36
37 The hearings will also involve taking evidence from
38 senior executives of each of the companies involved in the
39 operations of the mines in question about matters that
40 include corporate management and governance, safety systems
41 and strategies, workforce engagement, including the use of
42 labour hire workers, and the payment of incentives to both
43 executives and workers.

44
45 There will also be evidence that is specifically about
46 the HPis that occurred at Oaky Creek, Moranbah North and
47 Grasstree, and it is expected that the Board will hear

1 evidence from the regional inspector for the north region,
2 Stephen Smith, who has reviewed the mines' reports to the
3 inspectorate for each of the HPIs at those three mines -
4 that is, the mines, excluding Grosvenor.
5

6 The second stage of hearings will occur once more
7 evidence, including expert opinion, is available concerning
8 the HPIs and serious accident at Grosvenor. It is expected
9 that Mr Smith will be recalled at that point to speak about
10 the Grosvenor HPIs and other matters concerning gas
11 management at the mine.
12

13 The terms of reference require the Board to inquire
14 into the HPIs, to report on the nature and cause of the
15 serious accident, and report on whether the operational
16 practices or management systems in place at the time were
17 adequate and effective to achieve compliance with the law
18 and safety standards, and make recommendations for the
19 improvement of mine health and safety.
20

21 Determination of the nature and cause of the serious
22 accident must await the gathering and analysis of evidence,
23 but the other matters can, however, be the subject of
24 evidence now.
25

26 Because it has the potential to cause a serious
27 adverse effect on the safety or health of a person,
28 a single high potential incident is necessarily a serious
29 event; an HPI involving methane, acutely so. Worldwide,
30 methane explosions have killed many miners. Here in
31 Queensland, since 1972 there have been four coal mining
32 disasters in which a total of 53 miners died. Each
33 involved methane explosions.
34

35 Common themes of investigative reports into coal mine
36 methane explosions are a failure of the industry to either
37 remember or learn from past events and an apparent
38 inability to recognise the warning signs of impending
39 disaster.
40

41 One question for the Board will be what should have
42 been made of not one methane HPI but a series of them.
43 Whilst it might be argued that an isolated exceedance of
44 2.5 per cent methane is simply something that will
45 inevitably happen from time to time in an underground coal
46 mine, a question for the Board will be whether the repeated
47 methane exceedances, particularly at Grosvenor, presaged

1 the explosion of 6 May or were in fact entirely unrelated
2 to it. A question should be raised as to whether similar
3 concerns ought to have been raised with respect to the
4 series of exceedances at Grasstree.

5
6 There can be little doubt that there was an explosive
7 mixture of methane and air present on the longwall face at
8 Grosvenor immediately prior to the explosion, but the
9 critical questions are how it got there and what ignited
10 it.

11
12 Other questions that more immediately arise are, well,
13 even if the explosion occurred independently of the HPIs,
14 what did the recurrent methane exceedances say about gas
15 management at the mine? Is there a need to rethink mine
16 ventilation and to take a different approach to managing
17 methane? Is there a risk of normalisation when repeated
18 methane exceedances occur? Do workers have the necessary
19 competencies? Is there a need for better training? What
20 are the potential impacts of employee incentive schemes
21 that reward production and penalise safety incidents? What
22 are the potential impacts on mine safety culture when
23 workers are employed not by the mine operator but by
24 a labour hire company? Further, given that each of the
25 HPIs with which the Board is concerned was reported to the
26 regulator, was there appropriate oversight?

27
28 Now, no recommendations can be made that will improve
29 mine safety without an understanding of these issues, and
30 it is hoped that the evidence to be adduced before the
31 Board will enable such an understanding and those
32 recommendations. May it please.

33
34 THE CHAIRPERSON: Thank you.

35
36 MR HUNTER: May I commence by tendering a list of the HPIs
37 at each of the mines in question. It sets them out in
38 chronological order, broken down per mine. You will see
39 that there is an exhibit number already marked on that
40 document, and it will be on the list that we produce by way
41 of tender later in the proceedings today.

42
43 THE CHAIRPERSON: Yes, thank you. That will be admitted
44 into evidence.

45
46 MR HUNTER: I call Mark Stone.

47

1 THE CHAIRPERSON: Yes.

2

3

<MARK DOUGLAS STONE, affirmed:

4

5

EXAMINATION BY MR HUNTER:

6

7

MR HUNTER: Q. Sir, is your name Mark Douglas Stone?

8

A. Yes, it is.

9

10

Q. Are you the acting chief executive officer of Resources Safety and Health Queensland?

11

12

A. Yes, I am.

13

14

Q. Do you have a Degree in Engineering from the Camborne School of Mines?

15

16

A. Yes, I do.

17

18

Q. A Master of Engineering in Petroleum Engineering from Heriot-Watt University?

19

20

A. Yes, I do.

21

22

Q. You're a Member of the Society of Petroleum Engineers and a Member of Engineers Australia?

23

24

A. I am.

25

26

Q. Do you have in excess of 20 years' industry experience in operational, technical and leadership roles prior to your employment in your current position?

27

28

A. Yes, I do.

29

30

31

Q. You've prepared a statutory declaration in relation to these proceedings?

32

33

A. Yes, I have.

34

35

Q. Might Mr Stone be shown the document that is numbered SMA.001.001.0001. Is that your statutory declaration?

36

37

A. Yes, it is.

38

39

Q. Are the contents of it true and correct to the best of your knowledge and belief?

40

41

A. Yes, they are.

42

43

MR HUNTER: I tender that.

44

45

THE CHAIRPERSON: That document will be admitted into evidence.

46

47

1 MR HUNTER: Thank you.

2

3 Q. Now, can I please ask to be displayed on the screen
4 a document RSH.002.278.0001. Is there a hard copy that the
5 witness can have? Thank you.

6 A. Thank you.

7

8 Q. In the period leading up to the commencement of public
9 hearings by the Board, was the department and then
10 Resources Safety and Health Queensland asked to provide
11 some statistics with respect to high potential incidents?

12 A. Yes, yes, they were.

13

14 Q. The statistics have been broken down into various
15 categories, but can we first start with page 1 of this
16 spreadsheet. The HPis that are referred to there, that is
17 high potential incidents of all types; is that right?

18 A. Yes, that's correct.

19

20 Q. We can see there the number that were reported to the
21 department - and this is between the dates specified in the
22 terms of reference, the beginning of July 2019 and 6 May
23 2020?

24 A. Yes.

25

26 Q. So the first sheet relates to surface coal mines?

27 A. That's correct.

28

29 Q. Could we go to the second sheet, please. Does the
30 second sheet relate to underground coal mines?

31 A. Yes, that's correct.

32

33 Q. And this relates, again, to HPis of all types?

34 A. That's correct.

35

36 Q. So not just methane but all types of HPI?

37 A. Yes.

38

39 Q. If we could then go to the third sheet, this is
40 a sheet that sets out the number of HPis that relate to
41 methane?

42 A. Correct.

43

44 Q. Again between the dates that I mentioned a moment ago.
45 If we could then go to the next sheet, have these HPis been
46 broken down - that is, the methane HPis been broken down to
47 whether they occurred in development or on a longwall?

- 1 A. That's correct, they have been.
2
- 3 Q. So we can see, then, the numbers at each of the listed
4 mines there for development; correct?
5 A. Correct.
6
- 7 Q. If we go to the next sheet, can we see methane HPIs on
8 the longwall at the mines that are listed?
9 A. That's correct.
10
- 11 Q. Then the next sheet sets out the number of methane
12 HPIs that occurred in other areas - that is, not in
13 development and not on the longwall?
14 A. That's correct.
15
- 16 Q. Could we go to the next sheet, please. Do we see
17 there a list of all the HPIs that were reported in the coal
18 mining industry to the department over the period that
19 we're talking about?
20 A. Yes, we do. That's correct.
21
- 22 Q. If we can scroll down a touch so we can see the totals
23 at the bottom, we see that in surface coal mines over that
24 period, there were 1,171 HPIs?
25 A. Yes.
26
- 27 Q. In underground coal mines, there were 426?
28 A. That's correct.
29
- 30 Q. And if we put them together, that's 1,597 HPIs
31 reported during that period?
32 A. Correct.
33
- 34 Q. If we could go to the last page, please, this sets out
35 the number of methane HPIs, and then there is a breakdown
36 of whether those HPIs occurred in development, longwall
37 operations or elsewhere?
38 A. Yes.
39
- 40 Q. And that's simply a tabular way of displaying the data
41 that was already in those graphs?
42 A. In those graphs, that's correct.
43
- 44 Q. We have 1,597 HPIs over the period of what, on my
45 mathematics, is just over 44 weeks, so that works out to be
46 an average of 36 HPIs being reported to the inspectorate
47 every week?

1 A. That's correct.

2

3 Q. How does the inspectorate keep track of that many high
4 potential incidents?

5 A. Yes, so we have a reporting system in place consistent
6 with the requirements of the legislation where incidents
7 are reported to the Mines Inspectorate, so mines inspectors
8 are notified of high potential incidents. Once they've
9 been given that notification, whether it's verbal, and then
10 following, in written form, mines inspectors will enter the
11 relevant information, capture the relevant information into
12 an IT system that we have, a Lotus Notes database of some
13 format, and that will capture the incident, a number of
14 characteristics of it. So it will capture the incident
15 hazards, obviously the mine site, the time, the date,
16 activities in operation. So the charts and the table that
17 you've just taken me through are readily - we're able to
18 readily reproduce those.

19

20 I would say that mines inspectors are also very
21 experienced in prioritising, being alive to different types
22 of hazards and the potential of those hazards, so
23 understanding that while the methane gas exceedances may
24 represent a small number, 104 of the 1,597, they're very
25 significant because they have a very high potential for
26 serious harm.

27

28 Q. That partly answers what was going to be my next
29 question, which is how does the inspectorate or Resources
30 Safety and Health Queensland avoid 104 methane exceedances
31 being somehow lost amidst what I'll call the noise of
32 almost 1,600 HPis overall?

33 A. Yes, I think it is both the experience of the
34 inspectors who are receiving the information and reviewing
35 it but also the broader industry's awareness,
36 acknowledgment that different incidents pose different
37 potential outcomes and that an exceedance of methane in an
38 underground mine is a sentinel event and could be
39 a precursor to a much larger, unwanted event - could be
40 a precursor to an explosion or fire.

41

42 Q. Please tell me if there are other witnesses who might
43 be better placed to answer this question, but in terms of
44 the capabilities of Lotus Notes, the information management
45 system that you have, does it have the capacity to
46 automatically generate an alert that's based upon what
47 might be seen as a trend taking place?

1 A. I do feel that the question certainly would be well
2 posed to an inspector, to the chief inspector or to the
3 regional inspector, but I am aware, because I have seen the
4 dashboards and the reports that are generated by the Mines
5 Inspectorate and that I review as part of my work, that we
6 do have the capability to automatically trend data.
7 I don't know that it creates an alert or a flag, but
8 certainly we frequently review, both within the
9 inspectorate and share with industry in multiple forums,
10 trends of high potential incidents, serious accidents and
11 the nature of those. I could list many ways that we share
12 that information and engage, but the chief inspector may be
13 better placed.
14

15 Q. I suppose my question is this: the HPis are reported
16 to whichever inspector is telephoned initially by the mine?

17 A. Correct, yes.
18

19 Q. And then in writing by the lodgement of a form 1A?

20 A. That's correct.
21

22 Q. But it doesn't necessarily always go to the same
23 person, does it?

24 A. No, it doesn't. Consistent with the opening remarks
25 about, are there areas where the Mines Inspectorate can
26 improve, I am aware that the chief inspector has made
27 a declaration around improvements in the way that high
28 potential incidents can be triaged, if you will. I'm very
29 confident that key information is captured by the
30 regulator. My comments are more around which skill set or
31 what experience of the particular inspector is tracking
32 that incident through to finality.
33

34 If I may, I'll just expand upon that briefly. Mines
35 inspectors, of course, have different skill sets -
36 mechanical, electrical, mining, occupational hygiene - and
37 so it's certainly the intent of the chief inspector to make
38 improvements in the way that different categories of
39 incidents are scrutinised, for want of a better word, and
40 followed through to the end, which is the implementation of
41 controls or recommendations to address the incident.
42

43 Q. So the particular issue that I'm, I suppose, flagging
44 with you is the prospect that a number of what might be
45 thought to be disturbingly similar incidents get reported
46 to different inspectors, and there's no assimilation of
47 that knowledge by the inspectorate as a whole. Is that

1 something that can occur?
2 A. I see that as a very - I struggle to see that that
3 would occur. The reason I say that is that I'm aware that
4 the inspectorate has, probably at a regional level, daily
5 meetings, but certainly weekly meetings, where the
6 incidents over a period are reviewed and they're tracked,
7 dashboards are provided to the regional, the deputy and the
8 chief inspector. Yes. And there are - whether it's
9 through the Mines Inspectorate's annual safety performance
10 report or through other communications with stakeholders -
11 yes, I don't think there would be - look, the risk of
12 normalisation, as was the point made earlier, is always
13 there. I think the inspectorate is very alive to invisible
14 risk and emerging risk, those risks that may be
15 under-reported, and certainly over the past few years the
16 work around auditing of methane - I may be jumping ahead
17 here slightly.

18
19 Q. That's all right.

20 A. But the work that the inspectorate undertook to
21 undertake audits of underground mines, management of
22 methane, the subsequent best practice document, subsequent
23 amendment to regulation, I think demonstrate quite clearly
24 that the incidents that you took me through earlier on this
25 page are an example of being treated appropriately and
26 getting the attention that they deserve.

27
28 Q. When you talk about the best practice document, you're
29 talking about the document that was published in June 2019?

30 A. Yes, I am.

31
32 Q. The regulation you're talking about is 243A?

33 A. That's correct.

34
35 Q. Just in terms of the reporting of high potential
36 incidents, obviously they get reported to the department.
37 They're also, under the Act, required to be reported to the
38 industry safety and health representative?

39 A. Yes, they are.

40
41 Q. And also to the site safety and health representative?

42 A. That's correct.

43
44 Q. We've heard about the form 1A, which is the form
45 whereby the department is notified. Does the 1A, under the
46 law as it currently stands, need to go to either or both of
47 the ISHR and the SSHR?

- 1 A. I'm not certain of that.
2
- 3 Q. What about the - there's a subsequent document called
4 a form 5A --
5 A. That's right.
6
- 7 Q. -- that is provided to the regulator --
8 A. Yes.
9
- 10 Q. -- setting out what the investigation revealed about
11 what caused the HPI?
12 A. That's correct.
13
- 14 Q. And what's being done to address it?
15 A. That's correct.
16
- 17 Q. And that goes to the department. To your knowledge,
18 does that go to anyone apart from the department?
19 A. I'm not certain.
20
- 21 Q. We've spoken about HPIs. Are you aware of such
22 a thing as an Anglo HPI, or until yesterday were you aware
23 of an Anglo HPI?
24 A. No, I wasn't, until yesterday I was not aware of it.
25
- 26 Q. You weren't aware that Anglo American drew
27 a distinction between what I'll call a DNRME HPI and an
28 Anglo HPI?
29 A. I was not.
30
- 31 Q. Could the witness please be taken to
32 AAMC.001.015.0010. You're familiar with a risk evaluation
33 matrix?
34 A. Yes, I am.
35
- 36 Q. Have you been given a copy of that document?
37 A. Yes.
38
- 39 Q. You have that in front of you at the moment?
40 A. Yes, I do.
41
- 42 Q. It's a multi-coloured document that involves an
43 assessment of the likelihood of an event occurring as well
44 as the consequence?
45 A. Yes.
46
- 47 Q. This is something that is not unique to Anglo

- 1 American; this is common throughout many industries?
2 A. It is, that's right.
3
4 Q. But it prescribes or sets out, in terms of the
5 consequence types, "insignificant", "minor", "moderate",
6 "high" and "major"?
7 A. Yes.
8
9 Q. Rated 1 through to 5?
10 A. Yes.
11
12 Q. And if I can just deal with 4 and 5, 4, which is
13 "high" as a consequence type, talks about permanent
14 disability or a single fatality?
15 A. Yes.
16
17 Q. And 5, "major", refers to numerous permanent
18 disability or multiple fatalities?
19 A. Correct.
20
21 Q. 3 is a lost time injury - that's "moderate"?
22 A. Yes.
23
24 Q. 2 is "minor", and that's a medical treatment case?
25 You're nodding?
26 A. Yes, I am, sorry. Yes.
27
28 Q. And the "insignificant" category, 1, is a first aid
29 case?
30 A. That's correct.
31
32 Q. I am now going to take you to AAMC.001.004.0002, if
33 that could be put on the screen, please. Could we go to
34 page 13 of that document. This is a set of definitions,
35 and I should say the document is identified as being the
36 Anglo American Metallurgical Coal Incident Reporting
37 Standard. Do you see half way down the page a definition
38 of "High Potential Incident"?
39 A. Yes, I do.
40
41 Q. It refers to an incident with an actual consequence
42 rating of 3 or lower but possessing a reasonable worst case
43 potential consequence rating of 4 or higher?
44 A. Yes.
45
46 Q. We know that under the Coal Mining Safety and Health
47 Act, section 17 defines, for the purposes of the Coal

1 Mining Safety and Health Act, an HPI as an "event or series
2 of events that causes or has the potential to cause
3 a significant adverse effect on the safety or health of
4 a person"?

5 A. Yes, that's correct.

6

7 Q. Can I ask you then to go to page 17 of that document.

8 A. Yes.

9

10 Q. Perhaps if we could make that a little larger.
11 Thank you. The appendix is headed "Incidents that would
12 normally qualify as HPIs".

13 A. Yes.

14

15 Q. It is then said:

16

17 *The following incidents may qualify as*
18 *Safety HPIs ...*

19

20 And there's a list there, including "Any gas ignition
21 underground"?

22 A. Yes.

23

24 Q. "Any situation where personnel are inadvertently
25 exposed to blasting"?

26 A. Yes.

27

28 Q. Can I ask you how, or if at all - whether the Anglo
29 definition of an HPI accords with the definition of an HPI
30 under the statute that regulates coal mining in Queensland?

31 A. Yes. My understanding of this document is that there
32 is a disconnect between how the legislation would describe
33 a high potential incident and how this document would
34 categorise one, and I think that's through the risk
35 management table.

36

37 I would say that a potential to cause a serious
38 adverse effect would be - I would say that somebody who'd
39 sustained a lost time injury may say that they'd
40 experienced a serious adverse effect. It would seem that
41 the document is placing a higher bar, on my interpretation
42 of it, than the Coal Mining Safety and Health legislation
43 would.

44

45 Q. Presumably this definition was promulgated to Anglo
46 American coal mine workers. Is there a potential problem
47 with having the company, on the one hand, setting the bar

1 higher, high for its definition of an HPI, whereas the
2 level imposed by the regulator is lower?

3 A. There are. I think I would initially - my first
4 thought is that I would understand that a large corporation
5 would want to have consistency and a system to help
6 practitioners to be able to consistently classify and treat
7 high potential incidents.

8
9 I think my concern would probably - I would link my
10 concern back to the findings in the Brady review.
11 Dr Sean Brady performed a detailed review of mining
12 fatalities, serious accidents and looked at - and made
13 a finding that he believed that there was a systemic
14 under-reporting of HPIs across the industry. Now, that's
15 in broad terms, that's the broad industry, it's all types
16 of incident, but I suppose the point that Dr Brady was
17 making in that finding is that that demonstrates the
18 reporting culture, which is an indicator of the safety
19 culture of an organisation.

20
21 So, from my perspective as regulator, I would want to
22 see a very full reporting of HPIs - very accurate,
23 consistent with the legislation within the jurisdiction.
24 So I'm okay with Anglo or any other company having its own
25 internal system to enable people to report, but the
26 operations are within the Queensland jurisdiction and they
27 are subject to the Coal Mining Safety and Health Act, and
28 so that disconnect is a concern to me because it could
29 potentially under-report incidents.

30
31 Q. We'll hear some evidence in due course that
32 handwritten reports made by coal mine workers of HPIs are
33 described in handwriting as a DNRME HPI, presumably as
34 opposed to an Anglo HPI.

35 A. Right.

36
37 Q. Is there a risk that the disconnect, as you've called
38 it, could result in a perception amongst coal mine workers
39 that an HPI is just a DNRME HPI and therefore not worthy of
40 the level of concern that it deserves?

41 A. I think if the incidents were treated - well, yes, it
42 is of concern. I think if there are - in simple terms, if
43 there are two sets of rules, those stated in the
44 legislation and those laid out in internal company
45 documents, I think there's the potential that it could
46 hinder the accurate, timely and fulsome reporting of
47 incidents.

1
2 Q. Can you just go back to appendix B, which is on the
3 screen. That's page 17 of the incident reporting standard.
4 We see that the seventh dot point of something that is said
5 might or may qualify as a safety HPI is:

6
7 *A failure of a primary ventilation circuit*
8 *that requires the emergency withdrawal of*
9 *Mine Workers from a part of the mine.*

10
11 Is there a universe in which that would not be a high
12 potential incident?

13 A. I struggle to know what that would be. I don't have
14 a detailed understanding of the Coal Mining Safety and
15 Health Act, but I am aware that if there's a loss of
16 ventilation in an underground coal mine, my view would be
17 that that's a withdrawal of workers and that is notifiable.
18 That's - yes, that's a sentinel, that's another sentinel
19 event, I think. I would have thought a reasonable person
20 would want to - that's something that demands
21 investigation, I would say, and should have a high profile.

22
23 Q. Can I move to the use of labour hire in coal mines.

24 A. Yes.

25
26 Q. You're familiar with section 43 of the Coal Mining
27 Safety and Health Act, which imposes an obligation on
28 contractors?

29 A. Yes.

30
31 Q. You're also familiar with section 19 of the Work
32 Health and Safety Act?

33 A. Yes.

34
35 Q. And you understand that the Work Health and Safety Act
36 in section 19 imposes on a person conducting a business or
37 undertaking to ensure, so far as is reasonably practicable,
38 amongst other things, the provision and maintenance of
39 a work environment without risks to health and safety?

40 A. Yes.

41
42 Q. Now, that Work Health and Safety Act does not apply to
43 coal mines in this State. You understand that, don't you?

44 A. That's correct, it does not.

45
46 Q. But you're also aware, are you not, that in New South
47 Wales, for example, where they have the same uniform

1 statute about work health and safety as we do, there is
2 a section 19 that's in identical terms?

3 A. Yes.

4
5 Q. And so a labour hire company in New South Wales
6 providing workers to a coal mine operator would be subject
7 to the duty to ensure, as far as is reasonably practicable,
8 the provision and maintenance of a work environment without
9 risks to health and safety?

10 A. Yes.

11
12 Q. That would therefore, you would expect, involve the
13 undertaking by the labour hire company of a risk assessment
14 or risk analysis?

15 A. Yes, some form of risk assessment, yes.

16
17 Q. And ongoing monitoring of the safety in the workplace?

18 A. Yes.

19
20 Q. Do you accept this proposition, that it's by no means
21 clear that any such obligation falls on a labour hire
22 company providing coal mine workers to a coal mine operator
23 in Queensland?

24 A. I think that the existing provisions within the Coal
25 Mining Safety and Health Act say that - define a worker -
26 the definition of a worker within the Coal Mining Safety
27 and Health Act would include a labour hire worker.
28 I believe that's the case, a simple interpretation of. I'm
29 also aware that the Coal Mining Safety and Health Act
30 places obligations on contractors and service providers.
31 I observe that the Work Health and Safety Act makes it
32 abundantly clear by stating that duty of care, if you will.

33
34 So I think in that regard, it could be made more
35 clear, but I think the obligations that exist within the
36 current legislation do place obligations on those providing
37 workers to a site around the safety health management
38 system, et cetera.

39
40 Q. I'm going to show you a document, and I should
41 indicate to the Board that this is a document that was
42 produced by One Key Resources in response to a document
43 production notice requiring production of, amongst other
44 things, any risk assessments that have been undertaken by
45 it of the workplaces at the various mines at which it
46 provided workers.

1 The document which I'd ask to be put on the screen is
2 OKR.003.003.0001. If we could zoom in on the top section
3 of the page so that we can see this document, which
4 comprises two pages, is said to be a safety management
5 plan?

6 A. Yes.

7
8 Q. It's said that the service being provided by One Key
9 Resources is the provision of labour hire personnel to work
10 under the direct supervision of Anglo American authorised
11 representatives?

12 A. Yes.

13
14 Q. If we could go to the next page, please, and zoom in
15 on the last two sections that are in bold, where there are
16 statements of awareness of risk. The first is:

17
18 *We are aware of the following risks that*
19 *may affect the way that the work is done at*
20 *the mine.*

21
22 It is asserted that:

23
24 *There are no risks that we are aware of*
25 *that will affect the way that we will do*
26 *the work.*

27
28 A. I beg your pardon, can you tell me which page you're
29 on?

30
31 Q. Page 2.

32 A. Thank you.

33
34 Q. You'll see there's a number of sections in bold, and
35 I'm talking about the second-last one on the page.

36 A. Okay, yes, I'm looking at it.

37
38 Q. Then:

39
40 *We are aware of the following risks that*
41 *may arise from doing this work at the mine.*

42
43 And it is said:

44
45 *There are no risks that we are aware of*
46 *that will arise from the way that we will*
47 *do the work.*

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A. Mmm.

Q. Now, it might be said that, well, given that all they're doing is providing labour hire personnel, strictly speaking, that assessment of risk is accurate. But if you can take it that there has been no other document disclosed that demonstrates an assessment of risk at the places where One Key workers will be working - and when I say "assessment", I mean assessment as opposed to monitoring.

A. Yes.

Q. There are, to be fair, documents showing there are records kept about injuries and so forth. My question to you is, as the senior executive of the regulator, what do you say about the desirability of the imposition on labour hire companies, such as One Key, a general or primary duty of care such as that that is imposed outside of the coal mining industry or the mining industry generally by section 19 of the Work Health and Safety Act?

A. So there could be - so without - I guess the provision in the WHS Act makes it clear that there's a requirement for the entity providing labour to the site to undertake an assessment of risk to ensure the safety and health of workers. I think within the CMSHA, there's potentially a gap or potential for misinterpretation of where that responsibility might lie. Certainly the Coal Mining Safety and Health Act is clear around the SSE's obligations to ensure that workers are inducted into the mine safety and health management system and that they have the appropriate training, but I guess there's potential to reinforce that to improve the risk management process by having an obligation on those providing workers into that site to understand and demonstrate they understand what are the risks that the workers are facing.

Q. Can I ask you this: obviously proceedings are regularly taken for offences allegedly committed against the Coal Mining Safety and Health Act by a variety of entities, both human and corporate, including SSEs, workers and coal mine operators - yes?

A. Yes, that's correct.

Q. Are you aware of any proceeding for a breach of a work health and safety obligation ever having been commenced by the regulator against a labour hire company?

A. No, I'm not.

- 1
2 THE CHAIRPERSON: Q. Mr Stone, may I ask, do
3 I understand you to say that your personal view at least is
4 that the labour hire companies would fall within the
5 legislation as being one of the bodies owing obligations to
6 workers?
7 A. Yes. Yes, I would.
8
9 Q. And that the legislation may be interpreted
10 differently because it's clumsily drafted, but that's your
11 personal view?
12 A. It's my personal view.
13
14 Q. Does the inspectorate or the department or whatever
15 regulatory body have a position about that?
16 A. No, I don't believe we do.
17
18 THE CHAIRPERSON: All right, thank you.
19
20 MR HUNTER: Q. Now, I took you at the start of your
21 evidence to some statistics. There's a further set to
22 which I'll now take you. Could the witness be taken to,
23 and I'll ask for it to be displayed on the screen,
24 RSH.002.414.0001.
25 A. Yes.
26
27 Q. These are statistics kept by what was formerly the
28 inspectorate and now Resources Safety and Health Queensland
29 concerning fatalities in the mining sector?
30 A. That's correct.
31
32 Q. Broken down according to which part of the sector they
33 occurred in and whether they involved a contractor or an
34 employee?
35 A. That's correct.
36
37 Q. So the statistics are almost self-explanatory, but
38 we're dealing with the raw numbers on the first page;
39 correct?
40 A. Correct.
41
42 Q. But then, perhaps more helpfully, we go to the second
43 page, which calculates the fatalities per million hours
44 worked?
45 A. That's right.
46
47 Q. By employment status?

- 1 A. Yes.
- 2
- 3 Q. Then the next page, page 3, deals with, in the same
- 4 way that we had the data for fatal incidents, serious
- 5 accidents?
- 6 A. Yes.
- 7
- 8 Q. And a serious accident for present purposes involves
- 9 someone having to go to hospital for treatment?
- 10 A. Admitted to hospital.
- 11
- 12 Q. Admitted to hospital, I'm sorry.
- 13 A. Yes.
- 14
- 15 Q. There we have the breakdown of serious accidents by
- 16 employment status with the raw numbers?
- 17 A. Yes.
- 18
- 19 Q. And then the accidents per million hours by employment
- 20 status?
- 21 A. Yes.
- 22
- 23 Q. And then the final page is simply a tabular version of
- 24 the data that has been depicted in those graphs?
- 25 A. Yes.
- 26
- 27 MR HUNTER: Mr Martin, I will tender the documents that
- 28 I have taken the witness through, but again they will be
- 29 assigned numbers in the document to be handed up to the
- 30 Board later in today's proceedings.
- 31
- 32 THE CHAIRPERSON: Thank you. Those documents will be
- 33 admitted into evidence.
- 34
- 35 MR HUNTER: That is the evidence-in-chief of the witness.
- 36
- 37 THE CHAIRPERSON: Thank you. Mr Holt?
- 38
- 39 **<EXAMINATION BY MR HOLT:**
- 40
- 41 MR HOLT: Q. Mr Stone, I only have a few questions for
- 42 you. My name is Saul Holt. I appear on behalf of the
- 43 Anglo group of companies, just so we're clear who each
- 44 other is.
- 45 A. Thank you.
- 46
- 47 Q. As you explained in the statutory declaration that you

1 provided to the Board, the general approach which is taken
2 to the management of coal mine safety in Queensland has
3 moved and moved deliberately from a highly prescriptive
4 approach to an approach based on risk management and risk
5 assessment?

6 A. That's correct.

7
8 Q. And one of the reasons behind that is because whilst
9 some people see the benefit of really detailed prescription
10 and regulation to manage things like coal mine safety, the
11 risk is that (a) you always miss something, and (b) it can
12 encourage a culture where people just comply with the rules
13 and do no more. Is that a fair summary of the statement
14 that you have provided?

15 A. That's fair.

16
17 Q. Obviously the flip side of that is that the approach
18 that's now taken, and which your department is charged with
19 overseeing, is one which places responsibility on the
20 coal miner and in particular through statutory mechanisms,
21 through on-site roles as well?

22 A. That's correct.

23
24 Q. If we can take methane exceedance management as an
25 example, one of the benefits of that process is that it
26 places the responsibility for the management of these
27 issues with oversight by inspectors on skilled statutory
28 officers who are working on site and who are able to make
29 decisions and create processes, and so on, with the best
30 information and data that they could have?

31 A. Yes, I think consistent with your previous two points,
32 I would agree that it's important that the site owns the
33 hazard and the incident and it be investigated fully. It
34 is also very important that the stakeholders and the
35 regulator is informed in a timely and accurate manner,
36 because there may exist a systemic issue, and it is
37 obviously the role of the regulator to ensure that the
38 information is communicated to all sites.

39
40 Q. Absolutely, and as you've already noted, the two key
41 mechanisms that are used for that in terms of the
42 regulations are, firstly, the 1A form notification, which
43 is the immediate form within a very short period of time?

44 A. Yes.

45
46 Q. And then the 5A, which is effectively the learnings
47 that the mine operator has taken from the particular

1 incident, which are then communicated to the inspector?

2 A. Yes.

3

4 Q. But you would also be aware that, although you've
5 acknowledged there is always room for improvement, the
6 inspectors that you have - and we'll hear from Mr Smith
7 shortly - have good relationships with the mines and the
8 statutory role holders on the mines and are constantly in
9 contact with them over these kinds of incidents?

10 A. Yes, I think that's a generalisation.

11

12 Q. Yes, of course it is.

13 A. But generally speaking, that's the case.

14

15 Q. All right, thank you. Now, talking about the mix
16 between prescriptive regulation and general obligations of
17 risk management, safety, can I suggest what's happened,
18 quite properly, in the methane management area, is there's
19 a bit of a mix of the two, in the sense that following the
20 review that was done by the department that you referred to
21 where the report was in June 2019, there were some more
22 detailed prescriptive regulations about methane management,
23 location of sensors, trigger points and those sorts of
24 things?

25 A. That's correct.

26

27 Q. The idea of that was not to take away the idea of
28 on-site risk ownership, but it was to ensure that there
29 were some basic propositions in place to help manage that
30 kind of a process?

31 A. Indeed. The title of document was a best practice
32 document, so it was the intent of the regulator to identify
33 I think two things - firstly, what's very clear in that
34 report is that there was an under-reporting of methane
35 exceedances. That is an important finding in and of
36 itself. The second is to acknowledge that certain sites
37 had implemented risk controls, whether they be monitors in
38 certain locations of the mine. And the final point around
39 the document was to communicate that the regulator would be
40 developing regulation amendment, so specifying some minimum
41 requirements that would be progressed to the minister for
42 his consideration.

43

44 Q. And that then followed and became regulation 243A?

45 A. That's correct.

46

47 Q. Can I just perch on two of the things that you have

1 raised about that process. You talked about picking up
2 practices that were occurring on certain mines, for
3 example, in the location of certain sensors.

4 A. Mmm.

5

6 Q. One of those you may know, and if it's someone else's
7 bailiwick, then tell me --

8 A. Sure.

9

10 Q. -- was the 400 metre sensor that was in place
11 particularly at Grasstree and was picked up then as part of
12 that process?

13 A. I think that is the bailiwick of the inspector, so
14 I might suggest that that question is picked up by the
15 chief inspector or the regional.

16

17 Q. Thank you. And please do that with any question that
18 I ask that you think is better answered by someone else.
19 One of the core requirements that has flowed from that
20 process is that a 2.5 per cent concentration measurement of
21 methane in the general body of a roadway essentially is
22 considered to be a dangerous situation and requires the
23 removal of coal mine workers?

24 A. That's correct.

25

26 Q. And 2.5 per cent, just so we're all clear, is half of
27 the concentration of methane at which it becomes explosive
28 or flammable?

29 A. That's right, half of the lower explosive limit.

30

31 Q. And the explosive limits being between about 5 and
32 15 per cent for methane?

33 A. In air, that's correct.

34

35 Q. In air, thank you. Again, just briefly, you made
36 a brief reference to the Brady review.

37 A. Yes.

38

39 Q. The Brady review included, with respect, quite
40 a detailed and sophisticated discussion of the nature of
41 HPIs as they're defined in the Queensland legislation?

42 A. Yes.

43

44 Q. In particular, one of the key points that the Brady
45 review made and which, as I understand, you agree with and
46 certainly Mr Newman has been clear about in his statement,
47 is that one shouldn't view the high potential incident

1 frequency rate as a measure of the level of safety in the
2 industry; rather, it should be viewed as a measure of the
3 reporting culture?

4 A. Yes, Brady - I agree with that statement. I think it
5 is not saying that we place no - that we don't - it's not
6 saying that it's 100 per cent a KPI of reporting culture.
7 Clearly through the work that we do and the impact that
8 HPIs have on our compliance approach, it shows that we also
9 view the hazard, the activities, the controls applied very
10 seriously.

11
12 Q. Absolutely, and I'm not trying to suggest to the
13 contrary.

14 A. No. I just wanted to be clear.

15
16 Q. Of course. On the one hand, what you don't want to do
17 and what Brady made absolutely clear is that you don't want
18 to discourage reporting of HPIs because they're really good
19 learning opportunities and examples, no doubt as we will
20 see in the course of this Board of Inquiry.

21 A. Indeed. Dr Brady made recommendations to the
22 regulator, including reimagining and redefining its
23 reporting system to make it clear and unambiguous.

24
25 Q. So one needs to be really clear, I would expect, then,
26 it follows from that, not to simply see the number of HPIs,
27 even the number of HPIs in a certain area or under
28 a certain topic, as being indicative of any particular
29 outcome. It's good to have that information, and then what
30 most matters is that the coal miner and the inspectorate
31 are looking at that material and taking whatever learnings
32 there are from it to ensure that coal mine workers are
33 safe?

34 A. That's right. So we say that we encourage HPI
35 reporting and we want to see more hazards identified,
36 because it's only through the identification of the hazard
37 and the application of controls that the risk is reduced
38 for future coal mine workers.

39
40 Q. And in fact you may be aware, and if you're not and it
41 needs to be asked of someone else, that's fine - you may be
42 aware that some of the HPIs that the Board will be
43 reviewing in this case, in this process, were HPIs that
44 were in fact measured at sensors that weren't technically
45 required by the regulation but which mines had put in
46 certain locations?

47 A. I'm peripherally aware of that, yes.

1
2 Q. Thank you. Again, that would be a process, no doubt,
3 in terms of the philosophical approach to this, that you
4 would encourage?

5 A. Yes, that's right. I think best practice, as I said
6 before, talks about the minimum requirements, which
7 probably loops back to your first comments around not
8 wishing to do the minimum required but ensuring that the
9 risk is at an acceptable level and as low as reasonably
10 achievable.

11
12 Q. For example, if we see some examples in this case, in
13 this process, where a sensor in a location which isn't
14 mandated by the regulation but which the coal miner has
15 chosen to put in place as a result of its own risk
16 assessment, hazard assessment, is in fact causing
17 reportable HPIs, that's a good scenario, in the sense that
18 it allows learnings to come from those processes?

19 A. I would suggest that's a great question for the chief
20 inspector of mines.

21
22 Q. Then I'll ask it of him, thank you. Just one further
23 topic - sorry, that was longer than I meant it to be, but
24 it was interesting. You were asked some questions, and it
25 does relate to that, about the Anglo American use of the
26 acronym HPI.

27 A. Yes.

28
29 Q. Versus the regulatory use of the acronym HPI.

30 A. Yes.

31
32 Q. Firstly, obviously, as you noted and as is entirely
33 correct, the Anglo reporting risk matrix framework uses HPI
34 in a different way than the regulation uses it, and can
35 I say, if it assists, we're alive to that issue.

36 A. Yes.

37
38 Q. As you say, there are always learnings to be made from
39 these things?

40 A. That's correct.

41
42 Q. Can we drill down to the substance of it, perhaps,
43 rather than the name specifically. Firstly, you would be
44 aware, of course, that Anglo, generally speaking, operates
45 mines in multiple jurisdictions both within Australia and
46 internationally?

47 A. Yes, I am aware.

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Q. And you could well understand, indeed I would imagine encourage, Anglo to ensure that learnings from across its operations are being talked about in the same language and are being assessed in the same kind of way?

A. Yes.

Q. Indeed, that's part of this whole idea of ownership of risk within the miner, right, to say, "Don't just rely on compliance with the regulation; actually make sure you are doing what you need to do to ensure safety"?

A. Yes.

Q. I guess in that sense, even if it might raise some issues, some problems that need to be resolved, let's accept that - you can understand why for a group like Anglo you could see that issue arise, so language that's used across the whole of the organisation conflicts with language that's used in a particular jurisdiction?

A. I think it's certainly been my experience working with some very large companies prior to joining government that the company necessarily will have its incident reporting system for the reasons of consistency and sharing learnings across the group or the asset. I also think that those - and you've more than alluded to it - need to be firmly grounded in the legislation that applies in the jurisdiction where the asset's operated.

Q. Of course. I guess I'd like to approach this issue from the other way than our learned friend did, and simply on the basis of whether or not it would appear that that process and that use of language has in any way led to departmental HPis, if I can put them that way for these purposes, being treated any differently than they should be treated. It may be a question for someone else or for a number of other witnesses, but if I suggest to you that regardless of an incident which is a departmental HPI, how it is otherwise classified through the Anglo risk assessment process, that there is no evidence that they weren't actually reported to the department as a departmental HPI, would you take any issue with that?

A. Other than that I don't know if that's the case, yes.

Q. Understood. In fact, if I can suggest - and again it might even be just for the benefit of witnesses that are coming - that the Anglo systems that are set out in that document and others that have been produced by the Board

1 demonstrate that, regardless of whether an incident which
2 is a departmental HPI qualifies or doesn't qualify as an
3 Anglo HPI, it is still fully investigated through what's
4 called a "learning from incident" process? You would
5 expect that would be the case in a company like Anglo?

6 A. I would expect it to be the case, that's right.

7
8 Q. Again, if I suggested that that learning from incident
9 process and standard which Anglo applies and has applied to
10 every single HPI which is an issue in this case goes beyond
11 the requirements of form 5A, again I suspect that wouldn't
12 surprise you from an organisation like Anglo and the way
13 that it would operate?

14 A. I take that on face value, absolutely. I do have two
15 thoughts, and I would say, clearly, I'm only just looking
16 at this document, this is quite an extensive document,
17 there's quite a lot to absorb both for me and, I imagine,
18 the practitioner, the user, so I suppose there's - I'll
19 take it on face value that the requirements of the standard
20 are followed internally by the company.

21
22 I guess I'm still reflecting on the severity or the
23 risk rating and whether the bar is too high, let's say, for
24 want of a better word, for some of these incidents to be
25 received by workers and management within Anglo. If,
26 simply put, we pushed things to the top right-hand corner
27 of a risk matrix, fewer eyes get to look over them, fewer
28 people get to consider them and information might not be
29 shared.

30
31 Q. And I guess you don't know that --

32 A. No, no.

33
34 Q. And Mr Mitchelson will be coming along to give
35 evidence about that later. Again, you would expect and
36 hope that anything, including departmental HPIs, which
37 amount to an incident which is assessed under this would
38 nonetheless have a learning from incident process?

39 A. Yes, you would expect that for a large - generally
40 speaking, the larger multinational companies tend to have
41 established, mature systems. I'd hope that Mr Mitchelson's
42 statements reinforce that.

43
44 MR HOLT: Thank you.

45
46 THE CHAIRPERSON: Mr Rankin, do you have any questions?
47

1 MR RANKIN: No, thank you.
2
3 THE CHAIRPERSON: Mr Roney?
4
5 MR RONEY: Yes, I do. Shall I come down to the Bar table?
6
7 THE CHAIRPERSON: Yes, please.
8
9 <EXAMINATION BY MR RONEY:
10
11 MR RONEY: Q. Good morning. Peter Roney is my name.
12 I'm for One Key Resources.
13 A. Good morning.
14
15 Q. I just want to ask you some questions around the
16 issues that were raised by counsel assisting concerning the
17 use of labour hire and the operation of the Act in relation
18 to those.
19 A. Yes.
20
21 Q. It is clearly an issue that's one of those that this
22 Board is considering in its inquiry. You were asked by
23 counsel assisting about the position in New South Wales and
24 whether there was a direct obligation on labour hire
25 companies to ensure the safety of workers in New South
26 Wales.
27 A. Yes.
28
29 Q. Are you actually familiar with that provision?
30 A. Broadly. I'm broadly familiar with the New South
31 Wales mining and petroleum legislation.
32
33 Q. You're aware, aren't you, that in Queensland we have
34 section 62 of the Act, which was enacted by amendment
35 perhaps 10 years ago specifically to require that there be
36 only one safety and health management system on a mine
37 site?
38 A. Correct.
39
40 Q. And that it had to be a single auditable document?
41 A. Yes.
42
43 Q. And that that provision went into the Act as
44 a provision of recommendations after a coronial inquiry in
45 which there was apparent conflict between a contractor or
46 subcontractor's safety and health management system and
47 that which the mine had provided?

- 1 A. I'm not familiar with the coronial inquiry.
2
- 3 Q. All right. The history of the legislation we can look
4 up, but the idea, can I suggest, behind the introduction of
5 section 62 was to avoid a situation where any kind of
6 contractor, whether it was a labour hire supplier or
7 a contractor who directly performed work on site - for
8 example, a drill and blast contractor or an overburden
9 remover, or whatever it may be - had a system in place that
10 could in any way be in conflict or be inconsistent with the
11 mine operator's safety and health management system - yes?
12 A. Yes.
13
- 14 Q. And that way, there was unity and consistency on the
15 mine sites?
16 A. In a perfect world.
17
- 18 Q. Well, that was the idea behind the section.
19 A. That was the intent. Yes. That was the legislative
20 intent.
21
- 22 Q. So that would mean, can I suggest, that as the
23 legislation stands, whether it be a labour hire provider -
24 and I'll come to that in a moment - or an actual service
25 provider on site, such as a drill and blast or overburden
26 remover, they would necessarily need to comply with the
27 mine operator's safety and health management system?
28 A. They would.
29
- 30 Q. And if they tried to introduce a provision which was
31 in some way different into their own safety and health
32 management system, or even if they had their own safety and
33 health management system for the performance of that work,
34 there may well be the potential for an infringement of the
35 requirements of section 62?
36 A. I think that's - the intent of the legislation is to
37 reduce the risk of that.
38
- 39 Q. And for that reason, mines typically, these days,
40 require contractors to comply with the mine operator's
41 safety and health management system, don't they?
42 A. They are required to.
43
- 44 Q. That's the structural way in which it's now done?
45 A. That's correct.
46
- 47 Q. Are you aware of a proceeding that was brought in the

1 Supreme Court in relatively recent times in which the CFMEU
2 brought a proceeding against Downer EDI, a contractor, to
3 prevent Downer from having its own compulsory drug testing
4 regime under its own systems, where the mine in that case
5 didn't have a similar system?

6 A. No, I'm not.

7
8 Q. Well, we can have a look at that case, but can
9 I suggest to you that in that case the CFMEU relied upon
10 the provisions in section 62 to seek to prevent the
11 contractor from having what might be described as a better
12 system than the mine itself had in terms of drug testing?

13 A. I understand, yes.

14
15 Q. Now, you were taken to the document, the number of
16 which on my copy has been obliterated, but it's the
17 contractor's obligations under section 43, which I think is
18 the last document you were shown. Is that still up on your
19 screen?

20 A. No, it's not.

21
22 Q. You were asked some questions about this document by
23 counsel assisting. The activity which is engaged in by
24 a labour supplier to a mine is just to provide the labour
25 itself - that is, not to actually perform any services
26 itself on the mine site; is that correct? That's what
27 a labour supply company does?

28 A. I would agree that it's what they do. Sorry, the
29 second part of your point was?

30
31 Q. I'll rephrase it. It wasn't well put.

32 A. Thank you.

33
34 Q. I'm drawing that distinction that I drew before
35 between contractors on site who actually perform work, and
36 that is their contractual obligation to perform, and
37 a labour supplier whose contractual obligation is just to
38 provide labour to the mine, to do work that the mine will
39 direct.

40 A. I'm hesitant because - and I don't have this in front
41 of me, but I'm thinking about the obligations of service
42 providers and contractors under the Coal Mining Safety and
43 Health Act.

44
45 Q. Section 43 of the Act is the one you're talking about,
46 I imagine, and that's the duty on contractors?

47 A. Both contractors and service providers, I think as

1 well. I think that would be relevant.

2

3 MR HUNTER: Section 47 deals with service providers.

4

5 MR RONEY: Q. In the case of contractors, the obligation
6 is to comply with the Act and to ensure the contractor
7 complies with the mine's safety and health management
8 system, so that seems to be consistent with what we've
9 talked about already. And then section 47 is in identical
10 language.

11 A. Yes. So I think to comply with the mine's safety and
12 health management system the contractor or service provider
13 would clearly need to have some awareness of what that
14 system was and the environment in which it existed.

15

16 Q. Could I suggest that in both sections the critical
17 provision is in sub (e) which is to ensure the fitness for
18 use of plant is not adversely affected by the service -
19 sorry, (d), if the service-provider, or contractor, is
20 present at the mine, to ensure the service provider's own
21 safety and health is not adversely affected by the service
22 provided?

23 A. Yes.

24

25 Q. So the point there that I want to focus upon is this
26 provision that the service provider is at the coal mine.
27 Now, in the document which you've been shown, if one goes
28 down about a third of the way on the first page, the
29 service is identified as the provision of labour hire
30 personnel to work under the direct supervision of Anglo
31 American authorised representatives?

32 A. Yes, I'm with you.

33

34 Q. And it's extremely commonplace, isn't it, on mine
35 sites these days for workers who are defined as coal mine
36 workers, as you say, to be provided by a labour hire
37 company?

38 A. Labour hire workers are prevalent within the industry,
39 yes.

40

41 Q. And that perhaps we'll focus on at some other point in
42 the inquiry, as to the reasons behind that, but the
43 situation is that they work under the direct supervision of
44 the mine operator, as this provision dictates?

45 A. Yes.

46

47 Q. And that's invariably the case, isn't it?

1 A. I think I'll just acknowledge that I'm not a coal
2 miner, but certainly I think my colleagues would be able to
3 give more - well, they would be able to state what they
4 observe and what they've experienced through working in the
5 industry.

6

7 Q. If you look at the next two sentences underneath that,
8 just read those to yourself.

9

A. Yes.

10

11 Q. It's clear, isn't it, that this provision is one which
12 expects that the work will be done in compliance with the
13 mine's own system, safety and health management system, and
14 adopts the risk management practices of the mine as well -
15 yes?

16

A. Yes.

17

18 Q. Now, in those respects, those obligations, would you
19 agree - and tell me if this is outside the scope of your
20 understanding and knowledge - that would be typical, if not
21 precisely, in the way in which it would be expected that
22 any contractor or service provider or supplier of labour
23 would be expected to conduct themselves?

24

A. I would agree that that's what the legislation
25 expects, I think through the provisions that exist in the
26 Coal Mining Safety and Health Act. What happens on the
27 ground, I'd defer to my colleagues.

28

29 Q. Mr Hunter suggested to you that there might be
30 a potential gap in the Act in relation to the way it
31 operates in relation to labour supplied by labour hire
32 companies, and I think you might have tentatively agreed
33 with that idea, but can I suggest to you that there is in
34 fact no gap there, because insofar as there is labour on
35 site and the provider is on site, then there are those
36 direct obligations under 43 and 47?

37

38 THE CHAIRPERSON: Mr Roney, you're putting to the witness
39 that One Key is an obligation holder under the legislation?

40

41 MR RONEY: It would be if it was on site. So I'm not
42 specifically referencing One Key. I'm --

43

44 THE CHAIRPERSON: Labour hire companies?

45

46 MR RONEY: I'm suggesting that to the extent that, if it
47 were the case, One Key were on site, they would be caught

1 by the legislation. If they weren't on site but had merely
2 supplied labour, then the provisions of the obligations
3 that apply to the mine would apply to the mine.

4
5 THE CHAIRPERSON: So you disagree with his view that he
6 expressed earlier?

7
8 MR RONEY: I understood his view to be that it could be
9 improved, if my note is correct.

10
11 THE CHAIRPERSON: Some legislative change, perhaps?

12
13 MR RONEY: Some legislative change, but we'll come to that
14 in submissions, perhaps.

15
16 THE CHAIRPERSON: Sorry, just so I understand --

17
18 MR RONEY: I am trying to understand his idea of what the
19 gap might be.

20
21 THE CHAIRPERSON: But could I understand what your
22 proposition is. If the labour hire service company is at
23 the site, when you say "at the site", what are you
24 referring to there?

25
26 MR RONEY: I am referring there to it actually performing
27 work under a contract itself at the site, so, for example,
28 a specific contract.

29
30 THE CHAIRPERSON: The company itself, not simply the
31 provision of labour?

32
33 MR RONEY: Correct. Sorry, I didn't make that clear.

34
35 Q. You were asked some questions as well about whether
36 you were aware of any prosecutions against labour hire
37 companies. I suspect that you're not very often involved,
38 if at all involved, in what prosecutions occur. Tell me if
39 my next question is therefore out of line, but it is the
40 case, isn't it, that there have been plenty of prosecutions
41 brought against mine operators and their management arising
42 out of their failures to control risk associated with work
43 that workers supplied by labour hire companies have
44 performed?

45 A. I can't point to an exact example, but in the first
46 part of your question, I am familiar with bringing
47 proceedings for failure to meet obligations under the Act,

1 and a number of those proceedings have included charges
2 against operators and others within the - other persons
3 with obligations at the mine in relation to workers. Now,
4 whether those workers were labour hire or contract or
5 employees - it's possible, but I can't put my finger on
6 a case.

7
8 Q. Presumably someone else will know a lot more about who
9 has been prosecuted over time than yourself; is that right?

10 A. It depends on the level of detail you require. Yes,
11 I'll say yes now. Can I take you back to a point you made
12 earlier?

13
14 Q. Yes.

15 A. I think the reason for my pause around the exploration
16 of whether more can be done to reduce risk and what is the
17 risk that's sought to be reduced - I think the reason for
18 my hesitancy and pause is not because I don't understand
19 the question, but when the relationship is between the
20 employee and the employer at a work site, it might be
21 a mine or a quarry, I think that's very clear to me.
22 I think it's clear to me that the employee can raise
23 concerns and give feedback directly to their employer,
24 everybody's co-located.

25
26 When that's moved - when the model changes to workers
27 going to a site or to many sites, I think that may
28 introduce some risks as to how safety and health is
29 promoted, is ensured. It's just something I'm giving
30 thought to, so I think there's possibly something there.

31
32 Q. So, to paraphrase, you're concerned that there may be
33 a gap somewhere there between the expectations of the
34 labour hire company and the arrangements that would be in
35 place to manage risk associated with their workers, and
36 what the mine operator might think its obligations are?

37 A. Yes, I think so. I think in simple terms, if I was
38 a labour hire company, how do I satisfy myself that the
39 workers which I'm supplying to company X are aware of the
40 hazards and can feed back. We know through just the number
41 of high potential incidents reported and the serious
42 accidents, et cetera, that it's a high-hazard industry and
43 that we all need to be vigilant and we all need to have the
44 best reporting system available. So I'm interested to know
45 how that could be improved.

46
47 MR RONEY: Thank you.

1
2 THE CHAIRPERSON: Thank you. If it is convenient, we
3 might take a 15-minute break at this stage. Thank you.

4
5 **SHORT ADJOURNMENT**

6
7 THE CHAIRPERSON: Mr Crawshaw, would you like to
8 cross-examine?

9
10 MR CRAWSHAW: I have a few questions.

11
12 THE CHAIRPERSON: Could you speak up a bit, Mr Crawshaw,
13 please?

14
15 MR CRAWSHAW: I will endeavour to do so. Can you hear me
16 better now?

17
18 **<EXAMINATION BY MR CRAWSHAW:**

19
20 MR CRAWSHAW: Q. Mr Stone, would you agree with me that
21 labour hire workers are more vulnerable than direct
22 employees, (indistinct) labour hire agencies (indistinct)?
23 A. I'm sorry, I only caught pieces of what you said.

24
25 THE CHAIRPERSON: I'm sorry, Mr Crawshaw, the volume is
26 not perfect. Could I ask you to speak even louder or
27 closer to the microphone?

28
29 MR CRAWSHAW: Yes, I'll endeavour to do so.

30
31 THE CHAIRPERSON: It's good now. Thank you.

32
33 MR CRAWSHAW: Q. My question is to you, Mr Stone, would
34 you agree that labour hire employees are more vulnerable
35 than direct employees on a coal mine if the labour hire
36 agency that they are employed by neglects to carry out
37 a site-specific risk assessment before placing the worker
38 at the coal mine site?
39 A. I don't know that I would use the word "vulnerable",
40 but I would agree that an assessment of the risks at a site
41 before workers are supplied or provided at that site to
42 undertake certain activities would be consistent with good
43 risk management. So if that activity is undertaken so that
44 the risks are - so that the hazards are assessed and the
45 risks are known and managed, then I think that that is good
46 practice.

47

- 1 Q. Does your inspectorate monitor whether such risk
2 assessments take place?
- 3 A. I think that would be a question that's better asked
4 of the chief or the regional inspector, but I can say that
5 the inspectorate includes audits and inspections that cover
6 the various aspects of the safety and health management
7 system, including the assessment of risk and - so I think
8 it's probably a better question asked to the chief.
9
- 10 Q. I should have prefaced my questioning by saying, like
11 others have, that if the chief inspector is in a better
12 position to answer it than you, please tell me.
- 13 A. Will do.
14
- 15 Q. Will you also agree with the proposition that it is
16 deleterious to labour hire employees working on a coal mine
17 if the communication between the labour hire agency and the
18 host employer is poor?
- 19 A. I think poor communication between any party in
20 a high-hazard industry would pose risk, could pose risk.
21 I'm not trying to be evasive in my answer. It's quite
22 a general question you asked. I think clear communication
23 is a pillar of effective risk management. That's a given.
24
- 25 Q. You'd agree in relation to labour hire employees on
26 a coal mine site that there should be systems in place to
27 identify changes in the work tasks or environment under
28 which that work is performed?
- 29 A. I think there are systems in place in every coal mine
30 to assess risk, particularly when tasks change or when
31 conditions change in which the task's being undertaken.
32 I believe that goes to standard operating procedures, risk
33 assessments. Is that where your question lies?
34
- 35 Q. Well, I was really just asking whether it's desirable.
36 I was rather assuming you wouldn't know the detail as to
37 whether such systems are actually in place in relation to
38 labour hire agencies.
- 39 A. Yes, so I would say more than desirable, I'd say my
40 understanding is it's required.
41
- 42 Q. Can I just ask you this. You were asked some
43 questions I think by a couple of the counsel about
44 prosecutions, and I think you said you weren't aware of any
45 prosecutions of any labour hire agencies; that's correct?
- 46 A. Correct. That's correct.
47

1 Q. What about other contractors? In other words,
2 contractors that aren't for labour hire only.

3 A. I would have to take that on notice to provide you
4 with an accurate answer.

5

6 Q. Do you think the chief inspector would be in a better
7 position or is it the case that --

8 A. Yes, I think he probably would be.

9

10 Q. I was also going to ask you - someone suggested there
11 were a lot of prosecutions of coal mine operators
12 themselves. Do you have any idea of those numbers?

13 A. To provide an accurate answer, I would take that on
14 notice as well.

15

16 Q. I was wondering whether you could provide that
17 information to counsel assisting, if that's a convenient
18 course for the Board.

19

20 THE CHAIRPERSON: Yes.

21

22 Q. If you're happy to do that, Mr Stone, organise that?

23 A. Yes, I am.

24

25 THE CHAIRPERSON: Thank you.

26

27 MR CRAWSHAW: Q. Could I ask you this about your
28 statement. In paragraph 61 you refer to other alternatives
29 other than prosecution.

30 A. Sorry, what's your question?

31

32 Q. My question is - once again, this might be better for
33 the chief inspector - do you have any information as to
34 those other measures, directives, SCPs or even
35 recommendations taking place in relation to labour hire
36 agencies as distinct from operators? For example, in
37 paragraph 61(b) you directly refer to the recommendation
38 being made to an operator. I'm just wondering whether you
39 have any information as to whether paragraph 61, as
40 a practical matter, has been implemented in relation to
41 labour hire agencies?

42 A. So the Mines Inspectorate routinely publishes
43 information around the prosecutions which have commenced
44 under the Mining Act, the directives which have been
45 issued, the nature of those directives, the hazards to
46 which they relate, plus the SCPs that you mentioned, in its
47 annual report. I don't think it breaks those numbers down

1 into whether those compliance actions have been taken in
2 regard to or against employers, contractors or labour hire.
3 Again, it's a level of information that we certainly have,
4 and I have no issue with sharing that information, I would
5 suggest on a de-identified basis.

6
7 MR CRAWSHAW: If it pleases the Board, I would ask that
8 that information also be provided to counsel assisting.

9
10 THE CHAIRPERSON: Yes, very well.

11
12 MS HOLLIDAY: Mr Martin, if I could just say in relation
13 to the information about prosecutions, there was no time
14 period stipulated in relation to that. If it could be
15 within the last 10-year period, that would seem reasonable,
16 in my submission.

17
18 THE CHAIRPERSON: Yes. Mr Crawshaw --

19
20 MR CRAWSHAW: That seems an eminently reasonable path.

21
22 THE CHAIRPERSON: All right, thank you.

23
24 MR CRAWSHAW: Q. Do you have any information as to what
25 percentage of inspections conducted by your inspectorate in
26 coal mines are unannounced, in other words, they're not
27 announced in advance? Is that a matter that I should ask
28 the chief inspector about?

29 A. I can - I think it is. I think that the chief will
30 have a level of detail, but what I will say is that the
31 regulator has a target range for unannounced inspections of
32 between 10 and 20 per cent of its total inspections, and
33 certainly, from memory, the last two financial years, it
34 has met that target. I think, and I may be corrected later
35 today, that the percentage of unannounced inspections in
36 coal mines would be around 13 to 18 per cent.

37
38 Q. What is the benefit, from the regulator's point of
39 view, of such unannounced inspections?

40 A. Unannounced inspections - what I would say is that the
41 majority of the time, an inspector knows clearly what they
42 wish to look at, and that links back to what part of the
43 operating coal mine they might be considering, whether it's
44 respirable dust hazard or methane management or
45 geotechnical, so they have a clear view of what they want
46 to look at and who they want to talk to and what documents
47 they want to see. So those are announced inspections.

1 They're all planned. One hundred per cent of inspections
2 are planned.
3

4 The benefit of unannounced inspections is we find it's
5 good regulatory practice to go in and take a look at
6 a system or a process. A good example would be - an
7 example would be control of respirable dust. So if we have
8 a concern, either through high potential incidents or
9 perhaps through a confidential complaint or perhaps through
10 a prior inspection, that a hazard might not be well
11 controlled, an inspector will just turn up and take a look
12 at that part of the mine.
13

14 The last thing I would say on that is that it's not -
15 it's simplistic that an inspector would only go to a mine
16 and look at only one element. While they're there, they
17 may wish to look at other parts of the mine and talk to
18 other people. So 10 to 20 per cent is based on advice that
19 the Mines Inspectorate received from a high-hazard industry
20 expert, and I believe it's consistent with other
21 high-hazard regulators.
22

23 MR CRAWSHAW: Thank you, Mr Stone. That's the end of my
24 questions for you.
25

26 THE CHAIRPERSON: Yes, thank you. Mr Trost?
27

28 MR TROST: No questions.
29

30 THE CHAIRPERSON: Thank you. Ms Holliday?
31

32 **<EXAMINATION BY MS HOLLIDAY:**
33

34 MS HOLLIDAY: Q. Mr Stone, if I can take you to
35 your statutory declaration, which is SMA.001.001.0001 at
36 0007, so that's paragraph 22.

37 A. Thank you.
38

39 Q. You've been asked a number of questions this morning
40 in relation to the legislation and its adequacy or
41 otherwise in relation to labour hire entities. Firstly,
42 one of the first series of questions you were asked this
43 morning by Mr Hunter was your experience and background.
44 You're not a lawyer, Mr Stone, and in relation to when an
45 issue such as this arises it would be the case, wouldn't
46 it, that you would seek legal advice in relation to
47 something as important as this?

1 A. Absolutely.

2

3 Q. And if it was recognised or if a gap was seen to exist
4 which, on at least some of the views this morning
5 expressed, there is, is it the position of RSHQ as per
6 paragraph 22 of your statutory declaration that it would
7 support any legislative amendment identified as being
8 necessary to clarify those arrangements?

9 A. Yes, it would. Yes, it would.

10

11 Q. But that a particular issue in relation to the Coal
12 Mining Safety and Health Act is the fact that there is the
13 one safety and health management system for the mine?

14 A. That's correct.

15

16 Q. And that therefore that final sentence in paragraph 22
17 does need to be given particular consideration because of
18 any interrelationship with the safety and health management
19 system of the mine and any requirement that is put on
20 a service provider?

21 A. Yes, I think that, for me, as a non-lawyer, that falls
22 into the unintended consequences, so introducing provisions
23 that could actually add confusion or be at odds with other
24 provisions.

25

26 Q. So that if any recommendation was made by the Board,
27 it would, with the support of RSHQ, be the establishment of
28 and working with a tripartite working group to consider
29 whether legislative amendment is required because of the
30 issues that have been raised at least with you this
31 morning?

32 A. That would be really important, so both the tripartite
33 arrangement to be able to look at the problem through
34 multiple lenses, but also, as a principal, the RSHQ would
35 look at what evidence basis there is. So if the objective
36 is to reduce the risk of negative safety and health
37 outcomes, we would be keen to see what is the evidence
38 basis for doing so.

39

40 Q. You were asked this morning by Mr Martin whether it
41 was your personal view in relation to legislation. The
42 view you've just expressed is clearly that of RSHQ?

43 A. Absolutely.

44

45 MS HOLLIDAY: I have no further questions.

46

47 MR CLOUGH: Q. Mr Stone, I have about four questions for

1 you. The first question is in relation to data management
2 within your department.

3 A. Yes.

4

5 Q. You currently have oversight over petroleum and gas,
6 explosives, mines and quarries and coal mining?

7 A. That's correct.

8

9 Q. Do all those regulatory functions use the same
10 database, Lotus Notes?

11 A. The Lotus Notes application is common across the
12 inspectorates, so that's the - increasingly, for those who
13 can remember it, Lotus Notes, that's the software platform
14 that, what would you say, the - yes, that's the framework.
15 The Mines Inspectorate, which comprises the coal mining
16 inspectorate and the mineral mines and quarries, because of
17 the similarities in the legislation, it makes sense for
18 them to - and clearly because of the similarities of some
19 hazards across sites, regardless of whether it's an
20 underground coal mine or open-cut mineral mine, they share
21 some of the same Lotus Notes software databases and tools.

22

23 Petroleum and gases is a different legislation and
24 different framework, and the same can be said for
25 explosives.

26

27 Q. So my question was, or is, do you actually have
28 a dedicated person to manage that database, a statistician
29 that actually regularly, on a daily basis, follows trends
30 and reports back to the regulatory function on emerging
31 trends?

32 A. Yes, we do. We have more than one individual.
33 Dr Brady made a recommendation to us in his fatality review
34 that - made four recommendations to us, and two of those
35 are clearly rooted in better collating, analysing and
36 disseminating information. So at the current time we have,
37 I'd say, four data analyst statisticians, certainly three
38 with qualifications in data analytics and mathematics and
39 stats, and we also have officers in other regional offices
40 who, that is their task, to regularly analyse trend the
41 incident data.

42

43 Q. With the information that was presented on the number
44 of HPIs, as I recall, I believe it was 104 HPIs with CH4
45 exceedances or methane exceedances?

46 A. Yes.

47

1 Q. Out of actually somewhere around 400 underground HPIS
2 in total, so it was actually 25 per cent. I don't know if
3 you picked that up.

4 A. I did, of underground coal mining, for sure.

5
6 Q. You made a statement that there is a reliance on the
7 experience of the inspectorate to determine the importance
8 of HPIS, so I'm just wondering your thoughts on how to
9 actually improve that connection between your statisticians
10 and the reporting and your regulator, given you made an
11 earlier statement that to a certain extent it's a bit
12 discretionary and you relied on the experience of the
13 inspectorate. Do you have any ideas in that area?

14 A. I do. To take one step back briefly, in my direct
15 experience, the continuous improvement journey has been
16 probably a year or two of producing an annual report for
17 mineral mines and quarries and for coal mining, which does
18 inform the reader; and the primary audience, of course, are
19 workers and site management and leaders. It certainly does
20 that, but we always felt that there was significant room
21 for improvement, and Brady really writ that large for us.

22
23 So we have - it's within our operational plan and it's
24 fully budgeted to stand up what we're calling a central
25 assessment performance unit, and that is a dedicated team,
26 which includes both inspectors and data scientists, to be
27 able to really forensically pull apart the data. The penny
28 drop was really in some of the information that Dr Brady
29 was able to present on the dataset that we administer.
30 There are some really important findings in Brady, clearly,
31 around hazards identified, controls applied and breaking
32 down where is the serious harm and who is being seriously
33 harmed, doing what activities.

34
35 I'm sorry that's a longwinded answer, but it is a big
36 focus for us and it's in our plan to stand that unit up
37 this year - this financial year.

38
39 Q. My next question is in relation to the first question
40 I asked in terms of the data management. In clause 91 of
41 your statement, you supply a link which says that the
42 department basically reports on, amongst other matters,
43 lost time injury frequency rate. You're familiar with the
44 term "lagging indicators"?

45 A. I am.

46
47 Q. Are you familiar with the term "leading indicators"?

1 A. I am.

2

3 Q. So has your department actually considered the use of
4 any leading indicators in your reporting moving forward?
5 If so, which ones?

6 A. We have. I think I will defer - I'll say just
7 a couple of words and I certainly will defer to the chief
8 inspector and to the regional inspector. Although we
9 continue to collect, to gather and look at lost time
10 incident data, we've made it clear in the public domain and
11 to stakeholders during industry leaders briefings and other
12 communications that we hold little regard for the LTI/LTIFR
13 total recordable, for the simple reason that, as you well
14 know I'm sure, the risk is that serious incidents are
15 diluted by many less-serious incidents, so they don't
16 give - they're not useless, but they're not particularly
17 helpful. That's why we have majored on serious accident
18 frequency rate as the safety measure.

19

20 In terms of leading indicators, I'm aware through our
21 structured inspection guides and structured audit guides
22 that inspectors use things like critical control
23 verification, so are the key controls in place, which would
24 be a leading indicator.

25

26 I would also say that for respirable dust, exceedances
27 of the exposure limit would be a leading indicator for long
28 latency disease risk. Yes, so we've certainly turned our
29 minds to it.

30

31 Q. The next question. You stated earlier that it is
32 important that the site owns the hazards, so do you have
33 any view in terms of corporate oversight or corporate
34 governance in terms of catastrophic risk? In the
35 legislation, they're termed "principal hazards".

36

37

38 Q. I'm just wondering whether you have any views on the
39 corporate function in terms of corporate governance, or
40 "the operator" would be a better term to use - whether or
41 not the current provisions provide enough obligations on
42 the operator to ensure the principal hazards are
43 effectively managed? Do you have any views on that?

44

45 A. I do have views. I think I have two thoughts on that.
46 The first one is that - I don't have the provision in front
47 of me and I might need to stand corrected, but a recent
amendment to the Coal Mining Safety and Health Act put an

1 obligation on those who sit above the SSE, if you will,
2 above the mine management, to, I guess in simple terms,
3 ensure that they're aware of the hazards at the site and
4 the degree to which risks are being managed. So that's
5 a clear obligation to do that.
6

7 I think my second point would be around more of my
8 personal view and probably picking up on, again, Dr Brady's
9 report. Dr Brady says that in order to reduce fatality and
10 serious injury in coal mines, organisations need to pick up
11 the characteristics of high reliability organisations, and
12 one of those characteristics is a relentless appetite or
13 desire for senior managers, senior leaders, corporates, to
14 really understand what's going on at site. So it is
15 certainly my personal view, and I think I can say that it's
16 the Resources Safety and Health Queensland's view, that
17 best practice would be executives within organisations
18 routinely reviewing things like fatality report
19 recommendations, critical control verification and
20 convincing themselves that all is well at site and
21 demonstrating to the site that they have a deep interest in
22 the safety and health performance.
23

24 Q. Thank you. My last question. You state in
25 paragraph 124 you're a member of CMSHAC?

26 A. Yes, that's correct.
27

28 Q. On what basis is that selection performed and is it
29 a ministerial appointment?

30 A. It is a ministerial appointment.
31

32 Q. So do you actually have any ideas, given there appears
33 to be a trend of more and more contractors used across the
34 industry, of how that organisation may better represent
35 labour hire employees and the labour hire organisations in
36 terms of the effectiveness of the legislation?

37 A. I think my first thought is around a principles
38 approach. So I think a good principle is that the
39 committee advising the minister on safety and health should
40 be representative of the industry, and I guess that means
41 that - and it is, in terms of it has tripartite
42 participation, the members of the Coal Mining Safety and
43 Health Advisory Committee include the chief inspector of
44 mines, the deputy chief, industry safety and health
45 representatives, other union members and industry members.
46 I think - so I think that's the first place to look: are
47 they representative and are they gaining representative

1 views about essentially every aspect of how the industry is
2 actually operating?

3
4 I would support ensuring that that happens, and if
5 that requires some change to how perhaps nominations are
6 received by the minister, I think that's something - well,
7 it's clearly something that the minister would want to
8 consider. Could I ask the basis for the question other
9 than what you just said?

10
11 Q. The basis for the question is whether or not
12 particularly labour hire employees, who may not even be
13 a member of a union - and it seems to be a growing body
14 amongst the industry - whether or not they're properly
15 represented on some of those boards or structures that are
16 advising the government on the effectiveness of the Act and
17 safety measures.

18 A. I don't know that I'd add much more to what I've said,
19 but I'll certainly consider it.

20
21 MR CLOUGH: I have no more questions. Thanks very much.

22
23 THE CHAIRPERSON: Q. Mr Stone, as far as you know, the
24 labour hire workers, coal mine workers, who aren't members
25 of a union, they don't have any organisation to represent
26 them?

27 A. I would imagine. I don't have numbers, but I would
28 imagine that that would be correct, that unless they're
29 a member of another union, it could be managerial,
30 professional, it could be some other trade, then they may
31 be similar to workers in any other industry. They may not
32 have worker representation.

33
34 THE CHAIRPERSON: Mr Hunter?

35
36 **<EXAMINATION BY MR HUNTER:**

37
38 MR HUNTER: Q. There is just one matter arising out of
39 some questions you were asked by Mr Roney QC. I asked you
40 some questions about the potential for the imposition of
41 a section 19 style - when I say section 19, I'm talking
42 about the Work Health and Safety Act - obligation on
43 a labour hire company. The proposition that I was putting
44 to you was not one that involved two safety and health
45 management systems. You understand that?

46 A. That's clear to me.
47

1 Q. But what I was suggesting was the idea that a labour
2 hire company would be required to ensure, as far as
3 reasonably practicable, that the mine into which it sent
4 workers was safe. Is there anything particularly striking
5 or revolutionary about that as a proposition?

6 A. I think as a principle, that to me sounds like good
7 risk management, the approach.

8
9 Q. All that would be required would be that the labour
10 hire company and the mine operator would need to structure
11 their commercial arrangements appropriately so that they
12 could both discharge their respective obligation?

13 A. I think in principle that's right. My only hesitancy
14 is just - would be thinking through whether there's any
15 negative consequence. It sounds like good risk management
16 to ensure that, as I said to the member earlier.

17
18 Q. Presumably there's a way of making it work in
19 New South Wales. Is it possible, is it likely there could
20 be some learnings from that jurisdiction?

21 A. Absolutely. Certainly at the chief inspector level
22 there's an open communication channel, and I know for other
23 industry stakeholders there would be. The Safety and
24 Health Advisory Committee might be an appropriate forum to
25 consider that matter further.

26
27 MR HUNTER: Thank you. Those are the only questions that
28 I had. Might Mr Stone be excused?

29
30 THE CHAIRPERSON: Thank you, Mr Stone.

31
32 **<THE WITNESS WITHDREW**

33
34 MR RICE: If the Board pleases, I call Peter Antony
35 Newman.

36
37 THE CHAIRPERSON: Yes, Mr Rice. Thank you.

38
39 **<PETER ANTONY NEWMAN, sworn:**

40
41 **<EXAMINATION BY MR RICE:**

42
43 MR RICE: Q. Is your name Peter Antony Newman?

44 A. That's correct.

45
46 Q. You're Chief Inspector of Coal Mines, Mr Newman?

47 A. That's correct.

1
2 Q. And you were first appointed to that position I think
3 in November 2019?
4 A. That's correct.
5
6 Q. You've given a statutory declaration for use of the
7 inquiry, have you not?
8 A. That's correct.
9
10 Q. I'll just put that in front of you. The document is
11 NPE.001.001.0001. That's a copy you've been given?
12 A. That's correct.
13
14 Q. Mr Newman, you are from the UK, are you not,
15 originally?
16 A. That's where I was born.
17
18 Q. And you studied to tertiary level in the United
19 Kingdom?
20 A. That's correct.
21
22 Q. Acquiring Bachelor of Science with Honours in Mining
23 Engineering; correct?
24 A. That's correct.
25
26 Q. And then emigrated to Australia quite some time ago?
27 A. That's correct.
28
29 Q. Apart from your tertiary obligations in mining
30 engineering, you've had industry experience including as an
31 underground mine manager; am I correct?
32 A. That's correct.
33
34 Q. Do you hold a certificate of some standard for that
35 capacity?
36 A. That's correct.
37
38 Q. What is it?
39 A. First class mine manager's ticket.
40
41 Q. Was that attained in Australia?
42 A. In Queensland.
43
44 Q. I think it was probably about 1980, wasn't it, that
45 you emigrated to Australia?
46 A. That's correct.
47

- 1 Q. Have you been working in the coal mining industry
2 since then?
- 3 A. Predominantly in the coal industry. I had about
4 20 years working for coal mine operators and about 18 years
5 working for a contract mining services company.
6
- 7 Q. Could you just give us a brief run-down on your
8 experience as a mine manager?
- 9 A. I had 10 years as a mine manager, as the mine manager
10 at the Leyland colliery outside Blackwater, the Crinum
11 longwall operation outside Emerald and the Tower Colliery
12 in the Wollongong area of New South Wales.
13
- 14 Q. From that experience, would you accept that in
15 underground coal mines, methane is an ever-present hazard?
- 16 A. That's correct
17
- 18 Q. And in fact it's a principal hazard under the
19 Queensland regulations, is it not?
- 20 A. It is.
21
- 22 Q. Requiring a principal hazard management plan. And
23 although, as Mr Stone pointed out, the legislation itself
24 is predominantly risk based, so far as ventilation systems
25 are concerned, the regulations are prescriptive. Do you
26 accept that?
- 27 A. In certain areas, that's correct.
28
- 29 Q. Principally sections 343 and 344 set out prescriptive
30 requirements for control of ventilation in areas that are
31 specified; correct?
- 32 A. That's right.
33
- 34 Q. And the standard that's set is to keep methane
35 concentrations in a general body below 2.5 per cent?
- 36 A. That's correct.
37
- 38 Q. That is a measurable requirement that must be met for
39 all circumstances; is that right?
- 40 A. That's correct.
41
- 42 Q. Save perhaps for the exception that section 344
43 provides by way of a sudden and temporary increase in
44 methane concentration?
- 45 A. That is correct.
46
- 47 Q. That is the only exception that the regulation permits

- 1 to compliance with the 2.5 per cent standard?
2 A. That's correct.
3
4 Q. Does it follow that the ventilation system must at
5 least endeavour to meet that standard on all kinds of
6 scenarios that might present themselves by way of gas
7 management in the conduct of underground coal mining?
8 A. That's correct.
9
10 Q. It's a non-negotiable standard, essentially, is it
11 not?
12 A. It's by legislation and, as such, yes.
13
14 Q. In setting the bar, so to speak, at 2.5 per cent, that
15 is the halfway point to an explosive concentration, is it
16 not?
17 A. That's correct.
18
19 Q. I suppose one might take it that setting the bar at
20 2.5 per cent provides a form of safety buffer?
21 A. A factor of safety, that's correct.
22
23 Q. Why is it important to have that safety buffer?
24 A. There are a number of components and hazards that, if
25 not controlled, could rapidly mean the 2.5 goes to the
26 explosive limit.
27
28 Q. What kinds of hazards, alone or in combination?
29 A. It could be a failure of ventilation, a disturbance to
30 the ventilation, a goaf fall, and the presence of an
31 ignition source.
32
33 Q. In a so-called gassy mine - and I think it might be
34 accepted we're dealing with gassy mines in this inquiry -
35 there is another form of control which works in aid of
36 ventilation, is there not, and that's the gas drainage?
37 A. That's correct.
38
39 Q. Is that one of the critical controls that works in
40 support of the ventilation system?
41 A. That's correct.
42
43 Q. In other words, it assists the ventilation system to
44 reach a compliant standard and keep it that way?
45 A. Well, it brings down the in situ gas content to
46 a level that the ventilation system is then able to dilute
47 the methane in the workings.

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Q. Those two things, then, ought to work hand in hand to achieve the requirements that are set out in sections 343 and 344?

A. Absolutely.

Q. Tell me, we have 40 HPIs to look at in this inquiry and the data already presented indicates that there are more than those, is the standard that's set by the prescriptive requirements of 343 and 344 aspirational or is it reasonably achievable?

A. It's definitely reasonably achievable. Otherwise, underground mines would be in a constant state of exceeding the 2.5 per cent.

Q. And the mines must configure their systems so as to achieve that outcome on a consistent basis?

A. Absolutely.

Q. Can I ask you this. Given the recurrent nature or the recurrent volume of methane exceedances, are they in fact an inevitable part of coal mining or not?

A. I think it's important in terms of not generalising around HPIs. An HPI that has a methane gas exceedance of greater than 2.5 per cent that lasts and stays in the workings for 60 minutes or more is quite different from a methane exceedance that exists for 10 seconds and the ventilation quantity - and in fact the legislation recognises this, the ventilation quantity is such that that is diluted below 2.5 per cent in a very short period.

Q. Accepting that durations can vary and severity, if I can use that word, can vary, the question nonetheless is: are exceedances an inevitable part of coal mining?

A. I don't believe that they're an inevitable part of coal mining, no.

Q. One other matter. We know also under the regulations that power at the face is required to be tripped when concentration reaches 2 per cent?

A. That's correct.

Q. No doubt that is a safety measure, but can you tell us, is that a guarantee of safety in the sense that there is then no ignition source present at the face?

A. Well, it is removing one source of ignition at the face.

- 1
2 Q. Yes. My question was, though, is that a guarantee
3 that there is no ignition source at the face?
4 A. No.
5
6 Q. Can that ever be guaranteed?
7 A. No.
8
9 Q. Hence the importance of keeping methane certainly
10 below 5 per cent concentration?
11 A. 2.5 per cent concentration.
12
13 Q. You have said at paragraph 22 of your declaration, at
14 page 0005, adopting what Dr Brady has said:
15
16 *... Regulators should identify HPIs that*
17 *they consider of critical importance for*
18 *safety ...*
19
20 You say that you do agree that HPIs are of critical
21 importance?
22 A. Absolutely.
23
24 Q. Is that a personal view or just a reflection of the
25 legislation?
26 A. Well, it's my personal view and it's a reflection of
27 the legislation.
28
29 Q. Your personal view based on the experience you've
30 described?
31 A. Absolutely.
32
33 Q. That it's important to maintain that standard?
34 A. Yes.
35
36 Q. Is it the case, then, that in the wide body of HPIs
37 that are reported from coal mines, methane exceedances are
38 or should be given particular attention by the
39 inspectorate?
40 A. Yes.
41
42 Q. First of all, are they given particular attention?
43 A. They are given particular attention alongside other
44 HPIs that occur in the industry.
45
46 Q. And that is an approach which should continue?
47 A. The inquiry and the investigation into HPIs, be them

1 gas exceedances or other HPIs, should continue to be
2 a focus, yes.

3

4 Q. I just want to continue to put the HPIs that the
5 inquiry is required to investigate in a little more context
6 in terms of the inspectorate's function. Could we start
7 with some correspondence that pre-dates your appointment.
8 I'm referring to some letters that Mr Albury, when he was
9 chief inspector, issued to SSEs and UMMs back January and
10 February of 2017. Are you familiar with that?

11 A. Yes.

12

13 Q. Could we bring up RSH.002.289.0001. We can't display
14 it, but I think you have been given a copy of at least the
15 first of those letters?

16 A. Yes.

17

18 Q. You know there are two?

19 A. Yes.

20

21 Q. Although those letters pre-date your appointment, do
22 you adhere to the contents that you're familiar with that
23 are set out in them?

24 A. Yes, I certainly do.

25

26 Q. And the purpose was to ensure that mine managers and
27 site senior executives conducted their operations so as to
28 consistently achieve the standard set by the regulation?

29 A. That's correct.

30

31 Q. With particular reference to tailgate roadways?

32 A. The gas levels and reporting of gas exceedances in
33 tailgate roadways, yes.

34

35 Q. In the second of those letters that Mr Albury sent
36 out, there was reference to feedback from industry that
37 there was some uncertainty as to the scope of the exception
38 in regulation 344, the sudden and sharp increase of short
39 duration and how that played.

40 A. Yes.

41

42 Q. Has that, in your experience, been a continuing source
43 of any confusion?

44 A. No.

45

46 Q. Or has this correspondence clarified the situation?

47 A. That correspondence appears to have clarified the

1 situation with respect to the reporting of HPIs for gas
2 exceedances.

3

4 Q. You don't get continuing feedback about uncertainty
5 about the position with respect to that exception?

6 A. Not with respect to what's in the content of that
7 letter.

8

9 Q. The first of those letters referred to identified
10 instances of occurrences of - or unreported occurrences of
11 methane in excess of 2.5 per cent and I think foreshadowed
12 audits in that respect. You've referred in your statement,
13 and I think Mr Stone may have also, to the best practice
14 and recommendations document issued in June 2019. You're
15 familiar with that, which sets out the results of the
16 methane audits?

17 A. Yes.

18

19 Q. Could I show you that, RSH.002.415.0001.

20 A. I've got a copy.

21

22 Q. I wanted to show it, actually. Perhaps I'll just
23 extract from it some questions and do your best to answer
24 them. There is reference in that document to the fact that
25 Queensland underground coal mines have become both deeper
26 and the production rates have increased over time, and that
27 mines are struggling to control the percentage of methane
28 in the longwall return roadways tailgate. You have that.
29 You can see it in the summary. What is the relevance of
30 depth and longwall production rates to the prevalence of
31 methane?

32 A. Twofold. One is in terms of the production rates,
33 methane is emitted during the breaking down of the coal as
34 it's cut with the longwall, so it adds further methane into
35 the mine atmosphere. And in terms of the depth, the depth
36 has an impact in terms of the permeability of the coal to
37 release that methane in its virgin state and on
38 development. So, in general, the deeper the mine, the coal
39 seam is, the higher the gas content, and the higher the
40 production rate, the higher the volume of methane that is
41 released into the mine environment.

42

43 Q. Do those two things, then, in combination increase the
44 difficulty of achieving the standards required by the
45 ventilation system?

46 A. They do, without sufficient both pre and post drainage
47 and sufficient lead times for drainage of the methane from

1 the coal seam prior to production commencing.

2

3 Q. Would you expect with the application of proper skill
4 and experience and research into those issues that the
5 standards of the ventilation system can nonetheless be met?

6 A. Yes, and there are experts in that field within
7 Australia that model those environments and provide both
8 density and lead times of that drilling program and
9 drainage program for mining to commence at the predicted
10 levels that a particular mine's business plan may have.

11

12 Q. There are figures actually set out in the best
13 practice document, but it is the case, is it not, that
14 there were some hundreds of unreported exceedances at the
15 eight mines that were examined for the purpose of the
16 audit?

17 A. That's my understanding, yes.

18

19 Q. To confirm your understanding, if you have a look at
20 page 4, at the table, does that assist you?

21 A. Sorry. Yes, there were hundreds of exceedances not
22 reported.

23

24 Q. Just by way of a bit further history, can I ask you
25 about another document, which is Queensland Mines and
26 Quarries Safety Performance and Health Report. It's
27 document RSH.002.416.0001. We've secured an electronic
28 copy and you have a copy in front of you, I think?

29 A. Yes.

30

31 Q. As I look at it, the document doesn't appear to have
32 a publication date that I could see, but your name is upon
33 it, included with Mr Fasching's name, under "A message from
34 the Chief Inspectors", so its publication must postdate
35 your appointment; am I correct?

36 A. That's correct.

37

38 Q. You therefore adopt the contents?

39 A. That's correct.

40

41 Q. To begin with, perhaps it's self-explanatory, but you
42 might tell us what purpose this document serves?

43 A. It provides an overview of, as it says, the safety
44 performance and health performance of the industry to the
45 industry, looking at the previous financial year and
46 lessons that have come from and learnings that have come
47 from a number of aspects. So it not only provides

1 a summary of safety alerts that have been issued during the
2 year, so that mines can, at a glance, ensure that they have
3 both received and made note of the learnings from those
4 safety alerts, it provides an overview of compliance and
5 also talks to the health aspects of the industry and high
6 potential incidents to aid mines looking at their own
7 performance and how it relates to that of industry.
8

9 Q. If you could please go to page 13, and electronically
10 it's page 0013, do you see at the first paragraph on that
11 page that there is again a reference to the depth of mining
12 and to the increase in production rates, and you and
13 Mr Fasching make the comment that coal mines must be more
14 vigilant in controlling the concentration of methane in
15 longwall return roadways. That comment - was that the
16 product of the audit and the best practice document, or was
17 it based more widely than that?

18 A. No, the content of this is a reflection of the audit,
19 the outcomes of the audit and the work that was then put
20 into the best practice document to, again, ensure that
21 people, number one, were aware of that document being
22 available and the history of it and the continuing need
23 within underground coal mines for the continued vigilance
24 with respect to gas management.
25

26 Q. It's probably correct to say, isn't it, that the audit
27 and the best practice document were the precursors to the
28 regulation amendments that came into force in January 2020,
29 particularly section 243A?

30 A. That's one of the amendments that occurred, and in
31 fact the best practice document refers to the proposal by
32 the regulator at that time to introduce amendments to the
33 regulation with respect to ventilation and gas management.
34

35 Q. Just to get a bit more history, could you go to
36 page 33, if I could ask for that to be brought up. If you
37 would zoom on the bottom half of the page, it sets out
38 data, I assume, drawn from your reporting systems on the
39 overall figure of HPIS for coal mines and also quarries,
40 et cetera?

41 A. Yes, that's correct.
42

43 Q. Tell me, for the figures shown there for 2016-2017 and
44 2017-2018, given they were the two years for which the
45 audit was undertaken, are those figures shown for coal HPIS
46 inaccurate in that they do not include the unreported HPIS?

47 A. In the 2017-18 year, there was an increasing number of

1 gas exceedances starting to be recorded once the industry
2 had been made aware that their interpretation of what was
3 required to be reported and that of the regulator had been
4 clarified.

5

6 Q. Well, we do actually see for the first three years
7 shown in the graph a fairly constant figure of just over
8 1,500?

9 A. That's right.

10

11 Q. And then an increase for 2017-2018 and 2018-2019 of
12 a couple of hundred or more. Do we understand you
13 correctly to attribute that to increased reporting
14 consequent upon the notifications that Mr Albury gave?

15 A. That's correct.

16

17 Q. Just over the page on page 34, if you could zoom on
18 the first half of that page, there's actually some
19 information in footnote 13 on the left-hand side of the
20 page giving some details of the number of gas
21 management-related HPis, a figure of 99 in 2017-18, and 79
22 apparently in 2018-19; correct?

23 A. That's correct.

24

25 Q. And to bring that picture up to date for the period of
26 the inquiry, you would have observed Mr Stone speak to some
27 analytical data that the inspectorate provided earlier in
28 the day's proceedings?

29 A. That's right.

30

31 Q. It follows from that numerical data that there are
32 probably 35 or so per week HPis from coal mines reported to
33 the inspectorate?

34 A. That's correct.

35

36 Q. Of which a small proportion of those are
37 methane-related HPis?

38 A. A proportion of them, yes.

39

40 Q. I think the figure from the data we saw from 2019-20
41 in the spreadsheet that Mr Stone spoke to, there have been
42 104 for the first 10 months of the financial year 2019-20?

43 A. Yes.

44

45 Q. Perhaps in light of that we could talk a little bit
46 about resourcing for the inspectorate. You give some
47 information about resourcing at paragraph 6 of your

1 declaration. What presently is the nominal complement of
2 inspectors?

3 A. It doesn't reflect what's in my statement, so as of
4 today we have 24 inspectors.

5
6 Q. When you say you have 24, what I was asking you is
7 what is your notional complement? Is that your maximum?

8 A. No, 28 inspectors is what I have in my business plan,
9 and the funds to support that.

10
11 Q. You have presently 24 occupants of those positions?

12 A. That's correct.

13
14 Q. There has been some resourcing increase, I think. You
15 refer to that at both paragraph 6 and paragraph 9. What
16 additional numbers have you recently been given?

17 A. As I say, in the business plan for this year, we have
18 funding for 28 inspectors.

19
20 Q. Is that an increase from what?

21 A. Well, when I started in the inspectorate, we had about
22 18 inspectors, but there were a number of vacancies.

23
24 Q. You're presently operating at 24 out of 28, and you
25 mentioned that when you started I think there was 18?

26 A. Approximately 18.

27
28 Q. Does that suggest that - you can tell us - when you
29 started, were you well below your full complement of
30 inspectors?

31 A. That's correct.

32
33 Q. By, what, perhaps 6 or so?

34 A. I'm not Robinson Crusoe with respect to chief
35 inspectors that found themselves in that position.

36
37 Q. What is the difficulty in filling the positions, in
38 your experience? You don't only use the Queensland
39 experience; you're speaking more widely, from your previous
40 answer. First of all, tell us what your experience is of
41 any difficulty in recruiting for the inspectorate?

42 A. So my experience in the last nine months that I've
43 been in this role?

44
45 Q. Yes.

46 A. Is ultimately we are looking for inspectors who have,
47 in the first instance, a certificate of competency, and

1 desirable that they have a first class certificate of
2 competency, and they've acted as a mine manager, at the
3 very least, an underground mine manager in the industry.
4 That pool of people is a fairly small pool of people.
5

6 There are two aspects which impact in terms of our
7 ability to attract inspectors of that ilk. The first is
8 a disparity between remuneration of the inspectorate and
9 their equivalent positions in industry.
10

11 Q. As a UMM?

12 A. That's correct. And, secondly, the location of those
13 inspectors in regional centres. In a lot of cases,
14 operations, both underground mine managers and senior site
15 executives, these days fly in and fly out of Brisbane, and
16 at the end of the day we don't have access to that pool due
17 to budgetary constraints.
18

19 People come into the inspectorate for one of two
20 reasons, in my view. One is that they have been in the
21 industry for some time, they are financially secure and
22 they are looking for their final two to five years of their
23 career before they retire in a regional centre, but
24 ultimately we have them for a short period of time.
25

26 The second is those people in the industry who have
27 got to a certain position within their organisation, and
28 either they or the organisation have decided that that's
29 where they're staying, and they look to come to the
30 inspectorate for a period of time to get a broader exposure
31 through the industry, to have exposure both technically and
32 professionally to different aspects of the industry but
33 ultimately with an aim that they will be returning to the
34 industry albeit with a different operator having had that
35 exposure, which means that, again, we might have them for
36 two to four years. In general, those people are not
37 necessarily financially secure, so they will return to
38 industry and the remuneration that goes with that.
39

40 Q. Do you find there is, by virtue of the sorts of things
41 you've been talking about, a lag time in recruiting of
42 inspectors?

43 A. Very much so. In terms of the lag time to have
44 someone hand in their resignation to having a replacement
45 for that person is typically five to six months, because,
46 as I say, of the limited pool of people for those reasons
47 I gave earlier.

- 1
2 Q. You mentioned that they're regionally based. Is that
3 Rockhampton and Mackay?
4 A. That's Rockhampton and Mackay.
5
6 Q. Are we speaking there about all inspectors or just
7 coal mining inspectors?
8 A. That's coal mining inspectors, yes.
9
10 Q. Are there any inspectors based in Brisbane --
11 A. There are three inspectors based in Brisbane, that
12 being myself, the deputy chief and the senior inspector of
13 mechanical.
14
15 Q. By contrast, then, with, as you say, coal mine workers
16 or even SSEs, who can perhaps live in Brisbane and fly in,
17 fly out to a mine, your inspectors, by virtue of their
18 duties, are required to work out of either Rockhampton or
19 Mackay?
20 A. That's correct.
21
22 Q. And spend how many days on the road inspecting mines
23 and the like?
24 A. Typically they would spend three to four days on the
25 road.
26
27 Q. Out of every week?
28 A. Out of every week.
29
30 Q. Is that a disincentive to taking up the position?
31 A. No, no. At the end of the day, an inspector's job is
32 to be out there inspecting, auditing and undertaking
33 investigations.
34
35 Q. How many of the inspectors do actually hold
36 a certificate at one level or another?
37 A. In terms of a certificate of competency that's been
38 issued by the board of examiners?
39
40 Q. Yes.
41 A. Of the 16 - sorry, 15 mining inspectors, 13 of those
42 have certificates of competency, and a further one has
43 a senior site executive appointment.
44
45 Q. Those certificates would be at what level? You might
46 not be able to give us a breakdown.
47 A. There are three that have a First Class Mine Manager's

1 Certificate, including myself. There's one that has
2 a third class certificate, and the balance have second
3 class or open-cut examiners or senior site executive
4 appointments for open-cuts.
5

6 Q. Earlier today, some data was presented on fatalities
7 in coal mines. You're required, are you not, to prioritise
8 investigation of fatalities and also serious accidents?

9 A. That's correct.
10

11 Q. Do those investigations take priority over mine
12 inspections, audits or, indeed, treatment of HPIs?

13 A. They do.
14

15 Q. Are you able to inform the inquiry, even in general
16 terms, about what inroads into your capacity investigations
17 of fatalities and serious accidents make? What kind of
18 allocation of staffing would you make to an incident of
19 that kind?

20 A. I think currently about 30 per cent of my resources
21 are involved in those investigations. I should say that's
22 serious investigations and complaints and HPIs. Last year,
23 prior to me coming on board, or when I came on board, we
24 had the equivalent of 10 full-time equivalents of
25 inspectors involved in serious accidents, serious accident
26 investigations, based on the fatalities that occurred in
27 the industry, serious accidents that occurred in the
28 industry and the North Goonyella incident.
29

30 THE CHAIRPERSON: Mr Rice, would that be a convenient
31 time?
32

33 MR RICE: Yes, it would, Mr Martin, thank you.
34

35 THE CHAIRPERSON: We will break until 2.15. Thank you.
36

37 LUNCHEON ADJOURNMENT

38

39 THE CHAIRPERSON: Yes, Mr Rice.
40

41 MR RICE: Thank you.
42

43 Q. Mr Newman, you gave some evidence a little earlier
44 about the staffing levels when you commenced your
45 appointment. I think you said there were 18 inspectors.
46 I think there may be some correction you want to make to
47 that. Is that the case?

- 1 A. Yes, that's right. My apologies. On the day
2 I started, including myself, there were 21 inspectors on
3 the books, one of which was transitioning to retirement, so
4 20 active inspectors, including myself, who had just
5 started.
6
- 7 Q. Out of, what's the full complement?
8 A. 28.
9
- 10 Q. And you're currently up to 25 out of 28; is that
11 right?
12 A. On the books, 25. Effective, 24, because one is on
13 transitioning to retirement.
14
- 15 Q. Speaking about the difficulty that you face
16 recruiting, you commented that you are not the only chief
17 inspector to have had such a problem. Have you had
18 experience in other areas that you've worked of that
19 scenario?
20 A. No. Just with my knowledge of my predecessors, of
21 which there have been five in the last ten years, so a new
22 chief inspector every couple of years on average.
23
- 24 Q. You're aware of a history of that kind of resourcing
25 issue; is that what you're saying?
26 A. Yes, that's correct.
27
- 28 Q. You've said that you regard it as at least desirable
29 that inspectors have an underground mine manager's
30 certificate or at least some level of certificate of
31 competency and that that's one of the difficulties in the
32 recruitment of inspectors. Do I understand correctly?
33 A. That's correct.
34
- 35 Q. I know that you're still quite new to the job, but can
36 I ask you are you aware whether there has been any
37 consideration in the past to developing some internal
38 program so that inspectors could train themselves, sit for
39 the exam and acquire higher-level certificates of
40 competency?
41 A. Yes, in terms of the training of inspectors, there are
42 at least two that come to mind who have been studying so
43 that they can sit for a higher certificate than they
44 currently have.
45
- 46 Q. My question was really whether that might be done in
47 a more structured way so that, for example, there might be

1 some financial incentive to inspectors to go about doing
2 this kind of enhanced competency examination?

3 A. My view is that comes back to the same remuneration
4 issue, whether you call it an incentive or otherwise.

5
6 Q. Well, is there scope to develop some program where
7 a financial incentive could be offered, or are you saying
8 that there isn't scope to provide that kind of incentive at
9 the end of the day?

10 A. To my knowledge, within the current budgetary
11 constraints within the regulator, there is a certain levy
12 that is a revenue stream for which RSHQ have business plans
13 across the full regulator, Simtars and the health and
14 hygiene unit. So the current remuneration structure for
15 inspectors has a range associated with skills and
16 experience, but it's not peculiar to a particular
17 certificate of competency that they hold. So within that
18 salary structure, no, that doesn't exist.

19
20 Q. It's based on skills and experience and not
21 necessarily on the level of certification?

22 A. That's right.

23
24 Q. So even if you had a higher-level certification, if
25 you weren't deemed to have the skills and experience to
26 match, you wouldn't earn a higher pay rate?

27 A. That's right.

28
29 Q. That's the way it's been set up for some time,
30 presumably?

31 A. That's my understanding.

32
33 Q. Nonetheless, at least a couple of people are taking it
34 on themselves to do the study and get --

35 A. As part of their professional development, yes.

36
37 Q. Is that really a personal motivation?

38 A. For those individuals, where they are in their
39 careers, it may well be for them to have a better
40 opportunity to move back into industry, and that is the
41 danger, obviously.

42
43 Q. Because, as you say, am I right, there is a shrinking
44 pool of people with UMM certification?

45 A. That's right.

46
47 Q. We've established that there are at least 1,700 or so

- 1 HPI reports to the inspectorate of all types, and so that
2 gives rise to the need to manage that information, so
3 I want to ask you a little bit more about Lotus Notes than
4 Mr Stone was able to provide. Can I ask you this: is it
5 a desirable thing for Lotus Notes to be used as a central
6 repository of information, of all information to do with an
7 HPI so that there's a single access point?
8 A. Absolutely.
9
10 Q. Does it have that capacity?
11 A. It currently has that capacity, yes.
12
13 Q. You say "currently". Did it not have at some previous
14 time?
15 A. I can only speak from November, when I joined the
16 department.
17
18 Q. So to take an instance, an inspector might be out on
19 the road and nonetheless receive a call about an HPI.
20 Could that happen?
21 A. Yes, it does happen.
22
23 Q. And he or she might make a note in a diary or some
24 convenient place. Does that happen?
25 A. That has been the practice in the past.
26
27 Q. Would you expect that note to then become, by some
28 means, part of the Lotus Notes record so that it's there
29 for all to view and not just in that inspector's notebook?
30 A. That is the ideal situation, yes.
31
32 Q. Has that been occurring?
33 A. Not on the majority of cases. It does happen in some
34 cases.
35
36 Q. I ask that because, firstly, you're aware of the part
37 of Lotus Notes called incident notification?
38 A. Yes, I am.
39
40 Q. Is that the place at which an inspector would be
41 expected to record information received from a mine about
42 an HPI?
43 A. Yes, there are a number of tabs in that area of Lotus
44 Notes in which a form 1A, form 5A, any photos and any notes
45 can be added.
46
47 Q. But to take the instance where an inspector, for

1 whatever reason, has made a private note of that first
2 dialogue with, say, a mine manager about an HPI, to your
3 knowledge has that private note, as I've called it,
4 routinely been recorded back to Lotus Notes so that it's
5 there for all to view?

6 A. Not to my knowledge, no.

7
8 Q. Is that an improvement that you would see going
9 forward?

10 A. It's an improvement which we are currently in the
11 process of implementing with respect to a printed book
12 where the details of an HPI are recorded in rather than
13 a diary or a notebook or a piece of paper.

14
15 Q. Do inspectors have an iPad or some other device to
16 access Lotus Notes when they're away from the office?

17 A. They have a computer, they have a laptop computer.

18
19 THE CHAIRPERSON: Q. When you refer to a private note,
20 you're referring to a note in a personal notebook?

21 A. Yes, yes.

22
23 MR RICE: Q. To take another instance, if an inspector
24 chose to respond to, say, a form 1A by email to the
25 notifier and engaged in some dialogue by email with, say,
26 the UMM of the mine, is there capacity to upload that kind
27 of information to Lotus Notes?

28 A. Yes, there is, and there are certain inspectors who do
29 upload that information.

30
31 Q. Is that another instance where that might not have
32 been occurring routinely?

33 A. That is an area for improvement within the use of
34 Lotus Notes for responding to HPIs, yes.

35
36 Q. Would it be fair to say from what you've said so far
37 that Lotus Notes really hasn't been properly used as
38 a central repository of information pertaining to an HPI,
39 such as a file that, say, a solicitor might keep?

40 A. No --

41
42 MS HOLLIDAY: Could I interrupt. In terms of being
43 properly used versus the capacity for it to record? There
44 is no suggestion they've used it for any improper purpose;
45 rather, instead, that it has the capacity to record and
46 hasn't been used to its capacity.

47

1 THE CHAIRPERSON: Yes, Mr Rice.

2

3 MR RICE: Q. "Properly" is perhaps a matter of
4 perception. The point really is that the capacity exists
5 for Lotus Notes to serve as a central repository for
6 information; correct?

7 A. That's correct.

8

9 Q. And you've already expressed, I think, the
10 desirability that that should happen?

11 A. That's correct.

12

13 Q. But it hasn't been happening as it should?

14 A. Not in all cases. Like I mentioned, in some cases, it
15 is, but I should emphasise that in terms of a central
16 repository for the form 1A, which gives the details which
17 the inspector would generally write down on his piece of
18 paper or his notebook or his diary, that's contained in the
19 one - it's really a script of the form 1A, and the form 5A,
20 which the mine then provides within a month, also provides
21 the actions that they have taken associated with the
22 investigation they've undertaken. So to that extent, it is
23 a central repository of information pertaining to the HPI.

24

25 Q. But you're referring only to the forms 1A and 5A, and
26 as important as they are, they're only perhaps part of the
27 story?

28 A. That's correct.

29

30 Q. And, in particular, the important initial verbal
31 dialogue with the mine manager may simply continue to
32 reside in an inspector's notebook without being uploaded?

33 A. I can only clarify that that initial discussion, the
34 majority of that is associated with what ends up being
35 supplied in the form 1A. It is only in the area where the
36 inspector has made further inquiry in terms of the controls
37 the mine is putting in place to prevent a reoccurrence at
38 that time or securing the scene.

39

40 Q. I don't particularly want to take you to any of the
41 incident notifications. We've got a lot.

42 A. Thank you.

43

44 Q. We can review what they look like for ourselves, but
45 can I suggest this to you, that they principally contain
46 a copy and paste of the information from the form 1A in the
47 first instance, and then a copy and paste of certain

1 sections of the form 5A later in the piece, and that
2 essentially comprises the incident notification form?

3 A. In fact, the mine provides the input into the form 5A.
4 It's not a copy and paste. And the form 1A, while one of
5 the tabs of the incident notification is a reflection of
6 the form 1A, the form 1A itself is also contained in Lotus
7 Notes as a PDF.

8
9 Q. Going forward, how is the recording of HPIs going to
10 change from prior, say, to this inquiry?

11 A. Yes, so as I have outlined in my affidavit, there is
12 a number of stages associated with the improvement of the
13 reporting of HPIs and serious accidents, and the first part
14 of that in relation to HPIs is happening as we speak, and
15 that is associated with some modifications to the Lotus
16 Notes so that when an HPI is reported, the previous HPIs
17 that have occurred at that site are automatically loaded
18 into the incident notification page, so that when the
19 inspector is entering the information into Lotus Notes,
20 they automatically will have a listing of all the other
21 HPIs that have occurred, irrespective of whether they were
22 notified to that inspector or not, on that tab, so they can
23 see whether there has been a pattern of HPIs of a similar
24 nature, or in fact other HPIs that have occurred at that
25 site.

26
27 Q. Sorry to interrupt you. That hasn't been the case to
28 date, has it, that by entering a particular --

29 A. Don't hold me to this date, but that's the case as of
30 about two weeks ago. So, no, it wasn't prior to that.
31 It's one of the improvements we've looked at and
32 implemented.

33
34 Q. The HPIs can be, even on a regional level where the
35 numbers can be smaller, distributed, so to speak, amongst
36 the various inspectors?

37 A. The mine will, during the week, ring an inspector from
38 our contact list, and on the weekend they'll notify the
39 inspector who's on duty over the weekend, so, yes, the HPI
40 could be notified to a variety of inspectors. I've
41 mentioned stage one of improving the HPI reporting process.
42 In addition to the changes that have been made within Lotus
43 Notes, we're also having printed up, as I say, pro forma
44 books so that when inspectors do receive those calls, they
45 will go into a consistent handwritten reporting process for
46 then transcribing into Lotus Notes.

47

1 The second part of that is a risk assessment with
2 respect to the HPI as to what response we'll have with
3 respect to that HPI, from that being an inquiry through to
4 attending the mine for a full investigation.

5
6 Q. Is that like some kind of rating system?

7 A. A rating system.

8
9 Q. So that it can provide a flag for some future action?

10 A. For the regional inspector to then allocate what
11 resources are required to react to that HPI. Currently we
12 review on a weekly basis, on a weekly inspectors meeting,
13 all HPIs that occurred in the previous week and over the
14 weekend, to discuss that amongst all the inspectors in both
15 offices and from Brisbane. Myself and the deputy chief
16 attend those meetings. That has been happening for some
17 time. So that's stage one.

18
19 Stage two of the improvement, as Mark Stone referred
20 to, is the establishment of a central assessment
21 performance unit. Part of that unit will be the receiving
22 of all HPI notifications through a 1300 number and with
23 inspectors in all disciplines - sorry, in disciplines of
24 mining mechanical and electrical as part of that unit.

25
26 Q. They will be available to receive notifications?

27 A. They will be full time in that unit, and the analytics
28 group will also form part of that unit, that unit then
29 reporting through to one of the chiefs, be it MMQ or
30 myself.

31
32 Q. From that unit, there will be a referral back to the
33 region, will there?

34 A. The HPI will be, as they say, triaged and then
35 referred to the relevant regional manager for them to take
36 the necessary action in terms of resourcing with respect to
37 the HPI. It will not replace the weekly review of all HPIs
38 that occurs across all the inspectorate on Monday mornings
39 of every week.

40
41 Q. Sometimes a mine record entry is generated consequent
42 upon an HPI. There are a few instances we'll observe of
43 that. In the past, has the mine record entry itself been
44 uploaded to the relevant HPI so that that follow-up conduct
45 can be observed without going to some separate place to
46 look up mine record entries?

47 A. The mine record entry itself, not to my knowledge, but

1 the mine record entry is contained within Lotus Notes as
2 a separate area but in the same platform. So when you go
3 into Lotus Notes there's visibility of the incidents, the
4 mine record, mine record entries, so it's reasonably easy
5 for anybody to refer to those.
6

7 I should also add, and I think Mark Stone referred to
8 it, that the Lotus Notes platform will be replaced. As
9 part of the central assessment unit we are introducing
10 a new reporting system, which is currently being scoped for
11 a brief of concept, with the funding for that reporting
12 system included in this year's RSHQ's budget, and it's one
13 of the priority projects in the business.
14

15 Q. Has some kind of a business case been prepared as to
16 what enhancements are sought from a new system?

17 A. That is what's currently being undertaken internally
18 within RSHQ, and then we'll be engaging with industry with
19 respect to other enhancements that they may well see -
20 industry and the ISHRs - so that people have access to that
21 for both reporting in the first instance and really
22 bringing it into 2020-30 technology.
23

24 Q. Just to be clear, is that a replacement of the Lotus
25 Notes platform or just some separate enhancement?

26 A. No, no, it's a replacement for the incident reporting
27 database that currently exists within Lotus Notes. It's
28 not an enhancement of Lotus Notes, no. It's a significant
29 project of one and a half to two million dollars.
30

31 Q. Correct me if I'm wrong, but from what we've seen
32 there does not appear to be any record, I call it
33 a close-out record, by an inspector. By that, I mean some
34 record confirming that the matter has been considered and
35 a level of satisfaction of some kind has been reached; in
36 other words, some form of record that the matter has been
37 considered and is effectively closed or referred for
38 further action?

39 A. One of the enhancements I didn't mention that is now
40 in place is that the form 5A tab now has an acknowledgment
41 by the inspector who's been allocated that HPI that that
42 has actually occurred. It's not saying that the inspector
43 is approving those controls that have been suggested by the
44 mine. It's acknowledging that those controls have achieved
45 an acceptable level of risk, albeit that that risk still
46 lies with the mine.
47

1 Q. Yes, but previously the mines would submit their
2 forms 1A and 5A, and unless an inspector, for whatever
3 reason, chose to follow up on that notification, the mines
4 would hear nothing back; is that the way it worked?

5 A. And the mines won't necessarily hear anything back
6 this time, but what there will be is an auditable trail to
7 show that the inspector that has been allocated that HPI
8 has closed that HPI off. As you might imagine, with 33 -
9 on average 33 HPIs, for us to respond to the mines to say,
10 "Thank you for that, we are closing this HPI off" would be
11 an administrative nightmare, and in fact not required,
12 because at the end of the day it is for the mine to
13 determine that they've implemented the controls required to
14 prevent a reoccurrence.

15
16 Q. I just want to ask you about the role of the
17 inspectorate in response to the notifications that are made
18 to it. You refer at paragraph 25 of your statutory
19 declaration, adopting I think recommendations from
20 Dr Brady, that the regulator should play a role in
21 collating, analysing, identifying and disseminating
22 lessons, et cetera, so that one function is to learn from
23 the HPIs and disseminate trends and matters of interest and
24 so forth?

25 A. That's correct.

26
27 Q. You obviously propose that that continue and in fact
28 be enhanced?

29 A. That's correct.

30
31 Q. Mr Stone, I think, was asked about the forms of or the
32 manner in which you might go about that dissemination, and
33 he I think deferred to you in that respect. We've already
34 seen the annual safety and health report. Is that one
35 mechanism by which this kind of analysis is disseminated
36 back to the industry?

37 A. One of a number, yes.

38
39 Q. Can you give us a brief description of the others?

40 A. Yes. In the first instance, there are a number of
41 alerts to industry which are circulated to the SSE and the
42 operators. That is in a safety newsflash where there has
43 been a serious accident which requires notification to all
44 operations to make them aware that there has been such an
45 incident and the initial matters which we believe mines
46 should consider.

47

1 The next level is safety alerts, which go into more
2 detail, once those details come to light, with respect to
3 a serious accident or an HPI or in fact a notification from
4 a manufacturer or supplier notifying us of any defective
5 matter that they may have found with their product.
6

7 And thirdly in that group of publications is a safety
8 bulletin where we draw on not only where we see events
9 occurring both within Queensland and other States and
10 bringing industry's attention to those series of safety
11 alerts that have been published both within our
12 inspectorate and outside, and the matters that the SSE
13 should consider associated with those.
14

15 The other areas where lessons learnt are publicised is
16 in the monthly coal periodical, which had been distributed
17 on an infrequent basis in the distant past. It is now
18 being distributed on a monthly basis, so one of the --
19

20 Q. Is it like a newsletter?

21 A. No. It's a - the intention is that it's
22 a presentation done in PowerPoint highlighting five to six
23 HPIs that have occurred during the month that the
24 inspectorate believe there are lessons for industry, and
25 those recommendations for industry are distributed - are
26 listed on the basis of considerations for the SSE,
27 considerations for supervisors and considerations for coal
28 mine workers. The intention of the periodical is that it
29 is then able to be used at toolbox talks on mine sites.
30

31 The other areas where we provide feedback on lessons
32 learnt is in a number of workshops that we hold for
33 statutory officials, such as open-cut examiners, and ERZ
34 controllers, ventilation officers and underground mine
35 managers. The first two are held on a bi-annual basis and
36 typically we'll get 300 to 350 OCEs or deputies to those
37 forums. That's to provide them with feedback on lessons
38 learnt, have mines talk about some of the incidents and
39 learnings that we've recognised, and we invite those
40 operators to present as well.
41

42 The other forums are in CSMHAC - so I present to
43 CSMHAC the performance of the industry at the start or as
44 part of the agenda of each of those meetings also.
45

46 Q. Apart from that no doubt important function, in terms
47 of the notification of the HPI, the legislation

1 contemplates three stages, correct - there's the initial
2 verbal notification, then the form 1A and then the form
3 5A --

4 A. That's correct.

5

6 Q. Can we take firstly the verbal notification. It is
7 the one which, of itself, enables dialogue between the
8 inspector and the mine manager, and accepting that by the
9 time there is a notification made, an event has already
10 occurred. So you can't wind back the clock, but there is
11 a question, is there, as to what's to happen? I'm
12 interested for you to tell the inquiry what role you see an
13 inspector performing in the course of that verbal report?

14 A. Well, the first goes to the treatment of any injured
15 party and the securing of the scene so that there is no
16 further - ensuring the scene has been secured. The release
17 of the scene is a function of the inspector, which is based
18 on either a discussion with the SSE that's reporting the
19 HPI, as to the controls that they put in place to prevent
20 a reoccurrence, and the nature of the HPI.

21

22 If the inspector is of a view that there is a need for
23 them to attend the site before the scene is released, then
24 that communicate occurs with the mine.

25

26 Q. You mentioned security of the scene and release of the
27 scene and so forth. Are those concepts applicable to the
28 kinds of HPIs that the inquiry is concerned with, where
29 there have in fact been no injuries that occurred?

30 A. The nature of the HPI may well, in terms of a gas
31 exceedance, result in a directive for operations to cease
32 until certain matters have been addressed.

33

34 Q. So to sum up, is there a decision-making role for the
35 inspector as part of that notification process, the verbal
36 notification?

37 A. With respect to the scene being released, yes.

38

39 Q. Correct me if I'm wrong, but that would be regarded as
40 a significant step?

41 A. Yes, it would.

42

43 Q. And you would expect a note to that effect to be
44 recorded for each HPI, wouldn't you?

45 A. The likelihood is that there would be a mine record
46 entry associated with such a decision.

47

1 Q. We may be at cross-purposes. Many of these HPIs
2 involve gas exceedances where no injury has occurred.

3 A. That's right.

4

5 Q. And from what we've seen, there doesn't appear to have
6 been any discussion or dialogue about security or release
7 of the scene.

8 A. In my explanation, I am not talking about - I'm
9 talking about an HPI in which there is a significant event
10 that has occurred as a result of a gas exceedance and
11 potential subsequent actions or events, not just for an
12 exceedance of 2.5 per cent which has maxed at 2.6 per cent
13 for a short period of time where the controls that the mine
14 has outlined to the inspector have satisfied the inspector
15 that, should he or she have been in that role, they were
16 the actions that they would have taken to prevent
17 a reoccurrence. So, you're right, there would not be
18 a securing or releasing a scene in that event.

19

20 Q. It's a matter, is it, of the inspector considering the
21 controls that are nominated and the inspector satisfying
22 himself or herself that they are the kind of controls that
23 he or she would have applied?

24 A. That's correct.

25

26 Q. To reduce risk to an acceptable level, presumably?

27 A. That's correct.

28

29 Q. What about the role that's being performed by way of
30 the notifications that come from forms 1A and 5A, what role
31 is the inspector performing at that stage?

32 A. Well, that the forms are consistent and the details in
33 the form are consistent with the details that he or she has
34 been provided verbally by the mine, and that the controls
35 are again consistent with what's been provided by the mine.
36 And further in terms of the form 5A, once the mine has
37 undertaken its detailed investigation, as to whether there
38 are additional controls which have been identified as
39 a result of that investigation and making an assessment of
40 those controls.

41

42 Q. Is there a role in identifying what might be systemic
43 causes of incidents in the inspector's consideration of
44 those three forms of notification?

45 A. Yes, and as I mentioned, one of the enhancements we've
46 made within Lotus is to actually automate the process so
47 that the inspector has, when they are inputting or

1 reviewing the form 1A, the previous HPIs that have occurred
2 at that mine to see whether there's a pattern that causes
3 concern.

4

5 Q. And, if so, there might be a site inspection, and if
6 there is a site inspection, there will be an MRE; am I
7 right?

8 A. That's correct.

9

10 Q. So if we were to scrutinise whether, and what,
11 response had been made by the inspectorate, we would look
12 at any immediate dialogue in the course of the notification
13 process, would we, firstly?

14 A. And any additional information they've requested, yes.

15

16 Q. And then for further action we might look to see
17 whether there has been a mine record entry?

18 A. Associated with that.

19

20 Q. Associated with that HPI?

21 A. Yes.

22

23 Q. Mr Stone referred in his evidence to there being
24 a risk of normalisation of HPIs. Would you agree with
25 that, that there is such a risk, having regard to --

26 A. For industry, yes.

27

28 Q. Having regard to the ongoing recurrence of them?

29 A. Yes.

30

31 Q. Speaking first about the inspectorate, do you have any
32 reason to be concerned that there is any degree of risk of
33 normalisation amongst the inspectors?

34 A. I think the - and I can only talk on the team I've got
35 now, the inspectors are of a character to challenge each
36 other with respect to normalisation of HPIs. So while that
37 risk always exists, the nature of the - as I say, the
38 nature of the characters are such that they challenge each
39 other, and that is true both within our weekly review of
40 HPIs that have occurred and as to whether they should be
41 further looked at in terms of actions that may have been
42 put in place the previous week by a particular inspector.
43 But the risk of normalisation - yes, it always exists.

44

45 Q. The other stakeholder is the industry and whether it
46 is at risk of normalising HPIs of a kind where the
47 exceedance may not be huge and where no-one is injured.

1 Does the inspectorate have a role in addressing that risk?
2 To assist you, perhaps, we did refer earlier to the annual
3 safety report in which I drew your attention to a comment
4 that you and Mr Fasching made that the industry needs to be
5 more vigilant about dealing with HPIs. Is that one way in
6 which you would address that risk of normalisation within
7 the industry?
8 A. I'd take you to the methane management and best
9 practice and recommendations document that is clear
10 evidence that there was normalisation of gas exceedances by
11 the industry to the tune of 350 gas exceedances, on
12 average, for the two-year period that we've looked at, so
13 a total of 700 gas exceedances shows normalisation of high
14 potential incidents occurring and not being reported.
15
16 Q. The fact they hadn't been reported?
17 A. Not being reported but, more so, not being
18 investigated, because that's where the HPI process instills
19 the discipline on industry.
20
21 Q. One thing I think Mr Stone referred to you was whether
22 there had been any proceedings against labour hire
23 companies for breaches of the Coal Mining Safety and Health
24 Act. Are you aware of any?
25 A. I'm aware of a proceeding against a contractor who
26 provides labour and plant to the mining operation, and in
27 that sense they are a service provider no different than
28 the labour hire provider. I can't give you the details of
29 when that prosecution occurred, but it's certainly in the
30 public arena.
31
32 MR RICE: Thanks, Mr Newman.
33
34 THE CHAIRPERSON: Yes, Mr Holt?
35
36 MR HOLT: No questions.
37
38 THE CHAIRPERSON: Mr Roney, nothing from you?
39
40 MR RONEY: Nothing from me.
41
42 THE CHAIRPERSON: Is Mr Rankin here? So, Mr Crawshaw, any
43 questions?
44
45 MR CRAWSHAW: Yes, I have a few, Mr Martin.
46
47

1 **<EXAMINATION BY MR CRAWSHAW:**

2
3 MR CRAWSHAW: Q. Mr Newman, as I understand it, the
4 practice is that if there's an HPI, the inspector will be
5 first notified verbally; is that the case?

6 A. That is correct.

7
8 Q. And is it standard practice for the inspector then to
9 take notes of that verbal notification?

10 A. That is correct.

11
12 Q. And what happens to those notes? Do they go any
13 further in the system, or are they just kept in the
14 inspector's notebook?

15 A. Well, to answer the question, yes, they are kept in
16 the inspector's notebook, but the content of those notes is
17 used to validate the correctness or otherwise of the
18 form 1A that is provided within 48 hours in writing of the
19 details of the incident.

20
21 Q. Inspectors have a special notebook, like a police
22 officer would have a police notebook; is that the case?

23 A. They do have, but that's not necessarily the notebook
24 that they would use, depending on where they are at the
25 time of taking the notice.

26
27 Q. Yes. If they didn't have their notebook with them and
28 they had another piece of paper, they'd put it on that, and
29 would that later get transferred to the notebook?

30 A. In the past, that's not necessarily been the case, no.

31
32 Q. When you say "in the past", has that changed, has it?

33 A. It has changed. As I explained before, we're now
34 moving to and getting published pro forma books for all
35 inspectors to record in writing, in a consistent manner,
36 asking a base load of questions when an HPI is reported to
37 them. A copy of that will then be PDF'd into Lotus Notes
38 or into the new system which we are currently scoping.

39
40 Q. If I could just come to the question of risk
41 assessments, I think this was a matter that Mr Stone
42 referred to you also. Do your inspectors in coal mines
43 check risk assessments at all?

44 A. A fairly broad question, but with respect to risk
45 assessments that are required as a part of the safety and
46 health management system, the inspectors, both when they go
47 and do inspections and when they go and do audits, will

1 request of the mine generally the safe operating procedure
2 for activities in the mine and the underlying risk
3 assessment that supports that SOP. So to that extent, yes,
4 they do review risk assessments to ensure that those risk
5 assessments have been undertaken in the manner in which
6 they're supposed to be, to support those SOPs, that is,
7 with a cross-section of the workforce.

8
9 Q. And does that include examination of risk assessments
10 conducted by a labour hire company that are operating at
11 the coal mine?

12 A. Again, if I went to the inspectors who are at a mine
13 site where there are labour hire people doing certain
14 tasks, they will review, be it their Take-5, their JHA, or
15 a risk assessment, if it's been undertaken at that mine,
16 whether they are labour hire people or permanent employees.

17
18 Q. Or contractors?

19 A. Or contractors.

20
21 Q. If that occurs, what has been your experience in terms
22 of risk assessments actually being available to your
23 inspectors when they're done by contractors or labour hire
24 companies?

25 A. Risk assessments undertaken as part of the safety and
26 health management system are available for my inspectors to
27 review and make comment on. I can't go to whether
28 a particular labour hire company has provided a risk
29 assessment.

30
31 Q. What happens if they haven't provided a risk
32 assessment?

33 A. Can you give me some context, rather than
34 a generalisation of a labour hire risk assessment?

35
36 Q. I'm just wondering whether you would say that it was
37 a problem if there was a labour hire company operating on
38 the mine site and they didn't have a risk assessment -
39 their own risk assessment?

40
41 THE CHAIRPERSON: Sorry, Mr Crawshaw, you're not saying
42 that the labour hire company has a business there; you're
43 talking about the supply of labour to that particular mine
44 site. Is that right?

45
46 MR CRAWSHAW: I'm talking about both. If a labour hire
47 company supplied labour to a particular mine site, part of

1 that business is there, I would expect.

2

3 THE CHAIRPERSON: All right, well, that was what you were
4 referring to; is that right?

5

6 MR CRAWSHAW: Yes, yes.

7

8 THE CHAIRPERSON: Thank you.

9

10 THE WITNESS: As I mentioned, I had 17 years working for
11 a contract mining company, and in going into a new
12 operation, which I think is what you're suggesting, we
13 would certainly do a broad-brush risk assessment associated
14 with operating on that mine to ensure that the miner had
15 the controls in place to control the various risks that may
16 exist at that mine.

17

18 It's incumbent on service providers, such as labour
19 hire companies and contractors, to ensure that the mine and
20 their employees have been made aware of any hazards and the
21 associated controls that exist where they're placing their
22 employees.

23

24 Have I sighted or have I had an inspector report to me
25 that they've sighted such a risk assessment from a labour
26 hire company? Not in the nine months I've been in this
27 role.

28

29 MR CRAWSHAW: Q. Is it part of the inspection to check
30 whether the labour hire business operating in a particular
31 coal mine has a risk assessment?

32 A. As I say, not in the nine months that I've been in the
33 role.

34

35 Q. And, by the way, risk assessments aren't just required
36 at the outset or commencement of an operation; they're
37 required when anything changes in the operation as well,
38 aren't they?

39 A. Thank you. Yes, I'm well aware of that.

40

41 Q. So in the contractor that you worked for, did you do
42 updated risk assessments?

43 A. As part of the change management process, yes.

44

45 Q. Yes. I think Mr Stone gave a figure of something like
46 13 per cent for the percentage of unannounced mine
47 inspections. Did you hear that evidence?

1 A. Yes, I did, and he's correct. I think last year we
2 were about 12.8 per cent, so rounded up, 13 per cent.

3

4 Q. Do you have a percentage for how many of the
5 inspections are carried out on night shifts?

6 A. No, we have a percentage for unannounced inspections,
7 be them inspections undertaken on night shift, on the
8 weekend or during the day without notification to the mine,
9 not knowing whether there were going to be the management
10 team on site at that time, but generally unannounced
11 inspections would be either on a back shift or on the
12 weekends.

13

14 Q. When you say "back shift", are you talking about
15 a night shift?

16 A. It could be - depending on their roster, it could be
17 an afternoon shift, night shift.

18

19 Q. But you routinely do inspections on night shifts, do
20 you?

21 A. No. I said --

22

23 Q. Whether announced or unannounced?

24 A. No. What I said is we have a target of 15 per cent -
25 between 10 and 15 per cent of inspections being
26 unannounced. Those unannounced inspections will be on -
27 could be on a day shift, afternoon shift, night shift or on
28 a weekend. The intention --

29

30 Q. That means - sorry, go on, Mr Newman.

31 A. As the name suggests, the intention is that the
32 inspector is attending the site without notification -
33 without notice to the SSE or an operator so that we see it
34 warts and all without any preparation.

35

36 Q. And just talking about inspections generally, is it
37 common, when inspections occur, for inspectors to engage
38 with the production workers without members of management
39 present?

40 A. Yes, very much so. So with coal mine workers.

41

42 Q. Are there directions or guidelines along that path?

43 A. No, it's not prescribed. The inspector is left to
44 undertake their inspection in the manner that they see fit
45 associated with the operation that they are inspecting, and
46 the cross-section of personnel that they may talk to while
47 they're on site, and that could be anyone from a coal mine

1 worker who's involved in production, maintenance, gas
2 drainage, an ERZ controller, an open-cut examiner, the
3 supervisor, the mine manager, the gatehouse attendant.
4

5 Q. It's a matter of discretion. I'm just wondering how
6 you know - when you say "very much so", how do you know
7 that it actually occurs very much?

8 A. Because the inspector is obliged to make note in their
9 MRE of who they have interacted with, and if you review the
10 MREs you'll see that they interact with the SSHR on site
11 and name that person, or operators on site and name those
12 people, and supervisors and name those people in the MRE.
13 So I --

14
15 Q. But - sorry, go on.

16 A. No, you go.

17
18 Q. How do you know from those notes that members of
19 management weren't present for those interactions?

20 A. Only through my discussions with inspectors, with my
21 regional inspectors, with my deputy, and those times when
22 I go on to a site to do inspections with inspectors and
23 witness it.
24

25 Q. You've given evidence that you're going to go up to
26 28 inspectors, once you are able to actually obtain them.
27 Do you consider that a sufficient complement of inspectors
28 for the Queensland coal mine industry?

29 A. When looking at the tasks that the inspector is
30 responsible for and the frequency of inspections that are
31 undertaken in underground and open-cut mines, 28 inspectors
32 should be able to cover the requirements in terms of
33 inspections, investigations and the like. Undoubtedly, if
34 there are a number of significant and serious accidents and
35 incidents, that tends to absorb a number of inspectors into
36 those investigations. And if the industry - if within the
37 industry we have a large number of those, there then is
38 a requirement - I have a requirement to supplement those
39 inspectors.
40

41 Within RSHQ we are able to do that in terms of those
42 peaks by utilising people with the necessary skills and
43 experience from other inspectorates, such as the explosives
44 or the MMQ inspectorate, who may have open-pit experience.
45

46 Q. Could I just finally ask you about this area: in
47 relation to notification of methane HPis, the subject of

1 this inquiry, are the inspectors given any training
2 specific to that particular type of notification?

3 A. Well, training with respect to an HPI - yes, they are.
4 In terms of training associated with a gas exceedance, when
5 an inspector receives a call from a mine site, be it a gas
6 exceedance or any HPI, if they do not have the skills and
7 experience, they then refer that to another inspector who
8 does have the skills and experience to respond to the HPI.

9
10 For example, if we had a gas exceedance and a mine
11 notified one of the inspectors who primarily has an
12 open-cut background, they would refer that matter to an
13 inspector who has underground experience, be it as
14 a deputy, under-manager or mine manager.

15
16 Q. Just on that topic, is there a guideline to that
17 effect?

18 A. The changes which I mentioned earlier in terms of
19 improvements to our current process - it's now documenting
20 that, although I should say that that has been the practice
21 of the inspectorate for many years, to undertake that, to
22 go through that process.

23
24 Q. I just want to come back to the question I originally
25 asked you. I'm really trying to find out whether there's
26 specific training given to inspectors in relation to gas
27 exceedance HPIs as distinct from how to deal with HPIs
28 generally?

29 A. Responding to a gas exceedance HPI, as I mentioned, is
30 referred to a person - one of the inspectorate who has
31 a working knowledge and understanding of gas management and
32 ventilation of an underground coal mine, of which there are
33 a number of inspectors within the Coal Inspectorate.

34
35 Q. That's not answering what I asked you.

36 A. So as to training in ventilation and gas management,
37 in their professional development and continued
38 competencies, inspectors will continue to be updated in
39 terms of ventilation and gas management, be that through
40 a recognised course, be it I have some who are currently
41 doing the ventilation officers course, or attending an
42 industry seminar on ventilation and gas management, such as
43 occurs - pre-COVID - in both States. So, yes, they
44 continue to either do it on a formal basis or through
45 technical seminars.

46
47 Q. Does any of that training or education address the

1 issue which appears to arise in this case of there being
2 a trend of multiple HPIs involving gas exceedances at at
3 least two mines?

4 A. Well, whether it be gas exceedances or other HPIs,
5 where there is a trend, there is a requirement for action
6 to be taken and, as I mentioned, one of the enhancements we
7 now have within our reporting system is that the inspector
8 who is responding to that, in this case, as you mentioned,
9 gas exceedance, will automatically see the number of gas
10 exceedance HPIs that have occurred at that mine when they
11 go to review the form 1A of that incident. So that's
12 automatically now listed in the report that they go to, so
13 they are able to look at any potential trends which require
14 action further to that that has been implemented by the
15 mine.

16
17 MR CRAWSHAW: Yes, thank you.

18
19 THE CHAIRPERSON: Is that all the questions?

20
21 MR CRAWSHAW: Yes, Mr Martin. Thank you.

22
23 THE CHAIRPERSON: Mr Trost?

24
25 MR TROST: No questions.

26
27 THE CHAIRPERSON: Mr Roney, are you still satisfied not to
28 ask any questions?

29
30 MR RONEY: I am.

31
32 THE CHAIRPERSON: Yes, thank you. Yes, Ms Holliday?

33
34 **<EXAMINATION BY MS HOLLIDAY:**

35
36 MS HOLLIDAY: Q. Mr Newman, over the past 36 hours
37 you've had the opportunity to read the affidavits of two
38 ISHRs and two SSHRs?

39 A. That's correct.

40
41 Q. Firstly, in relation to the affidavit of Joe Barber,
42 if that could just be brought up, it's BJO.001.001.0001,
43 the last page of that, which is 0015 - that part (b) there
44 follows on from a heading of "Suggestions and concerns" of
45 the SSHR, Joe Barber, who is the Oaky Creek SSHR. He
46 indicates there that he believes there should be
47 unannounced inspections conducted by both the ISHRs and the

1 inspectorate. Firstly, there is obviously a power for the
2 inspectorate to conduct unannounced inspections - you've
3 been giving evidence in relation to it. Were there
4 unannounced inspections conducted at Oaky Creek over the
5 period of the terms of reference?

6 A. Yes, I believe so. I think there were, if my memory
7 serves me right, two unannounced inspections.

8
9 Q. And similarly in relation to each of the other mines
10 that are the subject of the key issues for this tranche,
11 there were unannounced inspections at each of those two
12 mines?

13 A. Yes. When I looked at the inspection regime for the
14 mines in question, the unannounced inspections ranged from
15 I think it was 12 per cent to 20 per cent of the
16 inspections undertaken at that mine.

17
18 Q. Over the terms of reference period?

19 A. Yes.

20
21 Q. The next document that I will take you to is the
22 affidavit of Jason Hill, which is document
23 HJL.001.001.0001. It's at page 5. I'll just check with
24 counsel assisting in relation to that.

25
26 MR RICE: Having regard to the extent of redactions to it,
27 it simply may not have been uploaded yet.

28
29 THE CHAIRPERSON: I haven't heard back, Ms Holliday, in
30 relation to that affidavit or the other one. I'm about to
31 hear back. Right.

32
33 MS HOLLIDAY: In terms of hearing back, you made
34 a determination in relation to those claims, and that has
35 been accepted.

36
37 THE CHAIRPERSON: Yes, all right. So the documents are
38 now available?

39
40 MS HOLLIDAY: I understood that they were, but I stand to
41 be corrected in relation to that. I have a copy for the
42 witness, but I'm sure that --

43
44 THE CHAIRPERSON: Okay. I take it it's a relatively short
45 point, in any event. Is that so?

46
47 MS HOLLIDAY: No. I will be taking the chief inspector

1 through some portions of the affidavit of Mr Hill.

2

3 THE CHAIRPERSON: Okay. What do you want to do, Mr Rice?

4

5 MR RICE: It probably depends on the other parties,
6 whether they're happy to proceed without it being
7 displayed.

8

9 MR CRAWSHAW: I should say, Mr Martin, that I have
10 instructions to seek leave to appear for both Mr Hill and
11 Mr Wood, the ISHRs, instructed by Hall Payne Lawyers.
12 I didn't announce that this morning because I thought the
13 more appropriate time was to announce it when they were
14 about to give evidence.

15

16 THE CHAIRPERSON: Well, a more appropriate time would have
17 been about a month ago, to be quite honest. So you're
18 making application now, are you?

19

20 MR CRAWSHAW: Yes.

21

22 THE CHAIRPERSON: But, Mr Crawshaw, are you acting for
23 those two gentlemen when they come as witnesses?

24

25 MR CRAWSHAW: Yes.

26

27 THE CHAIRPERSON: Right. Well, you already have leave in
28 respect of the CFMMEU, have you not?

29

30 MR CRAWSHAW: Yes, I do.

31

32 THE CHAIRPERSON: Well --

33

34 MR CRAWSHAW: I just thought I should tell you that now.
35 There's nothing I specifically want to say more at this
36 time.

37

38 THE CHAIRPERSON: Could I refer you to the practice
39 guidelines and you can make application, but since you're
40 already acting on their behalf it may be quite unnecessary
41 for you to make such application. You consider it, but
42 have a look at the practice guidelines, please.

43

44 MR CRAWSHAW: Yes, I'll do that.

45

46 THE CHAIRPERSON: So, Mr Holt?

47

1 MR HOLT: We've seen that, because we had it as soon as it
2 went on to the site before it was downloaded, so I've read
3 it, so I can't pretend to be at a disadvantage.

4
5 THE CHAIRPERSON: Does anyone else have any problem with
6 this cross-examination?

7
8 MR RONEY: I couldn't download the document, so I haven't
9 read it. I haven't seen the document at all. I saw that
10 it was there yesterday, but not now.

11
12 MR CRAWSHAW: I had the same experience, Mr Martin.

13
14 THE CHAIRPERSON: Yes. The document was, I think, in the
15 book at one stage and then taken out again, is the problem,
16 and not back in. Is this a problem which can be remedied
17 rather quickly or not?

18
19 MR RICE: I would think so, Mr Martin, if perhaps
20 Mr Newman could stand down and if he could return in the
21 morning just to resolve the balance of this
22 cross-examination, I think Mr Smith is available. We might
23 be able to make up the balance of the day in that way?

24
25 THE CHAIRPERSON: Okay. Ms Holliday, are you happy enough
26 with that?

27
28 MS HOLLIDAY: Yes.

29
30 THE CHAIRPERSON: Mr Crawshaw, are you okay with that?

31
32 MR CRAWSHAW: Yes, Mr Martin.

33
34 THE CHAIRPERSON: All right. Any more questions before
35 Mr Newman stands down?

36
37 MS HOLLIDAY: No. It's only in relation to the two ISHR
38 witnesses, so it will need both documents uploaded.

39
40 THE CHAIRPERSON: Yes, all right.

41
42 Thank you, Mr Newman, if you don't mind standing down,
43 I'm afraid you'll be back tomorrow, by the sound of it.

44
45 THE WITNESS: Yes.

46
47 <THE WITNESS WITHDREW

1
2 MR RICE: I call Stephen Donald Smith.
3
4 <STEPHEN DONALD SMITH, affirmed:
5
6 <EXAMINATION BY MR RICE:
7
8 MR RICE: Q. Sir, is your name Stephen Donald Smith?
9 A. Yes.
10
11 Q. Mr Smith, you're employed as Regional Inspector of
12 Coal Mines of North Region?
13 A. Yes.
14
15 Q. You're based in an office in Mackay; is that right?
16 A. That's correct.
17
18 Q. You've prepared a statutory declaration for use in
19 this inquiry, I think signed by you on 29 July 2020?
20 A. That's correct.
21
22 Q. Could I ask if Mr Smith be given that. It's
23 SST.001.002.0001. That's a copy of your declaration,
24 Mr Smith?
25 A. Yes, it is.
26
27 Q. And in it you've addressed some general matters, but
28 then you also go on to do a form of review of the HPIs at
29 Grasstree, Moranbah North and Oaky Creek; am I right?
30 A. That's correct.
31
32 Q. For the purpose of that review, did you make available
33 to yourself the forms 1A and 5A for each of those
34 incidents?
35 A. Yes.
36
37 Q. And did you also have regard to the incident
38 notification forms?
39 A. Yes.
40
41 Q. I'm referring to that part of Lotus Notes that's
42 styled as the incident notification.
43 A. Yes.
44
45 Q. You know what I'm talking about?
46 A. I do.
47

1 Q. Could I just touch on some general matters first.
2 Just have a look at paragraph 4 of your declaration,
3 particularly the last sentence. With reference
4 particularly to underground coal mining, are you able to
5 elaborate on the complexity of the levels of interaction
6 between the hazards, et cetera, that you refer to?

7 A. An example of that would be managing a longwall
8 involves managing a number of principal hazards, namely,
9 gas monitoring, spontaneous combustion and ventilation, and
10 each of those interact in the course of operating
11 a longwall. It's a complex activity that involves people,
12 naturally, and safety and different control measures.
13 That's my example, I guess, of the complexity and the
14 interactions that must take place at mines.

15

16 Q. Getting the balance right at the right time between
17 management of those principal hazards?

18 A. Yes.

19

20 Q. Is that the difficulty?

21 A. Yes.

22

23 Q. Nonetheless, those who have the accreditations to be
24 involved in that process ought have the skills and
25 experience to do so, so as to meet the regulatory
26 requirements; do you agree?

27 A. I'm sorry, I'm not sure what the question is.

28

29 Q. The people who have the accreditations to manage the
30 principal hazards ought have the skills and experience to
31 successfully manage those principal hazards and meet the
32 compliance standards of the Act and Regulations?

33 A. Yes, I would hope so.

34

35 Q. You heard me ask Mr Newman earlier about, with
36 particular reference to the ventilation systems, setting
37 a non-negotiable standard for compliance of 2.5 per cent.
38 I asked him whether that was aspirational or whether it was
39 achievable in practice, and you probably heard his answer.
40 What's your answer to that?

41 A. Is it achievable in practice?

42

43 Q. Yes.

44 A. Yes, it is.

45

46 Q. Would you accept that, notwithstanding the complexity
47 that you've referred to, with modern technology, good

1 practice, a mine ought to be able to be conducted so as to
2 ensure compliance with the Regulations and the Act?

3 A. Yes.

4

5 Q. And the mine's own safety and health management
6 system?

7 A. Yes.

8

9 Q. And, in particular, it should be possible to guard
10 against the occurrence of catastrophic events?

11 A. Yes.

12

13 Q. Methane is a constant presence in underground coal
14 mines; am I right?

15 A. In my experience, in Queensland, yes.

16

17 Q. And particularly with mines, say, in the Bowen Basin,
18 which have perhaps a greater prevalence of methane
19 concentrations than maybe some other mines?

20 A. In my experience, in Queensland.

21

22 Q. Is that correct?

23 A. Yes.

24

25 Q. Is it also true that, so far as management of methane
26 is concerned, at least two of the critical controls are
27 mine ventilation and gas drainage?

28 A. Yes.

29

30 Q. Do those two things need to support each other to
31 achieve the requirements of the ventilation system
32 regulations?

33 A. Yes.

34

35 Q. One thing about the ventilation system is that the
36 regulations set a standard at 2.5 per cent or not more, and
37 certain records are required to be kept, are they not?

38 A. Yes.

39

40 Q. Of recordings of gas levels in various places and in
41 various ways, so that provides a measure of compliance with
42 the ventilation system; correct?

43 A. Yes.

44

45 Q. The regulations, as I read it, do not similarly
46 prescribe standards for gas drainage, but, rather, the
47 regulation requires a gas drainage management plan.

1 A. That's correct.

2

3 Q. Is it correct that the requirements for achieving an
4 appropriate or a safe level of gas drainage will vary from
5 mine to mine, whereas the standards for mine ventilation
6 can be pitched at a constant level?

7 A. I would agree with you, yes.

8

9 Q. As and when you do inspections, if you want to check
10 on the operation of the ventilation system, do I understand
11 correctly there would be a ready record for you to do that?

12 A. At the mine?

13

14 Q. Yes.

15 A. Yes.

16

17 Q. Is there such a record for the operation of gas
18 drainage?

19 A. I believe in most instances, yes.

20

21 Q. What form does that take?

22 A. Typically, the mine will have a monitoring system for
23 the gas drainage operation, and that system will record key
24 aspects of the gas drainage system.

25

26 Q. Would that kind of a record form part of a mine
27 inspection that you might do?

28 A. It might, yes.

29

30 Q. If you were interested in the interaction between mine
31 ventilation and gas drainage, would you look at both?

32 A. Yes, you would.

33

34 Q. Is that what happens in practice? Is that the way
35 inspectors go about inspecting the compliance with the
36 ventilation regulations?

37 A. It's my understanding that different inspectors will
38 inspect in different ways. They will look at different
39 things. Some will look at both. Some will look at one.
40 Some will look at the other.

41

42 Q. Going back to your statement, you refer in paragraph 3
43 to maintaining a relationship with mines. Can you tell us
44 how the inspectorate goes about that in the North region?
45 Are inspectors allocated, as it were, to particular mines,
46 or does it operate in some different way?

47 A. Inspectors are not allocated to particular mines, no.

1 Inspectors will look at what we plan to achieve in the
2 course of a month, a quarter, six months and a year, and
3 they'll allocate themselves to conduct inspections at
4 different mines at different times on a basis that works
5 both geographically as well as to try and meet the
6 requirements of the plan.
7

8 Q. Do all inspectors have a working relationship with all
9 mines; is that the way it works?

10 A. All inspectors can go to all mines, and often do, over
11 the course of 12 months to two years. So in terms of
12 a relationship, they have - the relationship is as simple
13 as the inspector will attend the mine at some stage. There
14 is no other form of relationship.
15

16 Q. You've used the word "relationship". I was looking to
17 explore the content of that, whether you're looking to
18 foster a working relationship. From the sound of it,
19 you're simply referring to going to do inspections.

20 A. I am, I am, but we make - the point of the sentence is
21 that in reference to mines that are not currently actively
22 mining, we still maintain contact, we maintain
23 a relationship with them. We call them and we'll go and do
24 an inspection.
25

26 Q. As to your complement of inspectors, there are 10, are
27 there, operating out of Mackay, of which four have mining
28 experience?

29 A. Four are known as mining inspectors, so their
30 background is operational mining, as opposed to a trade as
31 a mechanical person, an electrical person or some other
32 discipline. So they'll typically be a mining engineer or
33 worked as an ERZC or as an under-manager or, in one case,
34 an SSE.
35

36 Q. You would know those four. Do they have certificates
37 of competency at any of the levels you've described?

38 A. Yes, some of them - one has an SSE's certificate of
39 competency. The other three have certificates of
40 competency as ERZCs, as far as I'm aware, and at least one
41 has a second class certificate of competency in Queensland.
42

43 Q. Is that a sufficient number to carry out the
44 inspectorate's functions with respect to five underground
45 mines?

46 A. I would certainly not say no to some more.
47

1 Q. To take the instances of reporting of HPIs for gas
2 exceedances, can it be assured that an appropriately
3 qualified inspector will be available to receive any
4 notification and manage it?

5 A. At the time the notification is received?

6

7 Q. Yes.

8 A. Not necessarily every time, no.

9

10 Q. Tell us what system is in place so that the
11 information goes to someone who's appropriate to receive it
12 by way of qualification?

13 A. The notification process was explored previously with
14 the chief inspector. The mine contacts an inspector by
15 telephone with the intention of reporting a notifiable
16 incident. That inspector typically will take notes of the
17 conversation, recording the main details of the
18 notification with a view to putting that information into
19 the database in the form that the database accepts it, so
20 looking for the date, the time, the people involved, the
21 equipment involved, the location, the cause of the incident
22 and any - if any - if the incident is ongoing or if it's
23 been dealt with, if it's already been passed, in terms of
24 the incident is actually finished. So they'll record that,
25 and at some stage they will put that into Lotus Notes, into
26 the incident reporting database. As a part of that
27 process, once they've put the information in, they send an
28 email to a distribution group that includes, at the moment,
29 every inspector.

30

31 And if an inspector feels uncomfortable with the
32 incident that's being notified to them, they can do
33 a number of things. They can continue to take the
34 notification and get in touch with another inspector or
35 myself soon after they've finished taking the notification,
36 or they can refer the person giving them the notification
37 to another inspector, if they wish. That doesn't happen
38 very often, in my experience, that the inspector will - the
39 inspector will usually take the notification down rather
40 than refer the person on to someone else.

41

42 Q. Mr Newman spoke earlier about some enhancements of
43 functionality so that when details of an HPI are entered,
44 details of previous HPIs will be available to be viewed
45 electronically. In the time frame prior to those
46 enhancements, in the system that you've described where an
47 inspector receives and records details, has there been any

1 systematic means of reviewing previous HPIs for that mine?
2 A. Typically those - the HPIs - those received of
3 a weekend are reviewed of a Monday morning, as the chief
4 inspector has already described, by the complement of
5 inspectors that attend the Monday morning meetings.
6

7 Q. Is that the means?

8 A. That's for the weekend ones. During the week, the
9 inspectors, when they enter the notification into the
10 database, as I said, they will send an email to the
11 distribution list of all inspectors now and, by that means,
12 they communicate the occurrence of the incident or the
13 event to all the inspectors. If --
14

15 Q. Is it through the sharing of information process that
16 emerges any issue which is known to the collective group?
17 Is that the way it works?

18 A. Yes.
19

20 Q. So you're reliant on dialogue with your colleagues by
21 way of email and communication at the Monday morning
22 meetings --

23 A. Yes.
24

25 Q. -- to share information?

26 A. And if an inspector has a particular concern, they
27 will call somebody, often myself.
28

29 Q. You refer to the stage of the initial verbal report at
30 paragraph 18 of your statutory declaration, and I just want
31 to ask you about that, if we just have a look at it.
32 Firstly, is that stage of the notification important by
33 virtue of the opportunity to have dialogue?

34 A. Yes, it is. It's the commencement of the
35 investigation process.
36

37 Q. Can you describe how you would see an inspector's role
38 in receiving that verbal notification?

39 A. As I say, it's the start of the investigation process.
40 The purpose is - the initial purpose is for the mine to
41 notify the regulator that there has been an event.
42

43 Q. Yes, I understand that. It's a question of what role
44 you have in receiving that information. Is it simply
45 a passive role to note the information, or is there more to
46 it and, if so, what?

47 A. It's not a passive role, because there may be much of

1 import that comes from it. It may - for example,
2 a notification may be sufficiently serious to require the
3 mobilisation of inspectors to the mine immediately.
4 Equally, it may not require the mobilisation of inspectors
5 to the mine at all. So it's a critical - it's not
6 a passive process at all, and it's a process that every
7 inspector goes through when they receive a notification.
8 It's an investigative process. The mines, in many cases,
9 because of their experience with making notifications to
10 inspectors, have become cognisant of the sort of questions
11 that they may need to provide answers to, so they will
12 prepare themselves for that process.

13
14 Q. In these instances that are referred to in your
15 statement at Grasstree and Moranbah North and Oaky North,
16 there wasn't any occasion requiring mobilisation of
17 inspectors to go immediately to the mine to deal with
18 a situation; rather, it was a case of methane exceedances
19 for a variety of causes that didn't require that kind of
20 response. In that category, can you tell us how you see
21 the inspector's role?

22 A. I'm not sure I'm following the exact path of your
23 question, I'm sorry.

24
25 Q. Your earlier answer was directed towards forming
26 a view about whether inspectors needed to be mobilised to
27 go to the mine. Okay?

28 A. Yes.

29
30 Q. I'm pointing out to you that in the instances that
31 you've reviewed for the purposes of your statement, there
32 weren't any instances requiring such mobilisation?

33 A. No.

34
35 Q. Are you with me so far?

36 A. Yes.

37
38 Q. But, nonetheless, there was a report of a methane
39 exceedance --

40 A. Yes.

41
42 Q. -- for, as it turns out, a variety of reasons.

43 A. Yes.

44
45 Q. Once you've dismissed the need to immediately go to
46 the mine to deal with it, is there nonetheless some further
47 role that the inspector has in the assessment of the

1 situation?
2 A. Yes.
3
4 Q. Or not?
5 A. There is.
6
7 Q. What is it?
8 A. To determine if any further action is required by an
9 inspector, to determine if intervention by an inspector is
10 required or to determine if the mine has developed enough
11 information about the exceedance to be satisfied that they
12 clearly understand the cause of the exceedance, the causal
13 factors.
14
15 Q. You mentioned intervention. That's something that an
16 inspector would be expected to turn his mind to, whether
17 there's some other form of intervention required?
18 A. That's right.
19
20 Q. Beyond simply going there and dealing with the
21 situation?
22 A. That's right, and intervention can be as simple as
23 asking questions.
24
25 Q. Does the inspector have - this may be incorporated in
26 what you said before, but I'd like you to focus on it.
27 Does the inspector have any role in the assessment of such
28 controls for the immediate situation as the mine has
29 indicated in that notification? Sorry, let's take an
30 example. A mine manager calls and says something has
31 happened and tells you that they're proposing to do
32 something about it. Do you have a role in assessing what
33 it is that's proposed that's going to be done to rectify
34 the situation?
35 A. You do, in terms of determining in your mind whether
36 or not that will be an effective control.
37
38 Q. In paragraph 18 of your statement you've said that
39 there is a range of things that may influence that kind of
40 assessment. Do you see you've made a list of them. Can
41 I give you the opportunity to explain the significance of
42 some of the things that you've listed to the assessment
43 that you've just said the inspector would make about the
44 controls that he or she is informed of?
45 A. For example, if the exceedance was related to the
46 location of the longwall shearer on the face at the time
47 and the mine has, as part of their process of eliminating

1 exceedances, moved the shearer away from the tailgate to
2 change the ventilation flow, to assist it to remove the
3 exceedance, that would be one example.
4

5 Another might be the mine says that they propose to,
6 or they already have installed some localised ventilation
7 controls in order to dilute, disperse methane in that local
8 area, that's another example of a control that they tell
9 the inspector about that the inspector can assess and
10 determine whether or not they think it would be effective
11 or not.
12

13 Q. You mention the relevance of atmospheric pressure.
14 That's one of the conditions requiring management on really
15 a daily basis; am I right?

16 A. Well, the atmospheric pressure changes daily, yes, so
17 there's a cycle where it rises and falls daily.
18

19 Q. And that's something that needs to be taken into
20 account in conducting the mine's activities so that
21 compliance is achieved?

22 A. Yes.
23

24 Q. Can I go to a couple, perhaps a few, of the HPIs and
25 look at the forms, and you can use those to talk us through
26 the process of response by the inspectorate to these
27 notifications. I want to ask you about the first one at
28 Grasstree. In your statement, you've referred to that at
29 paragraphs 46 to 48, and I want to go to the incident
30 notification for that, the incident notification form for
31 that event. If I could put up in lieu of Mr Smith's
32 statement RSH.002.070.0001. That's an example, is it not,
33 of the incident notification form or extract from the
34 database that has been referred to earlier by I think both
35 Mr Newman and Mr Stone?

36 A. That's correct.
37

38 Q. That's the place at which the inspector makes
39 a notification of the incident?

40 A. That's correct.
41

42 Q. In this instance, we see that the inspector has input
43 an entry adjacent to a concise description of the event;
44 correct?

45 A. A concise description, yes.
46

47 Q. I don't need to take you to the form 1A. Perhaps you

1 would accept, if I say to you about the form 1A for this
2 event, that what's entered at the "Concise Description" is
3 not a copy of what's in the form 1A. Do you accept that?

4 A. Yes.

5

6 Q. It must be a free text entry that the inspector has
7 input on the notification?

8 A. It is, that's correct.

9

10 Q. So this is an instance of an inspector actually
11 inputting his own text by way of a record of what's been
12 notified?

13 A. That's correct.

14

15 Q. That's the way the system works?

16 A. Yes.

17

18 Q. In other instances, as we'll see, the inspector simply
19 copies the content of the form 1A and puts it into the
20 incident description?

21 A. Right.

22

23 Q. Are you familiar with that process?

24 A. I've seen that, yes.

25

26 Q. Well, you would have seen it if you've reviewed the
27 forms, as you say you have, because that's what occurred;
28 do you agree?

29 A. Mmm-hmm.

30

31 Q. Yes?

32 A. Yes.

33

34 Q. Do we take it from the following page - on the bottom
35 half of the page there's an email list and a date and time,
36 being 28 July at 8.14pm. Is that the date and time at
37 which this is notified by email to that list of inspectors?

38 A. I believe so.

39

40 Q. In this instance, the form 1A itself was not received
41 until the following day, and if that's correct, is it the
42 case that what is emailed to the inspectors is the incident
43 details as noted on the first page and that's it?

44 A. Yes. Yes, what he's received and made note of during
45 the telephone conversation.

46

47 Q. In this instance, not the form 1A?

- 1 A. No. More than likely not, no.
2
- 3 Q. Does the email ever include the form 1A, or is it only
4 the information that's included in the concise description
5 and other incident details?
6 A. The emails often contain the form 1A.
7
- 8 Q. If it's available at the time?
9 A. If it's available at the time, yes.
10
- 11 Q. And then later in the piece, just to complete the
12 detail of what's on this form, if you would go to the
13 second page, 0002, we see there the date and time, being
14 20 August 2019 at 4.31pm?
15 A. Yes.
16
- 17 Q. That will be, will it, the time of notification of the
18 form 5A?
19 A. That's the time that the system tells me it was
20 processed, yes.
21
- 22 Q. And what appears under that is a copy, a direct copy,
23 of information from the form 1 - form 5A into the incident
24 notification; correct, is that the way it works?
25 A. That's my understanding, yes. That's my understanding
26 how it works. The mine enters the data into the form at
27 the site and submits it.
28
- 29 Q. That's the standard process?
30 A. And it comes through into Lotus, yes.
31
- 32 Q. Do you see at the top of that page, it makes provision
33 for incident follow-up. Do you see they're the very first
34 words used on the page?
35 A. Yes.
36
- 37 Q. Does that provide the opportunity for the inspector to
38 include any such action as he takes to follow up on the
39 notification?
40 A. There is provision in the system for the inspector to
41 make notes about that, yes.
42
- 43 Q. Well, is this the place or not?
44 A. Typically - no, that's - no, that's not. On the first
45 page --
46
- 47 Q. I just want to understand the form and the process so

1 that when we look at these things, we know how you treat
2 them. Do you follow me?

3 A. On the first page, there's a response. There's
4 a heading called "Response" with "Actions Taken By
5 Mine/Operator" and "Instructions or advice given to
6 Mine/Operation." They're both free text fields which the
7 inspector can use.

8
9 Q. They happen to be blank in this instance?

10 A. Then the inspector didn't make anything of a
11 particularly --

12
13 Q. That's a safe inference?

14 A. Yes, didn't make any particular instruction or take
15 note of anything in particular from the mine, no.

16
17 Q. Does the absence of an entry under "Incident
18 follow-up" convey that none was thought necessary?

19 A. No, I don't think so, Mr Rice. I think --

20
21 Q. You would know the system pretty well, would you not,
22 Mr Smith? I'm just asking you how you go about your work.

23 A. I think what you're looking at on that part of the
24 form is actually referencing the previous page, where it
25 makes note of the oral confirmatory report has been
26 received and the written report has been received, which is
27 at the very bottom of the front page.

28
29 Q. Could it be the case that an inspector has given some
30 advice or taken some action and simply not recorded it?
31 Does that happen?

32 A. That could happen.

33
34 Q. And, if so, where would that information reside?
35 Would it be in the head of the inspector or would it be
36 written down somewhere?

37 A. It depends on the inspector. It may well be recorded
38 in their notebook or their diary or in the books that the
39 chief inspector has indicated are being put together.

40
41 Q. Is some record always made? Is that the way the
42 system is supposed to operate?

43 A. Is some record --

44
45 Q. See, it's all very well to review HPIs, but it really
46 depends on what information is available, and there's not
47 much on this form, is really what I'm getting to; correct?

- 1 A. There's not a lot of detail, no.
2
- 3 Q. Is this form within Lotus Notes intended to be the
4 place for an inspector subsequently reviewing this matter
5 to note what the inspector has said or done in response to
6 the notification?
7 A. It's where I would go to find that, yes.
8
- 9 Q. Is the system enforced, or has it been enforced, that
10 this form would be completed with all necessary fields,
11 including, for example, response and instructions or advice
12 given to the mine? Do you enforce that, as regional
13 inspector at Mackay?
14 A. That is my job, yes.
15
- 16 Q. That may be, but do you? Do you do that?
17 A. It's only recently become an issue to chase, so until
18 now, no.
19
- 20 Q. And some changes are in the pipeline, we understand
21 that.
22 A. Yes.
23
- 24 Q. But to understand the practical use of the information
25 available if you're reviewing HPis, this form may not - may
26 well not be complete, just depending on how diligent the
27 inspector is --
28 A. True.
29
- 30 Q. -- in completing this part of the form?
31 A. Correct.
32
- 33 Q. He might have copious notes somewhere else in his
34 notebook that don't find their way on to Lotus Notes;
35 correct?
36 A. That's correct.
37
- 38 Q. So that to get a full picture, you might have to go to
39 the inspector concerned and ask him or her if there's
40 anything else you should know?
41 A. That's right.
42
- 43 Q. And has that same system been applied across the 35 or
44 so HPis that you can expect each week, or however many it
45 is in North Queensland, that there hasn't been a central
46 place in which you can meaningfully review what has been
47 reported and what's been done?

- 1 A. Up till today, no, till recently, no. The information
2 resides both in Lotus Notes and in whatever notes the
3 inspector may have taken in their own --
4
- 5 Q. And it sounds like you put a heavy reliance on
6 collaboration, through working in a small office and
7 attending weekly meetings; is that right?
8 A. That's correct.
9
- 10 Q. You place that reliance so that you can share
11 information and hopefully that form of system works?
12 A. Yes.
13
- 14 Q. It would be better, would it not, to have a single
15 place in which any inspector looking to review the history
16 of the mine and its HPIs could go to find out what the
17 inspectorate knows?
18 A. Get all the information, absolutely.
19
- 20 Q. You've been regional inspector since July last year;
21 am I right?
22 A. Fundamentally since November. The initial appointment
23 was July, but there was some disruption in the department
24 for a few months and I acted in a different role for a few
25 months.
26
- 27 Q. The recording system since you've been regional
28 inspector has, until recently, operated in a form in which
29 the information may be stored in a variety of different
30 places?
31 A. That's correct.
32
- 33 Q. If you were wanting to do a review of HPIs for any
34 mine - say Grasstree - would you go to this, to Lotus
35 Notes, to this document, to find out what you needed to
36 know about the history?
37 A. The first thing I would do would be I would go to
38 Lotus Notes and obtain a data dump, if you like. I'd
39 search for the mine and the incidents for a period, and
40 I would export that out to an Excel spreadsheet and I'd
41 start my work from there. So I would use Lotus to give me
42 that bulk information, if you like, and then I'd start my
43 inquiries from there. And if I wanted to go into the
44 detail, if there was more information I was after, I would
45 then go into each incident.
46
- 47 Q. Is it of concern to review past HPIs that this form of

1 notification, intended apparently to provide a record of
2 what the mine told you and what the inspector did, may well
3 not have integrity because it's not complete? Does that
4 affect the process that you've described of reviewing
5 information for the purpose of undertaking an assessment?
6 A. Not in the initial stages, no. If I saw a concerning
7 trend in the data I was researching, then yes.
8
9 Q. Sorry to interrupt you. What I was trying to point
10 out to you was that the form appears to be incomplete.
11 A. I understand that.
12
13 Q. Or may be.
14 A. It may be incomplete.
15
16 Q. Because there's no rigorous system in place to record
17 the information in a place where it can be conveniently
18 accessed?
19 A. It may be that there is no information also.
20
21 Q. It may be, but you're not to know, really, are you,
22 because the system was not reliant on the integrity of
23 creating a record for review, but, rather, you're reliant
24 on the systems of collaboration with your colleagues; am
25 I right?
26 A. As well, yes.
27
28 Q. As well as what?
29 A. As well as what's in the database, yes.
30
31 Q. What else will be in the database beyond an incident
32 notification?
33 A. The form 1A, the form 5A.
34
35 Q. I see, okay.
36 A. The MREs that the inspectors may have filled out if
37 they --
38
39 Q. Are they routinely uploaded to Lotus Notes?
40 A. They're routinely uploaded to Lotus Notes but not
41 routinely attached to an incident.
42
43 Q. Do I take you to be saying that they're not routinely
44 associated, electronically or in some other way, with the
45 HPI in question?
46 A. That's right.
47

1 Q. So that if, for example, this inspector had decided to
2 do an inspection and created a mine record entry arising
3 from that inspection, anyone looking to review what had
4 happened in relation to this HPI would need to go to this
5 place for the incident notification and then to go
6 somewhere else to look at a mine record entry, because the
7 two are not linked; is that right?

8 A. That's right, that's right.

9

10 Q. So if you're reviewing one or more HPIs at a given
11 mine, do you need also to go to the place where mine record
12 entries are stored to see if there's any of those? Is that
13 what you would do?

14 A. Yes.

15

16 Q. Is that part of the system of reviewing a mine's
17 performance?

18 A. It would be, yes.

19

20 Q. Do you see merit in terms of efficiency and integrity
21 of the process to have information which is linked to an
22 HPI to be recorded in a central location to make that
23 review meaningful?

24 A. Absolutely.

25

26 Q. But it hasn't been done that way?

27 A. No.

28

29 MR RICE: I notice it's 4.15, Mr Martin.

30

31 THE CHAIRPERSON: Yes, all right. Thank you, Mr Smith,
32 you will have to return tomorrow, it looks.

33

34 THE WITNESS: Yes.

35

36 THE CHAIRPERSON: So 10 o'clock tomorrow. Thank you.

37

38 **AT 4.15PM THE HEARING WAS ADJOURNED**
39 **TO WEDNESDAY, 5 AUGUST 2020 AT 10AM**

40

41

42

43

44

45

46

47

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