



Royal Commission on the Pike River Coal Mine Tragedy
Te Komihana a te Karauna mōte Parekura Ana Waro o te Awa o Pike

UNDER THE COMMISSIONS OF INQUIRY ACT 1908

IN THE MATTER OF THE ROYAL COMMISSION ON THE PIKE RIVER COAL MINE TRAGEDY

Before: The Honourable Justice G K Panckhurst
Judge of the High Court of New Zealand
Commissioner D R Henry
Commissioner S L Bell
Commissioner for Mine Safety and Health, Queensland

Appearances: K Beaton, S Mount and J Wilding as Counsel Assisting
J Haigh QC, B Boyd and B Smith for Douglas White
J Rapley for Neville Rockhouse
S Moore SC, K Anderson and K Lummis for the New Zealand Police
N Davidson QC, R Raymond and J Mills for the Families of the Deceased

S Shortall, A Rawlings, A Glenie, D MacKenzie, A Gordon for certain managers, directors and officers of Pike River Coal Limited (in receivership)
C Stevens and A Holloway for Solid Energy New Zealand
R Buchanan for Fire Service Commission and West Coast Rural Fire Authority
K McDonald QC, C Mander, and A Boadita-Cormican for the Department of Labour, Department of Conservation, Ministry of Economic Development and Ministry for the Environment
G Nicholson and S Steed for McConnell Dowell Constructors
G Gallaway, J Forsey and E Whiteside for NZ Mines Rescue Service
B Latimour for Coal Services Pty Ltd
N Hampton QC and R Anderson for Amalgamated Engineering, Printing and Manufacturing Union Inc

**TRANSCRIPT OF PHASE TWO HEARING
HELD ON 13 SEPTEMBER 2011 AT GREYMOUTH**

Level 14, Prime Property Tower, 86-90 Lambton Quay, Wellington
P O Box 5846, Lambton Quay, Wellington 6145
Email: pikeriver@royalcommission.govt.nz
Freephone (NZ only) 0800 080 092

COMMISSION RESUMES ON TUESDAY 13 SEPTEMBER 2011 AT 10.03 AM**GRANT ALEXANDER NICHOLLS (ON FORMER OATH)****CROSS-EXAMINATION: MR GALLAWAY**

- 5 Q. Assistant commissioner, I want to talk first with you, or to question you, in relation to the organisation and structure that was put in place. As I understand it from reading your evidence there was a forward command at Pike River, at the mine itself?
- A. Yes, that's correct.
- 10 Q. And that was run by police?
- A. Yes, that's correct.
- Q. There was an incident control established at Greymouth under the charge of Superintendent Knowles?
- A. Yes, that's correct.
- 15 Q. And again, the police were appointed as incident controller, correct?
- A. The police were the lead agency and an incident controller is appointed in the context of a lead agency.
- Q. Yes, but the incident controller doesn't have to be a police person necessarily does it?
- 20 A. I'm not aware of a circumstance where that hasn't occurred.
- Q. And then moving to the response co-ordinator, that was Police National Headquarters and you?
- A. No. A response co-ordinator was appointed and that person operated out of Police National Headquarters.
- 25 Q. And that was you?
- A. That was me and there were also other people who were assigned the duties of response co-ordinator on a rotational shift basis.
- 1005
- 30 Q. And as I understand it, the idea of having the response co-ordinator based in Wellington was (a) to determine strategy. That was part of the role?
- A. That is one aspect.

Q. And the police saw an advantage in having the response co-ordinator based there, "To provide separation and independence," I think were your words?

A. Yes.

5 Q. Now, it's clear isn't it that this was a multi-agency incident?

A. Yes it was.

Q. What steps did you take at the outset to familiarise yourself with the Mines Rescue Service?

10 A. I did some research on – I googled to understand what Mines Rescue Service was. I spoke with Gary Knowles.

Q. When did you do that?

A. I don't recall exactly when but it would have been in the early stages of the operation.

Q. So within the first 24 hours?

15 A. Perhaps.

Q. Possibly later?

A. I don't think it would have been later. It would have been – when you say "within the first 24 hours," I think it's important to understand that I started on the 20th not the 19th. So are you asking me in terms of the –

20 Q. The first 24 hours of your involvement?

A. Of my involvement?

Q. Yes.

A. Yeah that would be correct.

Q. And what did you find out on your Google search?

25 A. That Mines Rescue – well I can't say I found it out from my Google search. It could have been a combination of both. I did some work in terms of what the United States had in terms of mines rescue and looked at some of the rescue issues that they have over there, those that have died in rescues, and whatever information I received from
30 Gary Knowles directly about Mines Rescue Service.

Q. So, just to summarise the information you received from Superintendent Knowles in relation to the Mines Rescue Service?

A. I think in essence if I had to summarise the information it would be something along the lines that Mines Rescue Service were a niche organisation who specialise in underground mines rescue, if that's not a bad summary of my understanding.

5 Q. What did you understand in relation to the experience of Mines Rescue in terms of undertaking rescues?

A. They're the experts. Underground in a mining context. I think it's an important point to make, the police are not trained or experienced in underground mine rescues, ie we don't go underground.

10 Q. Which tends to raise the importance doesn't it of the New Zealand Mines Rescue Service in relation to this issue?

A. In what context?

Q. Their experience in rescue?

A. As a niche organisation, correct.

15 Q. Yes. They are the only organisation in New Zealand are they with that sort of expertise to your knowledge?

A. Of going underground in terms of a mining disaster?

Q. Yes.

A. To my knowledge, that's correct.

20 Q. Now, the police were appointed lead agency. How was that decision made?

A. Decision for lead agency's made either by agreement or by statute and that –

25 Q. Well I understand that, but what I'm asking you assistant commissioner, is how was the decision made? Who made it, when, where?

A. In my, and I wasn't at the meeting, but my understanding is Deputy Commissioner Rickard made that decision on the evening of the 19th.

30 Q. So can we take it from that, that it wasn't made with agreement of other agencies?

A. I think that would be a fair assumption, but it doesn't have to be.

1010

Q. No, and in fact it would have been open to the police wouldn't it to talk to other agencies in relation to this incident and to agree a process in terms of the appointment of a lead agency?

5 A. In a perfect world, but this wasn't a perfect world. This was a very difficult, challenging and chaotic situation, so there's two parts to that, which you've correctly pointed out. One by agreement, the other by a statutory basis and I think the reliance here is on the statutory basis and I must say that Deputy Commissioner Rickard is very experienced and did hold the portfolio of the assistant commissioner operations for some
10 time, so he would've been well versed in that context.

Q. Yes, but you're confirming, I think aren't you, that there was no discussion at any time with any other agency in relation to the police appointment as lead agency?

A. It's absolutely not necessary. It's not required. If you have a look –

15 Q. No, that's not the question, sir. What I'm asking you is, I think you've confirmed with me that there was no discussion with any other agency prior to the police appointing themselves as lead agent, correct?

A. I'm not aware of a discussion, but as I said, it can be done by statutory basis.

20 Q. Well, if there had been a discussion with other lead agencies, with other agencies, you would've been aware of it, wouldn't you sir?

A. Most likely.

Q. So you're aware aren't you that on the 30th – sorry, at 3.00 am on the
25 20th of November the police attended an incident management team meeting and said, "We're in charge," effectively. Do you accept that?

A. Oh, if you say, I accept that if that's, if you've got that record.

Q. Do you accept that there was no attempt to communicate the basis upon which that decision had been made with the other agencies present?

30 A. If that's the documentation, then I accept it.

Q. Well, were you aware of any attempt by the police to explain to all of the other agencies why they had appointed themselves as lead agency?

A. No.

Q. And after the appointment as lead agency, I assume you're not aware of any discussions that took place with parties then to make sure that they were happy with your appointment?

A. I'm not aware of any challenges to the lead agency.

5 Q. No, I understand that, but that's not the question sir. I asked you if you're aware of any discussions with other agencies to ensure that they were aware, or that they were happy with your appointment as lead agent?

10 A. Happy with the appointment, I'm not aware of any discussions but as I say, I'm not aware that anyone ever challenged it.

1013

Q. So the police were essentially appointing themselves as lead agency and in the absence of any protest that was what was going to remain in place?

15 A. I think it's important to understand the context and it was very difficult, very challenging.

Q. I understand that.

A. And order had to be brought to a very chaotic situation, so this was a period of where decisive action had to be taken.

20 Q. Do you think with the benefit of hindsight, sir, that it would have been good to involve other agencies in that decision-making?

A. In that discussion I agree. I accept that.

Q. So, in the future you would agree with me that, and the phrase, "Heaven forbid," has been used, "We face another set of circumstances like this."

25 A. Yes, I have used that.

Q. You would agree that the appropriate approach to take would be a discussion between the multiple-agencies and some agreement, collaboration put in place about who the lead agent will be?

30 A. I think it actually goes beyond that and I think you've got to look, and I said in my evidence-in-chief, that it's very difficult to try and build these relationships at the time of crises and chaos, you need to be building them long before, so in the preparatory phases of this type of event, those discussions would be had. And I think these issues that you're

canvassing with me at the moment would be ironed out well before a discussion of that nature was required to take place.

Q. Yes, so that's a change that you would be happy to see coming out of what happened at Pike River sir?

5 A. Yes, that's correct. I think I spoke in evidence-in-chief about the exercises that I think would be quite useful and the joint-planning, I think that would be an appropriate step.

Q. And you can also understand, I imagine, that once the police arrived at Pike River and said, "We're the lead agency, we're in charge, we're
10 setting up an incident controller in Greymouth," forward command here at Pike River that some other agencies might not have felt able to challenge that?

A. That's correct. But I'll say, we're always open to discussion.

Q. Was there any review in relation to the appointment of the police as lead
15 agent at any time?

A. Yes there was.

1016

Q. Can you describe that please?

A. That was a discussion in relation to the fire at the vent where we met
20 with fire service and we were working through whether or not it would be appropriate for the fire service to take over the lead. The end result of that was that the vent fire was determined to be a phase, lead agency would be retained under police and fire service would deal with the fire at the vent. And I think that was an appropriate course of action.

25 Q. So apart from that, because looking at your brief of evidence sir it says that the decision in relation to who is best placed to be the lead agent is the subject of review at times if the nature of the situation changes?

A. Yes, that's correct, it can be, yeah.

Q. So is that the only time that the lead agency appointment was
30 reviewed?

A. Well you could say when we handed back to the receivers, that was another time if you describe that as the handover, we're certainly handing the recovery over to the receivers when that occurred.

Q. Right.

A. So that would be another review, given the way you've put your question to me.

5 Q. See one of the things that Mr White raised in his evidence is that there was confusion about who was in charge and so I think what you're agreeing with is that if there is a discussion at the outset and better collaboration between the agencies and communication then there is less likelihood of that confusion isn't there?

10 A. I think you're right. I think it would be helpful if I could see duty card number 7 for Pike River please, in order to fully answer your question.

Q. I can't help you with that.

A. No, I know you can't help me, I'm sure the Commission can sir. And I will just answer your question more fully if I can have a look at that card please. So the point you raise is well made.

15 Q. Yes.

A. And duty card 7 is the emergency services co-ordinator. Now this is an observation of fact and not a criticism. It was given to Mr Daniel Rockhouse and I can completely understand why he was unable to fulfil that role, but that's a critical role and you can see that it's headed up, "Emergency services co-ordinator."

20 Q. Sorry, just to interrupt you sir, you mean Neville Rockhouse it was given to?

A. Sorry, Neville Rockhouse, yes.

Q. Yes.

25 A. Sorry. And I can completely understand why he was unable to fulfil that role, but that is a critical role and that left a significant gap, and you'll see the duties outlined in that card. And at number 3, "It's co-ordinate all emergency services on site and appoint Pike River Coal Mine employees to act as liaison officers for each service," that did not happen.

30

Q. So you're using that as an example, are you, to highlight some of the problems with the lack of communication at the mine site. Is that right?

A. I'm just illustrating it as a point of fact.

Q. Yes.

A. I mean this was a very significant role. And what's also needed – I mean there needs to be some contingency here and I think that's a lesson for the future. If a key cardholder is unavailable then what is the
5 contingency for replacing that role and function?

1020

Q. So, have you finished with that sir, the image?

A. Yes. Yes, thank you.

Q. I think I took it from your evidence yesterday that in terms of the
10 planning and operational aspects of an emergency response, the police would be agreeable to Mines Rescue people being involved in that?

A. Absolutely.

Q. More than they were in this case?

A. Absolutely.

15 Q. Because under the structure that you put in place sir, it was essentially forward command police talking to incident controller police, talking to Police National Headquarters police wasn't it?

A. Yes. But fair to say that they were – my understanding was there was considerable input from advisers and those at the IMT and that included
20 Mines Rescue Service.

Q. Who were the advisers that you say had considerable input?

A. Well the ones in the IMT, those who are participating in the IMT, and the advisers at the Police National Headquarters level.

Q. Yes, but essentially in terms of how communication took place to get to
25 the decision-making point in Wellington, it was police to police and up to police wasn't it?

A. In terms of their decision-making, the approval –

Q. That's how all the communication was done?

A. Yes.

30 Q. So in other words, Police National Headquarters had no direct link or involvement or communication with the forward command?

A. And nor they should generally as a rule.

Q. But I –

A. I mean otherwise you usurp the role of the incident controller and it's a practice known as arcing.

5 Q. Yes, but the point I'm making that in terms of communication, ultimately Police National Headquarters were going to make the decisions in relation to what took place at Pike weren't they?

A. Not all the decisions.

Q. Most of them, and we'll come to that, but the lion share?

A. The significant decisions?

10 Q. Yes. And what I'm establishing from you is that in order to get to the point where a decision was going to be made, it was the police at forward command communicating with the police, the incident controller?

A. Yes.

Q. Who were then communicating with headquarters?

15 A. Yes, based on advice that was provided through the mechanism of the IMT for which a number of people had the opportunity to contribute.

Q. Yes, and I think you've agreed that the IMTs were not run particularly efficiently?

20 A. No, what I, no I didn't say that. I said they could have been run differently.

Q. And better?

A. Oh yeah better. I think there's some lessons to be learnt. I think - and I mentioned the size of the IMTs and the frequency of the meetings.

25 Q. Because if they're not being run well, it affects all that communication that goes down the line doesn't it and eventually up to Police National Headquarters for decision-making?

A. It can do.

30 Q. You see, when looking at decision-making, Kelvin Powell, the manager of police communications centre, says in his evidence at paragraph 44 that on Monday the 22nd of November 2010 he was handed a document entitled "Strategic decision document," issued by Assistant Commissioner Nicholls?

A. Yes that would be correct. Are you referring to a table?

1025

- Q. I'm referring to what Mr Powell says was a strategic decision document issued by Assistant Commissioner Nicholls and I want to ask you about that sir. Under that document, Mr Powell says that the incident controller had the authority to make decisions in relation to collection of antemortem data?
- 5
- A. Yes.
- Q. Public and international announcement of fatalities?
- A. Yes.
- 10 Q. Standing cordons down?
- A. Yes.
- Q. Authority for decisions in relation to abandoning the forward command base due to safety concerns were extended to the forward commander?
- A. Yes, that's correct.
- 15 Q. And all other decisions were to be referred to Police National Headquarters?
- A. That's correct.
- Q. So, what I'm suggesting to you is that there was very little authority given to the incident controller and forward command?
- 20 A. There was the ability to deal with the sequencing of matters, the requesting of logistics, the deployment of resources, safety issues, those matters still rested with the incident controller.
- Q. Yes.
- A. However, as I've said, lessons have been learnt and we would do things differently.
- 25 Q. Well tell me how you would do things differently sir?
- A. When you're faced with an issue of this nature and you can deal with any changes by changing structure or process. We elected to change process which shifted the decision making up. In future, as I said in the evidence in chief, we would be looking at our structure and ensuring that the incident controller was not performing more than one significant role and I spoke about that yesterday.
- 30 Q. Well you see, in this document –

THE COMMISSIONER ADDRESSES MR GALLAWAY – PIKE 17607/1 ON SCREEN

THE COMMISSIONER:

5 It's an annexure, I think, to your evidence, Mr Nicholls, isn't it?

WITNESS:

Yes, sir, it is.

CROSS-EXAMINATION CONTINUES: MR GALLAWAY

10 Q. So that's the table that you thought it was, sir?

A. Yes, it is. Sorry, what date did you say that one was?

Q. Well, Mr Powell says that he was handed a document entitled "Op Pike strategic decision document issued by Assistant Commissioner Nicholls" and that comes under Monday the 22nd of
15 November.

A. Yep, sorry, yep, you're right.

Q. And what he then goes on to say is, I put to you sir was that, "Well, essentially all decisions bar a few were to be made at Police National Headquarters."

20 A. Well, if we group some of those decisions, fundamentally those decisions that relate to entry of the mine by man or machine, came up to headquarters.

Q. Physical closure of the mine?

A. Yep, sir, that's correct.

25 Q. Change in public message from rescue to recovery?

A. Yes.

Q. Operation of the conveyor belt?

A. Yes.

Q. Briefing of Government?

30 A. Yes and briefing of Government would normally be a headquarters function, you wouldn't expect the incident controller to do that.

Q. Cessation of recovery efforts?

A. Yes.

Q. Insertion of robot or other tools?

A. Yes.

Q. Any significant change to the present situation in the mine?

5 A. Correct, yep, it's as outlined in the table, yep.

Q. Yes. So, what I'm suggesting to you is very little authority was given at this stage to the incident controller?

10 A. As I said earlier, the incident controller still had the ability to deal with sequencing matters, what was required, matters of safety and what needed to be sought and deployed, so these, as you've correctly outlined in this document were matters that relate to fundamentally, safety. And, as I said, with the benefit of hindsight, things would be done differently.

Q. And can you elaborate on that please sir?

15 A. We would –

1030

Q. How, sorry, to interrupt you. How faced with this situation again, would you change the decision making structure and authorities?

20 A. In terms of, you know, a fundamental maxim of management is that structure follows strategy and I think what would be done differently in the future would be that the review of structure would take place as opposed to a review of process. So, this is a process review. What was needed, as I said earlier, was Gary Knowles being left to do one role and those other important roles being allocated to senior staff. So, we
25 bring up the decision-making and maintain the structure and that's what happened.

Q. And as you said yesterday, there would be a focus on having those incident management meetings, a much smaller group?

A. A smaller group and less frequent.

30 Q. Six to eight people?

A. I think six to eight's a reasonable number. I mean, as you say, if you have a look at the New South Wales Mines Rescue handbook, I think that refers to about eight. A classic CIMS is about four, but you've got

to remember that the CIMS framework is very flexible, it's a framework not a straight jacket.

Q. Yes, and so you see at times I've read I think that there were up to 14 police officers in the incident management meetings?

5 A. That could be correct, I suspect some of those might've been on handover, where you're using the IMT meeting as a briefing from incoming to outgoing shifts but too many.

Q. And too many logistical issues being discussed in those meetings?

10 A. Well, I wasn't present at the meetings so I think if they were bogged down in logistical issues, that's another matter that needs to be addressed.

THE COMMISSION:

15 Q. I hesitate to interrupt Mr Gallaway, but can we just be clear about this assistant commissioner, are you saying with the benefit of hindsight that in relation to the document that was on screen, there would be change to the decision-making structure or not, or would things, in your view, should things continue as they were at Pike with all significant decisions being made at police headquarters?

20 A. Sir, there would be change so the significant decisions that would come up would be entry or sealing. The majority of those other decisions would be with the incident controller.

CROSS-EXAMINATION CONTINUES: MR GALLAWAY

Q. Could we put the form up sir and again please, what would you change on that?

25 A. Operation of the conveyor belt would be something that would be incident controller. Collection of antemortem data would remain with the incident controller. Physical closure of the main to extinguish fire would come up.

Q. That's meaning to what, headquarters?

30 A. To headquarters, no I should clarify that to the response co-ordinator. Sending of mine staff into the mine, or sending of staff into the mine would come up to the response co-ordinator. Briefing of government is

clearly a central function. Cessation of recovery efforts that would be on the recommendation of the incident controller. Incident controller would deal with the abandonment of the site due to immediate safety concerns. The public and international announcement of fatalities, that's something that the incident controller would do but clearly there would be discussions with the response co-ordinator because the issues there are quite significant. Cordons being stood down, that's an incident controller function and, just to be clear, I'm talking about looking forward not changes to the present situation. That's a matter for the incident controller, but there would be an advisory. Changes in public messaging from rescue recovery, that would be a discussion between the both, which occurred. So, the two critical decisions of entry to the mine and sealing the mine would be a response co-ordinator. Does that answer your question?

5
10
15 Q. Yes, I think it does. I'm interested that you've put in there, "Sending of police staff into mine." That was never an option was it?

A. Sorry, did I say, "Police staff?"

Q. I'm looking at your document there, "Sending of police staff into mine was a decision for Police National Headquarters," that was never going to happen was it?

20 A. No.

Q. So why is it on there?

A. I can't answer that. I guess, no sorry, I don't. This may have been a DVI component or something of that nature, but no, sending of police staff into mine wasn't going to happen.

25
1035

Q. I just want to talk about the risk assessments that were prepared at the forward base, and then as I understand it is forwarded to the incident controller?

30 A. That's correct.

Q. For review?

A. Mhm.

- Q. And I see in your brief you've said at paragraph 36, "The risk assessments were completed at forward command with the input of the various experts and agencies on the ground at the mine site. The plans were then forwarded to the incident controller, who reviewed them with the group of experts he had available." Could you just describe who those experts were please?
- 5
- A. That's probably a question best put to Superintendent Knowles.
- Q. Well who did you understand that those experts were who were reviewing the risk assessments at incident control?
- 10 A. I think there was legal input, a legal advisor. And I think Professor David Cliff may have given Superintendent Knowles some advice. But as I say, I think that's a question best put to Superintendent Knowles.
- Q. So when you say that the plans were forwarded, the risk assessments were forwarded to the incident controller who reviewed them with a group of experts he had available, your understanding is there was a legal expert?
- 15
- A. Yes there was. Well there was a legal expert, yeah.
- Q. And he may have spoken to David Cliff?
- 20 A. He may have, yes.
- Q. I understand what you're saying about putting the question to Superintendent Knowles but given that this is all about communication between the police from Pike to incident control to Police National Headquarters, who did you understand the experts were that Superintendent Knowles was speaking to and reviewing the risk assessments with?
- 25
- A. Well I know he did have discussions with Professor David Cliff on occasions.
- Q. Yes.
- 30 A. I understand that he had had discussions with Trevor Watts from Mines Rescue Service. And of course the legal input that I referred to earlier. I might just given some time, be able to help you further with that.

Q. Thank you.

A. It might be helpful, I can give you some indication of who I understand may have been contributing.

Q. Is that from reading a brief or –

5 A. No, it's a presentation I've got which advised who the technical advisors were.

Q. Sorry, I haven't see that. What is the document please?

A. It's a presentation on Operation Pike outlining who some of the advisers were and other matters.

10 Q. And whose document is it?

A. Police.

Q. When was it prepared sir?

A. Round about the 25th perhaps of November.

Q. Could I just have a look at it please sir? Your Honour?

15 **THE COMMISSION ADDRESSES MR GALLAWAY – LEAVE TO APPROACH WITNESS**

CROSS-EXAMINATION CONTINUES: MR GALLAWAY

1040

20 Q. All right sir, I've seen that. I'm not sure that I'm getting a clear answer from you though sir, and I want to be - given that one of the issues I'm talking to you about is communication from police at Pike River to the incident controller to Police National Headquarters before decisions were made, you've said that the risk assessments were forwarded to the incident controller, Superintendent Knowles, who reviewed them with a
25 group of experts?

A. Mhm.

Q. Who did you understand those experts were?

A. It depended on – well I can't give you a definitive answer in terms of who were the experts at any particular time, but I can give you an
30 answer in terms of who I understand Gary Knowles may have been speaking to.

Q. Well –

- A. That's why I say the question's probably best put to Gary Knowles.
- Q. No. No sir. You are one of the response co-ordinators?
- A. That's correct.
- Q. In Wellington?
- 5 A. That's correct.
- Q. You've given – your brief wasn't read, but what it says is that the plans, risk assessments were forwarded to Superintendent Knowles and he reviewed them with experts. Did you not know at the time who those experts were?
- 10 A. I knew he was getting advice from experts and I knew who the group of experts broadly were.
- Q. Well tell me who they were sir, what do you remember?
- A. Well I know he was liaising with New Zealand Defence Force on occasions.
- 15 Q. Well, what advice would they have been giving him in relation to a risk assessment?
- A. Well logistical matters in terms of movement of a particular item and I think a good example is the movement of the aviation fuel into place for the GAG. I think they had a high degree of expertise there because
- 20 there was a significant amount of risk with that movement, and they were giving him logistical advice on functionality on some aspect of whatever he was considering and that's why I'm saying this question is probably best put to Gary Knowles.
- Q. Well sir you keep saying that, but what I'm trying to establish is what
- 25 your understanding was?
- A. Okay.
- Q. I'll ask – you can take it from me sir that I will ask Superintendent Knowles who the experts were?
- A. Mhm.
- 30 Q. What I want to know is who you understood them to be. We have a legal expert?
- A. Yes. Professor -
- Q. We have the Ministry of Defence?

A. Yes.

Q. Professor Cliff. When do you say that he was involved? When did you become aware?

5 A. Mr Peter Whittall recommended we engage Professor Cliff and that was a very good recommendation.

Q. That was after the fourth explosion wasn't it?

A. Well I understood that Professor Cliff was actually engaged with Pike River and advising Pike River before the fourth explosion.

Q. You didn't know that at the time though did you?

10 A. I became aware of it somewhere around the 26th or 27th.

Q. A week after the first explosion?

A. Yes, and that was in a conversation with Doug White.

Q. Right, but if you go to – let me just read to you sir, paragraph 305 of your brief of evidence. “Tuesday 30 November 2010.” So 11 days after the first explosion?

15 A. Yes that's correct.

Q. “On the basis of the handover briefing at Police National Headquarters at 6.45 am I understood that the GAG installation was going well and the container was in place but more work was needed to complete the placement for the GAG. Overnight the work near the portal had had to be suspended on the basis of the gas readings, the mine was still burning and sampling had been disrupted when the helicopter was grounded due to fog and low cloud. Arrangements had been made for Associate Professor David Cliff to arrive in Greymouth.”

25 A. Yes.

Q. “Associate Professor Cliff had been suggested to the police by Peter Whittall as a suitable expert for police to engage.”

A. Yes.

Q. So I'm suggesting to you that his involvement was some considerable time after the first explosion on the 19th of November?

30 A. My understanding was that Pike River employees, in particular Doug White, was talking with Professor Cliff long before that and Gary Knowles was aware of Professor Cliff because he had given me

some indication of Professor Cliff's capabilities and skills before that, so...

1045

Q. When did he give you that indication sir?

5 A. I can't remember, I don't know. It was certainly before that, because there was some discussion I think. From memory, Professor Cliff arrived here within 24 hours of the suggestion from Mr Whittall.

Q. What advice did you understand that Associate Professor Cliff was giving to Inspector Knowles in relation to the risk assessment?

10 A. Wide ranging advice in terms of the efficacy of whatever was being contemplated. Professor Cliff has a very wide knowledge.

Q. You're unable to say when you understand that Associate Professor Cliff began giving advice to Superintendent Knowles?

A. Yes, I am. I don't, I can't answer that question.

15 Q. All right, so in terms of the risk assessments we've got the defence, Associate Professor Cliff at some stage?

A. Yep, I know that Gary, Superintendent Knowles was having regular discussions with Peter Whittall and I would assume that they were discussing matters relating to interventions that were contemplated. We would've considered Peter Whittall an expert.

20

Q. Sir, you've said that you assumed that that was taking place?

A. Oh, I can say it was. I know that Superintendent Knowles was in discussion with Peter Whittall.

Q. So was Peter Whittall reviewing risk assessments for the incident controller?

25

A. No, I'm not suggesting that.

Q. Well, that's what I'm questioning you about sir.

A. No.

Q. And you're saying –

30 A. No, I'm not saying that he was reviewing risk assessments for the incident controller.

Q. Right, well, can we please come back to what I'm asking you. Your understanding of the experts that Superintendent Knowles had as

incident controller to review the risk assessments, we've got the Ministry of Defence looking at moving aviation fuel, petroleum?

A. That's one example, yeah.

5 Q. We've got Associate Professor Cliff. You said that you thought that Trevor Watts was talking to Inspector Knowles about the risk assessments?

A. Superintendent Knowles, yes.

Q. He was preparing them, involved in the preparation at the forward base, sir?

10 A. Yes, he was, that's correct.

Q. So why would he be reviewing a risk assessment that he's been involved in preparing?

A. I think he was giving advice to Gary Knowles at the time.

15 Q. In relation to the risk assessments that he had been involved in preparing?

A. Yes, I think so, and that's, that's my understanding.

Q. All right, so this group of experts that Superintendent Knowles had, anyone else to your understanding that were reviewing the risk assessments?

20 A. I think the fire service had input into them, but I can't be sure.

Q. So what I'd suggest out of, is there anyone else? See, I'm asking you not to look at your document. I'm asking from memory, sir, what do you remember was –

25 A. I'm trying to give you the best answer and from memory might not be the best answer.

Q. All right, well that's fine. Well then please look at the document then sir.

A. Thank you sir, because Gary Knowles was involved in this process, I wasn't in terms of who he was interacting with.

30 Q. So are you saying then that you really didn't have a great deal of knowledge about who the experts superintendent –

A. I'd say I had a broad knowledge, but not a specific one of who he was dealing with on this basis.

Q. Well, do you think having got to that point and with the benefit of hindsight, that that's acceptable?

A. I think it would've been more useful if I'd had a specific knowledge of who he was engaged with, I accept that point.

5 Q. Isn't it essential that you, at police national headquarters, making the main decisions on this, when you get a risk assessment that has been reviewed by experts, isn't it essential that you know who those experts are and their qualifications?

10 A. Well, I think, yes it is, but let's be clear about this. These risk assessments were prepared at the IMT by a group of experts. They were considered by the incident controller and then reviewed at the response co-ordinator level, so I wasn't uncomfortable with the process at that point.

Q. So did you turn a blind eye to it?

15 A. No, that's not what I did.

1050

Q. But you clearly didn't have a firm understanding of what was happening –

20 A. No I don't accept that. I accept that I had firm understanding of what was going on at the IMT in terms of a risk assessment was prepared by a group of technical experts. It then went through the incident controller and was reconsidered as a quality assurance measure at the strategic level.

Q. You see, you've obviously read Superintendent Knowles' brief?

25 A. Yes.

Q. And paragraphs 46 to 50 of his evidence, he talks about decision-making processes.

A. Mhm.

30 Q. And through that he talks about the assessment of risk that was taking place, at paragraph 47 he indicates, he considers it critical that all decisions and actions taken were well considered, evidence based and so on. He says at paragraph 48, half way down, "Therefore it was critical that decisions were made on the basis of the best evidence and

advice including expert advices at the time. As incident controller I sought and considered advice on safety and risks involved and any action proposed.” And then if we turn to paragraph 244 of Superintendent Knowles’ evidence. He says, “Once a risk assessment was received by police, it was circulated amongst a panel of appropriate external experts and reviewed as promptly as possible. The makeup of the panel of appropriate experts was dictated by the subject matter of the risk assessment in each case. Experts forming part of the risk assessment panel,” and he goes then to name Mr Jim Stuart-Black, Dr Paula Beever, Dr Geraint Emrys, Dr St George and David Cliff. And what I’m suggesting to you, if I read that evidence literally, and I will question Superintendent Knowles about it, is that he’s saying that the risk assessments that were received by the police were reviewed by these people?

5
10
15 A. That’s true, they were quality assured at headquarters, so he’s correct in that sense, and that’s exactly what I’ve just said.

Q. So, did a review process take place at the incident controller’s office?

A. That’s a question for Gary Knowles, but since you’ve put it to me, he, as far as I’m aware, did have some discussions in relation to risk assessments and sought the input as appropriate.

20 Q. And that’s as far as you can take it sir?

A. Yes sir.

Q. Now, so in terms of the experts who were put together at Police National Headquarters, I’ve read that list to you from Superintendent Knowles’ brief, they were the experts?

25 A. Yes, I think the expert panel was added to sometime in January. I think the commissioner at the time included David Bell, who’s a, I think he’s a professor from Canterbury University, geology, Mr David Reece, who has expertise in mines management from Queensland Mines Managers and I was away during that period but the commissioner added to the panel and that was advising him in relation to the plan.

30 Q. Right, but up until that period, January say?

A. Yes.

Q. And during the time that the police were the lead agency, just clarify for me when the police handed over the lead agency role?

A. Are you talking about to the receivers?

Q. Yes.

5 A. March.

1055

Q. So up until say the fourth explosion, be the 28th.

A. Yeah.

Q. The experts, I think the police were referred, were Mr Jim Stuart-Black
10 from the fire service?

A. That's correct.

Q. Dr Paula Beever of the New Zealand Fire Service?

A. Yes.

Q. Dr Geraint Emrys, I struggle with the pronunciation Mr –

15 A. Geraint.

Q. Geraint, thank you.

A. Yeah Geraint, yeah that's correct.

Q. Of the Department of Labour?

A. Yes.

20 Q. And Dr John St George and then –

A. Dr John St George was from the University of Auckland.

Q. From University of Auckland?

A. Yeah, that's correct.

Q. And then Dr Dave Cliff came along, as I understand it, once the
25 GAG unit was being put in place?

A. Yes. But as I say, it was my understanding he was to Doug White from the very early stages.

Q. In relation to gas readings?

A. All manner of things from my understanding. I mean Professor David,
30 he has a very wide knowledge of mines and mine safety.

Q. Well seeing you've raised it, tell us what your understanding was of the information that Dr Cliff gave to Mr White?

A. Well again, I wasn't present when he was providing that information but my understanding was that it was very wide-ranging. I wasn't privy to any, well I don't recall being privy to any conversations between Professor David Cliff and Doug White. But I heard that they were taking place. So in terms of content, I'm sorry I can't help you.

5

Q. Dr Emrys gives evidence in his brief that on Tuesday the 23rd of November there was a meeting at Police National Headquarters?

A. Tuesday the 23rd?

Q. Yes. So, what, four days after the first explosion, and attended by Assistant Commissioner Grant Nicholls?

10

A. I think it's the 24th Mr Gallaway, the meeting.

Q. All right.

A. Is this a meeting in the morning that happened around 10 o'clock?

Q. He says sir that the first task, if I can just read from his brief at paragraph 10, have you read his brief?

15

A. Some while ago.

Q. A while ago, yeah.

A. But if you could help me that would be useful?

Q. "The first task I was given as the Wellington point of contact with police was to attend a meeting at Police National Headquarters on Tuesday 23rd November 2010. Among those present at this meeting were Assistant Commissioner Grant Nicholls from police, Jim Stuart-Black, national manager of special operations at New Zealand Fire Service, Paula Beever of New Zealand Fire Service, and John St George, senior lecturer in the Department of Civil and Environmental Engineering at the University of Auckland, who attended by video link. Do you think that meeting was on the Wednesday?

20

25

A. I think that was on the morning of the 24th. Sir, does he go on to say what was discussed because that would be –

30

Q. He does indeed. He says, "That the purpose of the meeting was to consider a number of proposals intending to facilitate the rescue of the miners trapped at the site. Those attending the meeting had different areas of expertise to bring."

MS MCDONALD ADDRESSES THE COMMISSION – CORRECTION TO BRIEF

CROSS-EXAMINATION CONTINUES: MR GALLAWAY

- 5 Q. So The meeting took place on the 24th, thank you sir.
 A. Yeah.
 Q. In any case, what he says is that it was at this meeting that you sir raised the idea of appointing a panel of experts?
 A. That would be correct.
- 10 Q. To consider risk assessments associated with recovery proposals at the mine?
 A. Yes. It was the strategic panel, you're talking about the one at the response co-ordinator level?
 Q. Yes.
- 15 A. Yes, you're right, that's correct. And Professor Cliff wasn't part of that panel at that point.
 Q. He came later on didn't he, sometime around the 30th or...
 A. Yeah, and that's when, let's see, Professor Bell and David Reece came in later as well.
- 20 1100
 Q. So looking at the composition of the panel sir, well how was it put together?
 A. Jim Stuart-Black was already available and he has urban search and rescue experience. I understand he's a United Nations trainer in matters relating to emergency management, so he brought that experience skill to the table. He also has some expertise in matters relating to fire. Dr Paula Beever from memory was a recommendation from the Commissioner of Police at the time. She was also highly recommended from the New Zealand Fire Service, and I spoke yesterday about her expertise in fire combustion and I understood coal seam combustion. Dr John St George. I tasked the night before one of his staff to try and source someone from within New Zealand who had
- 25
 30

expertise in engineering, coalmining, matters of that nature, and they identified Dr John St George. The Department of Labour nominated Dr Geraint Emrys. He brought to the table expertise in workplace safety, but also he was, is a registered medical practitioner. Professor David Cliff as I said was a very good recommendation from Peter Whittall, and I'm not sure how David Reece became involved. I understand that was something that the Commissioner of Police arranged. In terms of Professor Bell, I think I spoke to Inspector Harrison and he had some knowledge of Professor Bell's expertise, so Professor Bell was brought on at a later date. So what was important here was an amalgam of people who brought expertise from various disciplines.

Q. Except none of them mining experts?

A. Well I think Professor St George has a degree of expertise in mining and I understand he's been retained by the receivers on their expert panel. I understand he'd been down to Pike River Mine and done some work down there in his area of expertise. I think if you have a look at Dr Paula Beever, she has expertise in coal seam combustion in my understanding, and of course Jim Stuart-Black has expertise in urban search and rescue, matters of that nature, but I take your point in terms of Jim Stuart-Black, he's not a coal mine expert.

Q. Well –

A. Professor David Cliff has a wide range of expertise. I think his speciality is gas, but he has a very wide and deep knowledge in terms of coal mines.

Q. You see, when looking at the composition of that panel sir, there's no expert there on ventilation in mines?

A. Well I think my understanding was at the IMT they had expertise in terms of ventilation in mines, and also you've got a situation where, as I say, Professor David Cliff has a wide range of expertise.

Q. He didn't come until the 30th of November though, as we know, or around about then did he?

A. Formally onto the panel you're absolutely right, but he was, as I said earlier, advising. My understanding was Doug White –

Q. Well hang on. Because we're talking about the review of the risk assessments. Are you saying -

5 A. Yeah.

Q. No, no just, please. We're talking about the review of the risk assessments. Are you saying that Associate Professor Cliff was somehow involved in those before he went onto your panel around the 30th of November?

10 A. Reviewing the risk assessments?

Q. Yes.

A. No, providing advice.

Q. Yes.

A. Sorry I've confused you.

15 Q. You see, looking at the composition of that, you're looking, reviewing risk assessments in relation to a serious mining accident, correct?

A. That's correct.

Q. And you have no Mines Rescue people on that risk assessment panel?

20 A. As I say the Mines Rescue people were providing input at the IMT, but with the benefit of hindsight it would have been useful to have them at that level.

Q. Because the Mines Rescue people are involved at the front command aren't they?

A. Yes they are.

25 1105

Q. And you had Coal Services up there?

A. Sorry, you had?

Q. Coal Services?

A. Coal Services?

30 Q. Yes.

A. Yes.

Q. SIMTARS?

A. Yes. A wide range of expertise.

Q. And they're having some input into the risk assessments?

A. And the incident action plans, yes.

Q. Yes, which are then being sent to the incident controller?

A. Correct.

5 Q. Up to Police National Headquarters, and what I'm suggesting to you is that, or what you seem to be saying is that you were comfortable with the fact that there were no Mines Rescue people on the review panel, because there were Mines Rescue people at forward command?

10 A. In part and the other part is of course, you've got health and safety input from the Department of Labour as well.

Q. And what did they know about going into a mine in an atmosphere like this?

A. I think their input was general more than specific.

Q. So, am I not highlighting a problem for you sir?

15 A. You're highlighting an issue, and as I said with the benefit of hindsight I think it would've been useful to have someone from Mines Rescue at that level.

Q. You see, to your knowledge did anyone from Police National Headquarters, the response co-ordinator seek Mines Rescue advice?

20 A. Not that I'm aware – directly you're talking about?

Q. Yes.

A. No, but I understand it was free and frank at the IMT and I also understand that Gary Knowles was getting some advice there too.

25 Q. But no one at Police National Headquarters sought any review of the risk assessments by Mines Rescue people?

A. That is correct.

Q. And is that acceptable to you sir?

A. Well as I've said, with the benefit of hindsight, things would be done differently.

30 Q. Well, could you tell us what you would do differently please?

A. Well, as I said, it would be useful to have someone from Mines Rescue at that level.

Q. Engage with them in the appointment of the lead agency, discuss with Mines Rescue how the incident controller would operate, have conversations about forward command?

5 A. The opportunities are there before the event, and as I said some time ago in terms of the preparation, heaven forbid, for one of these types of events, those matters would've been sorted out earlier.

Q. Well, it highlights a significant problem in the risk assessment, doesn't it, that no Mines Rescue person was involved in reviewing those at Police National Headquarters?

10 A. I don't accept that it highlights a significant problem. It highlights an issue.

Q. Well, how were decisions going to be made in relation to re-entry, recovery, sealing the mine without a Mines Rescue expert at Police National Headquarters?

15 A. Well, as I said, there was input of a general not a specific nature and the IMTs had a number of technical experts on them.

Q. Right, so you're happy in a matter where this matter is so vital and so important, for the police to have control at Police National Headquarters, that there was a general input?

20 A. I was satisfied with the input that the experts were giving.

Q. What steps did you take to familiarise yourself with what input they were giving?

THE COMMISSION:

25 Where are you talking about Mr Gallaway? Are you talking about on site at the mine?

MR GALLAWAY:

Sorry, at mines forward base on the site sir, sorry, I thought that's what...

30 **CROSS-EXAMINATION CONTINUES: MR GALLAWAY**

Q. So when you say you were satisfied with the input that the experts were giving, you're talking about forward command?

A. I'm talking about the experts that I was engaged at, at the headquarters level.

Q. See, if we look at Mr Powell's brief, and again, just to remind the Commission that he's the manager of Police Communications Centre?

5 A. Mr Powell also has a very wide operational experience. He current – at the time he held the role of the communications centre, but he also an operational officer with considerable operational experience.

Q. At paragraph 39, he lists some experts. Now on Sunday the 21st of November, he prepared a list of experts at the forward command base. Have you seen that list sir?

10 A. I may have, if you could perhaps show it to me I could assist you and answer the question more definitively.

1110

Q. I can read it out to you I don't have a summation reference.

15 A. Is it, sir, is it a table or is it a?

Q. I don't have a summation reference, I've got his evidence. The police brief reference is 19/8. The paragraph is 39.

WITNESS REFERRED TO POLICE BRIEF EVIDENCE – PARAGRAPH 39

A. You say, "39?"

20 Q. Yes sir. So, if we read that we see the list of experts listed by Mr Powell on Sunday the 21st of November?

A. Right, these are people within the IMT?

Q. Well, he's saying they're the experts at the forward command base. He's directed that the list be prepared. If you read paragraph 38 sir?

25 A. Do you want it read aloud or?

Q. No.

A. Yes, I've read it.

Q. And then a list is obviously prepared and you see on there Darren Brady from SIMTARS, a number of people who were associated with Pike River, so, Doug White?

30

A. Yes.

Q. Mr Borichevsky?

A. Yep, that's correct.

- Q. Mr McNaughton I gather?
- A. Yes, that's correct. There's 12 in total. Is that 12?
- Q. Mr du Preez? Yes, and six of them are related directly with Pike aren't they?
- 5 A. Yes. Twelve, one, two.
- Q. And then we've got St John?
- A. I see two that have got Pike written, are you talking about the contractors as well?
- Q. Yes.
- 10 A. Okay.
- Q. What I'm pointing out to you here sir, is that the police are listed as experts there, the St John's are listed as experts and we have a reference to SIMTARS?
- A. Yes, that's correct.
- 15 Q. No reference to Mines Rescue service. Does that surprise you?
- A. I would've expected to see them on there.
- Q. Can you explain, and it may be an unfair question, but I'm going to ask it anyway sir. Can you explain why they weren't?
- A. No I can't. I didn't compile the list and I wasn't at the forward command,
- 20 so.
- Q. No reference to Coal Services, again given that they were they you would expect to see them on that list wouldn't you?
- A. Yes, I haven't got an explanation. I mean, it may have been a snapshot in time when it was prepared, but as I say, I didn't prepare the list.
- 25 Q. But what I'm suggesting to you is this. It's perhaps surprising given that that snapshot in time, as you call it on the evening of Sunday the 21st of November, there's no reference to the New Zealand Mines Rescue Service, Coal Services, or, for example, Solid Energy?
- A. Yes, but I think there was no doubt that they were there.
- 30 Q. I'm not for a moment suggesting that they weren't there.
- A. At this time.

Q. Do you accept sir that Mines Rescue and I'm talking about the New Zealand Mines Rescue Service were not represented in the decision-making process in Greymouth?

A. Sorry, can you put that proposition again sir.

5 Q. Do you accept that the Mines Rescue Service, SIMTARS or Coal Services were not accepted in the decision-making processes in Greymouth of the incident controller's office?

A. Not accepted?

Q. Not involved in the decision-making process. Not represented there?

10 A. No I don't accept that.

Q. So how do you say that they were involved?

A. Well, my understanding was that they were part of an IMT that was contributing to an IAP and that risk assessments were flowing from the IAPs so.

15 Q. I understand that sir. What I'm asking you is once it gets to Greymouth?

A. Oh, once it gets to Greymouth?

Q. Yes. Do you accept that Coal Services, Solid Energy, Mines Rescue, were not involved in the decision-making processes there?

A. Okay, just so I'm clear, you're talking about when it gets to the
20 Greymouth incident controller?

1115

Q. Yes.

A. Okay. Again, a question for Gary Knowles.

Q. Not to your knowledge?

25 A. On the face of it, not to my knowledge.

Q. And the same in Wellington sir?

A. The same.

Q. Because one of the things that the CIMS model says, as you'll know sir, is that as an incident becomes more complex the requirement in a
30 multi-agency response to establish effective liaison between agencies becomes paramount? Do you accept that?

A. Yes I do. And in terms of an operating environment of this it's just complex and chaotic and that needs to be appreciated.

Q. I understand that but doesn't that make it even more important that good systems are put in place?

A. Yes, it does.

Q. It's not an excuse, is it, for –

5 A. No it's not an excuse, it's just painting the reality.

Q. Yes. So if we then look to the future sir and heaven forbid, as we all agree, can you give some indication as to how you would involve the Mines Rescue Service in a similar disaster, having regard to the CIMS model?

10 A. Well as I said yesterday, I think in terms of the CIMS model there's four key roles that need to be performed, and that's the incident controller, operations manager, planning and logistics. Now, one needs to reflect on whether or not the planning, the logistics, needs to be undertaken at a supervisory management level by a police officer. And I'm not
15 convinced that it does. I think Mines Rescue bring a high degree of specialised expertise and their contribution needs to be valued, and it was. In terms of the risk assessments, you make a good point in terms of having input at a more strategic level, if indeed that is required.

Q. In an incident like this surely it's required?

20 A. Yes it is. The risk assessments are absolutely required.

Q. Yes.

A. But on some events, and I'm just thinking, you know, you've posed the multi-agency high risk event, where you have a response co-ordinator, in some events you don't have a response co-ordinator, so just have to
25 work through those issues.

Q. So how else would you involve Mines Rescue and Mines Rescue's expert under the CIMS model in a future disaster?

A. Well Mines Rescue would take a lead in one of those phases, which I've talked about, you know, the planning or the operations or the logistics, depending on whether expertise was best placed.
30

Q. Well let's look at this now sir. Where do you think their expertise is best placed if you had a similar disaster?

A. Planning.

Q. Operational?

A. Could be, yeah. Certainly part of the operational phase. It could be that they lead the planning phase.

Q. What would that involve?

5 A. Exactly what it says in terms of planning the way forward, dealing with the contingencies, identifying the risks, analysing those risks in terms of understanding your operating environment. In terms of the operation manager, operation manager's responsible for the tasking and the co-ordination of the front end of an operation and sits under the incident controller. So there are some opportunities here.

10

Q. It's less about, isn't it, an opportunity for Mines Rescue and more about what's best in the circumstances?

A. Yeah, I probably didn't –

Q. I'm not being critical sir?

15

A. No, no.

Q. But I want to make it clear?

A. Yeah.

Q. Mines Rescue are not looking for some opportunity?

20

A. No, you've latched onto a word which I probably should've been a little more careful with. I'm not suggesting that for one moment.

Q. So they would be involved in the planning and operational side of it?

A. I would say so.

Q. And under that model, where does that take place, at the front but front command?

25

A. Yes, within the IMT, yeah. So you have a smaller IMT?

Q. Now in terms of the incident controller, part of their role is to review risk assessments isn't it?

A. It is, yeah.

Q. And action plans and so-on, incident plans?

30

A. Well the incident action plans, the incident controller would sign off the incident action plans, they'd be developed up from the IMT.

1120

- Q. Do you agree that it would be helpful to have some form of Mines Rescue input? I'm not necessarily talking about the same organisation but an expert from Australia or some other part of the world at that level.
- 5 A. Yes I do. See, you could have a technical adviser plugged into the incident controller, and that wouldn't be inappropriate.
- Q. And similarly in Wellington?
- A. Well if indeed it was run from Wellington. One of the structural changes that the current commissioner's put in place is geographical assistant
- 10 commissioners, so it could be a different approach in terms of the response co-ordinator being closer to the front line, if indeed it was required.
- Q. So would that mean again talking about similar geography, similar disaster, the possibility of the response co-ordinator being in Greymouth
- 15 for example?
- A. Could be a possibility, yeah.
- Q. And would that mean that the incident controller would be probably moved up to the mine site and be closer to what was going on up there?
- A. Yes that could well be the case.
- 20 Q. But that's one of the criticisms that I think has been made by some of the experts in their briefs, that there was too great a separation between the various police reporting areas?
- A. Yes, and I've read that and I mean there's reasons for why it occurred, but I'm not trying -
- 25 Q. I understand.
- A. Yeah and you – I'm aware that you understand and, but we've had the opportunity to reflect.
- Q. And again sir, I think you've agreed and I don't want to labour the point, but that at Police National Headquarters on that experts panel there
- 30 must surely be some Mines Rescue input?
- A. Yes, I think as I said to you in cross-examination, it would have been very useful, but I must say, you know I do say that the contribution from the Mines Rescue Service was well received.

Q. Thank you sir. I want to talk to you now sir about the issue of survivability?

A. Yes.

5 Q. The, and again I don't expect you to know it backwards sir, but have you read the Mines Rescue institutional brief?

A. Look I couldn't profess to know it back to front, sorry.

Q. I thought I'd prefaced it by saying I wasn't –

A. Yeah, no I appreciate that.

10 Q. But you – so you've read it. Are you aware that MRS formed the view that the initial shockwave of the first explosion would have killed most of the men immediately or rendered them unconscious?

A. I'm now aware of that view, yes.

Q. And because of the communication structure that was put in place during this incident, you weren't aware of that until recently, correct?

15 A. Yes. Well, -

Q. Well you weren't aware of it before the fourth explosion, for example?

A. No, no that's right.

Q. No.

A. And the evidence hadn't been prepared 'til later anyway.

20 Q. That's a failing isn't it sir in terms of the system that Mines Rescue who are the experts have a view on the survivability of the men and it doesn't seem that at national headquarters you were aware of that early in the piece?

25 A. No it's not a failing. I think it's important to understand the context and I tried to deal with this yesterday. There was hope that the men had survived. I think it's important to remember that two men had self-rescued having been unconscious. We were of the view and we were informed that there was a fresh air base in that mine, an oxygen line going into it, that there were rebreathers available. So these – you
30 know, this is all part of the context and what you've put to me today is part of that picture, but when you're making these really difficult decisions in challenging circumstances you've got to look at the whole and not the part.

Q. I understand that, but you have to have engagement with the organisations who understand underground explosions?

A. Well you have to have engagement with a wide variety of stakeholders.

1125

5 Q. Yes, but I accept that as well, but first and foremost the people who understand underground explosions, atmospheric conditions, ventilation, are critical in terms of survivability, aren't they?

A. They're a critical stakeholder in that discussion.

10 Q. Yes, so, I was putting to you that the Mines Rescue formed the view that the initial shockwave of the first explosion would probably have killed the men immediately or rendered them unconscious. They believe, sir, if the men had not been killed immediately, then they would've been quickly overcome by noxious gases or a lack of oxygen within minutes?

A. Yes.

15 Q. And they were of the view, sir, that if there had been some men who were able to don their personal self-rescuer then they are unlikely to have survived for any longer than the duration of that one rescuer, self-rescuer?

20 A. Yes, that's correct, and one would've expected that had someone donned a self-rescuer at the Slimline, that they would've been able to make their way out.

Q. Right, exactly, exactly. So the only additional self-rescuer units were contained in the Slimline shaft, weren't they, to your knowledge?

A. To my knowledge.

25 Q. At the bottom of the fresh air base?

A. Yes.

30 Q. And so what Mines Rescue go on to say in terms of their comments on the likely timing of the deaths of the men is that if the men had survived and had been able to reach the additional self-rescuers in the fresh air base, MRS believes that the men would've been able to walk out of the mine?

A. Yes, that's a fair assumption.

Q. Is that a fair assumption based on the knowledge of hindsight, or did you consider that at the time?

5 A. I thought that they could've survived and I held that view based on all the available information to me, but having reflected, I think that the men died fairly quickly, in a very short space of time.

Q. Yes.

10 A. I think if you – you know, the difficulty here is there's no exact science and you've got to – you know, you look at what happened in Sago in 2006, the men lasted 41 hours, so these are all the things that are running around in your head when you're making these very, very critical decisions.

15 Q. I understand and acknowledge that sir. I suggest to you sir, what it highlights is the necessity to bring the expert information together promptly, to review it, if you like, as even as a parallel enquiry, while you're still looking at rescue. Do you accept that?

A. Parallel contingency planning is what I spoke about yesterday and I think that's a good point.

Q. And wouldn't survivability be one of those key parallel contingency planning issues if a similar issue occurred now?

20 A. Yes, it is and as you're well aware, we just started some work on that in earnest on the 24th, but leading up to the 24th and I think it's really important again, the context here is critical. There was information in the public arena that these men had survived, or sorry, I correct myself. These men may have survived and that they may be waiting for a rescue.

25 Q. All right, well, what was – just before the break, what was that information that was in the public arena, sir?

30 A. I spoke about it yesterday, from my recollection, Mr Whittall was saying that they could be in a fresh air base or a clean air base or something of that nature, with access to oxygen waiting for rescue, and I think it's important to remember that Mr Whittall fundamentally owned this mine. He was Pike River. We considered him to have a degree of expertise in terms of mining and understanding of that mine.

Q. Do you think sir he had a degree of expertise in explosions underground, given that Pike River don't seem to have turned their mind to the possibility of there having been an explosion?

5 A. Well, I mean I think to be fair, I think Mr Whittall had, does have a degree of expertise in mining. I don't know what his expertise are in terms of explosions.

Q. And survivability?

A. Well, again, I can't answer for Mr Whittall but he was, he certainly on my reading, has expertise in mining.

10 **COMMISSION ADJOURNS: 11.31 AM**

COMMISSION RESUMES: 11.47 AM

CROSS-EXAMINATION CONTINUES: MR GALLAWAY

Q. Sir, before the break we were talking, or just starting to touch on the issue of survivability?

5 A. Yes.

Q. And what I was wanting to explore from there was the knowledge that Police National Headquarters had in relation to this issue. I think you've conceded sir, in relation to the parallel contingency planning in relation to this issue would be good in the future. I want to explore with you what actually happened so that we can establish why that's the case?

10

A. Okay.

Q. I've referred you sir to what Mines Rescue said in relation to the survivability of the men?

A. Mhm.

15

Q. And I now want to refer to the brief filed by Mr Seamus Devlin on behalf of New South Wales Mines Rescue Services Coal Services?

A. Yes, certainly.

Q. And you will have seen in that brief sir, at paragraphs 44 to 46, he says, "In my opinion it is almost certain that death occurred if not immediately then within the first hour of the first explosion on the 19th of November 2010. My experience at other mine disasters is that the initial shockwave or related gases would have led to rapid extinction of life." He goes on to say, "Therefore if the explosion did not result in instantaneous death, which it probably did, then the contaminated atmosphere and lack of oxygen would not have sustained life. This was my initial impression and I expressed this view to Trevor Watts of New Zealand Mines Rescue Service, nothing has occurred subsequently to alter my opinion." So there you have the New South Wales Mines Rescue Body saying really exactly what New Zealand Mines Rescue Service was saying. You accept that?

20

25

30

A. I accept that.

Q. And again sir, what I suggest to you is that you weren't aware of that view held by Coal Services at Police National Headquarters were you?

5 A. Not the view held by Coal Services but I had a view that there may well have been fatalities arising out of this, although some may have survived. So until the second explosion, as I said yesterday, there was hope.

Q. Well I understand that, and I'm going to question you about what you based that hope on?

A. Certainly.

10 1150

Q. But what I'm putting to you is that the New South Wales Rescue organisations and the New Zealand Mines Rescue organisations both thought that the men died very quickly indeed and what I'm wanting you to confirm for me, is at Police National Headquarters, you weren't aware of that view?

15

A. The view of?

Q. That the men died almost immediately.

A. Held by those two organisations?

Q. Yes.

20 A. No. But it was certainly a prospect.

Q. Yes, but, look, I know it was a prospect sir and everyone knew it was a prospect, what I'm asking you is whether you knew the view of the two expert agencies and the answer is no?

A. That is correct.

25 Q. Because I want to look then, sir, at your talking about there being hope and I understand why, sir, you would want to hold that view and why everyone would want to hold that view. But, if we look at the brief, your brief, sir, at paragraph 87?

WITNESS REFERRED TO OWN BRIEF OF EVIDENCE PARAGRAPH 87

30 Q. On the 20th of November at the afternoon briefing, "That around 2.44 pm Police National Headquarters," that's paragraph 87, "Was advised that eight readings had been taken so far by dropping a probe device into the ventilation shaft. Carbon dioxide readings were reported as being

between 1000 to 1060 and if these readings were correct, the environment was unliveable.” So, again sir, at that very early stage in the piece, a firm indication that there was an environment down there that was unliveable?

5 A. Well, unliveable in the context that some may have survived. It wasn't a situation where you could say definitively, that everybody had perished.

Q. Well, what does, “unliveable” mean to you sir, because reading that it's saying, “If the carbon dioxide readings are accurate, the environment's unliveable.” Do you not see? Sorry, carry on.

10 A. Yes, sorry, I think context is important and the context is this was a mine with many corridors and passages and it's very difficult when you're making those very challenging decisions to be definitive about such an issue as life and death.

15 Q. I'm not suggesting that you should have, for example, sealed the mine at that time.

A. Okay.

20 Q. What I'm saying to you, sir, is there's a report coming through to you on the 20th of November saying, that if the readings are right the environment down there is unliveable? You received that report but notwithstanding that, some days later, and other information I'll put to you, you're still holding out hope?

A. Absolutely. I mean, this is about context and that was one piece of the puzzle.

Q. What the environment? It's a major piece of the puzzle isn't it?

25 A. Well, it absolutely is, but it's still one piece of the information puzzle.

Q. What are the other pieces, sir, that you were relying on?

30 A. Well, the very fact that two people self-rescued from this mine, I don't think you can get passed that. Two people who were unconscious for a period of time exited this mine. But there was also, as I've spoken about earlier, the view of the chief executive who, in our view at that time, had significant knowledge of this operation.

Q. Well, when you say, “Of the operation,” you mean of Pike River Mine?

A. Yes, sorry, yeah, or Pike River Mine as an entity. I mean, my understanding was he was integral in designing it and managing it.

Q. And I'm not being critical of Mr Whittall in any way for holding out hope.

A. No.

5 Q. But, sir, at Police National Headquarters, to rely on the executive director or a director of the company for a decision or a feeling that people were still alive in there, when you've got experts at hand, and you've heard the advice, or what they thought, do you think it's reasonable to have relied on Mr Whittall in this regard?

10 A. Well I think it's only fair to say that we relied on Mr Whittall.

1155

Q. Well I'm sorry, but that's exactly what I understand you to say?

A. Yeah. No I'm saying that he was part of the information that was considered. There was a meeting on the morning of the 24th. I think it was Professor St George or Dr St George indicated a remote possibility of survival if someone had made their way into some location in the mine. So on the morning of the 24th I still was receiving information that maybe there's this remote possibility. So I think it's important to understand everything that was available and not just the part.

20 Q. Right. Well let's then consider that. Let's look at what was, what you say was available. We know that you've got Mines Rescue Service, Coal Services and SIMTARS, but they're not consulted?

A. Well they were at the IMT.

25 Q. Yeah, but you don't know what their view is at Police National Headquarters?

A. No, that's correct. Just to be fair on that. My understanding was the go forward plan was an entry when the –

Q. Yes, which –

A. Yeah.

30 Q. Doesn't that indicate sir, with the risk of explosions continuing which you were aware about?

A. Yes, that's correct I was aware about. However, I think, you know, it's important to reflect on the evidence of Ken Singer, and as I say –

Q. Well we haven't heard that evidence.

A. Well, no, but he's filed it for the Commission and –

Q. Well, were you aware of Mr Singer's thoughts at the time, that you were making these decisions?

5 A. No I wasn't. But I think it's important in answering your question. He's an expert who was involved. A man I believe I've never met, but he was talking about and he speaks about in his evidence that a second explosion may or may not have ever occurred.

Q. Well were you – and you weren't aware of that at the time were you?

10 A. Ken Singer's evidence -

Q. Were you working on the basis at Police National Headquarters that there would not be another explosion in this mine?

A. We were working on the basis that there was a high probability of a second explosion. Nobody could say.

15 Q. Right. And if there was a second explosion, there could have been a third, and if there was a third there could have been a fourth?

A. Correct, and there may not have been a second, but the probability was a second was going to occur.

Q. Right, high probability?

20 A. I'd say a probability.

Q. So, let's look then at some of the things that were happening in terms of the briefings and communications between the police. On the 21st of November, Sunday, at 2.30 pm, so just under 48 hours after the initial explosion, Inspector White, he was based at incident control?

25 A. Yeah he was, he was based at the mine site I understand.

Q. Right. Well he had a discussion with Inspector Brown at Police National Headquarters and he discussed, the discussion was the need for further expert advice due to indications that the operation was moving from rescue to recovery on Sunday the 21st of November. What were the indications that Police National Headquarters had at that time that the operation was leaving from rescue to recovery?

30

A. I didn't move the operation from rescue to recovery until the 24th, after the second explosion.

Q. Yes.

A. However, I suspect that what Inspector White was doing was the issue that you've raised before the adjournment, some parallel planning, contingency planning, and I suspect, and I don't know because I haven't
5 had this conversation with him, that it was probably based on the fact that nobody had exited the mine for the amount of hours that you've referred to in part.

Q. Well that's 48 hours afterwards. You're still holding hope on the 24th that someone could exit the mine?

10 A. Correct.

Q. Were you aware of that conversation between Inspector White and Inspector Brown?

A. Not that I recall, unless you can point to something it's - off the top of my head I don't recall. I wasn't part of the conversation. It would have
15 taken place in Greymouth.

1200

Q. Well, could we have a look at the document please, PNHQ – well, Inspector Brown's at Police National Headquarters, isn't he?

A. Well, it depends on the timing. I know that at times he was down in
20 Greymouth, at times he was in Wellington, so if I could perhaps have an IAP or something that –

Q. All right, well let's have a look at please, PNHQ. –

A. He was deployed on occasions at Greymouth and on other occasions in Wellington.

25 Q. But he was part of Police National Headquarters wasn't he?

A. He's on the staff at Police National Headquarters.

Q. So was he part of the response co-ordination team, or the incident controller?

A. Well, his role varied. On occasions he was in Wellington and on other
30 occasions he worked – on one occasion I think he was sent down to Greymouth.

Q. So, did he move between teams?

A. Yes, he did.

Q. And under the CIMS model that's acceptable?

A. Absolutely, there's nothing wrong with that. I mean it's just making the best use of your resources.

Q. Have a look then please at PNHQ.10390, page 10 please?

5 **WITNESS REFERRED TO PNHQ.10390**

Q. Now, the conversation took place according to your brief at 2.30 pm. "Superintendent Knowles has had advice in relation to the incident and seeks further expert advice as it all indicates that the operation is moving from rescue to recovery," so it looks like you were aware of that, doesn't it?

10

A. It appears that way. I don't recall it offhand, but it certainly appears that way. Superintendent Dunstan was heading my support group, so, and normally he would bring matters to my attention, so, and this is potentially part of parallel planning.

15

Q. It's a pretty significant piece of advice though to you at Police National Headquarters at 2.30 on the 21st of November, or pretty – you're obviously, you've been advised of that prior to this phone call taking place. It looks that the operation is moving from rescue –

A. Where do you get that I was advised prior to the phone call taking place?

20

Q. Superintendent, under the first heading sir, "Superintendent Knowles has had advice in relation to the incident and seeks further expert advice, as all indicates that the operation is moving from rescue to a recovery." What were the indications, you don't recall?

25

A. No, and I'm not sure how you –

Q. Sorry, it's – no, no, sorry, I'm confused. Were you not aware of that exchange?

A. It doesn't ring a bell, but I can't sit here and say that I wasn't aware of it, yeah.

30

Q. Right, well in any case –

A. Superintendent Knowles, he may have contacted Superintendent Dunstan and had a discussion, so...

Q. Well it looks like something like that's happened, hasn't it, and then?

A. Yeah, it does. But as I say, I mean this would be part of some sort of parallel planning that was going on.

5 Q. Well, you see, in your brief you say that, "Inspector White," paragraph 124, "Discussed with Inspector Brown of Police National Headquarters the need for further expert advice due to indications that the operation was moving from rescue to recovery. Superintendent Knowles wanted to have this process researched earlier rather than later."

A. Yes.

Q. So what happened as a result of that?

10 A. Well, without referring to documentation or the instant action plans, I can't tell you exactly what happened as a result of that, but my view would be that there would've been some forward planning. If the superintendent had requested such, I'd be surprised if it didn't happen, but without the documentation, I can't give you a full answer.

15 Q. It looks like from your brief though that Superintendent Knowles is wanting, he's making that request, isn't he, the Police National Headquarters?

A. Oh, on the documentation in front of me, it's to Superintendent Dunstan who was working at Police National Headquarters.

20 Q. And he wants to have the process researched, but you're unable to tell us what, if any, research took place as a result of that request.

A. Yeah, correct.

1205

25 Q. Then sir, at paragraph 192 of your brief on Tuesday the 22nd. This is your evidence sir, "I spoke with Superintendent Knowles at approximately 12.30 pm. We discussed the importance of releasing the video footage to the media after the families had viewed the footage. We also discussed that it now appeared highly unlikely that anyone had survived the explosion?"

30 A. Yes.

Q. "At this point it was considered important to get expert advice around this point?"

A. Yes.

Q. So what steps were taken in relation to getting that expert advice?

A. What date was that?

Q. Tuesday the 22nd, sorry.

A. 23rd. Was Tuesday the 23rd?

5 Q. Yeah it is. Is that when the panel was put together the next day?

A. Yes. And so the panel, sorry Mr Gallaway, what time did you say that was?

Q. 12.30 pm sir.

10 A. Yeah, so in the afternoon the panel was organised but I think it was Superintendent Dunstan that did that and the panel was convened the next morning. And that was the panel you were questioning me on?

Q. Yes it is?

A. Yeah.

Q. Yes, and I had the wrong date, it was Wednesday the 24th?

15 A. Yeah it was.

Q. So in-between that Sunday afternoon conversation, that I've referred you to, and 12.30 pm on the 23rd you don't know if any research was done into this possibility?

20 A. No, but probably in the break I'll go through some records and might be able to help you out there.

Q. Well if you're still here, well you won't be with me then but you might be with someone else.

A. I'm sure I will be.

25 Q. Now the passages I read to you about the Mines Rescue Service's view on survivability?

A. Mhm.

Q. And that of Mr Devlin both referred to the duration and extent of the explosion, as seen on video?

A. You're talking about the first explosion?

30 Q. Yes.

A. Yes.

Q. So in terms of survivability what I understand New Zealand Mines Rescue Service are saying in their institutional brief, and what

Mr Devlin is saying in the Coal Services brief, is that one of the factors that they considered in making their determination about survivability was the video evidence?

A. Okay.

5 Q. The force of the explosion, the duration of it for 52 seconds, and Mr Devlin makes reference to the size of the explosion in a mine of this size. And I understand him to be saying it was a huge explosion in a comparatively small area?

A. Yeah, I think from memory it lasted about 50 seconds.

10 Q. Fifty-two I think that's right sir.

A. Fifty-two, yeah.

Q. From a forensic point of view the video is a key piece of evidence in reviewing what's happening up here isn't it?

A. Yes.

15 Q. And we know from your evidence sir, at paragraph 166, that Police National Headquarters didn't become aware that there was video footage of the explosion until 72 hours after the initial explosion?

A. Yes, what date have you got on that?

20 Q. I have got the 22nd, Monday the 22nd. Let me read you your evidence sir, paragraph 166. "During the afternoon Police National Headquarters became aware that there was video footage of the portal at the mine showing the first explosion?"

A. Yes.

1210

25 Q. "At approximately 4.21 the Police National Headquarters liaison officer at the mine site, Inspector Prins, was tasked with obtaining a copy of the Pike River CCTV footage of the explosion. At 4.26 pm the event log records that Inspector Prins spoke to Police National Headquarters, that Pike River Coal would not release the video footage without a warrant.

30 Staff having been told not to discuss anything with police unless they have a solicitor with them. I'm now aware that the police forward command had been provided with this footage earlier with the consent

of Pike River Coal.” So, if I can summarise. Well, first, when did you see the video footage?

5 A. I don't recall when I first saw it but it was pretty close to the date in which I said it was to be released to the families, which was, I think the next day.

Q. Then it is surely of some considerable concern, I suggest, that a critical piece of evidence has not been forwarded to the incident controller or to Police National Headquarters?

10 A. Yes, I would of expected to it have been forwarded. But in saying that, it was, it had been described. I take your point about the graphic nature of the evidence and there's no dispute there, but it wasn't as though Superintendent Knowles wasn't aware of it in description at the very least.

15 Q. Well, sir, looking at your evidence, paragraph 166. What you say is, “During the afternoon Police National Headquarters became aware that there was video footage.”

A. Mhm.

20 Q. So, Police National Headquarters aren't aware, are they, that there is video footage, or they can't have had it described to them, because they're not aware it exists?

A. But you can have the fact that there was an explosion described to you but not the nature of the, so I'm drawing a distinction. I'm not trying to dance on the head of a pin but...

Q. No, but –

25 **THE COMMISSION**

Mr Gallaway, this is dealt with by Superintendent Knowles, 283, in his brief where he records that the portal area footage was drawn to the attention of police on the 20th of November, but he didn't see it until the morning of the 22nd.

30 **MR GALLAWAY**

Yes sir. Thank you, I'm obliged Your Honour.

CROSS-EXAMINATION CONTINUES: MR GALLAWAY

5 Q. So what I'm suggesting to you is that that is an area of some considerable concern when you consider that Coal Services and the New Zealand Mines Rescue Services used the video evidence as part of their reasoning for establishing that the men died very quickly, it is surely of considerable concern that the police at National Headquarters were not aware of its existence until Monday the 22nd of November?

A. But certainly would've been helpful to have it before then.

10 Q. Because then surely then if you're looking at the issue of survivability, you could've handed it to your panel of experts couldn't you?

A. That's correct.

Q. Except they didn't exist until the 24th?

15 A. That's correct. I think it's important that in terms of, and you raise the issue or survivability, it took two days for the panel that was convened at the mine to produce their report, so this was a very, very difficult issue that they worked through.

1215

20 Q. It is sir, but it highlights, doesn't it, that it's an issue that should've been considered from the outset using the experts that you had at front base command, rather than dealing with it five days after the first explosion?

25 A. Well I think, as I've rightly pointed out, I mean there was a number of issues going on, there was a number of matters being addressed. Survivability as you correctly point out, a critical issue. But there was many pieces of the information that were being, many pieces of information were being considered.

Q. Well, did you consider sir that if it could be established that there were no survivors, the mine could then have been sealed thus preventing any further explosions; therefore, the mine is preserved.

30 A. Well I think, I mean the context is such that you've got to really consider what we were operating with at the time.

Q. Well, look sir, did you consider –

- 5 A. I'm trying to answer your question. There was real difficulty in terms of this issue because there was a lot of hope and I've explained that, and there was a lot of information to consider, and to look at a piece of information in abstract is simply not the operating environment, the reality of the operating environment.
- 10 Q. I'm sorry but I don't understand your answer and I want to ask you the question again, and what I suggest my question highlights sir, is the lack of good Mines Rescue advice that Police National Headquarters were getting from the outset of this operation. Did you consider that if the issue of survivability could be dealt with quickly, putting hope to one side and having an assessment done on this, that further explosions could have been prevented, thus meaning that the mine would not be destroyed?
- A. The issue of survivability could not be dealt with quickly.
- 15 Q. And that's your answer?
- A. That's my answer.
- 20 Q. I just want to talk to you about the basis, sir, that you say as one of the response co-ordinators in Wellington, that even as late as the 24th of November there could have been survivors? Your basis for that, as I understand it sir, and it flies in the face of what the Mines Rescue experts state, is that Daniel Rockhouse and Russell Smith had walked out, there was no reason, I think you said, not to believe that no one else might be alive?
- 25 A. Correct. I mean they had survived. Daniel, quite clearly Daniel and Russell had survived an explosion so –
- Q. Did you not give any thought at all sir to investigating the probability of survival earlier on?
- A. Well, you know you've got information that there's a fresh air base in there. You've got information –
- 30 Q. Well what does that tell you?
- A. That someone may be in there. They may have survived.
- Q. And was that fresh air base to your knowledge ventilated?
- A. It had oxygen going into it. My understanding –

Q. No.

A. Sorry, my –

Q. All right, well tell us what your understanding was sir?

A. Was that it was a safe haven, however described.

5 Q. And was it your understanding throughout this that if people had made their way to the fresh air base they could be sitting in there for five days breathing in air from down the ventilation shaft?

A. That was one proposition.

Q. No, well, okay where did that understanding come from?

10 A. Well Peter Whittall was very clear about that in my view.

Q. So the response co-ordinator on this investigation is relying on Peter Whittall to determine whether there are any survivors in the mine?

A. No, that was part of the information.

Q. Right.

15 A. That was one piece of the information. I think –

Q. The rest of it was that you had seen or Daniel Rockhouse and Russell Smith had walked out on the 19th?

A. That's correct.

Q. That was a factor?

20 A. Yes they had.

Q. How did that mean that other people were going to walk out? In the absence of some scientific atmospheric analysis.

A. Well, I think – I mean the fact is that these two men had been subject to an explosion. They had survived that explosion. They left that mine.

25 1220

Q. So that means that, any time, in your mind as one of the people in charge of this operation, that for the next five days, other people could walk out?

30 A. It's not beyond the realms of possibility. Two people survived this disaster. Those two people were rendered unconscious, brought themselves too, I mean if Daniel Rockhouse hadn't done what he did, Russell Smith would probably not be with us.

Q. I don't think there's any dispute about that sir.

- A. So, two survived, I mean I think that's a really critical piece of information.
- Q. I don't think that the Mines Rescue Service or Coal Services would agree with you sir.
- 5 A. And everyone's entitled to their opinion.
- Q. Right, all right, then –
- A. I think, you know, on the morning of the 24th I received, you know, Dr St George was of the view that it wasn't beyond the realms of possibility.
- 10 Q. Yes, but he's not an expert on – and I'm sorry, I want to pull away from the subject, but if you keep throwing in examples that helped you sir –
- A. Well I'm trying to answer the questions as fully as possible, because I know you want to understand what my perspective was.
- Q. I understand and appreciate that, but Dr St George wasn't an expert in mines atmosphere and survival in those conditions, was he? He's a geologist.
- 15 A. Well, he's got expertise in mining and I think it –
- Q. I know, but –
- A. The other thing is and is an important point here, that Dr Geraint Emrys, a registered medical practitioner was sitting at that meeting and this was a conversation, I know that Jim Stuart-Black expressed a contrary view, but you have a meeting on the morning of the 24th where hope is expressed in the context of survival, and sitting at that meeting is a registered medical practitioner and the context of this was that there was hope of some significance in the public arena. Those things can't be discounted and dismissed out of hand.
- 20 A. The other thing is and is an important point here, that Dr Geraint Emrys, a registered medical practitioner was sitting at that meeting and this was a conversation, I know that Jim Stuart-Black expressed a contrary view, but you have a meeting on the morning of the 24th where hope is expressed in the context of survival, and sitting at that meeting is a registered medical practitioner and the context of this was that there was hope of some significance in the public arena. Those things can't be discounted and dismissed out of hand.
- 25 Q. Okay, so the hope in the public arena – well, I would suggest to you it's possibly ignoring the obvious sir, and hope in the public arena is Peter Whittall's comments, as I understand it?
- 30 A. John Dow's comments.
- Q. What did John Dow say, he's chairman of the company?
- A. Pardon?
- Q. Chairman of the company?

A. Of Pike River Coal, I understand he's the chairman of the board.

Q. Yes, no expertise to your knowledge in mine atmosphere and survival.

A. I stand to be corrected, but I think he has got some expertise in mining.

5 Q. What about, in mines rescue and survivability underground in an explosion?

A. I couldn't comment, because I don't think I've ever met John Dow.

Q. All right, so where did you see his comments?

A. In the media, I think it was about 20 or 21st of November.

Q. And what was he saying that gave you hope?

10 A. Well, that there were rescuers, self-rescuers in the mine and if someone accessed them they could survive, I mean I'd have to bring the comment up to be absolutely exact, but from memory that's the flavour of the comment.

Q. So that was another comment that you relied on.

15

THE COMMISSION:

This is becoming repetitive Mr Gallaway. This was touched upon in evidence yesterday. Mr Nicholls said then what he relied upon, we had it then.

CROSS-EXAMINATION CONTINUES: MR GALLAWAY

20 A. There's just one other point, I mean I – as I said yesterday again, I mean, the response co-ordinator who took me aside on the handover and said, "You need to understand there's a clean room or a fresh air base under there." And I've explained to you what I took that to mean.

25 **MR GALLAWAY:**

See, I'll stop, but with respect sir, while it was touched upon in evidence, the witness wasn't cross-examined in relation to it, and in my respectful submission, these matters and the police's optimism for thinking that the men were alive –

30

THE COMMISSION:

Look, we accept that entirely. I'm simply making the point that you're asking him questions which are simply repetitive of what he said yesterday about what was said by those witnesses. It's a matter of record. It's in the notes.

5 CROSS-EXAMINATION CONTINUES: MR GALLAWAY

Q. Do you think sir, if – let's move to the - again to the future, if there was a similar incident sir, and the police were in charge, do you think that you would look at the issue of survivability far more closely from the outset?

10 A. I think we did look at it closely and as I say, it took two days for the panel to come up with their report.

Q. From the outset sir, I'm suggesting from the time of the first explosion, would you in the future consider the issue of survivability, or do you –

A. Earlier?

Q. Yes.

15 A. Yes.

Q. From the outset?

A. Yes.

1225

20 Q. Now I simply want to ask you, as I understand your evidence sir it is that the police should have the final say in relation to entry into the mine in a future operation?

A. Yes.

Q. Do you still, after this cross-examination, stand by the fact that the police should have the final entry?

25 A. Yes.

Q. You see, if you had the final say in this case, you've agreed with me that you didn't have Mines Rescue experts on your expert panel?

A. But I also said that that's something we've reflected upon.

30 Q. So you see, how can the Commission have confidence sir that had you made a decision, or wanted the final say in this case, that it would've been done so, your decision would've been made on the basis of sound evidence?

A. Well it was. I think as said yesterday, I mean it's absolutely tragic that 29 men had their lives taken from them but when we took over as lead agency there were no further deaths and no serious injury.

5 Q. You see, if you have a system in the future sir, and again I'm using Pike River as a parallel so that we assume we're in the same place with the same set of circumstances, and you move the incident controller up to the mine, and you move Police National Headquarters to say Greymouth –

10 A. Sorry, just to be clear, I mean there are still national issues that had to be dealt with at headquarters so, yeah.

Q. Of course, I'm not suggesting, no I understand.

A. Yeah, no I understand where you're coming from.

Q. Yes.

15 A. I think maybe helpful, and I might shortcut things, I think it's important to remember that this was a very unique set of circumstances and we had to put and develop structures and process that accommodated the particular circumstances.

20 Q. Well what I'm interested in is why you say the police are better qualified to determine when Mines Rescue people should go into the mine than Mines Rescue people are?

25 A. Well, no that's not actually what I'm saying. I'm saying police are better qualified and experienced to co-ordinate an emergency response of this nature, but the advice and the technical guidance needs to be provided by experts. And I've accepted some of the points you made this morning, there's no debate there.

30 Q. Well let me make sure we understand each other clearly. If you were in this situation again with an incident controller at the mine, and your regional response co-ordinator in Greymouth, if you were in that situation again who do you say would make the decision to go into the mine?

A. The incident controller would approve it based on the –

Q. Right.

A. Sorry I haven't finished but it might be helpful, based on the advice provided by the experts. And clearly one of the experts that you're referring to is Mines Rescue

5 Q. Yeah. So just so I've got it clear, not Police National Headquarters but the incident controller at the site based on information –

A. Sorry, I misunderstood your question. The response co-ordinator would make the decision. I mean, this is one that I've said earlier in evidence, is such a critical decision, one sealing, two entry, so the incident controller would raise it to the level of the response co-ordinator.

10 Q. And the concern that I'm putting to you is that Mines Rescue, and for example Coal Services and SIMTARS are infinitely better qualified to make that decision on entry into the mine than the police?

A. Yes but, you know, as I've said, I mean the decision would be approved on the basis of the information that was available so, and the advice guide -

15

Q. So why do we then –

THE COMMISSION ADDRESSES MR GALLAWAY

CROSS-EXAMINATION CONTINUES: MR GALLAWAY

Q. Sorry.

20 A. So it would be based on the information that was available from the technical advisors and experts. And, I mean, you've made the point this morning, there are some learning's from this and we've taken those on board.

25 Q. So why if you've got all the technical information at Pike through the experts up there and an incident controller there, why do you then need to go to Police National Headquarters for another decision to be made when you've got all of the people on the ground up there with the expertise?

1230

30 A. There's a number of issues, and I don't want to labour the point, but I spoke yesterday about the emotion, the fatigue and the various matters that you've got to factor out of these decisions, and emotion and fatigue

at the front-end are very real and no doubt you've read the witness briefs and you'll see that they're absolutely peppered and littered with comments about emotion and fatigue and you can't afford to have that sort of variable impacting upon your decision-making, so you lift it up to have a degree of objectivity to ensure the best available information is providing and contributing to the decision.

5 Q. But if we draw a parallel with that and your comments on survivability, what I would suggest to you is that your reading newspaper articles and looking at Daniel Rockhouse and those situations are entirely driven by emotion.

10 A. No, no, no, I don't accept that. These are various pieces of information that you pull together in a very objective way and it's wrong to minimise reading newspaper articles, that's wrong. I mean that's one piece of the puzzle and I mean, if you're suggesting that decisions were based on newspaper articles, that's not the case. You have information coming in from a variety of sources.

THE COMMISSION ADDRESSES MR STEVENS

CROSS-EXAMINATION: MR STEVENS

20 Q. Deputy commissioner, would you accept that your view and that of Police Headquarters was that overseas experts added a particular value in this rescue and recovery operation?

A. Yes, sir, I would.

25 Q. And another theme that comes out of the evidence, including your evidence yesterday, was that Superintendent Knowles had the practical experts in terms of his part of the operation, but the Police Headquarters experts were more academic, would that be fair?

A. Yes, that's one way of describing it, I think to be fair, a lot of those practitioners were very highly qualified as well, so to draw a distinction between practical and academic is probably not a fair one.

30 Q. Well, a few days into the rescue and recovery, there was a memo in Police Headquarters suggesting looking for a panel of experts to determine which experts might be used wasn't there?

A. That's correct, there was.

Q. And Police Headquarters was suggesting that it would be good to preferably get professors to determine which experts would be used?

A. Can you help me out, have you got the memo there?

5 1235

Q. Yes I can. Ms Basher, PNHQ.03608/1.

WITNESS REFERRED TO DOCUMENT PNHQ.03608/1

Q. That's on the Tuesday I think it is, the 23rd?

A. Yeah, Tuesday was the 23rd.

10 Q. Yes. It's Superintendent Bruce Dunstan to Dave Parson, Inspector Dave Parson. At the bottom of that, action required, the last sentence, "We do have a collection of experts at the scene and a corroborative approach is being taken to decisions. However, they are at a practitioners level and we are looking for high level panel people such as professors?"

15

A. Yes, and I think, you know the qualifier there is "such as". He's not looking for professors per se, but such as.

Q. But really that comment in that memo goes back to that certainly at headquarters it was thought that the academic experts trumped what were referred to as practitioners?

20

A. No, I wouldn't, I wouldn't accept that. I would say that they added another dimension, not necessarily trumped.

Q. All right. You said to Mr Gallaway that Mines Rescue Services experts at the site were certainly appreciated by the police?

25

A. Yes they were, as were the, as was the contribution by Solid Energy.

Q. Can you point in your brief to where those people by name are mentioned?

A. I haven't got my brief in front of me but perhaps you're suggesting that they are not mentioned?

30

Q. One, well could someone provide you with your brief? You're obviously familiar with your brief?

A. Yes I am, but perhaps you can help me out, and if they're not mentioned then I will accept that point.

Q. Well I suggested that they're not referred to in your brief?

A. Okay. You're talking about the practitioners at the IMT?

Q. Yes. You just said to me that Solid Energy experts were also appreciated?

5 A. Yes, and I spoke to Dr Elder at Phase One and extended my appreciation personally to him. So I'm sorry if it's not in my brief, but I certainly did appreciate the effort of Solid Energy and I made that known to the chief executive personally.

Q. But numerous other experts were mentioned in your brief weren't they?

10 A. Yes they were. Are the experts from the IMT mentioned in the brief of Gary Knowles?

Q. I think actually the convention is that I ask the questions, but I assure you deputy commissioner, we'll cover the point with Superintendent Knowles.

15 A. That's where I'd expect probably those to be mentioned.

Q. The only member of the expert panel you were referring to with coal mine experience was Professor Cliff, correct?

A. Well Dr St George also has mining experience as far as I'm aware, and Dr Beever, it's my understanding, has had expertise in coal seam
20 combustion. And David Reece was brought on at a later date.

Q. Have they had practical underground coalmining experience, the last two?

A. Dr Reece, sorry Mr Reece?

Q. Yes.

25 A. Well I understand he was a mines manager. I can research that for you and give you a more –

Q. And when was he brought on?

A. January I believe.

Q. Oh well really. I'm talking up till the second explosion.

30 A. Okay, well you've got Dr Beever and she, my understanding is, has expertise in, as I said, coal seam combustion. With Dr St George, it was my understanding that he had actually been in the Pike River Mine and been underground.

Q. As a geologist?

A. Yes, that's correct. With a very wide knowledge, and made an excellent contribution, and I understand he is still making that contribution through the expert panel of the receivers who have retained his services.

5 1240

Q. Sorry, you just said in that that, sorry, is it Dr St George had a very wide knowledge?

A. In my opinion, he had a wide knowledge. I think he's obviously got a specific research area.

10 Q. Can I come back to Professor Cliff? He didn't arrive at Pike until after the fourth explosion, did he?

A. You mean physically on site?

Q. Yes.

15 A. That's my understanding, but as I said to Mr Gallaway earlier, my understanding was that he was engaged in conversation with Doug White prior to that and quite clearly I wasn't part of those conversations, so I'm relying on what I was told or heard.

Q. Correct. Well, he certainly wasn't advising the police prior to that?

A. Well, I can say he wasn't advising me.

20 Q. Yes, and indeed were you aware that he was still giving interviews to the press during that period up to the second explosion?

A. I became aware of it later that he was, his expert comment was sought by media.

Q. And given?

25 A. And given.

Q. Yes, which wouldn't be typical of someone who was retained for a stakeholder, would it, by an expert?

A. Well I'm not sure that he was retained at that point, so he had the ability to do what he wanted.

30 Q. Correct. You accept that underground coal mines are highly specialised with very complex hazards?

A. Oh, definitely.

Q. Yes. And that often incidents at them, there will be no luxury of time. You'll be having toxic gas builds up and depletion of air?

A. And an explosive risk.

5 Q. So you do accept that often incidents at coal mines there won't be a luxury of time?

A. Correct.

Q. And do you accept that there's a considerable difference between independent decision making and being competent to make decisions?

A. Yes.

10 Q. Yes, and do you accept that who should be in charge of a serious incident at a mine should be the person who's most competent?

A. Competent to co-ordinate an effective response.

Q. And to ensure the best decision?

A. Based on the advice available to them.

15 Q. And you've just accepted from me that there's often no luxury of time, so it also requires prompt decision making doesn't it?

A. Correct. I think it's important to draw a distinction, I mean there's fundamentally three phases in this type of operation. There's the initial action, whereas you correctly point out there is no luxury of time. There
20 is the rescue phase, again pressured by time and then the recovery phase. And when I'm talking about recovery in this context, I'm talking about recovery of the men, not the mine.

Q. Yes, sure. The police from the very outset decided that they were going to take charge, didn't they?

25 A. The police decided that they would be the lead agency.

Q. Sorry, I'm not trying to quibble with you, my question was, "The police from the very outset determined that it would take charge, didn't it?"

A. As the lead agency.

30 Q. Well just in terms of the New Zealand Police sequence of events, I don't think it needs to be called up, but the reference for summation, SOE.014.00118, it talks about Sergeant Cross, he was the first to actually arrive up at the headquarters rather than the coal processing plant, wasn't he?

A. Yes, he was followed by Sergeant Judd.

1245

Q. Yes but Sergeant Cross arrived at 7.13 and at 7.20 he takes control of the incident?

5 A. Yes, that's correct.

Q. Yes. Sorry, at 5.20.

A. 17.25.

Q. 5.20 pm?

A. 17.20, yeah, I'm sorry, I'm working 24 hour clock.

10 Q. We know the explosion was in the afternoon, but I'm grateful to my friends if there was any confusion. Now, could I have photo please, 0587?

WITNESS REFERRED TO PHOTOGRAPH 0587

15 Q. I understand that that's a photo of the whiteboard at the Greymouth Police Station?

A. I accept that, I don't know.

Q. Have you seen that before?

A. I don't recall seeing it, but that's not unusual, I mean I wasn't at Greymouth.

20 Q. Sure.

A. I accept what you say.

Q. I haven't said it yet actually.

A. Well, you said it was a photo of Greymouth or something.

Q. Yeah. Are you able to read it on your screen?

25 A. Yes I can.

Q. It's just a little difficult?

A. Yeah, no, that's fine, I can read it.

Q. Does that look to you to be the CIMS model which the police implemented?

30 A. It's a variation of the model. I mean, one of things I think to make very clear is that CIMS allows for flexibility and the structure that's put in place needs to be reviewed and can be reviewed as the operation

develops, so not purely a CIMS framework but it has a number of the elements. Planning logistics, there's an operations commander there.

Q. I might come back to the date of that, but, yes that was, sorry, it's in the police compilation and it's November the 24th?

5 A. Yeah, Mr Stevens, I think it's got 12 o'clock and 24th November on it.

Q. Oh, thank you it has too.

A. Yes. There's also another chart down there which, I can't read.

Q. And neither can I, but just sticking with the whiteboard.

A. Right.

10 Q. Can you confirm that everybody bar one of those people in those functions are police? I don't think Nick Gribble is?

A. Some of these people I don't know, I mean, Jackie Hayes I don't know, Viv Potter, I'm sorry I don't know, there's a Major Doug Griffen, so he's from defence, clearly army. There's reference to the mining company rescue teams, ambulance, fire, technical experts, so there's one, two, three, four, five agencies listed there within the police. I suspect this was drafted from a police perspective as to the organisational structure that police had at the time, so it's probably more for internal consumption.

20 Q. You said today, I think, in answer to my friend that if there was an incident in the future that you'd only have six to eight people in the incident management team, is that?

A. Yeah, I'd have a smaller incident management team, I think that's...

Q. And you said, "Six to eight?"

25 A. Yes I did. I think eight reflecting on what the New South Wales Mines Rescue handbook indicates and I said four for the CIMS so, six to eight I think is about what you'd want.

1250

30 Q. And if you had the benefit to implement that back on the 19th of November could you please say who those six or eight would be, just given the benefit of hindsight, who are they?

- A. Okay. Well I mean there's a ventilation expert there, there's a gas expert, there's planning, logistics, operations, there's an incident controller.
- Q. And do you accept that several of those people would not be police?
- 5 A. Yes.
- Q. Yes.
- A. I think as I said in evidence Mr Stevens, some of those key positions of running the planning or the logistics of the operations may not be police, there's flexibility there. And I think, you know, as you're aware we're
- 10 working through this issue at the moment.
- Q. We'll come back to that. You've said today that, and I don't want to misrepresent your evidence?
- A. No, I'm sure you won't.
- Q. But as I took it, well I'm sure you're correct and so I'm trying to be fair,
- 15 but that to take control you had, and I took down, "You had a reliance on a statutory basis."
- A. Yes.
- Q. Do you remember saying that?
- A. Yes I do.
- 20 Q. What statutory basis specifically did you rely upon to take control at Pike?
- A. I think there's six instruments to consider. The Civil Defence and Emergency Management Legislation, Policing Act, Coroner's Act –
- Q. Well just pause there sorry?
- 25 A. Okay.
- Q. Because clearly you've got a list in anticipation of my question?
- A. I've got a very scruffy diagram.
- Q. Yes. Coroner would mean that there had been death, correct?
- A. Yes.
- 30 Q. Policing Act expressly does not give rise to any powers does it?
- A. The Policing Act includes the functions of police, and at section 9 one of the functions of police is emergency management. Emergency in terms

of this type of event, you'll find the definition in the Civil Defence and Emergency Management Act.

Q. Yes.

5 A. And that includes an explosion of any kind, which clearly fits within this context. I can go on but I anticipate another question.

Q. Well I'd like to bring you back to my question, which was that the Policing Act expressly does not give rise to any powers, does it?

A. The Policing Act states the functions of police. One of the functions of police is emergency management. This was clearly an emergency.

10 1253

Q. Deputy commissioner, I'll just try for a third time. Are you aware that the Policing Act expressly says that it gives no rise to powers?

A. Yes, but I think in order to answer your question to the fullest, I've done my best.

15 Q. Well, we won't debate that. You had some more, we had some more on your list, I would like please, you got up to three statutory bases, and you've got a list of six you said. What are the others?

A. Well, I said instruments.

Q. Oh, instruments, sorry.

20 A. Yeah, so some of them are statute. So the statutes are clearly the Civil Defence and Emergency Management Act, which we've just discussed in broad terms. I suspect there's going to be more discussion on that. Policing Act and the functions of police, which includes emergency management. The Coroners Act and, as you correctly point
25 out, there has to be a death for that to occur, or that to, the responsibilities to be available, but there's some significant pieces of statute there.

Q. Yes, but just pausing, when the police took control at 17.20 on the 19th –

A. Friday the 19th.

30 Q. There was no assumption at that time or confirmation of death, was there?

A. There was no confirmation of death, you're absolutely right.

Q. Yes, right, so I'm sorry, you had three other statutes or instruments?

A. Well, oh, sorry. There's the Crimes Act.

Q. Crimes Act.

5 A. Yes, and clearly and as you've correctly pointed out once again, there was no death known on the 19th at that time. But there's two issues within the Crimes Act that one has to be considerate of, that's homicide and any other offences that may or may not require investigation and the commissioner of police is required under statute to investigate matters. You have a situation where a mine's exploded in circumstances that can't be determined, so quite clearly that will require an
10 investigation.

Q. So the police on the Friday afternoon or Friday early evening, had the Crimes Act in mind as a reason for taking control, is that your evidence?

A. Oh, the deputy commissioner was Rob Pope and so too was Viv Rickard and they're both very experienced detectives, now I wasn't
15 there on the 19th, but I would be surprised if they hadn't turned their mind to, at the very least, a prospect of an investigation of some kind.

Q. Well, can you tell us when the police appointed Detective Inspector Peter Read as the investigation lead?

1256

20 A. It will be in the file, but it was very early on in the piece. Maybe the 20th or the 21st.

Q. Perhaps that's something you could ascertain in the break?

A. Yes. I know it was very early on.

Q. Toward other instruments of statutes sorry that –

25 A. Well the police have a common law duty to protect life and property through the mechanism of the office of constable, and there's a convention going back to 1935 gazetted in relation to police being responsible for search and rescue matters.

30 **MR STEVENS ADDRESSES THE COMMISSION – TIMING**

CROSS-EXAMINATION CONTINUES: MR STEVENS

Q. In terms of the panel of experts, there were no New Zealand West Coast underground coal mine experts appointed were there?

A. That's correct.

5

THE COMMISSION:

You're talking about the national headquarters panel?

MR STEVENS:

10 Yes.

CROSS-EXAMINATION CONTINUES: MR STEVENS

Q. There were none in the incident management team either were there?

A. Well, I think to be fair, Doug White was the mines manager and one would expect him to have a good knowledge of the mine, and there were Pike employees, but I suspect your question is aimed at specialised knowledge such as Mr Harry Bell for example. I think it's unfair to say that there was no knowledge of the mine within that IMT when you have people like Doug White, Steve Ellis, and I accept that Steve Ellis had only recently arrived, but these were people that were managing that mine.

15

20

Q. Yes, I didn't – my question was directed to West Coast underground coalmining experience rather than Pike specifically?

A. Well, I guess one could argue that Doug White by virtue of the geographical location of the mine should have had that experience. I mean he was the mines manager.

25

Q. Are you aware from Mines Rescue Services institutional brief that there are 13 first class coal mine managers certified – sorry, first class coal mine managers in New Zealand?

A. I am now.

30 Q. Are you aware that seven of those certified coal mine managers from Solid Energy, seven of their eight were at Pike on the West Coast assisting with the rescue and recovery?

A. Yeah, I'm aware that Solid Energy put a big effort in to assist the rescue and recovery.

Q. Could you name any of them whom the police relied upon?

A. In terms of their contribution to the IMT I think there was Robin Hughes.

5 I understand that Michael Firmin may have a first class mine manager's certificate.

Q. I assure you he's not with Solid Energy?

A. No sorry I'm not – yeah look...

10 Q. And I can confidently assure you that he's not certified as you've suggested.

A. I, well my –

MS McDONALD:

Yes, yes he is sir.

15 **CROSS-EXAMINATION CONTINUES: MR STEVENS**

A. My understanding is that he is and I, but I accept that he's not –

Q. Coal mine?

20 A. That's my understanding. But he's not – I accept your point he's not a Solid Energy employee. I was answering in the context of the first class mine managers' certificates. Doug White, my understanding is he has a first class mine manager's certificate. Peter Whittall, my understanding is he does and he's tertiary qualified. And Steve Ellis, I think he gained his first class mine managers' certificate in December of last year, so it was after the explosion but he certainly had the experience and the
25 Commission has heard from him this week, sorry, will hear from him at some stage.

COMMISSION ADJOURNS: 1.01 PM

COMMISSION RESUMES: 2.00 PM**CROSS-EXAMINATION CONTINUES: MR STEVENS**

- 5 Q. Deputy commissioner, you were going to, I think over the break, check when Detective Inspector Peter Read was appointed as investigation lead. Did you do that?
- A. Yes, yes I did do that. He was appointed or tasked on the 20th of November at about 10.00 am.
- Q. 10.00 am, thank you.
- A. That's the day after the explosion.
- 10 Q. Correct. Could I please have SOL.381667.001. Just briefly sir I want to go through a list of some of the Solid Energy people who were actually at Pike or Rapahoe and were assisting?
- A. Okay.
- Q. So firstly, Steve Bell, do you know Steve Bell?
- 15 A. No.
- Q. And you know he's got an Honour's Degree in Mineral Technology and he's a First Class Coalmine Manager. Do you accept that?
- A. I'm reading it, I accept that I'm reading it off the screen.
- Q. Yes. Did you know that he was at Pike?
- 20 A. At what stage?
- Q. Up through to the second explosion and including?
- A. I would say yes. I knew the name by documentation but never met him.
- Q. I just want to quickly take you through these?
- A. Okay.
- 25 Q. On the next page Dr Rob Boyd, and he included a PhD in geology from James Cook University and he's a member of OSUM and a competent person. You know about those qualifications?
- A. I don't know about those qualifications, I'm not familiar with them.
- Q. No. Greg Duncan at the bottom of that page, again a first class coalmining manager and he's got a Bachelor of Mineral Technology
- 30 from Otago in mining?
- A. Yes I see that.

- Q. He was available. Ben Fergusson on the next page, and he did a considerable amount in terms of the risk assessment for borehole 43 and he then went up and supervised the break-through. He's got a first class honours in geology and a master of science.
- 5 A. I see that on the –
1403
- Q. Are you aware of Dean's involvement?
- A. No.
- Q. Next, over the page.
- 10 A. And not being aware is something I don't see as critical because these are matters at the IMT.
- Q. Robin Hughes I think is known to you?
- A. Yes, know him by reputation and...
- Q. First class coalmining manager in both New Zealand and Western
15 Australia, Diploma in Ventilation from the University of New South Wales and an A-Grade Tunnel Manager's Certificate of Competency?
- A. Yes, I see that there.
- Q. That's highly valuable expertise to assist?
- A. (no audible answer 14:03:55)
- 20 Q. Yes? Sorry the record doesn't pick up a nod?
- A. Sorry, yeah, of course, yes, I agree. It's as per the spreadsheet.
- Q. Ian Judd, you accept those qualifications there?
- A. Yes.
- Q. Yes, another first-class coalmining manager. Sam McGovern on the
25 next page and he also was a – and Jonny McNee another MSC in geology and a member of OSUM. Next page, Allen Morris who was involved with the CALs team and measuring atmosphere, second class honours in chemistry?
- A. Yes, I see that there.
- 30 Q. Kevin Patterson who removed the drift runner on the bottom of that page, first class coalmines manager. He was at Pike?
- A. Yes, Mines Rescue National Certificate and National Diploma in Extractive Management.

- Q. Yes, and next page, Daniel Pyson?
- A. Yes, I see his qualifications there.
- Q. Yes, and he, although not a member of Mines Rescue, he assisted with atmosphere testing at Rapahoe?
- 5 A. Yes I see that there.
- Q. Next page, Craig Smith who I think is known to you, deputy commander? First class honours in mining as well as first class coalminers manager's certificate.
- A. Yep, Huntly East.
- 10 Q. That's both in New Zealand and in Queensland I think we'll find and more than 30 years' experience with coalmines?
- A. Mhm. Yep, I see that there.
- Q. Dave Stewart, A-Grade Tunnel Manager's Certificate of Competency and a first class coalmine manager.
- 15 A. Mhm.
- Q. Now, and that's all I need from that list, but they were but a sample of the Solid Energy people that were actually at Pike and involved in the rescue and recovery?
- A. Yes.
- 20 1406
- Q. Would you accept that they all had a wealth of experience they could have contributed?
- A. Yes I do and I understand they did contribute.
- Q. Well the evidence put forward by Craig Smith is that they were intensely frustrated that that expertise was never utilised. Would you have any comment on that?
- 25 A. No.
- Q. Can I contrast, you said yesterday that you had a team that scoured the globe for experts. You remember saying that?
- 30 A. Yes I do.
- Q. One of those experts, and I may well mispronounce his name, I take it was Jimmy Gianato?
- A. Gianato, that's correct, from Western Virginia.

- Q. Western Virginia Homeland Security?
- A. Yes.
- Q. Now he emailed you on the Tuesday didn't he? Do you recall that, the Tuesday after the explosion you were going to have a telephone conference?
- 5 A. After the first explosion you're talking or the...
- Q. Correct, after the first explosion, the 21st or 22nd?
- A. Yeah, there was – there were emails and telephone conversations, and if you say he emailed me on that date then I accept that.
- 10 Q. Yes. And in your evidence at paragraph 197, he wanted details of the rescue chambers?
- A. Yes.
- Q. Were you aware by the Tuesday that there were no rescue chambers at Pike?
- 15 A. No, I thought there were.
- Q. Where did you think on the Tuesday they were?
- A. I recall the conversation with Steve Christian where he talked of a clean room or a fresh air base. I don't – I couldn't say at this point where in the mine I thought they were.
- 20 Q. Okay, well I'll take you to the clean room.
- A. Yeah.
- Q. But you understood the clean room to be a rescue chamber?
- A. I understood the clean room to be a safe haven if that's...
- Q. Well do you now accept that there were no rescue chambers at Pike, or do you still not know?
- 25 A. No I know. I'm just thinking about how you describe a rescue chamber but, and I'm reflecting on what I've seen in another mine. So in that context the answer is no.
- Q. No, there are no rescue chambers at Pike?
- 30 A. Sorry, there aren't any rescue chambers of the type that...
- Q. Do you accept that the example of the rescue chamber illustrates what happens when information is filtered from the mine to Greymouth to

police headquarters and then offshore, that four days after the explosion an offshore expert still thinks that there are rescue chambers at Pike?

A. Well, so did we.

1410

5 Q. Can I just come back to, well, continue with offshore people the impression that certainly Solid Energy got and I think Mines Rescue as well, but was that offshore people were considered somehow to be more valuable than local experts, do you accept that they could've got that impression?

10 A. I accept what you say in terms of someone could've had that impression, but that's certainly not the impression that we wanted to convey.

Q. Well, another example and I preface this question by saying unreservedly that Solid Energy greatly respects SIMTARS and indeed in
15 Craig Smith's evidence when he sketches out a scenario for a serious incident, SIMTAR would be one the experts that they would value and whose opinion they rate, but at your paragraph 65, you talked about how beneficial it was to have SIMTARS with their chromatograph at the mine, is that a fair representation of your evidence?

20 A. Yeah, that's a fair summary, yep.

Q. Were you aware that there was a chromatograph at Mines Rescue at Rapahoe?

A. On the 19th?

Q. Yes.

25 A. No, I wasn't.

Q. When SIMTARS turned up?

A. No, I wasn't.

Q. Were you aware that Solid Energy also had one and had it loaded on board a vehicle and it was at Stockton and had been offered as part of
30 assistance to the rescue?

A. No, I wasn't.

Q. Well, would you accept it that whilst SIMTARS do excellent work –

A. And they did.

Q. That there were two such machines already available on the West Coast?

5 A. If you tell me that, then I accept it. I think, I wasn't aware of it, but they're potentially matters that would be dealt with at the front end of this operation. They're generally not the type of matters that would be dealt with at a strategic level.

Q. You raised yesterday a reason for the police being the incident controller was to bring objectivity, is that fair?

10 A. Yeah, I think in my experience in these types of emergency events, fatigue and emotion are very difficult to manage, so objectivity is always useful.

Q. Were there any suggestions of lack of objectivity in terms of Solid Energy's work on the video camera?

A. On?

15 Q. Their work on the video camera down the Slimline and subsequently down other boreholes?

A. You're talking about John Taylor's work, or?

Q. Yes, and his team?

A. No.

20 Q. And I take it the same goes for the work from Solid Energy's CAL scanning team?

A. John Taylor's work, no problem.

Q. The work on the borehole 43, which was done urgently so some inbye samples of mine atmosphere could be taken beyond the vent shaft?

25 A. No criticism of Solid Energy, that I'm aware of.

Q. The gas analysis that those people including the ones I just took you through on the list, undertook at Rapahoe on the chromatograph there?

A. I'm not aware of any criticism.

30 Q. And you're aware on the gas sampling that there were dual samples taken at the same time from the same place and one bag given to SIMTARS and one to Rapahoe?

A. Yep.

Q. As far as you're aware, was there a consistency in the results?

A. As far as I'm aware, there wasn't any inconsistencies.

Q. Yes, and just on your concerns about objectivity, you certainly didn't have that view, did you as to lack of objectivity in terms of Mr Whittall on survivability?

5 A. No.

Q. In fact, your evidence was that he was best placed to know about survivability, I think was your evidence yesterday?

A. Well, he was in a very good position to know about survivability given his experience with the mine and his overall experience.

10 1415

Q. Can I turn then please to the sealing options. Would you accept that an informed debate on it was suppressed by the police and the Department of Labour?

15 A. I wasn't present at those meetings so it's very difficult for me to comment on a meeting that I didn't attend.

Q. It was a question put to you by your counsel yesterday, I might be able to give you the page reference.

A. Yeah, sure.

20 Q. I'm sorry I can't now find the page number for the transcript. Effectively it was put by your counsel that sealing the mine would result in the death of any survivors, and your answer was, "Yes sir, that was correct." Is that a...

A. That summarises the position.

Q. Yes.

25 A. In the event that someone was alive the potential to seal them in –

Q. I'll just take you through a scenario where failing to seal the mine might equally have resulted in the certain death of any survivors. I'd like to do that now?

A. Okay.

30 Q. So you don't know if the police stifled debate on sealing the mine but your position is that it would've been, I think, immoral to have done so unless there was zero chance of someone alive?

- A. I didn't say, "Zero chance," but I think reflecting on the evidence of Ken Singer, I used his words, and I think he's not inaccurate when he talks about it being immoral.
- Q. Immoral.
- 5 A. There's also a significant legal issue there as well, which I think we'll all be aware of.
- Q. Could I take you please to document PNHQ.01754. That's a police briefing document isn't it?
- A. That's correct.
- 10 Q. And it's from, the reference I think at the top for summation means it's from police headquarters?
- A. That's correct.
- Q. And we're talking about the Sunday after the explosion at 6.30 pm?
- A. Yes.
- 15 Q. Sorry, 1830?
- A. 1830, yeah, 24-hour clock.
- Q. Could I take you to page 14 of that document please? Do you see in the first bullet point there that already the police headquarters briefing document on a Sunday evening says, "Samples indicate there's likely to be a significant fire burning within the mine?"
- 20 Q. Yes, I see that.
- Q. And that was your understanding of the position?
- A. As it is described there.
- Q. Yes.
- 25 A. However, I was corrected at a later date when I described it as a fire and it was corrected as a heating.
- Q. By whom?
- A. Peter Whittall.
- Q. Yes.
- 30 A. And I obviously deferred to his knowledge, given his experience in mining.

Q. Did you ask anyone else to query that because the consistent position of Mines Rescue and the Solid Energy experts from the gas analysis was that it was a methane fire?

A. No I didn't.

5 Q. You didn't check with anyone else?

A. No, but bear in mind, to be fair, this was a discussion about other matters when I had re-used the word, "fire" and Mr Whittall corrected me, so he wasn't being asked to comment on this specific issue.

1420

10 Q. Were you aware that white smoke was continuously venting from the main shaft through to and including the time of the second explosion on the Wednesday afternoon?

A. Wispy smoke I understood, but...

15 Q. Well is that a yes to the question or are you trying to qualify it or dance with me?

A. I'm trying to answer your question as best as I can, I'm not trying to dance with you.

Q. So you are aware that there was wisps of smoke continuously venting?

A. Wisps of smoke?

20 Q. White smoke, as opposed to black smoke?

A. White smoke, yeah I think that's right.

Q. And were you aware that that was a factor that indicated a continuous methane fire?

A. I couldn't say that.

25 Q. You couldn't - and you still don't know that?

A. At the time, I couldn't say what it indicated, I don't recall what it indicated, but there would have been some advice on it.

Q. But do you now understand that that was a indicator of a –

A. Of a methane fire?

30 Q. Yes.

A. Yes.

Q. Could you go to the second point there please and this is also consistent with a series of police documents, which I can take you to?

- A. Yes it is. No, no, yeah.
- Q. But do you accept that these points are consistent, that there was a fire and secondly that there was a potential for a secondary explosion greater than the initial explosion?
- 5 A. It's as its recorded yes.
- Q. It's as it's recorded and it's also your understanding of the position deputy commissioner?
- A. Yes, assistant commissioner, that's correct yep sorry.
- Q. Sorry, assistant commissioner, I apologise.
- 10 A. No, no, don't, it's fine.
- Q. And the next sentence, "Experts' advice is an inexhaustible supply of methane in the mine?"
- A. Mhm.
- Q. And you were aware of that at the time?
- 15 A. Yes.
- Q. Can I take you to the next place please, and this might be where the expression came for the West Virginia Homeland Security asking about a rescue chamber. But you see the second bullet point there – no, sorry the next page, had a chance to look at that?
- 20 A. (no audible answer 14:22:36)
- Q. "A small room that stores technical and electrical equipment," in other words a clean room, "is the only place given the fire scenario where it's possible trapped miners may still be alive?"
- A. Yes I see that there.
- 25 Q. That was the police position by Sunday evening after the explosion wasn't it?
- A. That's as recorded there.
- Q. Can I go back please to the immorality or otherwise of sealing the mine. Were you aware, so the police were anticipating the potential for a second explosion and it would be worse?
- 30 A. Anticipating.
- Q. Sorry is that a yes?
- A. That's an anticipating. It's yes.

- Q. Yes, the police were anticipating. Were you aware that some of those experts from Solid Energy and also from Mines Rescue had been proposing sealing the portal with doors like a container where you could if you self-rescued, you could exit the mine while at the same time sealing the inflow of air through the portal?
- 5
- A. No I wasn't aware, but that may well have been dealt with, and I suspect it was, by the nightshift response co-ordinator if that information came through.
- Q. Can I just give you some more of the scenario that by not sealing it, it may have contributed to killing any remaining survivors. Are you aware that there was also a suggestion that the compressed air be kept running?
- 10
- A. No.
- Q. So you wouldn't be aware that the compressed air apparently also went through that clean room?
- 15
- A. The compressed air, I recall being told that there was a source of air going into the clean room.
- Q. Yes.
- A. Is that what you're asking?
- 20
- Q. Yes, so it was the compressed air?
- A. Yeah.
- Q. And so there was discussion about sealing the mine, keeping the compressed air running and do you accept that those local experts were saying a second explosion and subsequent explosions at increasing timeframes was inevitable?
- 25
- A. A second explosion, I think, was always something that was going to occur. That sticks in my mind.
- 1425
- Q. That was their opinion wasn't it?
- 30
- A. That was the information coming up from the front.
- Q. Yes. And also they were saying that subsequent explosions were likely to cause a coal fire and that's why a subsequent explosion would be so much more severe?

A. Yes, I think that was being spoken about.

Q. Yes, and that that would melt things like the epoxy holding roof bolts and the roof mesh would collapse?

A. I don't recall.

5 Q. And the roof would cave in?

A. No I don't recall being told that.

Q. Did you ever hear that a subsequent explosion and fire would not only kill any survivors but would be likely to make –

A. I don't recall being told a subsequent explosion would kill any survivors.

10 Q. Well, do you accept that the police should have anticipated that given your own document on the Sunday evening, said, "Secondary explosion would be," I think, I can give you the exact words, but would be more severe?

A. Secondary explosion could be more severe. But I think it's important to understand that the focus was on rescue and we believed that that was a viable option when the opportunity presented itself.

15 Q. I think the exact wordings were, "Potential for secondary explosion were greater than the initial one."

A. I think the other issue here, of course, is whilst the information is there is a potential for a second explosion, that may never have occurred.

20 Q. If the mine had been sealed, do you accept that?

A. No I don't.

Q. You don't?

A. No.

25 Q. Well, then I'll continue. The subsequent explosion would also hinder any rescue. Do you accept that that was suggested at the time, sorry any recovery?

A. It may well have been suggested but I don't recall it.

30 Q. And we know that's exactly, sadly, what did occur don't we. We had roof collapse as a consequence.

A. We do from the imagery, yes, that's correct.

Q. And we know that in the area, certainly of the Slimline shaft, there was no roof collapse after the initial explosion?

A. From the evidence of the CAL scan?

Q. Mmm.

A. That's correct.

Q. Yes. And could I please take you to document PNHQ.15845/1?

5 **WITNESS REFERRED TO DOCUMENT PNHQ.15845/1 - MEMO**

Q. Now, that's your memorandum to the minister and commissioner and Deputy Commissioner Pope isn't it?

A. Yes it is.

10 Q. And that's also on the Sunday, and it's in fact, slightly earlier than the document I just took you to from the police briefing?

A. Yes, that's correct, it's dated the 21st of November which was the Sunday.

Q. Yes. Can I take you to the third bullet point and that's where it talks about, "White smoke was observed," that's from the initial explosion?

15 A. Yes as opposed to black smoke?

Q. Yes. That's right. And you knew at that time that that was indicative of a methane explosion didn't you?

A. Yes, according to this document.

1430

20 Q. Sorry, assistant commissioner, it is your document though, isn't it, given that answer?

A. It's been prepared on my behalf.

Q. Well, do you take ownership of it?

25 A. Of course, I do. I take ownership of it, but I may not have authored it, but I take ownership of it.

Q. Yes, okay, thank you. Now I take you to please, if we could highlight the fourth to last bullet point? And there you'll see that's advice from the fire service that all indications point to a fire in the mine?

A. Yes.

30 Q. And then go down two more bullet points?

A. Yes.

Q. And these will be the fire service position is confirmed by the gas readings of both from Rapahoe, from Mines Rescue and from SIMTARS, wasn't it?

A. That's correct.

5 Q. And again at the bottom of that page, the last one please, that there's potential for secondary explosion greater than the initial one?

A. Yes, that's as you're questioning.

Q. Yes, and over the page, the first bullet point please, again there's an inexhaustible supply of methane, so Sunday lunchtime after the explosion on late Friday afternoon, you're telling the minister and the commissioner and the deputy commissioner, "There's a fire. There's an inexhaustible supply of methane. There's a potential for an even bigger explosion."

A. Mhm.

15 Q. And so a credible scenario, understanding what we've just been through is that you could have sealed the mine but still preserved life in it, yet by not sealing it the probable second explosion would almost certainly kill any survivors, do you accept that?

A. Well, I think by sealing it, you would've definitely created a situation where life was no longer a viable option.

Q. Sorry, I didn't make it clear.

A. No, you didn't.

Q. The scenario I outlined included that the compressed air be kept running which would've included a supply of fresh air to, for instance, the clean room. And so, compared to the high probability of a worse secondary explosion, sealing the mine with the conditions I've outlined, of double doors in the portal, of keeping the compressed air running, may have in fact preserved life?

A. It may have made the situation worse. The sealing may not have been effective, and there is an example where a sealing was not effective and they ended up having to flood the mine.

Q. Where was that?

A. That was Dobson in '26.

Q. And when did you learn about Dobson in '26?

A. In probably over the last few months.

Q. Sorry, just in the course of this year?

A. Yeah, in the course of this year, maybe earlier than that, but it's –

5 Q. The point that I'm putting to you deputy commissioner, is that the police and Department of Labour attitude stopped even the experts having the debate of the scenario that I put to you?

A. Mr Stevens, I wasn't at the meeting.

10 Q. Well, do you accept though that the attitude to sealing the mine from the Department and from police, prevented the experts who understood underground coal mines on the West Coast even having a satisfactory debate on sealing –

A. No, I don't.

Q. No, okay.

15 A. Because I certainly wasn't at the meeting and I think when you talk about the Department of Labour my understanding is that one or possibly two of them had mining experience with first class mining manager's certificates, so, that needs to be factored in.

1435

20 Q. Could I move to another topic please, which was one of the grounds of success that you raised yesterday deputy commissioner that no one else died?

A. It's not really a success, well I suppose it is but in the context of things I think you know where I'm coming from, yeah?

25 Q. I don't mean that harshly?

A. No, no, I know, yeah.

Q. You qualified it with the sadness and regret for those who had died?

A. Yes, absolutely.

30 Q. But it was one of the reasons under a list of several reasons for why the police should be in such circumstances incident controller. Could I take you please to a couple of photos that were included in Mr Taylor's evidence on Friday. These were of the Slimline shaft, and I'm sorry

Commissioners they're yet to be loaded onto summation but they will be. You were here for Mr Taylor's evidence?

A. Yes I was.

5 Q. Now the brown piping you heard was the ducting that had been pushed to one side and held on he said by two bolts?

A. Yes.

Q. To enable them to retrieve the bucket that had been lowered down on the Friday and to then on the Tuesday put down a video camera and on the Wednesday do the CAL scan?

10 A. Yes I recall his evidence on that.

Q. Yes. Could we go please to the next photo of the two. Now there's that same ducting, and do you remember that he said that but seconds before someone was sitting right there?

A. Yes I do, I recall his reference to a toolbox or some such thing.

15 Q. Actually it was other debris that smashed the toolbox?

A. Other debris, yeah.

Q. That ducting, and we don't know how heavy it was, but actually landed right where someone was sitting waiting for the helicopter. Do you recall that?

20 A. Where they had been sitting or?

Q. Yes, where one of them had been sitting?

A. Had been sitting?

Q. Yeah.

A. Yes.

25 Q. Shortly prior to the explosion?

A. Yes, I recall Mr Taylor referring to that.

Q. Do you recall that a Jason Bevington had the only means of communication back to the control room at the mine?

A. Mr Taylor's saying that?

30 Q. Yes.

A. Yeah, I recall Mr Taylor saying that, I think it was a radio or something he was talking about.

Q. Yes, they had a radio and he was the one to be summoning the helicopter?

A. Yes, he was an electrician who worked for Pike River Coal from memory.

5 Q. Yes. And that they received general broadcasts that methane was off the scale that day?

A. That's what Mr Taylor said, yes.

Q. Yes.

A. Yeah.

10 Q. But no explanation from the control room, which was a police operation I understood at the mine as to what that meant?

A. Sorry, are you asking me who was in the control room or lead agency?

Q. Okay, the police were by then in charge at the mine?

15 A. Correct. Yes, I can't tell you who was in the control room at the time, I don't know.

Q. Now that potentially could have killed one of the CALs team members, couldn't it, that's the evidence?

A. That could've been quite a dangerous situation, well it was a dangerous situation.

20 Q. Yes. And had the helicopter happened to be overhead at that point of explosion then it may well have also brought down the helicopter. Would you accept that?

A. I accept that it could've done.

25 Q. Yeah. In light of that do you think that it's still acceptable to say that one of the success factors was that no one else was killed?

A. Yes. And I think this is a very good example –

Q. Despite that near miss?

30 A. Sir, this is a very good example of why we put the controls in place that we did and this is a situation where in these complex operations nothing's perfect, but everyone did their best. And there's just, I mean, I think you've raised a very good example of how difficult and how challenging these things can be, even with the best of controls put in place.

1440

Q. So what were the controls put in place to forewarn them of the consequences of the methane levels being off the scale?

5 A. Well that would be a matter, a question that would be properly put to the incident controller because I wasn't at the mine site at the time and I simply can't answer your question, I don't know.

Q. Can I go then please to the risk assessments and the decision-making process. Is it a fair summary of your evidence yesterday that you think the process was all right but there might have been some concerns about the delay with that process?

10 A. Overall I think everyone agreed there had to be a risk assessment process. I don't think anyone had a contrary view. I think the criticism as I understand it, relates to the approval process or the approval within the risk assessment and the delays. So I've read the evidence and I understand where some of the criticisms are.

15 Q. Can I just use the piercing the borehole risk assessment as an example?

A. Which borehole?

Q. Borehole 43?

20 A. Okay.

Q. We're talking pre-second explosion?

A. Yes.

Q. Do you accept a risk assessment was done on the Sunday evening?

25 A. If you say that I accept that, I haven't got the documents in front of me sir.

Q. And another rendition of it on the Monday?

A. Yes sir, I mean I accept these things.

Q. And you understand don't you that that involved drilling experts from Boart Longyear and Pike mining experts and Solid Energy experts?

30 A. I accept that it included a number of experts, yep.

Q. And indeed, and then there was yet another version of it done on the Tuesday the 23rd?

A. I accept what you say.

Q. And that went from the mine to the police in Greymouth, from the police in Greymouth to the police in Wellington, from the police in Wellington to the Department of Labour, and then it came back to you, and you were the one who ultimately signed off those documents?

5 A. I accept that.

Q. And actually it still wasn't approved and then from you or from headquarters it went back to Greymouth and then back to the mine, and then we know from your brief that you were advised by the Department of Labour that breaking through into the room you accept it was, I think I represent it fairly as if, that it wasn't risky? That it didn't need a risk assessment, correct?

10

A. I – if you've got the documentation there I accept that it would be really helpful if I could have a look at it.

Q. I'll take you to the point –

15

A. So what date was this? Are you talking about 20?

Q. Tuesday the 23rd.

A. Tuesday, okay.

Q. Paragraph 195 of your evidence. Have you a copy of your brief there?

20

A. I haven't got the main brief. What would be really helpful is a copy of the risk assessment if you've got that there, so I could answer your questions more fully.

Q. There are three separate risk assessments. I can take you to each of them, but can I first just read out a piece from your evidence-in-chief in your assigned brief?

25

A. Sure.

1445

Q. Your paragraph 195, "I telephoned Superintendent Knowles at approximately 1.16 pm and advised that, based on his briefing to me and my discussions with the Department of Labour, I was satisfied it was safe to drill into the mine and also to insert the camera." Now, that was on the 23rd.

30

A. Okay.

Q. Okay, that's from your statement of evidence?

A. Yep, I accept that.

Q. Now, were you aware that that was the subject of immense frustration from those experts that were at Pike?

A. The decision to, the approval?

5 Q. The whole process about the approval of the risk assessment for piercing the borehole for the urgent borehole they were attempting to do to get samples in by mine atmosphere?

A. I was aware that there was frustration expressed as aspects of the risk assessment, but that specific one, at the time I may well have been
10 aware of it, of the frustration, but sitting here today I could say there was general frustration expressed and that was one of the issues that Doug White raised with me.

Q. And you heard Mr Taylor who was present for part of that debate, saying that the Boart Longyear manager threatened to remove his
15 drillers from the site?

A. I wasn't aware of that.

Q. Do you accept that that process delayed Dean Fergusson getting up to the actual drill site and giving assistance up at the drill site because he was tied up down at the mine office, having these frustrations?

20 A. I don't know Dean Fergusson, I'm not sure what his role was so I can't accept it or comment on what you've suggested.

Q. Well, you certainly can't contradict that if that's the evidence of Craig Smith.

A. If that's what he says on oath, then that's what he says.

25 Q. And you accept, do you, that there was fatigue up at the drill site despite having three shifts up there, they'd worked continuously and at great pace?

A. I think there was fatigue at the site not only the drill site, and that's one of the issues we tried to address.

30 Q. You've read the evidence of Craig Smith, I think?

A. Yes, I'm pretty sure I have but is Craig from Huntly East?

Q. He's both Huntly, he's the underground mine manager for both Huntly East and for Spring Creek?

A. Yes.

Q. And he's based in Rotowaro, yes.

A. Sorry?

Q. He's based at Rotowaro, in the Waikato?

5 A. Yes.

**WITNESS REFERRED TO STATEMENT OF EVIDENCE 38167 –
PARAGRAPH 89**

Q. You're aware are you, that in fact the drilling team undertook their own safety and environmental assessment known as a GESA?

10 A. No not aware of that.

Q. So, in contrast to the decision that came back that a risk assessment didn't need to be done, they actually, of their own initiative, found that it was necessary to do that and the things that included there are a head count, minimising ignition sources, they had three separate controlled zones with restricted entry up at the drill site, do you see that at 89.3? They thought it was necessary as experts in drilling into gassy mines to have real-time gas monitoring at the drillhole including a gas sniffer and a portable gas analyser up there?

15

A. Yeah I see that in his evidence.

20 1450

Q. They each had personal gas detectors. They had a Draeger real time ambient gas monitor around the periphery of the control zone. They determined gas thresholds for shutting down the equipment, yes?

A. Mhm, I see that.

25

Q. They had people in flash suits, balaclava and harness pull lines on for the breakthrough, in case there was an explosion. They allocated safety rolls for other services that were there, including the fire service was there, and Land Search and Rescue and Pike people?

A. I see that.

30

Q. They had a general site reorganisation to eliminate hazards. Before they broke through they set up a first aid area. Before they commenced the breakthrough they had forced ventilation for the drill collar using blower fans. And they didn't – they had a, I think they called them a

toolbox session, where before they commence work they sit down and discuss it and you'll see at 90.1, that they agreed it before they commenced the drilling?

A. I see that.

5 Q. Now do you accept that those are a considerable list of safety features because it was a risky venture that they were undertaking?

A. I accept that.

Q. And in fact, prior to that they'd also changed the head of the drill to a diamond drill to potentially reduce the risk of sparking?

10 A. For the last 10 metres, I think.

Q. Yes. That's what they did of their own initiative, for something that you said you were satisfied didn't need a risk assessment?

A. I would need to have a look at the documentation and the risk assessment before I agreed with what you just said in terms of me saying I didn't need a risk assessment.

15

Q. Well, in your brief, you were satisfied that it was safe to drill into the mine?

A. That's a different proposition from saying you don't need a risk assessment.

20 Q. Yes, that's fair. But do you accept that after all the frustrations over three days of preparing one, it was accepted they could proceed without one being signed off?

A. One, not one being – no, I don't accept that. Not one being signed off?

Q. Correct. There was no risk assessment that ever came back from you or the Department of Labour signed off?

25

A. I would have to check the records before I accepted that. I think it's interesting to note again the evidence of Ken Singer at paragraph 129, where he said that risk assessments in his view – in fact I'll read it so I don't misquote Mr Singer. "The IMT ensured risk assessments were reviewed. My observation was that some of the risk assessments

30

needed to be reviewed for quality."

Q. You're not suggesting that Mr Singer is suggesting that the breakthrough, or the piercing borehole 43 was such an assessment, are you?

A. I'm not suggesting that for one moment.

5 Q. No, thank you.

A. I think that's a general comment that Mr Singer's made.

Q. Yes. I'll put it to you deputy commissioner that – sorry, assistant commissioner, again my apologies.

A. No, no, it's fine.

10 Q. That it's not only the delay that that illustrates but the flaws in the process that that example with borehole 43 risk assessment illustrates?

A. I think the risk assessments were necessary. I think where we could, we turned them round as quickly as possible and they are also examples where the approvals were done very, very quickly and I could walk through those examples, however, I know time is of the essence.

15

Q. Okay, so you won't.

A. No, I won't. I don't think anyone disagrees that the risk assessment was a necessary – risk assessments were a necessary process. We had, and I think it's about context, one has to appreciate that also in the public arena were allegations that safety was being compromised at the site. That's another thing you think about.

20

1455

Q. But there was no suggestion that safety was being compromised by, for instance, Mines Rescue Services or the Solid Energy experts?

25

A. No suggestion whatsoever, no suggestion whatsoever.

Q. Yes, thank you.

MR STEVENS ADDRESSES THE COMMISSION – TOPIC OF CROSS-EXAMINATION

CROSS-EXAMINATION: MS SMITH

Q. Thank you Mr Nicholls, I don't have as many questions as my friends, in fact I'm hopeful that we'll be able to get through these questions before the break, they just cover three topics?

5 A. Okay.

Q. The thrust of your evidence yesterday and in your written brief is the importance of information as a basis for decision-making isn't it?

A. It is.

10 Q. And in fact you've focused a lot of your evidence on the importance of obtaining accurate information haven't you?

A. Yes.

Q. And you've acknowledged that there were difficulties at this particular site and this particular incident in obtaining accurate information?

A. Yes.

15 1500

Q. And you've explained that sometimes the need to obtain that information caused a delay but in the circumstances because of the need for that information the delay was justified?

A. In the main, yes.

20 Q. And you would describe that, I suggest, as a cautious and responsible approach?

A. Responsible and appropriate, yes.

Q. We heard evidence from Daniel Duggan yesterday that once the call to St John was made that everything changed, didn't we?

25 A. Yes, that's what he said.

Q. He gave evidence that from then on he and others at the mine site were receiving hundreds of calls, sometimes two or three calls coming in simultaneously, didn't he?

30 A. Yes, I think he, he talked in hundreds and he also used the term that it was chaos there.

Q. And the point that he was making was that that call to the emergency services elevated things to another level, didn't he?

A. Yes.

Q. So it makes sense that you would want to be as certain as possible about what was happening before you made that call, doesn't it?

A. It does but our position is that we would rather people call early than wait for high degrees of certainty. We'd sooner turn the car around and send it back to the station than get there too late.

Q. But bearing in mind and in the circumstances of this case what followed on the international and the national attention, the elevation to this other level, it makes sense that the company, that the mine manager wanted to be certain before they elevated it to that next level?

A. To proceed with a degree of caution.

Q. And you accept that getting that information necessarily took time didn't it?

A. For Mr White to get that information?

Q. Yes.

A. Yes he would've. I think he, Mr White, talked about limited people on site. I think he said there was only two or three officials so I think that was his evidence.

Q. Now we've received evidence and it was put to you by my friend and I believe you accepted that the police took charge at 17:25:20 pm on the 19th of November?

A. As incident controller, yes, as lead agency.

Q. And once the police took charge, the police followed their own procedures don't they?

A. We follow the CIMS framework.

Q. I refer you to paragraph 19 of your evidence. You state, "Following such notifications, Police National Headquarters has standard procedures?"

A. Yes they do.

Q. So the point I'm putting to you is that once the police take charge it's the police procedures that are the focus?

A. In part. I mean the police procedures are based on the CIMS framework. So it's a recognised framework that's put in place and the framework has flexibility.

Q. Well it's the police and the CIMS framework as opposed to any framework that the company, for example, might have isn't it?

5 A. However, in saying that, one would expect that the company's framework would be consistent with the CIMS model for emergency response.

Q. Sorry, I missed that.

A. For emergency response, you'd expect it'd be written in the same type of language, using the same type of terminology. That's one of the strengths of CIMS.

10 Q. But the point I'm putting to you, Mr Nicholls, is that once the police take charge, once the police are the lead agency which you've accepted occurred from 5.20 on the 19th, that the police is following its own procedures and not the company's regardless of whether those are the same or not?

15 A. The police would take cognisance of the company's procedures and they should dovetail, but essentially the proposition you put is correct.

Q. And we heard your evidence yesterday about why it was appropriate that the police and, for example, not the mine manager are in charge at that time, including the need for objectivity and the removal of emotion?

20 A. Yes, and I think Doug White in evidence himself felt that it was appropriate for the police to be the lead agency.

Q. And we've heard evidence from a number of witnesses including Neville Rockhouse, Daniel Duggan and Mr White himself that for the limited period that Mr White was in charge that he did in fact activate the
25 duty card system?

A. Yes, the evidence is that he did activate the duty card system. Unfortunately it fell over, as I said this morning, with duty card 7 not becoming a functional role. But the evidence before this Commission, if I recall it correctly, was that the duty card system was implemented.

30 Q. Now you have made the point that Pike River didn't have a GAG machine on site haven't you?

A. Yeah, I said that yesterday.

1505

Q. And you also made the point that it didn't have a nitrogen generator or what's referred to as a Floxal?

A. Yes, I said that yesterday.

5 Q. In fact no other mine in New Zealand has a GAG machine onsite or a Floxal does it?

A. Not that I'm aware of. I think, and I stand to be corrected on this, I think Solid Energy at Huntly East may have an ability to generate nitrogen, but I would defer to someone from Solid Energy on that.

10 Q. Well, for example, it wasn't a situation where the police could just call Spring Creek or Reefton and obtain a GAG machine or a Floxal, the GAG machine that you obtained came from Queensland didn't it?

15 A. Yes, and again I stand corrected, I understand that they may only have one in Queensland, they may have more by now and we were looking at getting one in from the United States. I think there was, they were in negotiating with Holland supplier to get three in, up to three in from Holland.

Q. It's certainly my understanding that the Queensland GAG machine was the only one as well. The Floxal also came from Australia didn't it?

A. Yes it did.

20 Q. So, the point that I'm putting to you, Mr Nicholls is, it's not a case that Pike River was unique in not having a GAG or a Floxal, that once it was established that these things weren't at Pike River and indeed weren't in New Zealand, you gave evidence that the police went to considerable lengths, including having to liaise with various embassies and things, first international flight into Greymouth, or it might've been Hokitika.

25 A. Hokitika I think it was.

Q. To get this necessary equipment into the country and to Pike River?

A. Yes, Pike River, as far as I'm aware, aren't alone in that.

30 Q. So, in fact, you would accept that it wasn't in the contingency planning for any of the other mines, for example, Reefton or Spring Creek having a GAG machine or a Floxal onsite?

A. The only qualifier I'd say there is I'm not familiar with the emergency plans or the standard operating procedures of any other mine so I can't really comment but I suspect that the proposition that you put is correct.

THE COMMISSION ADDRESSES MR HAMPTON

5 CROSS-EXAMINATION: MR HAMPTON

Q. I take it, Mr Nicholls, that the police have never historically played such a role as they played in Pike River in terms of any other mine incidents or disasters?

A. In terms of a mine, you're absolutely correct, Mr Hampton.

10 Q. So this was first time round for the police?

A. Yes, that's correct sir, well in my memory sir.

Q. The CIMS established in 1998?

A. Yes, that's correct.

15 Q. Since it was established, apart from where we get to Pike, it's never been used in a mine disaster incident before, CIMS?

A. In a mine disaster, not that I'm aware of. I'm not sure there's been a mine disaster between '98 and 2010 of a nature where you'd activate CIMS.

Q. In the CIMS model, had mine disaster been contemplated even?

20 A. No I couldn't answer that question, the reason is because I wasn't part of the design team of CIMS.

Q. For example, Mines Rescue wasn't incorporated as one of agencies that might be looked at?

25 A. No, I don't think so, if you have a look at the front cover of the book, it doesn't mention Mines Rescue in there.

Q. No, so do you think that they weren't even part of the authorship of CIMS. They were never part of the inner circle as it were?

A. I suspect not.

30 Q. And isn't that where a lot of these problems have emerged from because Mines Rescue were never part of the CIMS network and therefore when you were faced with this situation in Pike, nobody knew,

including yourself who had to Google it, quite what Mines Rescue was? Wasn't that the problem?

5 A. Well, it's one of the challenges, certainly Mr Hampton, but I think Trevor Watts, and of course, Trevor will correct me if I'm wrong, was a fire chief, so he would be very familiar with CIMS in that role and I suspect he's had some training in it. And in know that only partly answers your question but I'm trying to be as full as I can.

1510

10 Q. Well, yesterday you said something about opportunities for the future and amongst that you mentioned emergency exercises with all agencies?

A. Yes.

Q. Are you going to include Mines Rescue in those?

A. In terms of a coal mine?

15 Q. In terms of emergency exercises with all agencies, are Mines Rescue going to be included in that?

A. I would say so. If it was a coal mine, there wouldn't be any reason not to include them.

20 Q. But in your exercises, your emergency exercises, is that part of the planning?

A. Currently or?

Q. Currently.

25 A. Currently, I understand there has been some discussions with Mines Rescue with the local staff, local police staff, but my vision for the future in terms of planning for a coal mine response would be that Mines Rescue would have to be part of it.

Q. Well, did I understand you rightly yesterday you said that you were having some discussions with Solid Energy about this?

30 A. Had, I've been up to Hamilton East and I've been underground at Hamilton East and had some discussions with them. That was in August.

Q. This is about your emergency exercises?

A. That was, yeah, that was it.

Q. Isn't it more appropriate that you have those sort of talks with Mines Rescue rather than with one particular miner, Solid Energy?

5 A. Oh, look I think the number of players to have discussions with, one of them is clearly Solid Energy because they own a mine, or more than one mine. Another one is Mines Rescue and I know that we have had ongoing discussions with –

Q. But it's like you saying that fire, the fire service should be talking to one of the biggest forest, you should be talking to one of the biggest forest owners rather than to the New Zealand Fire Service. Shouldn't you be talking to Mines Rescue rather than one of the owners of a mine?

10 A. Well I think you should be talking to both parties, oh, and more than both parties so, look, you don't get a disagreement from me, I think we should be talking to Mines Rescue, and we've built a good relationship with Mines Rescue over the course of this operation, so.

15 Q. Well that's just my curiosity then, given all that and given what's gone on, isn't your starting point in terms of introducing Mines Rescue into the CIMS model really to go to Mines Rescue rather than to Solid Energy first?

20 A. Well, I stand corrected, but I believe some preliminary discussions may well have occurred. I know that there is a good working relationship with Trevor Watts and I'd be surprised if there hasn't been some sort of conversation to this date, but I take your point, I'm not sitting here saying that we shouldn't be engaging with Mines Rescue.

Q. Is the CIMS manual going to be re-written?

25 A. My understanding is it's currently being re-written.

Q. By whom?

A. I think Ministry of Civil Defence are involved in it. New Zealand Fire Service, police.

Q. Mines Rescue?

30 A. Not that I'm aware of.

Q. Well, again, isn't that, doesn't that have to happen?

A. I think they would be a stakeholder that could be called to the –

Q. Could be?

A. Absolutely.

Q. Surely, given the Pike River fiasco, the chaos that you've talked about, Mines Rescue has to be involved, doesn't it?

A. I think it would be a very good idea that they were involved.

5 Q. Just a good idea? Don't they have to be as a matter of compulsory?

A. I'm not disagreeing with you Mr Hampton.

Q. Three factors leading or indicating that police should be the lead agency. Legislative and other instruments you told us about?

A. Yes, that's correct.

10 Q. Six instruments?

A. I referred to six instruments that I called the statutes, some of them, yeah.

Q. Yes. Did anybody look at the Mining Act and Regulations and see what that had to say about these things?

15 A. I've had a look at the – are you talking about the Health and Safety Mining Act, Mining Regulations.

Q. Did you – was that looked at before police took the lead agency role? Was the Mining Health and Safety Act and Regulations looked at?

A. Not by me.

20 Q. Was it looked at by any police member?

A. I couldn't say, but I can say it wasn't looked at by me prior to police taking the lead agency role. I looked at the legislation sometime in November and it would be obviously late November, looked at it again in December, and just worked through it, so.

25 Q. What I'm interested in is whether anybody at the police looked at the role of the statutory mine manager in the greater scheme of things, what that position meant and what duties were entailed on that person?

A. Is that, are you asking me about prior to taking the lead agency role?

30 Q. Yes. Did anybody in the police look at the statutory mine manager's position, his duties, his responsibilities?

A. I can't say they did and I can't say they didn't.

Q. Well, who would know please?

A. Perhaps Deputy Commissioner Rickard may have looked at them. I suspect the answer to your question is no.

1515

5 Q. Yes, I suspect it too. Did anybody bring to you an issue at any stage about a no-go, an exclusion zone around the portal of this mine?

A. Not that I recall. However, I have seen a photo of, I think, during the course of this Commission, a no-go zone was placed around the front of the portal. I think there was also a no-go zone placed around when the GAG work was being done but I would have to go back and have a look at the file, but I would be surprised if there wasn't a no-go zone around the portal work.

10

Q. See it's a blast radius zone, do you know that?

A. Yeah, I know what –

Q. You know that terminology?

15 A. I know what you're talking about.

Q. Did you know about it at the time or did you only pick that up during the course of the last two weeks, when you first used it in this Commission?

A. When you say, "The time," are you talking about prior to the 19th of November?

20 Q. At the time of the 19th of November, immediate aftermath?

A. Had I heard of a blast?

Q. Yes.

A. Around the portal.

Q. Blast radius, round the portal?

25 A. I hadn't heard of a blast radius round a portal as at the 19th of November 2010?

Q. And immediately post the blast, was there any discussion about the need to oppose such a blast radius zone around the portal?

30 A. I wasn't on duty on the, well I wasn't in Wellington on the 19th of November so I suspect not, but I wasn't privy to any discussion and I took over my role on the 20th of November.

Q. Do you know whether there was any no-go zone, blast radius zone imposed around the ventilation shaft in the nearby Slimline shaft?

- A. At what point?
- Q. Immediately post the explosion?
- A. No, I don't know.
- Q. Who would know?
- 5 A. The acting assistant commissioner who was sitting in my role would potentially know. Gary Knowles may know.
- Q. Right.
- A. I think –
- Q. You said that, sorry.
- 10 A. Sorry, no, no, it's all right, you go.
- Q. No I wouldn't want to cut you off Mr Nicholls, what did you have in mind?
- A. No, no, I was just clarifying that –
- Q. Mr Knowles does know, does he, is he signalling you from behind?
- 15 A. No, he's definitely not doing that.
- Q. You said that there was some review of lead agency at the time of the ventilation shaft fire?
- A. Yeah, there was a discussion in Wellington.
- Q. Discussion in Wellington?
- 20 A. Mhm.
- Q. As to whether the fire service should now take over the lead agency?
- A. Correct.
- Q. Did you involve Mines Rescue Service in that discussion?
- A. No.
- 25 Q. I imagine that you'd be a proponent in favour of what I'm going to suggest to you now given your experience, and particularly your experience in the last couple of days Mr Nicholls, but we'd had prescribed an up to date regulations that any underground coalmine had to have a fit for purpose ability to seal the mine immediately, that seal
- 30 having a man-door or a trap-door in it, you'd be in favour of that?
- A. It would be useful, yes.

Q. Well it would be more than useful, it'd put an end to all this debate and confusion and chaos that you've spoken of, we've been debating the last couple of days?

A. Yeah, short answer Mr Hampton is, "Yes."

5 Q. They'd have the ability to swing some steel doors across, seal the mine, still with the ability for someone to open the trap-door in the face of it and come out, you know like the old garage man-door that used to exist many years ago. You know what I'm talking about?

10 A. I know what you're talking about, yeah, I know exactly what you're talking about.

Q. That would've solved all these problems, if we'd been up to date with our regulations. Have you had a look at Queensland regulations for example to see what they –

A. Yes I have.

15 Q. Yes, all right.

A. Yeah.

Q. I think one other thing I want to ask you about them, trying to keep to time?

A. Sure.

20 Q. Communications with families, there's no mention, as far as I can see in the police briefs, including your own, about the role that Air New Zealand played in communicating with families?

A. I am pretty sure there is some references in relation to Air New Zealand, yeah there is.

25 Q. They played quite a considerable part didn't they?

A. Yeah, we were very grateful for the contribution of Air New Zealand.

Q. You mention, at paragraph 322 of your brief, in your file review the first of two initiatives is the family liaison officer project?

A. Oh yes, yeah, I sponsored that.

30 1520

Q. So coming back to Air New Zealand, they provided a crisis intervention team didn't they?

A. Yes. I, I stand to be corrected but I'm pretty sure that was an initiative arranged by Pike River Coal Limited. Yeah, I'm pretty sure that the company put that in place and not the police.

5 Q. And has there been an internal report commissioned by the police, internal to the police, reviewing the police response to the families and being quite critical of the way the police handled the family liaison?

A. I saw a draft this morning and I haven't had a chance to read it, but I'm pretty sure that having read a number of the family briefs, I've got a pretty good indication of where things are at.

10 Q. The draft you read, was that highly critical of the police response?

A. Sorry. I hadn't read, I hadn't read the draft. I flicked through it. If you asked me what was in it I couldn't tell you whether it's critical or not. I suspect it will reflect the briefs of evidence.

15 Q. And when you were flicking through it did you pick up the fact that it contrasted adversely the police attitude to the families with that of the Air New Zealand crisis intervention team?

A. No. When I say I flicked through it, it arrived this morning. I flicked through it and realised what it was and I've been preparing for the evidence today, so I haven't had a chance to read through it.

20 Q. Were the police prepared at some stage to provide that report to the Commission if the Commission requires it?

A. Well, the Commission gets whatever they require. I mean the police have always said that whatever the Commission wants they will get.

25 Q. Was it on the basis of the difference between the Air New Zealand crisis intervention team approach and the police approach to the families that an entirely different approach was taken by the police to the families of the 22nd February post earthquake disaster in Christchurch?

A. No. No. I –

Q. No effect?

30 A. Oh, it certainly had an influence. I reflected on Pike River in terms of our interaction with the families. I've had various discussions with counsel representing the families. I've taken on board some of the

issues that they've raised and that's why I chose to sponsor the executive paper to change our approach to family liaison.

THE COMMISSION ADDRESSES MR RAYMOND – CROSS-EXAMINATION

5 CROSS-EXAMINATION: MR RAYMOND

Q. Assistant Commissioner Nicholls, you'll be pleased to know I'm not going to go through lead agency and processes and procedures in too much detail, but for one question, which seems to stand out, and it might be of assistance to the Commission. Paragraph 93 of your evidence. You talk about the changeover in the evening shift at 6.45 on the first day, the Saturday, and you were attending a handover brief at national police headquarters and you were handing over to Superintendent Christian?

A. Okay.

15 Q. At that time you gave him a brief summary of the current situation and it was identified as the rescue attempt being on hold, deterioration of the conditions, and then the third point you said was, sorry potential of fire. The fourth point you said was, "The mines inspector has ultimate responsibility for authorising any plan." Do you remember that in your brief?

A. I, yes I, yeah I do, yeah.

Q. And do you remember that discussion after the passage of time, possibly not but...

A. No, no, I honestly don't remember the discussion because there were so many of them, but yeah it's no doubt occurred.

25 Q. I just want to, in the four or five minutes we've got before the break, explore that a little. Who did you understand the mines inspector to be at that stage?

A. Department of Labour mines inspector.

30 Q. So an individual?

A. I couldn't put a name to it.

Q. Did you understand there to be more than one?

A. Yes. I think from memory there were two.

1525

Q. So when you said, "The mines inspector," you were meaning from what you can remember now, one or other of those two gentlemen?

5 A. Yes.

Q. How do you think it got to be conveyed to you as at that Saturday night that the mines inspector was to have ultimate responsibility?

A. Must've been a briefing during the day. There must've been some information shared with me during the day and I passed it onto the assistant commissioner or acting assistant commissioner as part of the handover, it may have come from Superintendent Knowles, but it could've come from another source.

10

Q. And the phrase, "Has ultimate responsibility for authorising any plan?"

A. Yes.

15 Q. At that stage did you regard that as a plan for re-entry or any plan to do with the search and rescue, recovery operation at the mine site?

A. No I've probably been a bit conservative with my words. I think, "Plan to re-enter," was the issue. But I'd need to have a look at the context because...

20 Q. Well, the context as I've just given you, you were doing a briefing with your colleague for the nightshift and as I put it, is exactly what you said.

A. When I talk in context I'm talking about what else was going on during the day so I could perhaps help you after the break if I can.

Q. I'm just trying to understand how you reconcile that important comment in your changeover given that there might've been a re-entry during the course of the night for all you knew at that stage with your earlier evidence that something as important as re-entry, was a decision for the police at national headquarters?

25

A. Yes, I think an immediate entry, I mean, we weren't going to stifle any immediate opportunity and I'm just trying to really think back to the time that you're talking about, but, you know, often in emergency events you simply can't stand in the way of an opportunity when it presents.

30

Q. Yes, I understand that, but it's not quite the question, the question –

A. No, I know.

Q. Your evidence has quite strongly been that then and now in any improved plan in the future the decision to re-enter the mine would rest at national headquarters level with the response co-ordinator correct?

5 A. Yes it has.

Q. So having given that evidence over the last day or so, and that being the position at the time, how did you reconcile the information that you were passing to your colleague that the Department of Labour was to have ultimate responsibility for that?

10 A. I can only say perhaps I didn't choose my words as carefully as I should of. You know, the police were the lead agency and the Department of Labour would've, no doubt, made a contribution in that discussion.

1528

15 Q. Is it an illustration, do you think, of the confused roles between yourself and others on site, and in particular the Department of Labour at that point in time?

A. No, I don't think the roles were confused. I think the roles were clear. The issue there is, you know, at this juncture I would need to have a good look at the file to be able to answer your question with a high
20 degree of accuracy.

COMMISSION ADJOURNS: 3.29 PM

COMMISSION RESUMES: 3.47 PM**CROSS-EXAMINATION CONTINUES: MR RAYMOND**

Q. Assistant commissioner, I want to turn now to the issue about communication with the families?

5 A. Yes.

Q. You said in your evidence yesterday that as far as you were concerned, the communication with the families throughout the operation was an absolutely priority?

A. Yes, it was, it's a priority that I set from the outset.

10 Q. And that all relevant developments would be passed to the families?

A. Yes.

Q. You mentioned rife and rumour and speculation – sorry, you mentioned rumour and speculation being rife at one stage?

A. Yes.

15 Q. And so you obviously didn't want to fuel their anxiety or expectations with speculation, so we're agreed that it was relevant facts which should have been put forward?

A. Yes.

20 Q. Having reflected on the communications strategy with the families, and therefore with the benefit of hindsight, I take it you accept that there were areas where things could've been done better?

A. I said that.

Q. And the setting up of this new family liaison project is one of the outcomes of that reflection?

25 A. Yes, that's correct Mr Raymond.

Q. Because part of dealing with families is not only to pass on information which might be relevant, and to feed that hunger for details which they must have and which you must accept, but to do so in an empathetic and understanding way?

30 A. It's got to be done in, as you correctly point out, an empathetic and sympathetic way.

Q. And you would've seen a theme, if you like, running through the briefs of evidence filed on behalf of the families where there was a degree of criticism, not universal, but a degree of criticism of Superintendent Knowles' delivery style on what we're talking about?

5 A. Yes, I saw that.

Q. And also you would've seen in the briefs an acknowledgement from many family witnesses of the fact that he is clearly a senior and good officer, doing a very difficult job in very difficult circumstances?

10 A. Yes, that's correct, in fact as I said earlier, Superintendent Knowles was in fact doing three jobs and time for reflection, he should've been left to do one role. He was dealing with the media and the families, and we've taken that on board.

1550

15 Q. As part of your role of keeping in constant watch, as you described in your evidence, did you reflect during the course of those first four or five days when Superintendent Knowles was having so much contact with the families, on whether or not he was the right person for that job at that time?

A. Yes I did and I thought he was the right person for the job.

20 Q. To not only deliver the message but in the manner in which it was being delivered?

A. Yes, I have faith in Superintendent Knowles. I thought he was more than capable of being the incident controller and dealing with all matters relating to this operation.

25 Q. Did you review each day when you were on shift obviously, that the information that was being conveyed was accurate?

A. To the families?

Q. Yes. Is that part of your sort of planning or management?

30 A. No. It wasn't. I intervened on occasions but as a general rule no I wasn't filtering or deciding what information went where.

Q. When you say you, "Intervened on occasions," can you recall what occasions they were?

A. Only when Superintendent Knowles contacted me about the video at the portal and we had a discussion about that going to the families.

Q. Now you've referred already in your evidence to Mr Stuart-Black and he was on your panel at one stage in Wellington?

5 A. Yes, Jim Stuart-Black.

Q. And clearly if, as part of the CIMS model, the fire service was in charge of an operation like this, part of that would include briefing family members and the media, depending on whatever event was taking place?

10 A. That's correct.

Q. And Mr Stuart-Black has got considerable background in national and international emergency management?

A. Yes he has.

Q. Of disaster response?

15 A. Yes he has.

Q. And clearly he was a man you respected given –

A. Sorry, I didn't.

Q. Clearly he was a man you respected given the involvement of Mr Stuart-Black on the panel which you convened in Wellington?

20 A. Yes, I've got the utmost respect for his expertise and for him as a person.

Q. I just want to take you please to document NZFS0010/1?

WITNESS REFERRED TO DOCUMENT NZFS0010/1

25 Q. So up on the screen now is the fire service incident log for Operation Pike?

A. Yes I see that.

Q. And you're obviously familiar with that document and I think actually given the way your brief's been prepared you've referred to it more than once for the purposes of preparing your evidence?

30 A. Yes.

Q. And you can confirm that Mr Stuart-Black was the author of this log as events progressed?

A. Yes I would say that would be correct.

Q. If I can take you please to page 6, and if you go down to the entry please, Ms Basher, of 15.21. There's already been some evidence on this through Mr Stevens' cross-examination about the fire?

A. Mhm.

5 Q. That's what I want to ask you about now. 15.21, a call from Mark, is it Boere?

A. Boere. I think he's a New Zealand Fire Service employee.

Q. He was the local fire service officer who was dealing with the matter here?

10 A. Yes. Correct.

Q. And there's a summary there of the increase in carbon monoxide?

A. Mhm.

Q. The decrease in oxygen, the increase in methane?

A. Methane.

15 Q. And anticipate that there is a fire burning and that information was, it looks like more or less immediately passed on to you?

A. Yes.

Q. And then at 16.45 advice from the local fire department of a significant fire underground?

20 A. Yes.

Q. And then if you could turn the page please, Ms Basher, to page 7 and highlight the entries for 17.19 and 17.24. Mark Boere at 17.19 recorded as saying, "All indicators are positive that it's a fire. Options to seal and fill with the nitrogen about the only way you could deal with this kind of fire," and then the last sentence, "Mines Rescue need to make some calls on how to progress this situation, time for some hard decisions." Do you see that?

25

1555

A. Yes I see that.

30 Q. And then again, almost immediately, at 17.24, you were briefed on that position?

A. Yes.

Q. So it's fair to say as at 17.24 on the first day, the Saturday, that you were involved, you were fully aware of the potential for a fire.

A. Potential for a fire, yes.

5 Q. And the strong view being given that all indicators were positive that it's a fire?

A. Yes.

10 Q. And then at 18.45 there was a further police briefing and again, you're mentioned. "Situation remains largely unchanged." Second point, "Issue around fire and atmospheric safety." And then the fourth bullet point, "Flagged, need to be realistic about the situation."

A. Yes I see that.

Q. The final bullet point, "PM aware of situation," that reference to PM, could you assist us with whether or not that's the Prime Minister or another fire service member?

15 A. I can't, it could be the Prime Minister, I'm not sure. It might be. This is the fire log isn't it, the fire service log?

Q. Yes. So, we'll maybe find out about that, but if that is the case then obviously the Prime Minister's being briefed on the issues around the fire. Can you help us with that?

20 A. I can't, I'm not sure what the briefing to the Prime Minister was at that time.

25 Q. And then 19.38, the first bullet point is that the, from a call from Mr Boere again, "The reality of the situation clear to Pike Mine team. Advised Mines Rescue that things are moving to recovery." Second bullet point. "Department of Labour have spoken to Crown Law and advised that mine cannot be sealed and flooded with nitrogen." Are you aware of whether or not in fact the Department of Labour took advice from Crown Law at that stage?

30 A. No I'm not aware. I wasn't privy to any discussions with Crown Law and Department of Labour at about that time. If indeed any occurred.

Q. The next page, at page 8, 2112 hours the third bullet point firstly, "Focus of mine rescue planning is to try and minimise the fire," next bullet point, "Need to start advising families as to what's happening."

A. Yes I see that.

Q. And that is towards the end of that first day and you start again on Sunday the 21st of November in the morning?

A. Yes, that would be correct, Sunday the 21st.

5 Q. And if we could just go down the page a bit to the first entry at 7.00 am. This is the briefing with you in morning, the summary there referenced to the clean room, which we've already had reference to.

A. Mhm.

10 Q. And the third bullet point, "Family briefing at 0700 hours will be shown some operational photos of the area. Focus of conversation will be on the ongoing scene assessment and safety management et cetera." See that?

A. Yes I see that.

15 Q. By that time, assistant commissioner, you had had pointed out to you, more than once, the likelihood of an active fire in the mine.

A. Mhm.

Q. And you had had pointed out to you by someone you've confirmed that you respect enormously.

A. Mhm.

20 Q. Mr Stuart-Black who also has experience in these sorts of things of the need to start advising the families about what's happening in reference to the fire. Why is it that at that meeting at 7.00 am on Sunday the 21st of November, it was deliberately described as a focus of conversation not being on the fire but on other things?

25 A. It's not described as the focus of conversation not being on the fire, it says, "Focus of conversation will be on the ongoing scene assessment safety management."

Q. Okay, well, let's put it another way. Did you tell the families about the fire on Sunday?

30 A. No, personally, no I did not. I don't think I met the families till, some several weeks or later. Yeah.

1600

- Q. Well we know that the people on site knew about the fire, we know that national headquarters knew about the fire, we can safely assume, can't we, that the middle part of the puzzle –
- A. Knew about the fire?
- 5 Q. Knew about the fire, Superintendent Knowles, and he was at the briefing?
- A. At?
- Q. The briefing at 7.00 am that Sunday morning?
- A. Not this one, this one was in Wellington I think.
- 10 Q. But when it's talking about the family briefing at 0700 hours and was to be described to the family?
- A. Sorry. I couldn't say whether he was there or not, I suspect he would've been but I can't say.
- Q. Did it occur to you, given that you had said and had confirmed that
- 15 there's an absolute priority that all relevant developments be given to the families, that they should have been, at the very least, told about the prospect of this fire?
- A. Yes they should've been.
- Q. Are you able to proffer any explanation as to why they were not told?
- 20 A. No I can't.
- Q. Because the families you would have seen from the briefs have been very concerned about the fact that they were not told about the fire until after the second explosion?
- A. Yes, I realise that.
- 25 Q. Is there anything that you'd like to say directed towards the families on that topic?
- A. Well, you know, they should've been told. I can't explain why that didn't occur, perhaps that's a question for Superintendent Knowles, but at the end of the day this is a significant issue and it should've been shared
- 30 with them.
- Q. Well thank you for that acknowledgement. The next topic I want to ask you about is the self-rescue boxes?
- A. Yes.

Q. The police, not necessarily you, but the police as an organisation knew about the existence of the self-rescue boxes on Wednesday the 25th of November after the team had returned from the Slimline shaft and viewed the CAL scan images at the offices of Pike River, correct?

5 A. Yes.

Q. And you know, don't you, that the first time families counsel heard about the self-rescue boxes was through an entirely different source on or about the 31st of March this year?

A. Yes.

10 Q. And it was after that information was conveyed to counsel that counsel for the families liaised with representatives of the police about viewing the CAL scan images to confirm what we had heard, and that was that there was an open self-rescue box in the Slimline shaft?

A. Yes.

15 Q. Do you think, looking back, that that is a sort of key piece of relevant information that should've been passed to the families much sooner than it was than April 2011, i.e. in the week or so after the 25th of November?

20 A. Yes. It's an issue in terms of – and I think part of the issue here was speculation as to exactly what that box was and as of today we're still not certain whether it's a firebox or whether it's a rebreather box.

25 Q. Well that might be the police view, the Commission will draw its own conclusions about what it was no doubt. But you would accept that the families are quite capable and entitled no less, to receive that sort of information and with professional input if necessary make their own assessment of it?

A. Yes, if the information's delivered in a sensitive way then it can be handled carefully.

30 Q. Do you think that the, and you may not be able to answer this because it's pretty subjective, but standing back and being as objective as you can as someone experienced in these sorts of operations, if the families had been told about the fire, and the families had been told about the possibility of self-rescue and the open self-rescue box, that the

expectation that had somehow built around the men's survivability might've been quite different and therefore easier to manage?

A. I think with the benefit of hindsight I don't disagree with what you're putting to me.

5 Q. Because you said yesterday in your evidence when Mr Moore was leading you that there was a high public expectation, there was a high expectation about rescue?

A. Yes.

1605

10 Q. Do you accept now, given the fair concessions that you've just made, that the police partly fuelled that expectation?

A. No, I don't. I think the police relied on best available information at the time. We held an honest belief and we shared that honest belief when it was necessary to do so. I don't accept that we fuelled an unrealistic expectation.

15

Q. Just before we go away from the self-rescue boxes and to be fair to you, assistant commissioner, I do acknowledge that there was reference at the Coronial Inquiry by at least one witness, even if not very overtly, to a "Self-rescue box being open at distance from the Slimline shaft," I think was the phrase?

20

A. Yes, that's correct, it was in the survivability report and it was considered as part of the information when compiling that report by a group of experts.

Q. But you accept, I'm sure, that it was otherwise not highlighted in any way by any witness before the Coroner and discussed in any substantive way?

25

A. No, I don't accept that, because in terms of the page on which that document, which that line is contained, there is reference to rebreathers on that page and I think that issue has to be read in context and not abstract and if you bring the page up, I can point to the area that I'm talking about.

30

Q. Well, I think you've agree that I've accurately quoted what it says, and you weren't at the inquest, so we'll save that for – or you didn't give evidence at the inquest, so –

A. I didn't give evidence at the inquest, but I was present.

5 Q. No, that's right, so I think that we'll leave that question for Superintendent Knowles when he gives evidence.

A. Okay, that's fine.

10 Q. The other crucial piece of evidence which has emerged well after the event, if you like, around the time of the explosion was the, you know what I'm going to say, don't you, you're nodding in anticipation?

A. I know exactly what you're going to say.

Q. Was the discovery of the body at borehole 47?

A. Yes, that's correct.

15 Q. And that was as a consequence of your review, was it not, of video and CAL scanner images?

A. Yes.

Q. You're nodding?

A. Yes.

20 Q. And what was it that prompted you to undertake that review of the images?

25 A. The images were taken from the mine at borehole, PRDH47. They were considered at the mine site by police staff and Pike River staff. A sergeant of police went through the video and identified an object that he had some concerns about. The videos were then, or the video imagery was then sent up to Wellington where I had a look at it and was uncomfortable with what I saw. They were considered by the ESR lab and there were some items in the video clip from which they took a reference point. Again, it was indicated that it probably wasn't the remains of a person, using some referencing points. I wasn't
30 comfortable with that and sought another opinion and as a result we came to the conclusion that it was in fact a body and –

Q. And part of that consultation was with the pathologist Dr Martin Sage?

A. Yes, that's correct.

Q. And when did you complete that analysis please, assistant commissioner?

A. I think I started it in February, completed it around April. I can give you the exact dates if I can just refer to the file, but – or January.

5 Q. And in the interim, the police effectively handed control of the recovery operation back to the receivers?

A. Yes, that's correct.

10 Q. Do you think that with that knowledge during the time that you were in control of the recovery operation, it would've impacted on some of the decisions you were making as to access to the mine and the importance of that?

15 A. No, I don't think so. I think the commissioner of police at the time had carefully considered in, I think it was in December, who was best placed to stabilise this environment and he came to the conclusion that it was in fact the company who were in the best position to stabilise that mine, which is still to this day, nobody has entered.

Q. Just before we leave communication with the family, you've talked a lot about risk assessments and quality assurance?

A. Mhm.

20 1610

Q. Do you think there's benefit in an operation like this, someone in your position having a process in place that in fact risk assesses or quality assures the information that's passed to the public and to the families to ensure that it is full, accurate and timely?

25 A. I'd hate to be advocating for another process, but I think there's time for reflection. There's some learnings from Pike. We've applied them in another context. I take your point and I think –

Q. I take that as a yes?

A. I think it's something that needs to be looked at, yeah, thanks.

30 Q. In paragraph 78 of your evidence you say that you undertook to make next of kin details available so that support was available I think through the Ministry of Social Development. You remember that passage in your evidence, paragraph 78?

A. Yes.

Q. Did you in fact follow that up?

5 A. Yeah, my understanding is that we did. It was through a welfare group organised through the Ministry of Social Development and yeah my understanding is that did occur. I stand corrected if you've got something.

Q. No, it's just something that was left unsaid in your evidence that you said.

A. I see.

10 Q. You undertook to follow it up. I don't know whether you did or you didn't or whether the Ministry of Social Development became involved?

A. Generally, if I undertake to do something I do it.

Q. Yeah. But you don't know whether in fact the Ministry of Social Development became involved in an active way?

15 A. Oh they, they – the Ministry of Social Development, my recollection is, did set up quite a robust welfare group or welfare support network or something of that nature, so...

Q. Is that associated with Focus Trust?

20 A. It could be. I'm not sure of the details, but I know that the Ministry of Social Development was working on this.

Q. I just want to move to the assessment of survivability issue and there has already been quite a cross-examination on this so we can move quite quickly to a couple of other points?

A. Yes, sure.

25 Q. Can I take it that you accept that there is no sort of set criteria that you are aware that you applied for the evaluation of survivability?

A. No set criteria like, correct.

Q. Some benchmarks, some, yeah, criteria that you...

30 A. What happened was the team at the IMT I think took two days to develop up what's, I guess you could term, a survivability matrix, which is fundamentally a survivability report which you've referred to earlier, and that then went, was sent to a team of independent medical experts

for consideration, and their evidence was available at the inquest. I think that was co-ordinated by Inspector Mark Harrison.

5 Q. In your role as response co-ordinator at national headquarters you've said in your evidence that you didn't call for advice, expert advice until the Tuesday about survivability. On reflection, do you think that's quite late in the piece to start asking for that sort of expert assistance?

10 A. Yeah, I think it could have been done earlier. I think the indications were that this was going to be a rescue early on, and as I've said earlier I mean there were some indications that more men will potentially walk out of the mine when you've got two who self-rescued, having been unconscious.

15 Q. We'll just come to that because as I understand your evidence you've really focused on two, possibly three things which gave you confidence that you were dealing with a rescue operation up until the time of the second explosion?

A. Yeah.

Q. The first was, as you've just alluded to, Daniel and Russell walking out?

A. Yes, that's correct.

20 Q. The second is what you were told by senior officials from Pike River, including Mr Whittall and Mr Dow?

A. To be fair, they never spoke to me directly.

Q. Sorry, what they said in public which you heard?

A. Yes, yeah.

25 Q. And third was reference to the clean room or the fresh air base where they might be able to be taking shelter?

A. Yes.

30 Q. Do you accept that with respect to Mr Smith and Mr Rockhouse, Daniel Rockhouse, that where they were located in the drift the time of that second explosion near pit bottom in stone, it really distinguishes them from other men that were within the mine in the inner reaches around Spaghetti Junction and even further into the mine?

A. Yes it does and if you look at it in a very clinical, rational way you're absolutely right, but at the end of the day how can one be so sure.

1615

Q. But surely you were looking at in a clinical and rational way when you were making an assessment of survivability?

A. Yes, yes, but I qualify by saying, how can one be so sure?

5 Q. Well, by weighing up against other factors I suggest, which I'm going to put to you, which these are not things that you can conjure up with benefit of hindsight, these are obvious things which would've been obvious to you at the time given the advice you were getting from Superintendent Knowles and the feedback you would've been getting
10 from your expert panel, even looking at the mine map on the wall that, no doubt, you had up in your office, that we were dealing with a small mine?

A. Yes, that's correct we were.

Q. And a big explosion?

15 A. Yes.

Q. And we've got evidence before the Commission from Mines Rescue that, at most it was only 500 metres from the coalface to the fresh air base?

A. Yes.

20 Q. Now, with the man could fit the self-rescuer, which he would've had on his belt after the initial concussion from the first explosion, he would've been able to walk with the oxygen available to him from that self-rescuer to the fresh air base?

A. Yes, into fresh air. You're talking about the one at the Slimline?

25 Q. There's one at the Slimline, well, it's the only one isn't it?

A. Yes. Well the only one that's, well, there was a decommissioned one wasn't there?

Q. Yes, so we'll forget the decommissioned one because it wasn't one. And we know that no one else walked out of the mine apart from Daniel
30 and Russell?

A. Correct.

- Q. We know that there was no communication from anybody within the mine, yet we know, and you knew at the time, that the phones were working?
- A. Yes.
- 5 Q. And indeed a phone had been dropped down the Slimline shaft?
- A. Well, I didn't know the phone had been dropped down the Slimline shaft at that point.
- Q. Okay. It's fair to say that the police, generally as an organisation, did?
- A. No it's not actually.
- 10 Q. So its information not passed to it by Pike River management and Mines Rescue, is that what you're saying?
- A. As far as I'm aware I think there's a, we may not have been aware of that going down. You're talking about the items going down in the bucket?
- 15 Q. Yes.
- A. Yeah, I wasn't aware of that.
- Q. Okay, well, let's park that one. You accepted though that there was communication in the mine and no one was answering that communication?
- 20 A. The information was there were phones in the mine are DAC or intercom system of something of that nature.
- Q. And we know that there was a fresh air base, and there's some debate about the merit of that fresh air base, do you accept that if a man who is able to make it to the fresh air base on the one self-rescuer, would've
- 25 been able to access another self-rescuer and follow his training and walk out of the drift?
- A. With what I've heard at the Royal Commission, I think that would've been difficult.
- Q. But possible? They weren't going to go up the vent shaft were they?
- 30 A. They weren't going to go up the vent shaft, but the issue here is how safe a haven that fresh air base was at the Slimline.
- Q. Putting all those factors together then, I'm still troubled with the expression that you use, and Superintendent Knowles frequently uses

throughout his evidence, that the men were somehow, quote, "Trapped," in the mine?

A. Mmm.

5 Q. What do you mean by that expression? Are they trapped as in behind a rock fall, or are they trapped generally beneath the mine from the portal entrance?

A. I think trapped in the context that for whatever reason they perhaps can't exit. Maybe they were injured. Maybe they were unable to exit by their own volition. So that's my view.

10 Q. What analysis was done by the police in those days, the Saturday, Sunday, Monday, Tuesday, before the second explosion. What analysis was done by the police, almost from a layman's perspective, of those basic things that I've just gone through about the realistic prospects of survivability?

15 A. Well, the focus was on the rescue operation, so in terms of some formal analysis, I'm not aware of any that was done at that point.

Q. Do you accept now that it was crucial that that sort of analysis was done so that it could be balanced against the discussion that was going on about whether the mine should be sealed?

20 A. I think this is potentially one of the issues that I spoke about, about parallel planning and it would've been something that could've been considered earlier.

1620

25 Q. Because you said yesterday that one of the things that you relied on, amongst several, were the comments from Mr Whittall and Mr Dowell, and I think from Professor Cliff, and we won't go over those again, they're in evidence?

A. No, sure.

30 Q. You were testing so many other things for credibility and safety and logistics, what were you doing to test the validity of those sorts of comments that you heard being made in the public by those mine officials as to whether they were credible or not?

- 5 A. Well I think on the meeting of the 24th in the morning there was also comment from Dr St George that survivability was not off the, you know, was not impossible, even at that point he made that comment. As I said, there was a registered medical practitioner present, there's also comment that –
- Q. Who's that sorry?
- A. Dr Geraint Emrys.
- Q. Yes.
- 10 A. There was also comment from Jim Stuart-Black that he couldn't see how anybody survived. So you have various ideas, various positions being put.
- Q. That collection of experts came about later in the piece though didn't it?
- A. Yeah, that was the 24th, but that was the morning of –
- 15 Q. What I'm putting to you is how you tested the survivability issue in the four days before that panel was convened, and you've acknowledged that it wasn't really looked at by the police in that light?
- A. Correct.
- Q. So when the statements emerged from the likes of Mr Dowell and Mr Whittall and Mr St George and others that they could be huddled in a
- 20 stub somewhere sucking on an airline or wrapped up in brattice or would come out hungry, those sorts of things which were raising public expectation, let alone family expectation –
- A. I don't, Dr St George –
- Q. Just pause.
- 25 A. Sorry.
- Q. How did you test those statements that were being so boldly made and which were fuelling the expectation in the public, and in yourself, did you test it or just accept it at face value?
- A. Well fundamentally accepted it at face value, given the context that
- 30 we're operating at. As I said, I think you've got to remember two men did self-rescue from this mine, and that's a very important issue.
- Q. Yes, and we've already discussed that and the distinction that can be made?

A. We have, yes.

Q. I don't think there's anything further you can add about the independent testing of those statements. Is that right?

5 A. No, but I'm trying to share with you the context in which we were operating.

Q. Understand the context, thank you. The fire service in their log, and if you could please put that up again Ms Basher, page 4, the entry at 08.45 first and then 09.36.

THE COMMISSION ADDRESSES MR RAYMOND – DAY AND DATE

10 **CROSS-EXAMINATION CONTINUES: MR RAYMOND**

Q. I think it's the fifth bullet point, "General sense that Mines Rescue are realistic to the situation and consider K41 likely. K41 is, I take it, a reference to possible fatalities?"

A. I've never seen K41 as a term, I don't know what it means.

15

MR BUCHANAN ADDRESSES COMMISSION

Sir I can confirm that's the fire service call sign for possible fatalities.

CROSS-EXAMINATION CONTINUES: MR RAYMOND

20 Q. And then at 09.36 then the situation remains unchanged and the fire service, at least, were anticipating K41?

A. K41, correct.

Q. And then you were briefed shortly after that?

25 A. Yes, and I think, you know again, yesterday I referred to some of the parallel planning that went on and Superintendent Knowles was dispatched with some body bags so contingency planning –

Q. That was contingency planning from a very early stage for fatalities?

A. Yes it was.

Q. But this is the Saturday with a bit more informed input from Mines Rescue and others?

30 A. Yes, and as I say, I didn't make the notes but I can see what you're referring to.

Q. In anticipation of fatalities?

A. Well we were anticipating fatalities –
1625

Q. As well?

5 A. As well, in terms of, that's why Gary Knowles would've got the body bags, but anticipating and knowing are two very, very different things.

Q. Of course, and Mines Rescue were taking a realistic approach and also –

A. Sorry, what?

10 Q. Mines Rescue were taking a realistic approach, it records?

A. Yeah, and I think probably Mines Rescue were in the same space in terms of that issue, anticipating.

Q. Do you think with a full and frank exchange with family members, as difficult as it may have been, that it would've been better for them and for the police to there have been an early acknowledgement that that was a possibility?
15

A. As I've said, I think, upon reflection, as much information should be shared with the families at the earliest available opportunity.

Q. I just want to ask you too about the expert evidence that you were receiving at the Wellington base. Do you accept that there's a risk that sometimes that expert evidence when it's so far removed from the site and with people who haven't perhaps even been to it, there's a risk of it becoming out of touch or even contradictory?
20

A. There is a risk, but I think that could be balanced against the objectivity that's brought to the table, the, I guess clinical and rational way in which a quality assurance process operates and the collective expertise that's available.
25

Q. Mr Stevens has already referred you to the exchange with Mr Gianato about the refuge chambers and is well into the operation discussion at your level with a expert overseas on something so fundamental as the existence or otherwise of the number of rescue chambers, do you accept that that's rather extraordinary?
30

A. Well – sorry, what date was that?

Q. It was the Tuesday at 1.51.

A. I just have to have a look at the file, but – yeah, I need to look at the file whether or not that was the first discussion with Jimmy Gianato. It may be that he was clarifying the numbers of fresh air bases or rescue chambers.

5

Q. He asked about the number of rescue chambers in the mine.

A. But that would assume that he knew that there were some in the mine as opposed to not knowing and it may be a clarification from a previous conversation. But I can check up for you and get back to you on that.

10

Q. Do you know what he would've been referring to when he said, "The air pressure in the chamber," what chamber he's referring to?

A. I suspect it's the, how he described a refuge chamber or something of that nature.

Q. And he asked about the borehole locations, plural, and at that stage was there one?

15

A. What date are we talking again, 20?

Q. Tuesday.

A. I think they were going down at that stage, so, I mean this may well have been a fact finding mission from Jimmy Gianato because he put together a panel for which we were seeking input.

20

Q. It just raises the question though doesn't it about the sort of time that was possibly being wasted by someone in your position in dealing with and responding to questions with an expert overseas who was clearly, when one considers those questions, out of touch with the reality of the situation on site?

25

A. No, I don't think it's fair to say he was out of touch. I think, I mean he was trying to gather as much information as possible to give informed commentary. I think also that others dealt with him and we plugged him into the front end of the mine in a very short space of time.

30

Q. If we could have up on the screen, because it's reasonably hard to follow, Ms Basher, Assistant Commissioner Nicholls' brief, which is 29/1, paragraph 221?

WITNESS REFERRED TO BRIEF 29/1

Q. I just want to put to you what looks like a contradiction and what must have presented as something of a dilemma to you when you received this sort of information, in this instance from Mr Stuart-Black, paragraph 221, if we can focus on that.

5 A. Yes, so I recall that.

1630

Q. Mr Stuart-Black's view was that, "He could not see that anyone would be alive, but he would defer to Dr Beever." And then in the last sentence, "In relation to whether to seal the mine, his view was that this was incredibly high risk." So in the same paragraph we've got – he couldn't see that anyone would be alive. At the same time it's incredibly high risk if someone could be. What do you do when you're trying to make decisions on important issues like this when you have that sort of information passed to you? Do you have any way of testing it? Can you go back to the site? Can you pick up the phone and ring Doug White or Mines Rescue or all those experts that we've heard from, Solid Energy, on the site and ask them about that?

10

15

A. You're correct in that you would test the dilemma to try and come to some conclusion as to what is the best option going forward, and this was a real challenge. I mean if you go into the mine people may die. If you don't go into the mine people may die.

20

Q. It puts you in a very difficult position, I suggest, because you are for all intents and purposes on underground mining a layperson?

A. That's correct.

25 Q. And you are trying to weigh up in a tense and difficult situation a whole lot of competing pieces of information from experts?

A. Yes that's correct.

Q. And then no criticism to Mr Stuart-Black, and he may be able to expand on this when he gives evidence as to what he meant, but on its face it appears contradictory. Do you accept that?

30

A. On its face, but I think it's, you know you've got to, I guess appreciate the whole conversation and I know this is only part of it, and reflecting back nine months is really challenging, but at the end of the day this

was part of a conversation in which a number of people had a contribution to make and you're absolutely right, I mean, and this is one of the dilemmas in terms of weighing up the various pieces of information and then making the best available decision on the information.

5

Q. With this separation of the roles?

A. Sorry?

Q. With this separation of the roles which you've so carefully described as between forward base, Greymouth incident control, and national headquarters?

10

A. Mhm.

Q. Is it not permissible for someone in your position faced with this sort of contradictory evidence or the dilemma that was so stark, for you to pick up the phone and have more direct conversations with experts on site who maybe better able or better equipped to give you some frank answers?

15

A. Well, the difficulty is, of course, you simply cut across the incident controller and then start running the whole operation from another location or another site. The mechanism that you would generally put in place is guidance from specialist advisers and that's the mechanism that we relied upon, bearing in mind advisers were plugged in at the forward command, at the incident control level and the response co-ordination level.

20

Q. You've described the system as being flexible?

25

A. Yes it is.

Q. So when you as, for all intents and purposes, being a layperson on underground mine issue relying in Wellington on the views expressed by people who are also brought into it in a difficult situation, is it not flexible enough to engage with multiple agencies and expertise on site to help you with some of those careful decisions and involve Superintendent Knowles so you don't cut him out of the loop?

30

A. Well, I mean essentially that's what happened. There was engagement across agencies at various levels. I know that I am almost certain that

Jim Stuart-Black I think went to Greymouth and went to the mine. I'm almost – I know that Dr Paula Beever was there at times. So there was that ability to get some really front-end experience and information and bring it back at the strategic level. I know Gary Knowles visited the mine site on a number of occasions. So what you're suggesting in essence did occur. I know -

5

Q. From others. I take it from your answer but not directly from you, but from others within your expert panel or team if you like?

A. Yes, and I know that my understanding was that Dr St George had been to the mine and in fact been in the mine and done some work in relation to the mine, so there was that –

10

Q. Well I was going to mention him because he says in his evidence – sorry your evidence at paragraph 226, that he told you that the best teams in the world were at Greymouth?

15

A. Yes.

1635

Q. And advice from those Mines Rescue experts was, quote, “The best you can get.”

A. Yes, he did say that.

20

Q. Just reflecting on that, with those words echoing in our ears, I want to go back to this sealing question, just briefly, Mr Stevens has taken you carefully through that. The proposition was put to you, which you didn't accept, you do not think that the Department of Labour and the police position shut down informed debate with onsite experts about sealing?

25

A. The difficulty I have with the proposition is I actually wasn't at the meeting.

Q. As a general proposition though, you don't think that it was shut down over all the course of this operation there was no police, Department of Labour intervention which shut down an informed debate, is that right?

30

A. I know that Steve Christian, the acting response co-ordinator had an issue with sealing the mine. I think that was on the night of the 20th perhaps.

Q. Well, let me confine it to what you know. Did you know of the onsite discussions which were taking place, about the option which was a partial seal which would've served the dual purpose of preserving any life and quelling any fire?

5 A. No.

Q. Thank you. So, given your lack of knowledge on that, with respect, crucial issue, at your high-level strategic position, does it not follow that the proposition is correct, the Department of Labour and the police effectively shut down informed debate about the options for sealing, because you didn't even know about it?

10

A. Well, as I say, I wasn't at the meeting that you're referring to so it's very difficult for me to comment whether or not it was shut down. I mean there could've been, for all I know, a wide ranging conversation where options were considered and discounted, so I can't say that a conversation was shut down in the context that the hand was put up and said, "No more discussion on this," or it was a carefully considered position that didn't go any further.

15

Q. Well, it didn't get to you did it?

A. No. My recollection was that the favoured option was the GAG that it would inertise the mine very quickly and allow entry.

20

Q. We're talking now, sorry to interrupt assistant commissioner, on about the Saturday, the Sunday and the Monday where the evidence is littered with comments from people who know about these things from Mines Rescue in particular and from New South Wales Mines Rescue, Mr Devlin, when he arrived there on the Saturday night, midnight to the first incident control meeting you went to he raised it and was told it wasn't an option by the police.

25

A. So, you're talking about a partial sealing of the mine?

Q. Partial sealing of the mine which would've allowed oxygen to continue to go into, you thought, the clean room, through the compressed air line, but would also allow men to get out because oxygen would've remained in the drift, and it would've allowed controlled ventilation so therefore, quelled any fire?

30

A. Yes, well, I'm not aware but.

WITNESS REFERRED TO MRS0049 – INCIDENT SITUATION REPORT

Q. You recognise this as an incident situation report, taken at 12.00 pm on the 20th of November, so the day after the explosion?

5 A. It's not a format that the police use.

Q. Have you seen this document before?

A. No.

Q. Well, you can see there that it's prepared by Mr Smith, you know that he's a Mines Rescue officer?

10 A. Yes I do.

Q. And his reference to actions taken, "Seal fan shaft with tarps as alternative to portal, seal 600 millimetre hole," which is a reference to the Slimline shaft?

A. Mhm.

15 Q. But that's the sort of information that wasn't getting through to you was it?

A. Well, the information about sealing the Slimline shaft did because that actually occurred.

Q. In sealing the vent shaft and the Slimline shaft.

20 A. They both occurred.

Q. But not the portal as an alternative to the portal, is a reference amongst the discussions to partial seal?

A. Well I haven't seen this document.

1640

25 Q. Okay.

A. This is the first time I've seen it.

Q. Do you think now, again with the benefit of hindsight and with the Commission's directive that we look forward where we can, that it would have been beneficial for you to have had direct access to the innumerable talent that was at the mine site, which was trying desperately to have these discussions raised, fully debated, and put into effect, rather than shut down, it would appear, at the forward command centre?

30

A. Well I don't know that they were shut down. So, as I said, I simply wasn't at the meeting. I wasn't even in Greymouth.

5 Q. Moving on, the day of the second explosion, the Wednesday of that week, we've heard evidence about some activity in the afternoon around a possible re-entry, there was some discussion, you will recall, in early afternoon on the Wednesday about whether there was an opportunity to go into the mine?

A. You're talking about the 24th?

Q. Yes.

10 A. Yes, I recall that day.

Q. However, in your evidence at paragraph 244 you acknowledge that while the assessment documents had been provided to Police National Headquarters the experts are reconsidering the data and have decided not to proceed?

15 A. Yes, I learnt that later.

Q. And Superintendent Knowles was about to telephone you with this update when the second explosion occurred?

A. Yes, I think the second explosion occurred at 1438 hours on that day.

20 Q. And he indicated it appeared the explosion was so intense that no one could survive?

A. Yes.

Q. So he must have contacted you shortly after that?

A. Yes, he did.

Q. And told you of the outcome of the risk assessment?

25 A. I think it was he or Inspector White contacted me, but I certainly had a discussion with Gary Knowles.

Q. And then he told you there was going to be a families meeting at 4.30 when this further devastating news was going to be delivered?

A. Yes.

30 Q. So as at 4.30 Superintendent Knowles and others who attended that meeting knew that Mines Rescue had determined that they weren't going to go in and there was insufficient evidence or information to allow them to do that?

A. I assume so, I can assume so but I can't be categorical on it?

Q. Well that seems reasonable from the evidence I've just read to you?

A. It does seem reasonable from the evidence.

5 Q. So how is it do you think that, and again this is part of your quality
assurances what's told to the families, you said you kept a constant
watch on, that that meeting can be so disastrously managed where at
the outset of it Mr Whittall, Superintendent Knowles in attendance, tells
the families that Mines Rescue were about to go in, were geared up to
go in, kitted up to go in, resulting in the spontaneous outburst of
10 applause at the prospect of that happening when you knew, the police
knew, that in fact that wasn't the case?

A. Well I learnt later that they weren't going to go in. The best available
information I had was that a window of opportunity, for want of a better
phrase, was potentially going to open at about 3 o'clock, that I would get
15 draft risk assessments, that they needed to be turned around quickly, I
put a lot of people on standby, the risk assessments came in at about
1400 hours from memory, they were turned round in 28 minutes and we
came to the same conclusion, well the team that assessed those risk
assessments came to the same conclusion of those at the IMT.

20 Q. So that's national headquarters perspective but the police here in
Greymouth in control of the situation knew at 4.30 when they met with
the families that the Mines Rescue were not going to go in, didn't they?

A. Well that's a question best put to Superintendent Knowles.

1645

25 Q. Okay. And finally, I just want to question you about the importance of
re-entry to the police and to the families. You obviously recognise and
have been helpful in recent months with your communication with the
families about the importance of re-entry to the underground reaches of
the mine, haven't you?

30 A. Yes, thank you.

Q. And you attended the meeting that was organised with the co-operation
of all parties really on the 23rd of May in Christchurch when we
discussed re-entry?

A. Yes, I did, I was there.

Q. And one of the outcomes of that meeting was that it was agreed that entry, if at all possible, would be a priority for those who attended that meeting, which included Mines Rescue, the Department of Labour,
5 police, families obviously, the union and the receivers?

A. That's correct, that was one of the outcomes that was publicly stated.

Q. Are you able to assist the Commission as to the value or otherwise to the police in the first part of this question, of having access to the scene?

10 A. Access to the scene is desirable from the investigation perspective, but not necessarily essential. The commissioner of police at the time, Howard Broad, in December determined that he didn't, and the New Zealand Police didn't need entry for him to fulfil his statutory obligations.

15 Q. Statutory obligations in terms of investigating a possible breach of some piece of legislation?

A. In particular the Coroners Act, there's obligations there, and the criminal investigation. This issue, sorry the criminal investigation is being, is still in progress. We're advised by a number of specialists in terms of a
20 number of areas and I've yet to receive that report.

Q. And what about the value to the Commission from your perspective of being involved with this throughout to having access to the scene, as you know, one of the vexed issues is what happened, where the men are, where the rock falls are and so on. From your perspective, do you
25 think it would be of value?

A. That's a matter for the Commission, whether –

Q. That's why I said from your perspective.

A. Yeah, I thought that. The issue is there that, as I said, we will determine what may have occurred on the basis of advice, that advice has yet to
30 be received and I've yet to receive the report to consider next steps.

Q. I take it that if access is possible, and putting financial considerations to one side which the families have been assured is not an issue –

A. I can assure you that during the course of the operation, financial matters were never a consideration.

Q. But now when you're not in control of the site, you're less able to say that, or are you able to say that financial constraints are not an issue?

5 A. Well, financial constraints as far as I'm aware aren't an issue, but clearly it's got to be remembered that Pike River Coal receivers are responsible for the site.

10 Q. Yes, that's understood, and I take it consistent with the discussions you've had with the families that you remain supportive of the objective of entering the inner reaches of the mine beyond the rock fall, if that is possible and safe?

15 A. We've been working with Mines Rescue Service, Mark Harrison's been – Inspector Mark Harrison's been in regular communication with Trevor Watts in determining what the police role will be and how we can contribute to a successful recovery and those discussions are ongoing. The New Zealand Police have been doing a considerable amount in the background if you like, to assist in that objective.

20 Q. And finally the two matters, the current position from your perspective, there is on the table at the moment the prospect of cameras going down the boreholes which have now been drilled?

A. Yes, that's correct.

1650

25 Q. Of a better quality than we've had to date and with a light attachment to it, which allows us to see some 40 to 50 metres into the drifts or into the stubs, whatever we're looking at, is that right?

A. Yes. That's right. One of the limiting factors has been the illumination source and we've managed to get one in from Australia which should be quite useful.

30 Q. And what's your understanding as to the timing of that so that the Commission may have the benefit of that evidence?

A. Well we were hoping to have it done by now, but unfortunately that's not been the case. I understand it's going to happen in a week, within a week or two. We've –

Q. So there's still the intention of the police working with the mine to have that information available by the end of Phase Two hearings?

A. I would like to have it available for the Commission by the end of Phase Two hearings. As I say, police intention was to actually have it available long before Phase Two but that was not the case.

Q. And finally, the issue of the reconnaissance walk, and by that I mean a walk into the drift with respirators by Mines Rescue as far as they can reasonably and practically go in order to ascertain the drift and where it might be possible to build a further seal within the drift. Are you familiar with that?

A. I'm familiar with what's being proposed. I couldn't answer questions on the detail of it though.

Q. And you're aware that the Mines Rescue Service are right now happy to do that because the mine is in such an inert state that it is quite possible for them to do so? You know that?

A. I'm aware, having spoken to Trevor Watts, that they are very keen.

Q. And in fact the atmosphere in the mine is good as it's ever been since the time of the explosion in order to effect that walk?

A. I understand that's the case, but I also understand that the receivers have a different view.

Q. So the police are lending what weight and support they can to assist MRS and ensuring that that takes place sooner rather than later?

A. We've been working with MRS to provide our input in terms of the DVI process. I have contacted the receivers and received a communication from them this week, which stated that. It was a letter copied to Mr Davidson QC. Fundamentally, they felt it was still not safe.

Q. And finally, can you confirm you may not be able to do that. There is a meeting today, in fact after we conclude, amongst interested people, including the receivers and Mines Rescue to discuss this very issue?

A. Sir, I wasn't aware of that meeting.

**THE COMMISSION ADDRESSES MS McDONALD –
CROSS-EXAMINATION**

CROSS-EXAMINATION: MS SHORTALL

Q. Assistant commissioner, you said yesterday that the company had no effective emergency response plan or a standard operating procedure for an explosion. Do you recall that evidence?

5 A. Yes, I did say that.

Q. But the company's written emergency response plan specifically covered circumstances including explosions didn't it?

A. I think it had a brief reference to an explosion but it's not where I would consider detail.

10 Q. And the company's written emergency response plan included a system for classifying the severity of emergencies, such that level 1 for the most serious events, addressed fatalities or trapped miners. Do you recall that?

A. Yes I do.

15 Q. And the company's written emergency response plan provided for the establishment of an incident management team in the event of an emergency. Do you recall that?

A. Yes I do.

1655

20 Q. And the company did establish an incident management team following the explosion on the 19th of November didn't it?

A. My understanding is that Doug White was part of an incident management team that was established at the site.

25 Q. Let me just turn to, just briefly, communications with the families, assistant commissioner, you gave evidence yesterday about your view that the twice daily briefings to the families placed, I think your words were, "An unreasonable burden on Gary Knowles," do you recall that evidence?

A. Yes, I did say that.

30 Q. Now, Superintendent Knowles has been the district commander of the Tasman Police District since around February 2009 hasn't he?

A. Yes, that would be correct.

Q. And he's a member of the New Zealand Police Senior Executive?

A. Yes he is.

Q. And prior to the explosion, Superintendent Knowles had substantial experience in emergency response operations didn't he?

A. Yes he does have substantial experience.

5 Q. And in the course of Operation Pike, would be fair to say, assistant commissioner, that he had the full support of the New Zealand Police behind him?

A. Yes he did have the full support.

10 Q. And while Superintendent Knowles worked the dayshift, another superintendent initially ran the incident control nightshift, right?

A. That's correct.

Q. And you said yesterday that you considered Pike River's involvement in these twice daily family briefings to be central, right?

A. Yes it was.

15 Q. And Mr Whittall was involved in attending all of the twice daily family briefings wasn't he?

A. Yes, as far as I was aware he was.

Q. And do you understand, assistant commissioner, that Mr Whittall was available throughout this period 24/7?

20 A. Yes, I'm not aware of a period where he wasn't.

Q. And you understand that he had no equivalent to share the burden of either a day or nightshift?

A. I wasn't aware of that.

25 Q. Do you understand that he had no prior experience in addressing family groups, like he needed to, following the explosion?

A. No I wasn't aware of that.

Q. Do you understand that he had no media training at that time, assistant commissioner?

30 A. I heard that he'd undergone media training very early on in this operation.

Q. Well, Mr Whittall can give evidence to that in due course.

A. It may not be correct, but that's what I heard.

Q. But do you understand that Mr Whittall had only been Pike's chief executive officer for a handful of weeks before the explosion?

A. I thought he'd been chief executive officer for some months.

5 Q. From early October 2010, does that accord with your recollection?

A. I accept what you say.

Q. And you said yesterday, assistant commissioner, that you were grateful to Mr Whittall for his involvement in the family briefings. What did you mean by that statement?

10 A. He appeared to me to have a good grasp of mining. He knew the mine back-to-front and he shared his knowledge willingly.

1658

Q. And you mentioned yesterday how the police added objectivity, given the personal and emotional connection that Pike management had with the missing men, didn't you?

15 A. Yes.

Q. Have you read Mr Whittall's brief provided to the Commission for this phase of the inquiry?

A. I've read through it when it was filed but if there's a particular passage I can –

20 Q. Well do you understand, and it's recorded in Mr Whittall's evidence, that at a meeting with the police on the 20th of November it was said to Mr Whittall that he was to meet with the police before family briefings?

A. If that's what the brief says, I'm not aware of that instruction but...

25 Q. Were you aware of an instruction that in attending these pre-briefing meetings part of the objective was to ensure that the police knew what Mr Whittall was going to say?

A. Well I would suggest that the pre-briefing was to ensure that everybody was up to date with the information and were able to share whatever information was available between the parties. That's what I would expect.

30 Q. And would part of that purpose be to ensure consistent information, would that be in accordance with your expectation?

A. Yeah, I mean I think if you're part of one meeting a degree of consistency coming out of the meeting is always useful.

5 Q. And so if the police believed that Mr Whittall was going to give false hope to the families they could have told him so in these pre-briefing meetings, couldn't they?

A. There was an opportunity to discuss a variety of matters I would suggest.

10 Q. And if the police believed that Mr Whittall was actually giving false hope to the families during the family briefings the police could have made that exact point to the families at that time, couldn't they?

A. Yes, and I don't know what discussion occurred between police in Greymouth and Mr Whittall, that could be a matter for Gary Knowles.

COMMISSION ADJOURNS: 5.01 PM

INDEX

CROSS-EXAMINATION: MR GALLAWAY	1669
CROSS-EXAMINATION: MR STEVENS	1727
CROSS-EXAMINATION: MS SMITH	1762
CROSS-EXAMINATION: MR HAMPTON	1766
CROSS-EXAMINATION: MR RAYMOND	1774
CROSS-EXAMINATION: MS SHORTALL	1807