



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 14 SEPTEMBER 2011 AT GREYMOUTH**

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**COMMISSION RESUMES ON WEDNESDAY 14 SEPTEMBER 2011 AT
10.00 AM**

THE COMMISSION:

Just before we proceed with Assistant Commissioner Nicholls' evidence, the
5 Commission has been thinking about the conference that's presently
scheduled for this evening. That conference has been convened in response
to the joint memorandum which, I think you took the lead role in filing,
Mr Moore. I'm not aware whether that memorandum has been made
10 available to any parties other than those who signed it, the Commission, and it
was yesterday, or a day or so ago, provided to Ms Shortall as well, but beyond
that, has it been circulated?

MR MOORE:

My understanding is it has been sir, and I, certainly if it hasn't been, if any of
15 the parties make contact with me, I'll make sure they get a copy, but we've
done our best to do that.

THE COMMISSION:

Thank you. Ms Shortall, we're grateful for the memorandum that you've
20 provided that the Commissioners have only seen this morning, but may I ask
the same question, who at the moment is privy to the contents of that
memorandum?

MS SHORTALL:

25 Your Honour, we believe it has been circulated to everyone via email, but I
would make the same offer that Mr Moore has, if anyone believes they've not
received a copy, they could make contact with us.

THE COMMISSION:

30 Well, we have two concerns. The first is that everybody does have an
opportunity to consider both those memoranda, because they really set out
the competing views, if you like, as to how Phase Three should be handled.

And the second thought, or concern that the Commissioners have, is whether it isn't rushing things to do it tonight. It may be better that the conference be held tomorrow to enable people to properly consider, particularly Ms Shortall's memorandum, which has only surfaced as far as I'm aware this morning, and
5 that's not a criticism. So, is anybody troubled if we re-schedule the conference and do it tomorrow evening rather than this evening?

GRANT ALEXANDER NICHOLLS (ON FORMER OATH)**CROSS-EXAMINATION: MR WILDING**

Q. I wonder if we could have please Ms Basher SOE.001.00027/18, and if we could highlight please the second and third paragraphs. Assistant commissioner, I'll just read this out. "Initially the incident controller will be the senior first responder to arrive at the scene. As additional responders arrive control will transfer on the basis of which agency has primary authority for overall control of the incident. As incidents grow in size or become more complex the responsible jurisdiction or agency may assign a more highly qualified incident controller." Do I gather from that that the lead agency may change throughout the course of an emergency?

A. Yes, that's correct. The lead agency may change or you may use a phase controller to deal with a particular issue where they have expertise, but you're correct.

Q. And also that that incident controller may change throughout the course of an emergency?

A. That's a possibility within CIMS, yes.

Q. Does the incident controller have to be from the lead agency?

A. I don't know of any instance where it hasn't been.

Q. And I'll deal with this point later, but I'll just read it out. "At transfer of control the outgoing incident controller must give the incoming incident controller a full briefing and notify all staff of the change of controller." I take it you would agree with the importance of ensuring that all those involved in an operation are aware that there is a new incident controller?

A. Yes.

Q. Ms Basher, if you could just highlight the diagram at the bottom of the page please. This sets out below the incident controller's three roles, planning intelligence, then operations, then logistics. Would I be correct in understanding that under the CIMS model the heads of those three roles don't have to be filled by members of the lead agency?

A. Yes, that's correct.

1006

5 Q. Because one of the advantages of the flexible approach under CIMS is that the multi-agency response is reflected in potentially other agencies having a lead in planning or operations, for example?

A. Yes, you capitalise on the expertise available, and the flexibility of CIMS is referred to at page 9 of the handbook.

10 Q. Would you agree that where a company has, and is implementing, its own emergency response plan, then it could be regarded as being the first responder on the scene?

A. Yes, they would be initial action responders and those plans should be written consistent with the CIMS framework in New Zealand.

15 Q. So if, for example, we took an incident on an offshore oil well in which the operator was already implementing an emergency response, it would be the lead and have its own incident controller under CIMS?

A. They would by virtue of the fact of proximity and geography and matters of that nature, they would take initial control. That would be fairly obvious.

20 Q. And similarly in the case of, for example, Pike River where Pike River was implementing an emergency plan regardless of whether it's accepted that that was sufficient and that was being done by Mr White, then Mr White was at that stage the incident controller?

A. I think Mr Duggan was in fact probably making some decisions earlier on and then it went to Mr White.

25 Q. And the lead agency at that time, so to speak, would have been Pike River Coal Limited?

A. By virtue of the fact that they were on site.

Q. And having assumed those roles under the CIMS model the change in those roles only occurs two ways. One is by agreement?

30 A. Correct.

Q. And the second is where legislation requires it?

A. Correct.

Q. In this case, was there a civil defence emergency management plan which dealt with who should take the lead in mine emergencies on the West Coast?

5 A. There is a plan. I think it was dated 2005, I can help you with that, but it has been superseded. I know the West Coast, it's entitled I think, the "West Coast emergency management plan, operative plan," – sorry, the "West Coast Civil Defence Emergency Management Group Plan." That's the 2005 version I think from memory. And at page 28 there's a table, 3.3. Specific response issues and functions. Structure collapse and mines. Probable lead agency/mandates New Zealand Police. Key support agencies, Urban Search and Rescue, local rescue teams, New Zealand Fire Services, Mines Rescue team. And just reiterating that I understand that that was a 2005 document and there is one that was produced in 2010.

15 1009

Q. And that 2010 document didn't provide for who should take the lead role, is that right?

A. No, unfortunately it was silent in that.

20 Q. And that would've been the plan that was operative at the time of the Pike River emergency?

A. It would but in my view it's a less effective document than the one that was produced earlier.

25 Q. And under CIMS where there's going to be agreement about who should take leave, I presume that involves consideration of who might be best placed to fulfil the role of lead effectively?

A. Yes.

Q. And that's made that decision with regard to the relevant information known at the time?

A. Correct.

30 Q. And in fact, as more information comes through it might be re-evaluated?

A. Yes, that's correct and that's what occurred.

Q. Just if I could take you through the timing, the explosion, the first one occurred at 3.44 on the 19th of November. As I understand it, the police took the lead at 5.20, at paragraph 64 of the witness statement of Superintendent Knowles, Deputy Commissioner Rickard confirmed the police as lead at about 5.40 or thereabouts?

A. Yes, the deputy commissioner was based in Wellington and made that call.

Q. And at that time the police would've known that there was a mine emergency involving a single site?

A. Yes.

Q. With the potential for multiple fatalities?

A. A very complex environment would've been anticipated as was the case.

Q. And at that stage they wouldn't have been aware of the extent of the expertise that Pike River Coal might've had?

A. Well, I can't say, I wasn't on duty, well, I wasn't in Wellington on the 19th I wasn't working on the operation on the 19th.

Q. Well, given the limited timeframe, do you accept that it's likely that the police in Wellington wouldn't have known of the expertise that Pike River Coal might've had?

A. No I don't accept that.

Q. Right. Do you understand, or do you have information suggesting that that police were aware of the expertise that Pike River Coal had?

A. No.

Q. Right. Are you aware if they had information about the expertise of this statutory mine manager?

A. No, as I said, I wasn't in Wellington on the 19th. I wasn't working on the operation on the 19th.

1012

Q. Ms Basher, if we could have please, POLICE.BRF.11/5?

WITNESS REFERRED TO POLICE.BRF.11/5

Q. Assistant commissioner, this is – paragraph 23, if that could be highlighted please of the witness statement of Constable Cross, and

he's referring to events at about 5.20 on the 19th, and he says, "I did not ask Mr White what plans they had in the event of an explosion in the mine, or for a rescue as I knew we had to wait for Mines Rescue to arrive and start that process. Mr White had said that Mines Rescue had been contacted and were being flown to the site." Would you accept from that that the police at the time of taking the lead wouldn't have known of the efficacy or otherwise of the Pike River Emergency Response Plan?

A. That constable didn't.

10 Q. Well, to your knowledge was there some other police officer who did?

A. No.

Q. Are you aware of whether the police in Wellington who made the decision were aware of the design and layout of the mine and equipment in it?

15 A. I suspect not.

Q. Yesterday the issue of knowledge of Mines Rescue was dealt with. I'll move on perhaps. There was reference yesterday to not being trained in the conduct of underground mine rescues. Is it fair to say that you also hadn't had experience in running a mine rescue operation?

20 A. A mine rescue operation? Correct.

Q. And I presume are you able to say whether Superintendent Knowles had had personal experience in running such an operation?

A. Not that I'm aware of, but this is about co-ordinating an incident management approach, not technical knowledge in mining.

25 Q. By some time on the 20th, it must've been apparent to the police what a difficult and specialised area mines rescue was?

A. A confused and chaotic environment and I think it was Daniel Duggan who described it as chaos, which order had to be brought to in a very short space of time.

30 Q. But one which also involved specialist terminology?

A. Yes.

Q. And specialist concepts?

A. Yes. But in some respects not that much different from other operations that we involved where there is degrees of speciality and technical matters.

5 Q. But sufficiently so, I'm right am I, that police had to be briefed as they came into the operation on what some of the specialised terminology and concepts were?

A. And that's totally appropriate.

1016

10 Q. I could take you please to summation, SOE.001.00027/37, and if we could please have the paragraph highlighted under, "Task," first paragraph. You will see that one of the tasks for the incident controller is to assess the instant, start to consider what is the problem, how is the situation likely to develop, what resources will be required?

A. Yes, I see that.

15 Q. And there is a similar function for the resource controller I think as well, is that right?

A. There is no resource controller.

Q. Sorry, the response co-ordinator?

A. Yes.

20 Q. And if we can just go to summation ending 36 of the same document, and that's set out at the top in a similar place on that page?

A. Yes, I see that.

25 Q. Would you agree that it would be very difficult to evaluate certain of those matters, how is the situation likely to develop and what resources would be required without having specialist knowledge relevant to underground mine rescues?

A. No.

30 Q. Well would you accept at least that if you didn't personally have that knowledge you would need to have alongside you an expert to give you advice about, for example, how such an incident might develop?

A. And that's exactly what we did.

Q. And you would want that expert to be alongside you essentially from the start?

A. And my understanding is we did get expert advice.

Q. By about the 20th you had available to you at least seven first class mine managers, Mines Rescue Service, Queensland Mine Rescue and SIMTARS, would that have been an appropriate day to evaluate or review whether the police should continue to fulfil the various roles within the structure that they'd set up?

A. Yes.

Q. And with that benefit of hindsight might it have been appropriate for some of the roles, for example operations, to have been performed by someone from one of those specialist agencies?

A. Yes.

Q. And do you think that someone from one of those specialist agencies might also have been able to perform the role of incident controller?

A. No.

Q. Do you think it would've been helpful if someone from one of those agencies worked directly alongside the incident controller?

A. Yes.

Q. If we just turn to the decision-making structure, and Ms Basher please may we have PNHQ.00203/28.

20 1020

WITNESS REFERRED TO PNHQ.00203/28

A. And you'll see that this is headed, "Command in signals Operation Pike PNHQ command chart, 20 November 2011 dayshift," and this is from one of the briefing documents of the type that you saw yesterday. Do you agree that that sets out the command chart structure as at 20 November?

A. As at the time that it was drafted and I would say that there are perhaps some lines in the wrong place in that document.

Q. Right, but the main structure Deputy Commissioner Pope, then you, then Superintendent Knowles, and then we're down to forward command. That part is right?

A. That's fundamentally the structure yes you're correct.

Q. And how long did that structure remain the same for?

A. The majority of the operation from memory.

Q. Through to what month or day, can you remember?

A. I can't remember the day but I would say at the handover.

Q. Right, so through to 2011?

5 A. Yes.

Q. Are you able to explain please what the role of Deputy Commissioner Pope was?

10 A. More of a governance role in terms of being able to raise and discuss issues with him. A senior, a very, very senior member of the police who was able to provide advice and guidance if it was necessary.

Q. Did he have a decision-making role, for example, in relation to whether to seal the mine or send people into the mine?

A. That decision would have been discussed with him because it was such a significant decision.

15 Q. Ultimately whose decision was it?

A. It would have been the response co-ordinator's ultimate decision.

Q. If I could ask Ms Basher please for PNHQ.01297/2?

WITNESS REFERRED TO PNHQ.01297/2

20 Q. This is part of the Operation Pike event log, and am I correct in understanding this is the police's log?

A. That's correct.

25 Q. And Ms Basher could you please highlight the centre third under the heading, "Christian"? This is a portion of the log 0130 hours, Sunday 21st of November, and the third bullet point reads, "Advises that a watch group decision will be required especially with new info re clean room call." Who were the members of the watch group?

A. They are senior officials back in Wellington who are either heads of department or their representatives.

Q. Are you able to name them or name the organisations represented?

30 A. I can name the organisations. I stand corrected if I miss anybody out. Department of the Prime Minister and Cabinet, Ministry of Social Development, Department of Labour, Department of Conservation,

Crown Law. I think the New Zealand Fire Service may have been on the watch group, but I stand corrected if they weren't.

Q. The phrase, "advises that a watch group decision will be required" implies that the watch group had some decision-making ability?

5 A. Not correct.

Q. So that's just not properly worded?

A. That's my view.

Q. What was the role?

A. I wasn't taking direction from the watch group.

10 Q. What was the role of the watch group?

A. Advisory, in terms of advising them not us advising – sorry, us advising them, keeping them up to date on what was going on, not making decisions.

1025

15 Q. Ms Basher, the same document but page 3, so the next page please? If we can highlight the whole of the centre third under the heading "Sit Reps." Just the last bullet point under sit rep, Mines Rescue options: the sealing mines options to be forwarded by 06.00 to be presented "O' desk." I think "O' desk" should be spelt, O-D-E-S-C, is that correct?

20 A. That's correct.

Q. Are you able to explain what the role that ODESC have?

A. Officials Department External Security Committee, it's similar role to the Watch group that you referred to, I think what they've done here in this document, is referred ODESC and Watch group, I think, they're actually referring to the same entity. Whoever authored that.

25

Q. And so was that advising ODESC rather than ODESC having any decision-making role?

A. I can assure you ODESC did not have a decision-making role.

Q. Thank you and if we can just move on please to document
30 PIKE.17607/1.

WITNESS REFERRED TO PIKE.17607/1

Q. We've already had this displayed to us.

A. Yes I recognise it.

Q. Just want to clarify certain matters. Under, "Decision," it says at the top, "Change in public message from rescue to recovery." In search and rescues, can there be a difference between what's going on operationally and the public message?

5 A. Not normally.

Q. In this case?

A. Not that I'm aware of.

Q. Down the bottom, "Any significant changes to the present situation such as critical changes to atmosphere, condition of environment or state of the mind," which presumably should be mine?

A. Should be mine, yes, that's correct.

Q. The matters that would fall under that would include the drilling of boreholes?

A. Yes, this was more about, you know, significant changes in the gas conditions within the mine. That was my recollection of the thinking behind that. Because, I think, a later document actually specifically refers to the drilling of a borehole.

Q. Right, but if I can just capture the decisions intended to be included under that heading, "The drilling of boreholes?"

20 A. Correct director, if I can be of some assistance, it was entry to the mine, I summarised it as by man or mechanical means, so that gives you your boreholes, your people going in. Cameras going down, CAL scan, if that's helpful Mr Wilding.

Q. Thank you. And just off to the right, authority PNHQ, which stands for Police National Headquarters, are all of the Police National Headquarter decisions yours or were some of them yours and someone else's?

A. Well, if you're talking about the response co-ordinator role, because it was a 24 hour, seven day a week operation?

Q. Yes.

30 A. Sorry, yes, response co-ordinator.

Q. When I say, "Yours," that's for shorthand for your role?

A. Shorthand, for, okay, I understand.

Q. So all of those PNHQ decisions were the response co-ordinators?

A. Yes.

Q. Will you please have SOE.001.000027/29.

WITNESS REFERRED TO SOE.001.000027/29

5 Q. Just before I read out part of that, would you agree that decisions such as operation of a conveyor belt in the mine as an operational decision?

A. Yes.

1030

Q. Closure of the mine would be an operational decision?

A. Yes.

10 Q. Sending of people into the mine?

A. Yes.

Q. Cessation of recovery efforts?

A. Correct.

Q. Putting a robot or other device including a camera into the mine?

15 A. Yes.

Q. And also drilling boreholes, would be operational decisions?

A. Yes.

20 Q. Ms Basher, could you please highlight the paragraph immediately above where it says, "Figure 8: Multi incident response diagram?" Now, I'll read this, "The high level management structure will be primarily concerned with the systematic acquisition and prioritisation of resources in accordance with requirements imposed by hazard or impact of each incident or emergency. Note that this higher level structure does not include an operations function, but only co-ordination, planning/intelligence and logistics. Incident control is of individual incidents maintain control of their incidents." Reading that, the response co-ordinator under the pure CIMS model, does not have an operational decision-making role, would you agree with that?

25 A. You've used the words, "Pure CIMS model", that is correct, but the CIMS model is flexible and it can be flexible in the context of the environment that you're facing.

30

Q. Because those operational decisions fall within the responsibility of either the incident controller or the operations function under the CIMS model as portrayed here?

5 A. And under the CIMS model the response co-ordinator can consult with agencies, set priorities. A priority might be in relation to some activities that are going on in an operational sense, ensure effective strategies and identify critical success factors for co-ordination. Clearly there needed to be a lot of co-ordination in relation to the activities that were engaged in and I think I've already said that some of those decisions –
10 sorry, the decisions you've referred to, in the future would sit with the incident controller. As I said earlier in evidence, there's two ways of dealing with a matter. You can change a structure or your process. We elected to change the process and that's entirely acceptable within CIMS.

15 Q. If we can turn to the same summation document but ending 28? This is a diagram introduced on the preceding pages. "A major incident with maximum organisation support, all elements of long term complex incident are shown in the figure 7 example." In the future, where would you see the person who fulfils that task of co-ordinating all the resources
20 as sitting in a single site emergency, and in particular, would you see them as sitting under the incident controller and therefore subject to his or her direction, or about the incident controller?

A. Sorry, you're talking about co-ordinating resources, or?

25 Q. Yes, the person who's the response co-ordinator fulfilling the functions of essentially co-ordinating resources, those sorts of functions?

A. Well, no. There's more than functions attached to the response co-ordinator than co-ordinating resources. The logistics person is responsible for the co-ordination of resources.

30 Q. The response co-ordinator is responsible for the strategic direction support and co-ordination to incident management teams, is that correct?

A. Correct, which is much wider than co-ordinating resources.

Q. And is provided for in the context of a emergency going off multiple sites?

A. Correct, the response co-ordinator, but you could have a response co-ordinator with a single incident at a event because of its complexity,
5 at a single location.

1035

Q. In the context of a single location emergency would you agree that the function, however you define the title, of co-ordinating resources, identifying resources, locating resources, could be placed below that of
10 the incident controller and subject to his or her direction?

A. Well you've described a function that's already and that's the logistics function.

Q. Could we move on please to PNHQ00203/23. This is part of the briefing paper to which I referred and you'll see that the fourth bullet point down,
15 "Entry into the mine will be the decision of police and MOL with the advice of experts." And I presume MOL should be the Department of Labour?

A. Yes, I think it should be.

Q. And the decisions that that had make jointly with the police also included
20 the sealing of the mine. Is that right?

A. Yes.

Q. And they fulfilled an approval role in relation to other decisions, for example, boreholes, sending the robots?

A. The Department of Labour provided advisory role at the front end of the
25 operation and they provided support at the strategic level. I was aware that a prohibition order could have been issued at any stage, so it was important to join up the agencies. The issuance of a prohibition order never became an issue and I think that's because of the systems that were put in place.

30 Q. Would you agree that that splitting of perhaps sharing of a decision between two agencies, the police and the Department of Labour, is also not consistent with the pure CIMS model which had just one person from one agency having that power?

A. And you have correctly used the word, "Pure," and the CIMS model, as I said, is a very flexible model that can be adapted to the circumstances. And in this circumstance we had another statutory issue that had to be addressed and managed.

5 Q. Could we please have PNHQ03486/1? I think we've seen this, it's dated 23 November, we may have seen it yesterday. And this is an internal police memo, is that correct?

A. That's correct, it's a tasking sheet generated from Wellington.

10 Q. And this is for the purpose of getting a high level expert panel to provide police with guidance around strategic decision-making?

A. Provide advisory support, sorry, technical advice is my recollection.

Q. And under, "Results," it identifies what you were after, which was independent expert advice about survivability, gas and the usefulness of various rescue equipment?

15 A. Yes, I see that. That's a response, Dave White was at Greymouth, at the incident management team front end, that's his response.

Q. Right, so there are two panels sought, one for you and one for forward?

A. Well they had a, the incident management team had expert advice on the ground, which included Mines Rescue Service.

20 1040

Q. What was the purpose of the high level expert panel that you were seeking?

25 A. Quality assurance, assist with the risk assessment process, provide another level of - another avenue of consideration in terms of technical matters.

Q. In what topics?

A. The panel comprised of, as I said in previous evidence –

Q. Not the members, what topics did you want advice about?

30 A. There was survivability became an issue later. That's around the 24th of course. I wanted an understanding of the mine and Professor St George provided that having had been in there with his and having had the technical and academic qualifications to provide that. Department of Labour provided input in terms of risk, safety, health.

Dr Geraint Emrys, as I said, was a registered medical practitioner. Paula Beever was from the New Zealand Fire Service who was able to assist with matters of combustion, particularly in the coal seam, and Jim Stuart-Black was an expert in, and he is an expert, in search and rescue.

Q. We might turn later to where various advice was got from. If I could just ask please for PNH – well before we leave that, you'll see that the time at which that's been considered is 10.15 on the 23rd?

A. Mhm.

10 Q. If you could just please turn PNHQ03608/1, which is another internal police document on the 23rd at 11 o'clock, which starts by saying "Action required, contact Lesley Haines DOL and explain to her that the PIC is considering requesting a panel of experts." It continues on. Is this a follow-on from the document to which we just saw?

15 A. I couldn't say. I suspect it is, I'm not sure.

Q. Have you seen this before?

A. No. But that's not unusual. I mean there was thousands of documents generated, thousands, well hundreds.

20 Q. Well I'll just explain it briefly. There's the reference to contacting Ms Haines at the Department of Labour and then Dr Emrys is contacted, Ms Haines not being available and by 15.50 it says, "Emails meeting request from AC Nicholls sent 15.50 awaiting response," and 16.25 Mr Emrys, being Dr Emrys, confirmed his availability for this meeting?

25 A. Correct, and this looks like it's referring to the meeting that was held on the 24th.

Q. Although this was part of the process to try and identify experts?

A. Correct.

30 Q. Looking back, might the simpler approach have been to ask those at site, QMRS, Mines Rescue Service, Coal Services et cetera whether additional expertise was required and, if so, who they would recommend?

A. Yes, and alternatively they may have come forward and suggested them to us.

Q. You referred to survivability being one of the respects in which expert advice was sought. Perhaps if I can take you to PNHQ16410/1?

WITNESS REFERRED TO PNHQ.16410/1

5 Q. And the experts who gave advice about that, putting to one side the issue of medical practitioners, Mr White, Mr Hughes, Mr Singer, Senior Sergeant Paget, Mr Booyse, Mr Firmin, and if we can turn over to the next page, Inspector Harrison. So the experts who ended up giving the advice about that all turned out to be experts from down at Pike River?

10 A. Yes. And as I said, their contribution was valued. However, this information did go to a panel of medical experts who provided advice and that was, again, totally appropriate.

1045

Q. And if we can take you please to PNHQ04517/1?

WITNESS REFERRED TO PNHQ.04517/1

15 Q. And first the panel of medical experts were a panel of experts from within New Zealand?

A. They were convened by Inspector Harrison, so I've seen their names but I'm not sure whether they're in New Zealand or overseas. I think some of them have off-shore qualifications, so I can't say that they're in
20 New Zealand or where they are. I don't know.

Q. This is a tasking sheet, so an internal police document again, 26 November 2011, time, 18.29. "Could you please advise if a medical review panel has determined the non-survivability of the miners and advise if DHB is required to assist if the panel has not yet been
25 convened." Do you know when that panel was convened?

A. I think it was the 25th, I thought, or the 26th and I'm just reflecting on the documents. I know there's two, there's a survivability report, it's dated either the 26th or the 27th and the, no I don't know when the panel was convened. I think it's important to realise too, St John ambulance
30 service had been involved in this right from the beginning. Sorry, the ambulance service, I may be incorrect with St John.

Q. And do I understand or infer correctly from yesterday that that exercise determining survivability more appropriately might've started earlier on in the piece?

A. Yes.

5 Q. And in this case, decisions to have the mine inertised weren't made until after the Coroner had issued a certificate as to death, is that correct?

A. That's correct. That was the 28th I think. I think it's important to realise that the honest belief of survivability was held and I'd gone through that as to how that was arrived at and why we held that belief. And in
10 hindsight, the mine exploded for the second time. Mr Singer makes it very clear in his evidence that that may or may not have occurred.

Q. I'm not challenging that.

A. No, no, I'm just trying to be as full as I can with answering your question.

Q. Thank you. My query is this. Having had expert advice as to the death
15 of the miners, why was it necessary to then go that further step of having the certificates issued by the Coroner before a decision could be taken to, for example, GAG the mine or inertise the mine?

A. I think there's a legal requirement here in terms of legally these men are not dead until the Coroner has certified or until life extinct has been
20 certified and the death certificate has been issued. I mean this is an absolutely significant decision in terms of inertising the mine and it's not one that can be taken lightly.

Q. When the police call off a search and rescue, do they normally only call it off having received a certificate as to death from the Coroner?

25 A. Depends on the circumstances. Not normally. But this is not a normal circumstance. I think it's important, as I've given evidence before, understanding the context and dealing with matters in abstract, doesn't paint the reality at all.

1050

30 Q. I just want to return back again to parts of the CIMS model and turn to a concept known as the incident control point. Are you able to explain what that is?

A. That's fundamentally the forward command post where the main activity is occurring and the incident controller would normally be located. Of course there were difficulties with this operation because of the geography, the distance and matters of that nature. So it's not unusual for the incident control point to be shifted, or for the incident controller not necessarily to be resident at the incident control point.

Q. Sorry, so where do you say the incident control point was?

A. The incident control point was at the mine.

THE COMMISSION:

10 Q. Sorry, was where?

A. Mine.

CROSS-EXAMINATION CONTINUES: MR WILDING

Q. If I could just ask –

A. Oh, sorry the forward command post was at the mine.

15 Q. Sorry, where was the incident control point?

A. The incident control point was at Greymouth where Gary was, the forward command was at the mine.

Q. If we could please have that CIMS document again Ms Basher, the summation ending 21. I'll give you the number if you wish it. If we could just highlight the bottom paragraph, "Incident control point?"

A. Mhm.

Q. And I'll just read this. "The ICP is where the incident controller and members of the incident management team direct response activities in an emergency situation. Every incident will have an ICP. This may be in the form of a vehicle, trailer, tent or building." Next page please Ms Basher. And the top paragraph, "Having one ICP is critical when the incident involves more than one agency or jurisdiction. If the various agencies and/or jurisdictions are separated, it is hard to have an effective management system."

30 A. Yes, I said that.

Q. That seems to suggest that the incident controller must be co-located with the other agencies involved, would you agree with that?

A. That's what it suggests.

Q. And no doubt that's to help ensure that all relevant information is passed to and from and so that decisions can be made effectively and in a timely manner, would you agree?

5 A. I agree. And there was a lot of activity in terms of co-ordination and the role of the incident controller occurring at Greymouth and through the incident management team at the forward command. So there is – I mean I just highlight, there is flexibility within the model depending on the circumstance.

10 Q. Well that's a point you've made. I'm just trying to get a clear picture at the moment –

A. Yeah, I understand.

Q. And am I correct in understanding that whereas Superintendent Knowles was in Greymouth, other agencies, Mines Rescue, SIMTARS, QMRS, Solid Energy were located at the mine?

15 A. However, Superintendent Knowles, I understand was in a very regular communication with those agencies, including Mines Rescue Service. I understand there were briefings held at the Greymouth Station, and I also understand that the communication networks were not ineffective.

20 Q. Looking back though, do you think that communication and information sharing might've been more effective if all of those agencies were located together as suggested by the CIMS model?

A. You've got some realities to consider. One is the tyranny of distance, two is the geography, three is the travel, four is the commitment that Gary Knowles had in terms of other duties that he was performing, and five is the infrastructure and the facilities that were actually available.

25 Q. Did you travel down to Pike River in the course of this emergency and I'm talking about the timeframe from the 19th through to the 28th?

A. You talking about the mine site?

30 1055

Q. Yes.

A. Yes.

Q. How many times?

A. Twice I believe.

Q. Given that you had a significant number of the operational decisions that would under a pure CIMS model normally reside with the incident controller, in hindsight wouldn't it have been desirable for you also to be
5 co-located with those various other agencies involved in the response?

A. No.

Q. Why not?

A. It's not necessary for the response co-ordinator to be located with the incident controller. The response co-ordinator can be some distance
10 away. The response co-ordinator has other functions to perform, and they're outlined as you've correctly walked me through this morning.

Q. Where was the outer cordon?

A. The outer cordon?

Q. Was there an outer cordon, so to speak, in this operation?

15 A. Yes.

Q. Where was that?

A. Geographically I can't tell you where it was, but I suspect that the perimeter fence of the mine would've been a good starting point. We generally put in an inner and an outer cordon, and the outer cordon
20 would've been moved back, and I know there was a cordon, I can't tell you exactly geographically where it was. That would be a matter for Gary Knowles.

Q. If I could just take you to another document please, PNHQ03127/1. Does this set out the risk assessment process?

25 A. Yes, that's as it was drafted by Superintendent Christian.

Q. And through what timeframe does this apply?

A. I think he drafted that somewhere around the 24th, I can't give you the date, I don't know the date.

Q. But it would resemble the process –

30 A. It resembles the process.

Q. – that developed as early as about the 20th or 22nd, 21st?

A. No, I don't think so. I think it was drafted after that.

Q. I understand it may have been drafted later but does it reflect a process that started before it was drafted?

A. Yes.

Q. Right. And when did that process start approximately?

5 A. I can't be sure at this point. You saying when did the risk assessment process start?

Q. When did a risk assessment process, as set out here, start?

A. I can't give you the date.

10 Q. Just looking at some of those boxes, "Task or request for action," what does that mean?

A. An idea or a concept has been raised by the incident co-ordinator or the forward commander.

Q. So if we just follow that through?

15 A. And that's not quite accurate because my recollection was that the concept or the idea was formulated by the IMT and they were drafting up the risk assessments which then went to the incident controller for consideration as I described earlier in my evidence, and then up to the response co-ordinator. So I don't think this is quite 100%.

Q. And they would then be considered at the response co-ordinator level?

20 A. The response co-ordinator would distribute them to the technical panel, who we've discussed. They would provide contribution and then it would be either referred back for further work, accepted on the basis of conditions, or fully accepted.

25 Q. If there were perceived by those reviewers in Wellington to be difficulties with the risk assessment plan would they discuss those directly with the people who developed the plan?

30 A. That did happen on occasions. I can remember convening a telephone conference where we did discuss a risk assessment. I think there were 33 points of contention in one of the risk assessments. That was very much later in the piece, I think it was about February, and a telephone conference was convened to deal with that.

1100

Q. If I could just take you to DOL2000040020/3?

WITNESS REFERRED TO DOL2000040020/3

Q. This is part of an email from Ms McBreen care of the department to Mr Stewart and Dr Emrys dated 28 November at 12.51 pm, and it's part of the risk assessment for the moving of a sea container. And it says in
 5 it, "The following are matters we think the police should consider in making a decision to approve the step in the plan process. It is quite possible these matters have all been addressed but are not well recorded in the paperwork as we found with some matters yesterday." That would suggest that certainly at that stage in relation to that
 10 assessment there wasn't direct communication going backwards and forward between the reviewers in Wellington and forward base, would you agree?

A. On the basis of that, not seeing this document before.

Q. Well perhaps I'll put it another way. Did you or anyone else to your
 15 knowledge institute a process which required those conducting the reviews to direct or communicate directly with those at forward command?

A. A process?

Q. Mmm.

20 A. A formal process?

Q. Well, formal or informal?

A. Well there was an informal process and I referred to it where I had discussions with Doug White on occasions. He would raise issues with me and that was effective. And the issue of the telephone conference.
 25 In fact just reflecting, I think there might have been more than one telephone conference on a risk assessment.

Q. So just in relation to risk assessments though, was there any process implemented which required that any concerns with the risk assessments be discussed directly between the review panel in
 30 Wellington and those who conducted the assessments on the ground?

A. There was a mechanism available as I've described it.

Q. But it wasn't something that you required?

A. Required, no.

Q. Just turning to IMTs, which, as I understand, is an incident management team, is that correct?

A. Yes, that's correct.

5 Q. Would you agree that the purpose of IMT meetings is to develop objectives and strategies for dealing with an emergency?

A. Within the overall strategy, yes.

Q. And would you agree that within the context of a specialist mine emergency, that means that the majority of the members of an IMT meeting should have specialist mines expertise?

10 A. Yes. However, what's important in those IMTs is getting a cross-section of capability, given the complexity of the issues. A cross-section of capabilities, skill and experience I think would probably better describe it.

15 Q. Are you aware of whether there was any direction made that the composition of the IMTs ought to include a majority of those with specialist mines expertise?

A. A direction?

Q. Mmm.

A. Like, from me?

20 Q. Well, from you or anyone. Are you aware of the direction?

A. No.

1105

25 Q. Just turning to the multiple roles that Superintendent Knowles had, which is making some of the operational decisions, family liaison and media liaison. If we just turn to the CIMS manual.

WITNESS REFERRED TO CIMS MANUAL

Q. This time summation ending 19. You'll see there's a chart about two-thirds of the way down, "Incident controller," and then off to the right there are, "Information safety and liaison functions."

30 A. Yes I see that chart.

Q. And the information officer is the person who could handle all media inquiries and co-ordinate the release of information?

A. That's correct.

Q. Liaison officer is the on-scene contact for other agencies?

A. Yes, that's correct.

Q. And that could've included, presumably, some of the dealings with the families?

5 A. Yes, it could've, and that's the point that I've made earlier in my evidence.

Q. During that period of the 19th through to the 28th, was there any consideration given to fulfilling those roles?

A. Well the functions were fulfilled by Gary Knowles.

10 Q. Yes, was there any consideration during that period given to having those functions filled by someone other than Superintendent Knowles?

A. Yes.

Q. When was that consideration?

15 A. About the 23rd I think. I can't remember the exact date, but it was fairly early on.

Q. And to filling which roles?

A. Incident controller, Gary retaining the role of incident controller. And that's where I refer to changing the process and not the structure. The process was changed in terms of those decisions.

20 Q. Can I just turn to the issue of inertising the mine?

A. I just think to clarify that last question, upon, and I said it earlier in my evidence-in-chief, with upon reflection changing the structure would've been appropriate.

Q. Thank you. Can we just have Police.BRF.18/36?

25 **WITNESS REFERRED TO POLICE.BRF.18/36**

Q. This is paragraph 189 of the witness statement of Superintendent Knowles and that paragraph refers to the date of the 20th of November and Mines Rescue identifying possible fire fighting options such as use of high expansion foam, nitrogen, sealing the portal, GAG engine, reduction of airflow.

30

A. Yes I see that.

Q. You gave evidence on Monday that you became aware of the GAG option on the Tuesday the 23rd of November?

A. Yes, I may have been incorrect.

Q. It would suggest, wouldn't it, that if you didn't know of that until the 23rd there was a problem with the flow of information?

A. Yes.

5 Q. Has that been looked into?

A. The flow of information?

Q. Mmm.

A. Well, there was a debrief, and I think, you know, there has been lessons learnt.

10 Q. What was the result of the debrief insofar as the flow of information was concerned?

A. I can't recall exactly what the issue there was. I think in the main, the flow of information was effective.

15 Q. Just want to get out some of the chain of what's happened in relation to the GAG. Could we just have PNHQ04255/1?

WITNESS REFERRED TO PNHQ.04255/1

1110

Q. And this is another internal police tasking sheet, 24 November 17.45, just confirm this is from you?

20 A. Yes, that's a tasking sheet issued out of Wellington to Gary Knowles.

Q. "Question: Please advise if you require the jet engine from Queensland to assist in the recovery operation after having considered the capability of the engine and your use of it?"

A. Yes, I see that.

25 Q. So, at that stage it's important New Zealand hadn't been ordered –

A. Sorry, it's?

Q. It's important New Zealand hadn't been ordered by that stage?

A. I can't say whether that was the case or not. It may have been on standby from Queensland, I don't know.

30 Q. And you took advice from your Wellington based panel in relation to the use of the GAG?

A. There was a discussion.

Q. If we could please have SOE.002.00001/1?

WITNESS REFERRED TO SOE.002.00001/1

Q. And you'll see at the top, "Operation Pike telephone conference, attendees, Superintendent Duncan, Dr Emrys, Dr John St George, Jim Stuart-Black, Dr Paula Beever."

5 A. It's correct, that's a meeting that I wasn't in attendance. I think I was in Greymouth at that time.

Q. Right, and that was 1400 hours on the 26th?

A. Correct, it's what it's dated.

10 Q. The second paragraph reads, "I explained to them that the PRC had just received a chart from the PIC which provides three options to consider to remove oxygen from the mine." Do I take it from that that the purpose of this telephone conference was to help evaluate the various options for inertising the mine?

15 A. I'd have to familiarise myself with the whole document, but that's what it – this is what it looks like. It's looking at, I think if I go to pages 2, 3 and 4, and there's no need to do that unless I'm wrong, but this is options about inertising the mine. Is that correct?

Q. Well, yes, it is and you'll see it says in handwriting up the top right, "Copy to Nicholls, 22.00, 26 November 2010." Is that right?

20 A. Yep, that'd be right because I was in Greymouth, not Wellington, at the time. So someone either handed it to me or emailed it to me or some such thing.

Q. But it was for the purpose of obtaining advice about those options?

A. That's what it, yeah, appears to be, yes.

25 Q. I'm going to read the third and fourth paragraphs. "I explained that there were no risk plans or extensive data to support the plan, so any discussions we have will just be at the conceptual level." Next paragraph, "Attendees all pointed out that there wasn't enough data for them to commit on the plan and they would be reluctant to do so with
30 examining the risk plan, but were happy to discuss, improve some general comments on the various options." Would you agree that that seems to suggest that the panel at that stage didn't have sufficient

information to be able to give advice as to which of the options should be used?

A. No, I wasn't at the meeting. These are notes, or minutes, not a transcript, so I don't know what was discussed in terms of the detail.

5 Q. Are you in a position to say what information the police had provided to that panel in order for them to fulfil this function?

A. No, because I didn't provide the information to the panel.

1115

10 Q. If we can just go down that first page, option one (a), "Portal – estimate four days to set up." Can you remember at what stage you became aware of the time and resources that would be involved in using the GAG?

A. No I can't.

15 Q. Second to last paragraph that same page in relation to the use of the GAG, "It is a preferred option as per the mine experts at the scene?"

A. Yes, I see that line.

Q. And we know that the mine experts at the scene included Queensland Mines Rescue, who would have had the experience in using the GAG?

20 A. Yes, couldn't have done it without them.

Q. Was consideration given to whether or not it was appropriate for this panel to be reviewing the advice of experts at the scene who had knowledge and experience in the use of the GAG?

A. No, but I don't have a difficulty with this panel doing that.

25 Q. If I could take you to the summary please, which is the fourth page, I'll read this out. "Risks need to be clearly considered, time is not a factor that the operation should be restricted by and so there is no urgency to make decisions urgently?"

A. Yes I see that?

30 Q. You received this paper on the day it was written on 2200 hours, was your view that decisions about the use of the GAG had to be made urgently or not?

A. My view was they did, and I think they were, because the GAG was in place in a very short time. From memory it was sourced from overseas, flown over here and installed by the 1st of December.

5 Q. If I could just take you please to INV.01.21568/2. And I see if we look down the bottom there's an email from Martyn Paget of the police, 26 November 2010, 4.29 pm to David Cliff in Australia. "David, I'm aware that you have already been in dialogue with both Ken and Doug, are you able to give me your first impression or opinion." This is about the use of the GAG?

10 A. Yeah, to Professor David Cliff.

Q. If I could just take you now to page 1 of that same document. This is his reply, "Dear Martyn, as per my iPhone message, I believe there are a number of significant factors that support inertisation as soon as possible?"

15 A. Yes, his view, yes.

Q. Contradicts that of the review panel that you had in Wellington?

A. Yeah, and it's, you know, you get your advice from a variety of sources, people have different views, the outcome's the important thing.

Q. I want to read you two excerpts from it?

20 A. It shows the process worked.

1120

Q. Under, my thoughts are, "If the media reports are correct and there is a raging fire underground there will continue to be explosions until either all the methane is exhausted or the fire is extinguished." And then if we go over the page, final paragraph, "I am not aware of the methane drainage arrangements at the mine. I wonder if they run along the roadway where the monitoring borehole that has detected high levels of methane is." What steps were taken to ensure that Professor Cliff was provided with all information that would be relevant to the advice that was sought from him?

25

30

A. Well I understand there was regular dialogue with Professor Cliff and in fact on the recommendation of Mr Whittall he was brought over here.

Q. When was he brought over here?

A. I haven't got the date but I'm sure it's on the file. That was arranged, as I say, on the recommendation of Mr Whittall and I think Gary Knowles facilitated that. He was here within 24 hours is my recollection but he was in communication with Doug White I believe.

5 Q. Must have been after the 27th of November that he was brought over because otherwise he wouldn't have been emailing presumably?

A. Yeah, it's a fair point. But he was certainly available through the mechanism of telephone, email, text.

10 Q. If I could just turn to incident action plans, can you explain what they are?

A. Well fundamentally they outline the tasks, what has to be done, how the incident's going to develop over the next period. Priorities, they are dated, they should be signed, they outline resources. There is a template in the manual which is, was used and forwarded through. They outline the direction of the event.

15 Q. Just to note some of the events, can we please turn to, Ms Basher, PIKE00278/4?

WITNESS REFERRED TO PIKE.00278/4

20 Q. This is part of the incident action plan 22 November 2010 from 0600 hours to 0700 hours. There are –

A. The 22nd you said?

Q. Yes.

A. Okay.

Q. There are a lot of these, so this is just one example.

25 A. Right, yeah there were a lot generated.

Q. And I just want to note for the record, paragraph 6 under "Tactics". "Seal fan site with tarps - instead of portal, seal 600 millimetre hole. 15 metre squared/minute inflow?"

A. Yeah, I see that.

30 Q. And as part of the tactics that means that that was something that was being considered?

A. Yes. Well it was under discussion. I didn't prepare this document. It's come from IMT so...

Q. And if we can turn to the next page ending "5"?

A. Those tactics would have all been subject to conversation and discussion around the IMT I would expect.

5 Q. And you'll see the seventh bullet point on that page is reference to the Mines Rescue options which have already been referred to in the witness statement of Superintendent Knowles?

A. Yeah, I see that.

Q. Did you receive the incident action plans?

10 A. No. I received briefings which were derived from the incident action plans.

Q. The incident action plans contain crucial information?

A. They would have been forwarded to the incident controller.

15 Q. Wouldn't you need access to the information contained in those incident action plans in order to make the operational decisions of the type that we referred to earlier?

A. No.

Q. So what would be the information basis for those operational decisions that you would make?

20 A. The risk assessments. The incident action plans could be accessed and I did have access to them at times, but I didn't receive them as a regular part of a process. Briefings from Superintendent Knowles, the input from technical advisors.

1125

Q. Technical advisors being the expert panel?

25 A. Yes, as you described it and Doug White would ring me on time, on occasions, so.

Q. If I could just turn to another matter just to clarify at Pike.04213/1?

WITNESS REFERRED TO PIKE.04213/1 – JOB SHEET OF SENIOR SERGEANT METCALFE

30 Q. You'll see this is a job sheet of Senior Sergeant Metcalfe of 24 November 2010, correct?

A. Yes.

Q. The issue I want to clarify is whether Mines Rescue were ever approved onsite to go in on the 24th of November?

A. Ever approved onsite?

Q. Had ever had approval to go into the mine on the 24th of November?

5 A. By whom?

Q. Well, we'll get to that. And you'll see that those present are Steve Ellis, Ken Singer, Trevor Watts, Seamus Devlin, Michael Firmin, Johan Booyse and Cliff Metcalfe?

A. Yes I see that.

10 Q. And they are all people at the Pike River site?

A. Yes.

Q. And the third to last paragraph, please Ms Basher, if we could highlight, well, the fourth and third to last paragraphs. "At 14.00 meeting recommences. Ken Singer, SIMTARS, produced new data analysis report indicating possible evidence or fire/heating in mine," I won't
15 continue. Then 14.20, "Members agree after discussion that there is a potential ignition source in the mine. Re-entry of Mines Rescue personnel not possible." You would agree, therefore, that those at the mine were not going to enter it prior to that second explosion on the
20 24th?

A. Yes. I understand it was quite a bit of discussion and debate at the mine, I wasn't present, but there was certainly some who felt that they could and I think Trevor Watts stepped in and stopped it, and that decision was the right decision I think.

25 Q. We've talked at the outset about the importance of communicating changes in incident controller to all those involved in the operation. And you've been in this hearing and you would've heard Doug White give evidence to the effect that he wasn't aware that incident controller had changed until, I think, he returned from shift at about 6.00 pm on the
30 20th?

A. Yes, I heard Doug say that.

Q. And are you aware from reading the brief that, for example, Mr Craig Smith of Solid Energy says that, "At about 1.00 pm on the

20th,” this is paragraph 25 of his witness statement, he still thought that Mr Ellis was the incident controller?

A. Yes.

5 Q. I won't go into detail but do you accept, in retrospect, that the fact of police taking the lead and taking the incident control was not effectively communicated to all of those involved in the operation?

10 A. It was effectively implemented and it had to be done in a short space of time. What Daniel Duggan described as chaos is not unusual in my experience. So the police stepped in and did what had to be done. The difficulty here is, duty card number 7, as I referred to earlier in my evidence, was for quite understandable reasons not implemented. That was the emergency services co-ordinator under the Pike River Coal Limited Emergency Management Response Plan. That left a significant gap. But as I said in my evidence, it is quite understandable as to why
15 that occurred.

1130

20 Q. Well, I'm not challenging that at the moment. My point is, do you accept that the police's decision to take the lead and be incident controller can't have been effectively communicated given that those people were still not aware of it by later on the 20th?

A. It's difficult to communicate it when the emergency services co-ordinator under the duty card 7 was not available to fulfil their role.

COMMISSION ADJOURNS: 11.31 AM

COMMISSION RESUMES: 11.48 AM**CROSS-EXAMINATION CONTINUES: MR WILDING**

Q. Assistant commissioner, I just wish to clarify an aspect in relation to the video of the portal. Paragraph 213 of his witness statement,
 5 Superintendent Knowles says that he was not aware of the existence of the CCTV camera at the portal until the 22nd of November and I think we got yesterday to the point where you thought you probably became aware of it shortly after him?

A. Yes that's correct. That was my impression. It might've – I thought it
 10 was the same day.

Q. And I just want to read you part of the witness statement of Constable Steele. Could we please have POLICE.BRIEF.08/6 up?

WITNESS REFERRED TO POLICE.BRF.08/6

Q. And he says at paragraph 28, and he is referring to the night of the 19th.
 15 "I was able to view footage of the blast at the mine portal and saw footage within the mine crushing room before the explosion occurred."

A. Yes I see that.

Q. You'd accept that that's when that came to his attention?

A. Yes, that's what he says.

20 Q. Then if we can have the next page ending "7". Paragraph 32, "I recall telling Sergeant Cross or Inspector Canning about the footage that night and I got the impression that they were aware of the video. I informed Senior Sergeant Ealam the next night of the video and that arrangements were made to inform the CIB and download the data."

25 A. Yes I see that.

Q. And I think you would accept that in that respect at least there was some difficulty with the proper dissemination of that information certainly to you and Superintendent Knowles?

A. I became aware of it when Superintendent Knowles advised me.

30 1151

Q. And just turn to the issue of the identification of the number of people underground. If we can turn to PIKE.00306/1, and you'll see that this is an incident action plan 21 November 2200, 20000 hours?

A. Yes I see that.

5 Q. Could you have the next page ending 2 please, and you'll see at the top first bullet point the number of workers believed to be missing is 28?

A. Yes.

10 Q. And at paragraph 85 of your witness statement you refer to a briefing, and this is on the 20th, "At 2.00 pm there was a further formal briefing at Police National Headquarters. Jim Stuart-Black of fire service and Mr Philip Rankin, St John Ambulance, attended this briefing. There remained confusion on the numbers of persons in the mine, with Pike River Coal's latest report indicating 29 men, later confirmed to be 29?"

15 A. Sorry, could you just read that last sentence again Mr Wilding please?

Q. "With Pike River Coal's latest report indicating 28 men, later confirmed to be 29?"

A. Yes, and that's consistent with the number of workers believed to be missing is 28.

20 Q. Are you aware of whether at 8 o'clock in the morning on the 20th Mr Whittall made an announcement that there were 29 workers?

A. I may have been aware of it, at this juncture I can't say whether I was or not.

25 Q. Well I'll just read you a part of the witness statement of Superintendent Knowles, paragraph 141. "At 8.00 am Mr Whittall and I briefed the media at the Greymouth Police Station. Mr Whittall advised media representatives that there were 29 people trapped in the mine, 16 Pike miners and 13 contractors?"

30 A. Yes, I think there was still uncertainty at that point is my recollection, and I stand to be correct around the names, the spelling of the names, and the nationalities.

Q. Could I please have PIKE02998/1. You'll see this is a job sheet of Senior Sergeant Ealam, 20 November at 0630 hours, yes?

A. Yes, I confirm that.

Q. And you'll see immediately above, "Staff available," is written, "Obtained photocopy of missing 29 list in NOK details?"

A. Next of kin.

5 1155

Q. So that was at 0630 hours on the 20th. I'm presuming that that information hadn't been communicated to you?

A. I'd have to check the briefing notes that I attended on the morning of the 20th.

10 Q. My learned friend, Mr Stevens, yesterday referred you to the CAL scan of Mr Taylor and in particular the risk of injury as a result of the explosion. You recall that?

A. Yes, it was – you're talking about the Slimline?

Q. Yes.

15 A. Yep.

Q. When he queried you about it and the risks, you said something to the effect, "Well that's why we put the controls in place we did." Are you able to say what the controls in place were to ensure that people undertaking work such as Mr Taylor weren't exposed to risk?

20 A. The risk assessment process.

Q. Can I just ask you another hindsight question? There has been delayed provision of information in relation to the video at the portal, seems the number of people underground, the potential for use of the GAG. There are a few other examples. Looking back do you agree that the process of gathering and disseminating information didn't go as well as it could've?

25

A. It could've been improved.

Q. Are you able to suggest why it didn't go as well as it could've?

A. The enormity of the task, it was very complex. The size of the IMT, these are issues that I've spoken about earlier.

30

Q. Do you think that the geographical dislocation between forward command, incident controller and Wellington was an issue that detrimentally impacted on the flow of information?

A. The geographical distance between incident controller and response co-ordinator, I don't believe impacted.

Q. If I could just ask to be shown please, PNHQ01982/1?

WITNESS REFERRED TO PNHQ.01982/1

5 Q. See this is a briefing note, 19.50 hours, 22 November, amended 23 November. And if you'd have a look at the attendees please and just confirm that they include you?

A. Yes.

Q. And this was a briefing presumably which took place in Wellington?

10 A. Yes.

Q. Could we please highlight the centre third of the page? You'll see, and it's the third bullet point from the bottom.

A. Yes, I see that.

15 Q. "There was a situation of communication breakdown between Greymouth Station and the forward base, which prevented taskings getting through, this has been resolved."

A. Yes.

Q. Are you able to explain what the issue there was?

20 A. Not off, not from memory, but I do know there was only at one stage one phone line into the mine that we were able to access. Cellphone coverage was non-existent. I think computers were a problem in terms of the technology, so there was some infrastructural challenges that needed to be overcome.

25 Q. This is a briefing on the 22nd of November though, and the issues with the only one or two lines into the mine had been resolved earlier, as I understand it, by use of the communications vehicle of the New Zealand Fire Service?

A. I'm talking about a hard line into the mine.

30 Q. You talked in your evidence about the number of police involved in this operation and over 300?

A. Yes.

1200

Q. I'm presuming that that includes the number of police involved in the search and rescue as well as those involved in the investigation?

A. Yes, I'd say it would be the case.

5 Q. Are you able to say how many, or give a range of how many people from the police were on duty at any one time during that search and rescue operation from the 19th through to about the 28th?

A. Offhand, no I couldn't and I guess it depends. I can get the information for you but it's across some of the sites.

10 Q. You referred in your witness statement, paragraph 322, to a family liaison officer project?

A. Yes I did sir.

Q. Can you just very briefly describe that?

15 A. I sponsored a development arising out of Pike to take a more comprehensive approach to family liaison reflecting on some of the things I've been told by the families representative, by the counsel assisting families, by Inspector Harrison, Inspector Robilliard and I tasked Inspector Robilliard to present a paper to the police executive outlining a new way forward in terms of family liaison. I sponsored that paper and it's been supported by the police executive.

20 Q. Does that paper set out the approach that's going to be taken to providing information to the next of kin?

A. I can't recall offhand, but if that is an issue that's come out of Operation Pike, then it will be addressed.

Q. I take it it's a paper which will be available to the Commission?

25 A. Anything's available to the Commission.

30 Q. You've said in paragraph 322 of your witness statement, quote, "This project has been established to put in place clear guidelines, and introduce training around police involvement in dealing with the next of kin in situations involving multiple fatalities. This had not previously been identified as a particular policing need."

A. Because, I mean I think as everyone appreciates, there was no blue print for Operation Pike. There was no map. So this was a very

challenging operation in which we deployed in a very difficult set of circumstances.

Q. Could I please take you to CAC0086/156, 86/56 sorry.

WITNESS REFERRED TO CAC0086/56 COMMISSION OF INQUIRY

5 DOCUMENT

Q. This is page 151 of the Commission of Inquiry into the collapse of a viewing platform at Cave Creek near Punakaiki on the west coast 1995. Recommendation, quote, "That the police give careful consideration to the overall issue of notification to victim's families in cases of accident or
10 major incidents, with particular reference in any particular case to, one, the immediate appointment of a victim's family liaison officer charged with the responsibility of making as much appropriate information as possible available to those with whom the officer concludes are genuine enquiries with an interest greater than that of the public genre. Two,
15 those so identified, being kept up to date with the victim's progress, recognising the need to allay natural fear and anxiety as much as possible." Do you agree with those?

A. Those recommendations, I do agree with them and the New Zealand Police has a victim's advisor appointed at a national level. You'll be well
20 aware of the Victims' Rights Act that was enacted and within our DVI capability, we have a family liaison capability within that, so, this project that I'm talking about is another step up.

1205

Q. The recommendation on page 152 is, quote, "That a code of practice be
25 implemented by the police incorporating the foregoing recommendations and with regards to the provisions of the Official Information Act and the Privacy Act." Are you in a position to say what the police did in response to those recommendations?

A. What date was this?

30 Q. 1995.

A. No, I can't help you with that. I can certainly find out and if I had had some pre-warning I would have had the answer for you.

Q. Can I take you to page 63 of the same document please? These are another series of recommendations in Cave Creek, including the recommendation 1, "That the government initiate and implement appropriate steps to institute a combined regional disaster and trauma plan for the West Coast, and that that plan for (a) among other things, that the plan will provide for unambiguous overall leadership, including the prior resolution of all likely conflicts, and the co-ordination of all services. Recommendation (k) an overall programme of continuous education and training aimed at maintaining a co-ordinated overall response."

A. Yes, we have got the civil defence and emergency management legislation, which was enacted in 2001. You've got the regional plans that were put in place across all regional councils. The co-ordinated emergency groups that were formed, the emergency services co-ordinating committees, which police have a seat with fire service and ambulance. You've got the CIMS training that's offered through the polytech here on the West Coast for which police and other emergency responders attend and seek the qualification under CIMS.

Q. Can I take you to SOE.002.00033/1?

20 WITNESS REFERRED TO SOE.002.00033/1

Q. This is a New Zealand Police report form, recording a debrief between the police and Mines Rescue at Greymouth Police Station on the 21st of March 2006 in relation to a mining accident at Tiller's Mine, agree?

A. I agree. I have not seen this report before and have not read it, obviously.

Q. It deals with certain issues. On that page you will see, "Scene security victim support." If you turn to the next page please Ms Basher, training days. Under the heading, "Training Days. Mines Rescue are more than happy with the way that the incident was run. There was a slight communication breakdown at the start, ie service unsure of who was to do what. However, that has been sorted. I did bring up the point that it would be beneficial to have an incident controller or to be able to identify an incident controller from Mines Rescue or police on arrival at the

scene.” I take it, to your knowledge this wasn't a document which had come to the attention of Police National Headquarters?

A. No, I wasn't at this meeting and I have no knowledge of the document.

5 Q. And later on it refers to potential for training between Mines Rescue and the police, and I understand that there was some training that occurred. Are you aware of that?

A. I'm aware that there was some training occurred, but I can't give any detail of it because I simply don't know.

10 Q. Is there a system within the police for ensuring that issues that arise locally, for example, this Tiller matter, which are going to have potential to arise again or across New Zealand, are brought to the attention of national office?

15 A. There are operations managers at the rank of inspector in every district. One would expect that this debrief would go to the operations manager who then if he felt or she felt it was of national significance, would go into the operations group at Police National Headquarters and it would be dealt with on that basis.

1210

20 Q. Just finally, you referred to a family liaison review in your examination by my learned friend Mr Hampton, have the police undertaken a review of their own performance at Pike River?

A. Yes.

Q. Is that external or internal?

25 A. It was headed by Detective Superintendent Rod Drew, who was external to Pike River operation.

Q. And has that been concluded?

A. I haven't seen the final report yet.

Q. And I take it from your earlier answer that could also be made available to the Commission?

30 A. Yes.

**THE COMMISSION ADDRESSES MS MCDONALD – NO
CROSS-EXAMINATION**

QUESTIONS FROM COMMISSIONER HENRY

5 Q. The New Zealand CIMS system that you've talked to us about, and you said it's very flexible?

A. Yes sir.

10 Q. And you've suggested to us some changes in practice that you might make if there was to be a disaster of this nature again. In looking at the flexibility of CIMS, it seems to me reading it that it's based on some very sound management principles, it's been written by New Zealand Fire Service as the lead with other agencies assisting, including the police, and the management principle is of clear responsibilities, accountabilities, delegation of tasks and so-on, common management principles fitted to these emergency situations, so my question really is
15 when you say, "It's very flexible," are you talking about how you adapted to a particular situation or are you saying that the management principles in it themselves are flexible?

A. The management principles should be sound but how you adapt it or augment it is the flexibility sir.

20 Q. So when you have taken, and I'm not criticising this, you were acting like everyone else under great pressure trying to do the best you could, but as resource co-ordinator, does the title suggest co-ordination, you did take some of the operational decisions that would normally lie with the incident controller didn't you?

25 A. Yes, that's correct sir.

Q. That's one of the management principles that you changed?

A. Yes. Well one of the implementation principles I changed, but I take your point sir.

Q. Yes.

30 A. The issue, as I said earlier sir, was that we could change the structure or change the process and it was elected to change the process.

Q. Yes. And one of the principles is clarity of roles in the CIMS structure?

A. Yes sir it is.

Q. And I notice that you'd been on the gold, silver/bronze course in the UK?

A. That's correct sir.

5 Q. Which is really run by the police chiefs over there, they don't have a national police force as I understand it, and so you've got a co-ordination methodology. Were you influenced by that experience in devising the three-level structure that you followed?

10 A. I think it was very informative sir. I think that the course was very useful and the three levels are available within CIMS if you use the operations manager, the incident controller and the response co-ordinator because the operations manager is available to task at the front end of the operation. So in that situation you've got the parallel with gold, silver and bronze.

15 Q. And yesterday I think you told us that in looking to the future you would still retain to the national office, the Police National Headquarters, two crucial decisions at least. One being re-entry and the other would be sealing?

A. Sealing.

20 Q. And those decisions therefore in a future emergency you would have to identify in advance as soon as you could what those crucial decisions that had to come up the line were?

A. Yes sir, that's correct. The decisions would go up the line.

1215

25 Q. So, if we look at the situation where we had the risk assessment being looked at, at the top level by you and your team of advisers, and you were told that you only had an hour to give the go ahead because Mines Rescue wanted to go in at 3 o'clock that day, on the Wednesday, and as it turned out, they decided not to, as we've heard, but from your
30 point of view you had one hour to turn that risk assessment around, do you think in the future, it would be possible to make a decision like that within the hour, under the three level structure that you had?

A. Yes, I think it would sir. It actually happened. The decision, I think – the request came in at 1400 hours, the response was available at 1428 hours. People were put on standby, the Department of Labour and the New Zealand Fire Service, and they were waiting for those documents, so there was advanced warning.

Q. Yes, but in fact, when you looked at the risk assessments you didn't think they were up to scratch?

A. Yes, sir, that's correct. And they went back with a, it would've gone back with a not approved. In fact I tried to get the, make the contact with them at the front end to say, "Not approved," and clearly they were dealing with other issues at that point.

Q. Right, so under the way that it worked and the three level structure must have a bit to do with it?

A. Yes.

Q. You wouldn't have been able to make that decision in those circumstances, had they been able to go in at 3 o'clock?

A. Had they – I think we would've been able to.

Q. You think you would've been able to fix up the risk assessments, the deficiencies in the risk assessments that you saw?

A. The major deficiency in that risk assessment sir, was as I saw it and to be fair to the IMT, I understand it was a draft, it hadn't addressed the issue of explosion, so under any circumstance they couldn't have gone in until they addressed that issue.

QUESTIONS FROM COMMISSIONER BELL:

Q. I've listened to your evidence over the last couple of days and I must say that I am surprised that you didn't transfer the incident controller to a mining expert, especially when there was numerous local choices available. There was, according to Mr Stevens, there was at least seven first class coal tickets out there, and this is in fact what happens in other jurisdictions, in Queensland, in New South Wales and in the UK and the US, although the US it's inspectors, but do you have a comment on that, why that didn't happen?

A. Sir, I just say that we were operating in the co-ordinated incident management control environment. We were co-ordinating the management of this incident and we felt that we were ably advised, our expertise was in co-ordinating the response, not necessarily having the technical expertise, sir.

Q. Do you think in the future that that might be considered though? That the IMT could be run by a mining person?

A. Sir, the IMT or the incident controller, sir?

Q. So the incident controller could be a mining person?

A. No, I don't think so.

Q. Because one of the other things that I sort of thought was how much time was wasted, and maybe that's the wrong word, training police officers and expert, and the Wellington expert panel in mining matters, when you could've had someone there right from the word go that understood the terminology, understood the risk to a much greater extent?

A. Sir, having someone – I think the expert panel was not inappropriate in what they did, sir.

Q. Because, getting onto the panel, why wasn't there a first class coal ticket person on that expert panel in Wellington?

A. I think we relied on others in terms of Dr St George who had the mining experience, the – with the benefit of hindsight it would've been useful to have such a person.

Q. Because are you aware that to require, that to get that ticket, you have to actually pass an examination or a test to do with emergency response, particularly focussed on underground coal mines?

A. I am now aware of that sir, but as I say, the expert panel that we had, I felt provided sufficient advice.

Q. And even to do with inertisation, as far as I can see, and I'm not criticising your panel at all, I accept that they are experts in the fields that they're qualified in, but I couldn't see where any of them knew anything at all about inertisation, so to present them with inertisation

options when they had no knowledge of inertisation, put them in a hard position as well, I would've thought.

5 A. Sir, you see I think Dr Beever had some knowledge of it. I think Dr St George had some knowledge of it and also there was the knowledge that was available through the panel that was put together through the western – sorry, the West Virginia experts, so I think there was some knowledge there but.

1220

10 Q. It just seemed to me, and this is my opinion, that they were trying to second-guess what the local experts were coming up with and if you look at the range of people that were available, and I'm not talking about foreign, so-called experts, I'm talking about the people that were on the ground either working for Solid Energy or within the inspectorate. There was a lot of expertise there that could've been brought to bear?

15 A. Yes, and I think, sir, it was brought to bear in terms of the IMT and the panel, in my view, didn't second-guess, they provided a necessary contribution to the response at another level which was fundamentally Q & A-ing the risk assessments.

20 Q. And just talking about the criminal investigation proceeding, sort of, in tandem, if you like, with the search and rescue operation, do you see any potential for a conflict of interest there?

A. No, because we have a degree of separation in terms of the people that are involved in the investigation. I think the investigation was commenced on the 20th and that's totally appropriate.

25 Q. And just finally, section 78 of your statement. You mentioned that Doug White got a close working relationship with the Department of Labour, what did you mean by that?

30 A. They knew each other, the Department of Labour and Doug White had a working relationship, probably, should've been better described as a working relationship.

Q. I think you did. To be fair I think you did say, "A working relationship."

A. Yes, sir, close.

Q. I have a bit of a problem with inspectors getting too close to my managers.

A. Yes, and to be fair to Mr White, that's my description, yeah.

Q. Thank you very much.

5 A. Thank you.

**THE COMMISSION ADDRESSES MS BASHER – DOCUMENT
SOE.001.00027**

QUESTIONS FROM THE COMMISSION

WITNESS REFERRED TO BLUE MANUAL SOE.001.00027

10 Q. I'm just concerned, assistant commissioner to understand your role as
the role co-ordinator. If you read the first paragraph, starting half way
down, where there's a very large and complex single agency incident,
there may be a need for a high-level response co-ordinator and then the
15 explanation of that is to avoid the incident controller, with the control
function from becoming swamped.

A. Yes sir.

Q. If it doesn't have high-level support? So, I take it, it was that which led,
in this case, to the creation of a response co-ordinator role in relation to
Pike?

20 A. Yes.

Q. Looking at the next paragraph, and particularly the last few lines
starting, "Note." "Note that this higher-level structure does not include
an operations function but only co-ordination, planning/intelligence and
logistics. Incident controllers of individual incidents maintain control of
25 their incidents."

A. Yes, that's correct sir.

Q. That principle was overridden, was it not, given the structure which you
established?

A. Yes it was and I just referred back to the flexibility of the model to be
30 able to put in place a structure in order to deal with this event. And as I
said earlier, sir, the options were to change the structure or the process

and the decision processes were altered to allow Gary Knowles to get on with the task that he'd been assigned.

Q. Accepting the point that the CIMS model is intended to be flexible, nonetheless, reading the manual as a whole, isn't it a core requirement that operational control is invested in the incident controller?

A. Yes it is, and it wasn't a purely hierarchical relationship that we had, sir.
1225

Q. Isn't it the case that Superintendent Knowles, given the decision process that existed in relation to Pike, was neither one thing nor the other? He didn't have authority anymore to make any of the significant decisions did he?

A. Sir, the significant decisions of entry and by any means were elevated to the higher level, that's correct sir.

Q. So wasn't the reality that you and your partner were effectively the incident controller?

A. In terms of those key decisions, we were making those key decisions yes sir, and Superintendent Knowles was able to make the decisions as outlined in the framework.

Q. And wasn't a further consequence of the structure that effectively the incident control point was no longer Greymouth but, really, Wellington?

A. No sir. I'd say the IMT was in fact Greymouth.

Q. Yes. I'm asking you where was the incident control point given the structure that was put in place, in reality?

A. In terms of those key decisions, I still say that the incident control point was in Greymouth with significant support, and I except the decisions that were made from Wellington.

Q. Assistant commissioner, you've been under cross-examination now for a long, long time?

A. Yes sir.

Q. And when you reflect over much of the questioning that has taken place concerning communication issues, concerning the availability of a second panel of experts in Wellington, concerning frustrations that existed at the mine site, does it seem to you that that might have been a

reflection of the structure that was put in place where at least I'm suggesting to you, effective control had been moved from Greymouth to Wellington?

A. Yes sir.

5 Q. Just one other thing. Mr Wilding asked you at an early point whether you thought it appropriate for the incident controller to be someone outside of the lead agency, and I understood you to say no?

A. Yes sir, that was correct.

10 Q. There's a lot of evidence before the Commission which is extremely favourable to the police in relation to the logistical input and the resources that they brought to the whole Pike exercise. You accept that obviously?

A. Yes sir, I do.

15 Q. Just looking forward, can you not see, as Commissioner Bell suggested in one of his questions a moment ago, scope for the view that the police should be the lead agency in a major exercise such as this, but that when it comes to incident controller at the incident control point that person might need to come from an outside agency like Mines Rescue Service or the like in order to bring to bear that technical expertise which
20 the police cannot possess?

A. Yes I think there's some room to explore that, sir.

1230

QUESTIONS ARISING: MR MOORE

25 Q. Assistant commissioner, you were asked some questions about the likelihood of a second explosion if the mine was not sealed, I just want to refer you to, Ms Basher if we could have PNHQ01808/1 up first please, and I'll ask you if you can tell us what this document is? It's got two dates at the top, it's got, "7.00 am briefing Monday 22 November 2010," and then the bottom it's got the date of Friday the
30 19th of November, presumably that's more referable to the event rather than the date of the document. Is that right?

A. That's correct.

Q. Can you explain to us what this document is please?

A. It's a briefing paper that would've been prepared for an incoming shift or a changeover or a conference, that it appears to me to have occurred at 7.00 am on the morning of Monday the 22nd.

5 Q. And what level are we talking about, Greymouth that we're talking about, Wellington?

A. This looks like Wellington.

10 Q. Could we then move to page 12 of that document, now bullet point 2 recognises, doesn't it, the potential for secondary explosion greater than the initial. Is that right?

A. That's correct sir.

Q. The last bullet point, that refers to sealing the mine, starving it of oxygen and record that there is significant risk of a secondary explosion whether the mine is sealed off or not. Do you see that?

15 A. Yes I do, and I understand that that's actually occurred on at least two occasions in New Zealand where the mine has been sealed and then its exploded afterwards.

20 Q. Also in the context of the questions you were asked under this heading was a reference to a, "Clean room," and you were explaining to the Royal Commission the basis in which you believed there was such a facility in the mine. If we could turn to page 13, reference there to clean room?

25 A. Sir, it reads, "A small room that stores technical and electrical equipment (clean room), is the only place (given the fire scenario) where it's possible trapped miners may still be alive."

30 Q. Thank you. You were also asked by a number of counsel questions relating to survivability and more particularly how realistic it was for you to believe at the time that anyone may have survived. May I refer you to, and this is document PIKEMAIL.PST.05891, which I understand minutes of a survivability meeting held on the 25th of November, so that's the day after the explosion. Now you've already been taken through those who attended that meeting by my learned friend

Mr Wilding I think it was. What was the purpose of this meeting to your knowledge?

A. To discuss and to determine whether or not there was any prospect of life.

5 1235

Q. And if we turn to page 7 of that document, Ms Basher, please? You see the fourth attribution down from the top of that page, KS there, are we able to bring up that passage? Sorry, well, no, it's the fourth attribution, but it's the first reference to KS. Can we blow up the paragraph which starts with KS, do you see that?

10

A. Yes, sir, I see that.

Q. Now this admittedly was the day after, but KS was Kenneth Singer, is that your understanding?

A. That's my understanding.

15

Q. And it would appear even at that time he is indicating that a group of miners, three or four, may be in a panel, there could be survivors and that sort of thing?

A. Yes, it reads, "Sometimes a group of miners, three or four in a panel, and an explosion might be fatal to those in the district, but not to others in other panels, there could be survivors from the blast, but asphyxiation would be fatal. Was potential survivability in the second pit, because we know there was oxygen present to support a fire? Fresh air was confirmed in the drift by sampling with the grizzly."

20

Q. And also – and if we could bring up document INV.01.21568 and this I think is an email from Professor David Cliff?

25

WITNESS REFERRED TO INV.01.21568

Q. And I think it's the second page I need of that. It was shown earlier on in your cross-examination by my learned friend Mr Wilding, and it's the third paragraph from the top of that page if we could have that please, brought up. It begins "Whilst," the third paragraph down from the top?

30

A. It reads, "Whilst I cannot prove that no one is alive, the only places where there is any chance that they may have survived would be the

operating faces areas if they managed to build some sort of barrier or find a cavity and these will most likely not be affected by the GAG.”

Q. Now I accept that both of those documents were documents which were raised or created after the second explosion, but the sentiments that are expressed in those, were those conveyed to you, or were they matters that you were aware of before the 20 – well, before the second explosion?

A. Yes, well, I was aware that there was a possibility of survivability and that’s one of the hopes.

Q. You were also asked questions by my learned friend Mr Raymond about survivability, albeit in a slightly different context and more particularly you were examined and really tested on this question of your reliance on the fact that two men walked out after the explosion, do you remember that?

A. Yes, I do remember that.

Q. Did you or anyone in the team have any knowledge to any level of reliability as to where the men in the mine might be?

A. No, we didn’t know exactly where they were.

1240

Q. Well, you say you didn’t know exactly where they were, did you have any real idea as to where they might be?

A. Yes, they were – we had a map and we understood in broad terms where they might be.

Q. I think we heard though from Daniel Rockhouse that people move around the mine quite a lot, on this particular morning were moving around the mine quite a bit. Were you aware of that?

A. Yes. I’m aware there was movement in the mine.

Q. Did this level of uncertainty influence your assessment as to survivability at all?

A. Yes, well it just made it all the more difficult.

Q. You’ve been asked questions about the incident action plans and who was assisting in their provision and who were parties to their compilation, and while I think we all appreciate the dangers of actually

looking at a particular incident and action plan because of the fact that it may just present a snapshot of a particular situation on a particular day, would you accept that?

A. Yes I do.

5 Q. Perhaps we could just look at a couple just to see who the constituents were around the table. Could you first of all please bring up PIKE.00449, probably page 5 I think is what I need.

WITNESS REFERRED TO PIKE.00449

Q. Just looking at that document, you see that?

10 A. Yes I do.

Q. And what is recorded on that page?

A. It's a operational period from the 20th of November 8.00 pm to 10.00 pm. the people who are in attendance at this meeting, incident controller David Cross, New Zealand Police, Pike River OIC Doug White, site manager, -

15

THE COMMISSION ADDRESSES MR MOORE – SPEAKS FOR ITSELF

QUESTIONS ARISING CONTINUES: MR MOORE

Q. Can you just read out in relation to Mines Rescue, who were attendees?

A. Mines Rescue, Rob Smith, Troy Stewart, Craig Smith, general manager southeast north operations, Steve Bell, Buller manager, Solid Energy.

20

Q. Now that's for the 20th of November, is that right?

A. Yes, that's correct.

Q. And if we go to PIKE00393, page 6, this is for the 21st of November?

WITNESS REFERRED TO PIKE.00393

25 A. Yes, it's dated 21st of November 2010 hours to 1000.

Q. And again, Mines Rescue attendees?

A. Mines Rescue were Rob Smith, Troy Stewart, Craig Smith. Steve Bell of Buller manager, Solid Energy, Trevor Watts, Mines Rescue and Seamus Devlin from New South Wales Mines Rescue with David Connell from New South Wales Mines Rescue.

30

Q. Did anyone from Mines Rescue or anyone on behalf of Mines Rescue indicate at any stage to you that you needed expertise alongside you in Wellington?

A. No.

5 Q. If that suggestion had been made, what would your reaction to it have been?

A. I would have taken it on board and given it very favourable consideration. We were very grateful for whatever support we could get.

10 Q. You were asked questions about lead agency and discussions in relation to that. Can I turn to, I believe it's POLICE.BRF.29/22?

1245

WITNESS REFERRED TO POLICE.BRF.29/22

15 Q. Now, we've got both paragraphs, can you read to us paragraph 78 please?

A. Yes sir. "At midday on the 20th I attended a watch group meeting with other agencies. From memory this meeting was attended by representatives from the Ministry of Social Development, Ms Liz Jones, New Zealand Fire Service, Mr Jim Stuart-Black, Ministry of Civil Defence and Emergency Management, Mr David Coetzee, Department of Labour, Mr Keith Stewart, Department of Prime Minister and Cabinet, Mr Pat Helm and Mr Steve Brazier, and Ministry of Health and Ministry of Economic Development. I am unsure if representatives of Ministry of Foreign Affairs and Trade were present. The purpose of this watch group meeting was to ensure the other organisations were kept informed and were comfortable with the strategy and next steps. My understanding was that all present were comfortable with the governance of the operation and police as lead agency and that it was to be done in a collaboration and as a partnership with other agencies."

25
30 Q. I don't think you need to read on any further. Is that the watch group that was referred to in cross-examination?

A. Yes, sir, it is.

Q. Did the commissioner of police have a similar arrangement in respect of this group, I think, it's referred to as "O' desk", or something like that?

A. Yes, that's my understanding.

5 Q. And to your knowledge does the Department of Labour have a representative sitting on the Mines Rescue Board or affiliated in some way to Mines Rescue?

A. I believe they do.

Q. Do you know that to be Mr Dave Bellett?

A. Yes, that sounds familiar.

10 Q. Was he also at the forward command site?

A. Yes I believe he was at the IMT.

Q. Right. You were asked questions by my learned friend, Mr Stevens, about frustrations in relation to the PRDH the borehole 43, do you remember those questions?

15 A. Yes I do remember those questions.

Q. And more particularly what was said to be delays in getting the risk assessment in relation to that borehole through and approved, do you remember that?

A. Yes I do remember him saying that.

20 Q. Just putting to one side any question of delays, and assuming, for present purposes, there were, was drilling suspended or delayed at all as a result of the risk assessment process?

A. Not that I'm aware of.

Q. To your knowledge did the drillers continue on drilling?

25 A. Yes.

Q. To your knowledge was there any delay in getting that borehole drilled at least in terms of getting approvals?

A. Not that I'm aware of.

30 Q. Now, there's another document which my learned friend, Mr Stevens, referred you to and it's SOE.004.00021/1, which should be a Department of Labour email that was put to you yesterday.

WITNESS REFERRED TO SOE.004.00021/1 – DEPARTMENT OF LABOUR EMAIL

1249

Q. I can move onto something else while we pull that one up. Now you frankly acknowledged in cross-examination, I think in response to questions asked of you by Mr Hampton, that you didn't know anything, or anything much at all about the Mines Rescue Service before you got propelled into this operation. Is that correct?

5

A. That's fair sir.

Q. To your knowledge did the West Coast police, particularly the police station in Greymouth have a relationship with Mines Rescue Service?

10

A. Yes, I understand they do.

Q. I'm going to ask you to look at a section from a brief, the maker of which is not giving evidence but this is POLICE.BRF.16, and its pages 5 and 6. And this is Senior Sergeant Alison Ealam?

A. Yes sir, I see that note.

15

Q. Now in the context of this operation do you know if the senior sergeant had a particular role?

A. Yes she did.

Q. What was it?

A. I don't know specifically what her role was but it was at the IMT of the Greymouth station and I think she worked at the forward command at the mine as well.

20

Q. So she was at forward command and to your knowledge also at Greymouth?

A. Greymouth, yes sir.

25

Q. And if we look at those particular pages, and I'm not going to read them out because they are self-evident, but it is apparent, would you not agree, that she has had, and the Greymouth police have had, extensive experience and a close relationship since 2006 at Tiller's Mine, following the Tiller's Mine incident?

30

A. Yes, she refers to having regular contact with St John ambulance, New Zealand Fire Service and Mines Rescue Service.

1252

Q. And does she also record in paragraph 25 that she had concerns regarding the management of the incident which she said she found was confused and fragmented with members of each service not entirely sure of each other's roles and as a result of those concerns, organised a debrief with the relevant emergency services at Greymouth Police Station on the 21st of March 2006?

A. Yes, she's talking about a previous event that pre-dates Pike River.

Q. Then over the page at paragraph 28, that as a result of that debrief police staff attended the Mines Rescue base, that'd be at Rapahoe, would it?

A. Yes, it would be.

Q. And also Spring Creek Mine, to familiarise themselves with mines and mining operations, is that right?

A. Yes, and Mines Rescue.

Q. And she completed a one day training package with Mines Rescue at Rapahoe, is that right?

A. Yes, and a visit to the Spring Creek Mine.

Q. And certainly, is that consistent with your understanding that at least at a local Greymouth operational level, there was a good relationship between the local police and Mines Rescue Service?

A. Yes, sir.

Q. Now we've now got the email, and Ms Basher I understand is poised and ready to put it out. Just to remind you this was cross-examination by my learned friend Mr Stevens, for the record, the document is SOE.004.00021/1.

WITNESS REFERRED TO SOE.004.00021/1

Q. Now, the questions you were asked were in the context of risk assessments and approvals for borehole 43 and that document was referred to you, that being a Department of Labour email. Can you see that?

A. Yes, I do.

Q. In fact, is that document relate to the putting down of a camera through the drillhole and the risk approvals associated with that?

A. Yes, it does.

1255

5 Q. It was suggested to you, and these are my words rather than counsel's words, there was an artificiality or remoteness of the advice that you were getting in Wellington verses the more pragmatic advice really at the forward command, or at least at Greymouth. Do you remember questions of that sort being put to you?

A. Yes I do remember those questions.

10 Q. Now you mentioned that Jim Stuart-Black and Paula Beever were part of that advice group that you had around you in Wellington?

A. Yes.

Q. Do you know if they visited the mine either or both of them before the second explosion?

15 A. I'm almost certain Dr Paula Beever did, and Mr Jim Stuart-Black visited, from memory, after.

Q. And I think you told us you did?

A. Yes I did sir, and I was aware that Dr St George had advised me he'd been in the mine.

Q. That was a previous though wasn't it?

20 A. Yes sir.

Q. And then my learned friend Mr Wilding was putting to you the 1995 recommendations in relation to Cave Creek. This related to the appointment of the victims liaison officer from the police with the responsibility to make as much as information as appropriate and available to victims. To your knowledge, and it may be a question better put to Superintendent Knowles if you can't answer it, but to your knowledge in relation to this operation, Operation Pike, did the police adopt or follow the essence of that recommendation?

25

A. Yes.

30 Q. In what way?

A. Well we had family liaison officers appointed. They were under the command of Inspectors Robilliard and Harrison, and we ran regular family briefings. We set up, I think, a website from memory, an 0800

number, a text capability, and I think I've addressed the families on one occasion in relation to a critical matter that needed to be shared with them.

WITNESS EXCUSED

5

COMMISSION ADJOURNS: 12.58 PM

COMMISSION RESUMES: 2.00 PM**MR MOORE CALLS****GARY COLIN MITCHELL KNOWLES (SWORN)**

- 5 Q. Superintendent, would you tell the Commission please your full name?
- A. My full name is Gary Colin Mitchell Knowles.
- Q. You're a superintendent of police, joining the police in 1977, is that right?
- A. That is correct, sir.
- 10 Q. And the evidence you're giving today is supplementary to the 105-page brief of evidence filed with the Royal Commission on the 1st of July this year, is that correct?
- A. That is correct, sir.
- Q. You're the district commander of the Tasman police district, based in Nelson?
- 15 A. I am.
- Q. You're appointed district commander of the Tasman police district in February 2009?
- A. That is correct, sir.
- 20 Q. And the Tasman police district covers most of the top and the west of the South Island and includes the West Coast area, including Greymouth, is that correct?
- A. That is correct. It covers and encompasses the area from Kaikoura on the east down to Haast on the west.
- 25 Q. And as district commander, you have overall command and control of all emergency responses by the police for incidents occurring in your district?
- A. Yes, I have command and control of all rescue operations, all incidents, and all incidents involving emergency and operational issues.
- 30 Q. So that's search and rescue, natural disasters, and a wide range of emergency situations, is that correct?
- A. That is correct, sir.

Q. Now the evidence you're giving today, already having been noted as supplementary to your file brief, is going to cover 10 topics, and perhaps at this stage I'll just list them so that as your evidence unfolds, we'll know whereabouts what you say fits in. You're going to start with your
5 initial involvement in this operation, is that correct?

A. That is correct, sir, yes.

Q. Then the initial phase, which is the first 24 or so hours, is item 2?

A. That is correct, sir.

Q. Then under that heading, subheadings that you'll discuss will be lead
10 agency, decision-making, and introduction of CIMS?

A. That is correct, sir.

1403

Q. Three is the rescue phase which ran from the 20th to the
24th of November?

15 A. That is correct sir.

Q. And under that heading we'll discuss three matters, first, risk
assessment, decision-making, use of experts?

A. That is correct sir.

Q. Secondly, general observations?

20 A. That is correct sir.

Q. Thirdly, inertisation, sealing and survivability?

A. That's correct.

Q. Fourth topic you'll deal with is families?

A. That is correct.

25 Q. Fifth, media. Sixth, we're going to discuss separately the family meeting
on the 24th of November 2010, after the second explosion?

A. That is correct sir.

Q. Seven, parallel contingency planning?

A. That is correct.

30 Q. Eight, you'll deal with the recovery phase, which is the police operation
after the 24th of November?

A. That is correct sir.

Q. Nine, what went well?

A. That is correct.

Q. And 10, areas for improvement. Is that right?

A. I will sir.

5 Q. So let's deal with initial involvement, and perhaps you can first of all start off by telling us how it was that you got involved?

A. "On the evening of 19th of November 2010 I was contacted by telephone by Deputy Commissioner Rob Pope. He told me that I had to take command of an emergency response arising out of an explosion from the Pike River Coal Mine. At the time I was in Nelson, home-based. I
10 was instructed to travel urgently to Pike River Coal Mine to assess the situation, take control of the operation from the police perspective. I attempted to make arrangements to fly by helicopter, this was impossible so I had to drive all the way down to the West Coast. Deputy Commissioner Pope advised me that the police would be the lead agency and therefore I had to take command. I called the Greymouth area commander, Inspector Canning as my AC in the West Coast and instructed him to go to the mine and take command until I arrived. I
15 arrived at Pike River Mine at approximately 20.20 am on the morning of Saturday the 20th of November 2010. There was limited cellphone on the West Coast in route to the mine and therefore I received limited briefings and information as to what was occurring at the mine. When I
20 arrived, I received a full briefing from AC Canning. Also present was Sergeant Judd –"

1406

25 Q. When you say "AC," is that short for area commander?

A. My mistake, it's, he's Area Commander Canning. Sergeant Judd is my search and rescue co-ordinator for the West Coast. He was also present. He has extensive experience in search and rescue operations and their co-ordination. When I arrived he was working with the fire
30 service, other emergency services and Pike River staff in an attempt to provide some rigour around what was happening at the mine. He introduced hourly briefings and was trying to corral people into the

space where they had to record their decisions and looked objectively as to what was going to happen within the next period.

Q. Right, so all of this is actually happening up at the mine site, is that right?

5 A. That is correct, sir.

Q. Now for the purposes of explaining developments and compartmentalising your evidence is it correct that you'll deal with the initial phase which is the first 24 hours, then deal with the rescue phase from the 20th to the 24th of November and then finally the recovery phase which was the 24th of November onwards?

A. I will sir. I intend to describe the phases that we were confronted with in terms of the police phases and what we were faced with.

Q. All right, can you deal with the initial phase then please?

A. I certainly will sir. If I turn to the nature and complexity that we were
15 faced with. During the first 24 hours of the operation, there was a substantial number of challenges that were confronted by the rescue teams and New Zealand Police underground. These challenges included the remoteness of the site. As you know, Pike River Mine is situated approximately 40 minutes from Greymouth. It's in a remote
20 area of the West Coast and it provided challenges in terms of accessibility to get resources to that site and some parts of the mine can only be covered by helicopter. The second was communication. With the nature of the topography and where the mine is set it's hard to get communications into that area. There is no cellphone coverage. There
25 was limited landlines, as in landlines to and from the site we could use and there was no computer access when I first arrived. We were dependent on the fire service who were there when I arrived and were able to utilise their command vehicle to provide a link out to the rest of the emergency services, in particular, the Southern Communications
30 Centre to give them sit reps as to what was happening.

1409

Q. When you say, "sit reps," talking about situation reports?

A. Situation reports sir. Although the mine is situated on conservation land, it's privately run and owned and that in itself provided some challenges as to the nature of the area, who actually owns the land what was going to take place on that particular piece of the wilderness. The scene itself was underground and in terms of that it meant that we could not examine the scene as we would as police officers in the usual way. By that I mean we were dependent totally on information from those present being Pike River Mine, Mines Rescue and other agencies who were used to that mine to tell us what had possibly happened underground and what we were facing. One of the major factors that we encountered in the first 24 hours and throughout this whole operation was the weather. We were dependent on clean weather to carry out a number of the rescue and recovery operation phases, by that I mean simple things, such as drilling, flying helicopters and other phases, on some days it was dependent on weather and for some particular parts of the operation we could just not operate because of the weather. This caused delays and it also caused a great deal of frustration, not only from my perspective but all those people that were present at the site and back in Greymouth. One of the other things that we faced was gas sampling. As we have heard in evidence, by the nature of the explosion, the monitor in place had been knocked out and we lacked knowledge as to what the gas sampling was like underground, what we were facing and what was going to happen when we possibly get underground and that was a major risk in terms of Mines Rescue going in and each of the phases following that initial phase. There were some unorthodox methods put into place to take sampling and they were created out of necessity on the night and had to be put into place. The next thing was the number of those identified as missing. Now, there was some great deal of confusion as to how many were actually underground. We went to the tag board and it had a number of people underground. It fluctuated like somewhere between 25 to 31 and then when we finally did get the head around it, it came back to 29 and that also posed some issues in relation to family and next of kin, because we

went to Pike River and asked them could they please provide the next of kin details so we could start making contact to family members. A lot of those records were out of date. Some of the people who rang were no longer next of kin, were no longer relatives and it was a very confusing situation as to who should be called in this type of emergency situation. Pike staff were working really hard to get that information for us, because I wanted to make sure, as the lead police officer, that the families knew who was underground but also not only in New Zealand, but overseas, people could be contacted beyond Greymouth to say that their man was underground. Another complicating factor was the media. To put it politely, it was a media scrum. We underestimated the nature and extent that this incident would cause, not only within New Zealand and globally. We were inundated with media calls, media trying to get into the scene, media trying to get hold of family members and the place was just simply flooded with media. Media were trying to fly over the scene and we put in a no-fly zone to try and just keep them away from Pike River so that we could assess the nature of the emergency and what we were faced with.

1412

20 A. The last thing was fatigue. You could tell from those men at the front end and the Pike staff and all those people present were starting to get fatigued by the time I arrived and I had to look at this and calculate amongst the various rescue agencies what the impact was like. A number of staff were reluctant to leave the site. They felt that they wanted to continue working, but we had to put some rigour round who was going to stay, who was going to rest, and who would stay there and help keep things going.

25

Q. Are you going to turn now and discuss lead agency?

A. I am sir, yes. By the time I had arrived and by the time I was contacted by Deputy Commissioner Pope, I was told that Deputy Commissioner Rickard had announced that New Zealand Police were the lead agency. I was taking over the role of the incident controller within the CIMS structure. On my arrival I was briefed by Inspector Canning. I observed

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police, fire and ambulance were also present. The PRC staff, Pike River Coal staff, were in the briefing rooms and the Mines Rescue team were in a separate building preparing their equipment and getting ready. The initial scene was hectic, that's a polite way of describing it. Many of the Pike River staff and those present were obviously under stress and that was natural because the men underground were their friends and work colleagues and they were showing signs of distress. The media were trying to break through the perimeter and get onto the site. A number of family members were amassing at the gate to try to find out whether their relatives were underground and the scene was hectic. By the time I arrived, Sergeant Judd had already implemented the CIMS process. He was wearing the fluro jacket with the words on it, "Incident controller," on the back. He was trying to instigate and run hourly briefings, attempting to get people to put down what they were trying to decide, get some rigour around the thought process of how things would operate hour by hour and what decisions were necessary to be made and had been made. It was obvious to me that the various agencies present were doing their very best and were attempting to co-operate with each other. Once the CIMS model went into place you get a real sense of a single unified mission or feeling of what everyone was there for, and we all knew why we were there."

Q. So just pausing there. That was your sense on this first occasion that you arrived at the site, but you did get a sense of cohesion of the various agencies that were involved, various parties?

A. I did sir. "One of the first things I did and that's something I do quite often, is just sat back and observed to make sure that I got a feeling as to who was doing what, as opposed to rushing in and trying to take over, and I think that yeah it's a natural thing to do, to look at these situations and there'll always be chaos out of confusion, and you could see that everyone had a common goal was to bring those men out. Now everyone was operating in a different way, but as the CIMS model came to be, everyone clicked into the same framework as to why we were there. At no times was I or other police officers challenged by anyone

as to who was the lead agency. No one from any other agencies ever suggested that another agency was better qualified at that time to step up and take command of the situation. Furthermore, I'm not aware of any other police officer, including myself, in the time I was in Operation Pike, has been challenged in relation to that role."

Q. So just pausing there. Are you saying that throughout your operational role in this emergency, that not only did no police officer suggest that that had been suggested, but no one from any other agency suggested, "Hey, what are you guys doing running this show, we're better placed"?

A. No sir. "At no stage in the whole time from that night until I left in February, no one challenged any of my men or myself in that role. It's not surprising in that when you look at this situation, New Zealand Police does take the lead in all virtual search and rescue operations and I think AC, Assistant Commissioner Nicholls explained why, but in terms of my role as district commander it is normal that any search and rescue operation of a serious or minor nature, the police co-ordinate and lead with other agencies, and might I explain that. For example, I have been involved in some search and rescue situations involving caving tragedies where we would utilise cavers to go underground to bring the people out, but New Zealand Police still take the lead role in co-ordinating people and bringing them to the table, and that's what I knew I was there for. I think is because by the nature of our organisation we are able to quickly mobilise resources and we can bring communications and logistical expertise to the table. We have the capacity to work with other relevant government departments, both government and non-government organisations such as New Zealand Defence, customs, immigration, and also a range of emergency services that are not publicly funded that we constantly work with, we train with, and we work as a team.

1417

Q. You going to turn now and talk about decision-making and how that worked?

A. I am sir. "There were some initiatives that took place prior to my arrival and subsequently they were taken without the knowledge of the IMT or my knowledge as the senior police officer there. For example, I wasn't aware until recently that Mines Rescue or someone else had put a bucket down the Slimline or one of the areas by rope, with some radios and things for the men. I became aware recently that on the 20th of November that a SMV was placed in the portal of the drift."

Q. What's an SMV?

A. It's a specialist –

Q. Specialised motor vehicle?

A. Mining vehicle.

Q. Mining vehicle, right.

A. And also the auxiliary fan was not something that I knew about immediately. While I had no doubt these things were done with the most honourable intentions they posed risk and they're not brought to the attention of myself and IMT and were therefore not subject to any risk analysis or assessment. If I perhaps turn now to the introduction of the CIMS model. The concern I had that everyone was working with the best intentions and everyone was trying their best there lacked some cohesion and clarity as to what people were doing and a number of the agencies appeared to be acting in silos or separately and you could see that we needed to bring some rigour around the process, bring them to the same common objective and work as a team to try and get these men out. I think the over-rolling factor of the CIMS model that whilst it is flexible it does provide rigorous objective analysis of what's happened and also operationally it's a strong model that all emergencies operate under. I suppose the advantage of the CIMS model is that all the emergency teams that were there, such as fire, ambulance, New Zealand police are all used to working in that structure as a partnership and someone taking the lead, and it's a model that we operate on a daily basis throughout New Zealand. Under the model Assistant Commissioner Grant Nicholls was appointed the response co-ordinator. And as he's given in his evidence he was based in Wellington. It was

his role to review the responses by the IAPs, he make decisions in consultation with representatives from other agencies, such as New Zealand fire and Department of Labour. It is critical that these agencies engaged in the process because when it comes to the whole of government approaches to this particular tragedy they needed to be there and co-operate. It was our understanding that these decisions in relation to enter of the mine that DOL, Department of Labour, if they chose they could issue a prohibition notice, and I was aware of that. It never came to the - and I don't think it ever would because I think we had a strong enough relationship that it wouldn't get to that stage. My working relationship with Assistant Commission Nicholls was highly effective. I do not consider it to be one of the command and control, he was someone that I could ring, I could seek advice and vice versa he listened to what I told him."

Q. Just pausing there, even though he's an assistant commissioner and in terms of rank he's senior to you, how did you feel that the working relationship operated between the two of you in the course of this operation?

A. I think as the operation went on it grew. I had not worked previously in this type of operation with Grant but I could see that like the rest of us we all had a common goal and he was giving it a 100%. Now there were times in the first three days I slept for two hours. I had to ring Grant on occasions and he was able to support me on and what we were doing and provided me with some guidance and rigour around my thought process and became a sounding board. Whilst he was command structure on occasions it's a two-way street. So it wasn't like I was ringing him, which I was in a formal process, but also he was ringing me and offered me advice and assistance. If I turn perhaps now to the rescue phase, which is the period from the 20th of November to the 24th of November. And firstly I want to cover the risk assessment, decision-making and use of experts. After the first 24 hours of the initial phase involved the rescue phase it seemed to me that everyone was committed to rescuing the 29 men underground. I generally believe that

at least some of the men may have survived and I am of the view that most of those people on the site at the forward base at Greymouth believed that as well.

1422

5 Q. Just pausing there. There was obviously discussion about that. Can you tell us about the opposing views, who may have held what and what, if any, consensus was reached?

A. I think in the first 24 hours up until the Monday when you looked at the situation, I'm not a mining expert, and I never claimed to be. I'm a
 10 senior operational police officer. I was dependent on people who were at the front-end being Mines Rescue staff, from both New Zealand and Australia, Pike River mining staff, other agencies who were present and I was listening to what they were saying. And I was also very conscious that Peter Whittall, who I had met and worked with throughout this
 15 operation, I had to listen to him as well. In times when Peter and I addressed families and the greater media, I would defer to his knowledge. He's a man of 35 years in the mining field and I listened to what he said, and I wasn't going to contradict that because I'm a police officer, not a mining expert and when you look at it, within that first
 20 period there was every belief that those guys were still alive. Two men had self-rescued and walked out and we saw that. But we had to put it into context of what we were facing, but we also kept an open mind. There were some opposing views who basically said to us, well, we should just seal it and go home. Now, I'm not going to do that. It would
 25 be immoral for me to stand up and say to people, well, on day two I was going to front the public and say, "I'm closing the mine and going home." I didn't go there for that. I think there was some greater frustration in relation to the initial action phase which definitely was hampered by the fact that we couldn't get good gas samples and I think we needed to
 30 establish quite quickly the gas sampling of what that mine was doing that may allow an opportunity for Mines Rescue to go underground. We were hampered with the ability to do that. I was in constant contact with Assistant Commissioner Grant Nicholls. We were on the phone to each

other daily and sometimes hourly and sometimes within five minutes we were talking to each other. We discussed the various possible solutions and possibilities. The informal information shared I found invaluable in terms of looking at the whole management of the situation. We kept each other fully apprised of developments and I made sure that if I found anything I consider was of significant as far as the operation was concerned, I would tell him straight away. Despite the informality of this interaction, the decision-making model we adopted was based on evidence, not speculation or rumour, based on evidence. As a senior police officer and also a trained detective inspector, I do not deal in rumour or speculation. I deal in evidence. Most of the evidence we obtained came from experts, or what I would call subject knowledge people, people who had an understanding of the mining industry and also had a knowledge of emergency management. These included Pike River staff who knew the mine best, had been involved in working underground and also building it. New Zealand Mines Rescue, in particular Trevor Watts. The SIMTARS staff who arrived and helped out from the 20th and all other emergency services that gave their time and effort from day one. I do not pretend, nor do the New Zealand Police pretend to be experts in mining disasters. We were largely, if not exclusively dependent on the information we provided initially from Pike River Coal staff. In the first few days we were overwhelmed by the offer of assistance, both locally, nationally and internationally. It was important that we managed that assistance because a lot of people came to the table with some great ideas but as you went through them you could see that they had ulterior motives. For example, we had companies contact us globally suggesting methods of rescue, but when you researched them they were trying to sell you products. You had to be very careful what we were doing. In my opinion, I was confident that the experts onsite, at Pike River Coal, at the front-end were the right people.

1427

A. From an operational perspective, I had full faith in their knowledge and their ability and I have no doubt that they work collectively as a team for the same purpose. I saw my role as the incident controller to facilitate those people to do their jobs, to make sure what they got what they needed in a timely fashion and to make sure that anything that they suggested was appropriate was dealt with. That did mean, yes on occasions when risk assessments were produced, they had to be returned, because even I could see as a layman, you could drive a tractor through some of them and they needed to be peer reviewed and looked at seriously as to why we were doing things and what time it was going to take to do them. To give an example, quite early on it became apparent that a partial seal was needed, or something of that nature.

Q. When you say, "early on," what are you talking about, day one, two, three?

A. In the first two days. A request was made that we had one manufactured in Perth –

Q. Just pausing there. I'm sorry to interrupt you again, but as far as this partial seal was concerned, who was it who suggested to you that it would be necessary or desirable to have a partial seal available?

A. It came out of the IMT at Pike River. It appeared in a lot of the early IAP's and when I questioned what was required. The suggestion went forward that we need inflatable portable seal that could be used.

Q. Right, so what did you do?

A. I tasked my logistical team. They had one made in Perth at the cost of AU\$20,000 and have it flown here.

Q. Did that happen?

A. It did, sir, yes.

Q. I take it the seal was never in fact used?

A. No, I think it sits in at Rapahoe now in Mines Rescue. We've donated it to them. But it was an example of, in the first early stages what we were facing and what people were requesting, I saw the key role as the incident controller to make sure they received that equipment. We also received some experts who gave up their time and effort, such as

Jimmy Gianato, Dr St George who gave advice in relation to their knowledge of mining and what was occurring. In relation to my observations of those people, they were more inclined to give strategic information to AC Nicholls. I was more focussed on the men on the ground, at the mine site, who were practitioners who I dealt with on a daily basis when I went up there, so I saw myself as working with those guys in an operational context.

5

Q. Just dealing with those sorts of contacts, you know Trevor Watts from Mines Rescue?

10

A. I do sir, yes.

Q. Did you know him before this operation started?

A. No, I did not know Trevor personally, but I knew him on reputation. My team from the West Coast who knew Trevor personally, I talked to them often when I became district commander. They talked about the relationship they had locally with Trevor and his team. They talked about how they'd train with him and the great admiration that I came to have for Trevor was echoed by my staff.

15

Q. Right, so obviously very highly regarded by the police?

A. High regarded.

20

Q. And in the course of this operation as the incident controller and looking at the initial phase through to the end of the rescue phase at least, would you talk with Trevor Watts?

A. Yes, I would.

Q. How often?

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A. I would sir, if, at the times I went to the mine I spoke to Trevor. On occasions when he came to Greymouth Police Station I dealt with him as well. I also tasked Inspector Mark Harrison who was one of my senior members of my team to work with Trevor to make sure that if entry was made to the mine and men were recovered, how New Zealand Police would support that. To look at the DVI process, to look at how we would handling of the men once they were recovered, if they were recovered, what dignity we would show to them, so that became a whole phase where Mark Harrison and I spent time with

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Trevor, gaining knowledge of Mines Rescue in the process, working alongside Trevor to make sure that we supported him in the event that him and the Aussies went in.

Q. Right, so what sort of frequency are we talking about on a daily basis, if it's possible to put a figure to it?

A. Would've been numerous occasions I saw Trevor personally, but when we introduced Mark Harrison, it was a seamless relationship.

Q. Okay, thank you.

A. In my observation overall the risk assessment and decision making process and use of experts from my, in my context worked well. The operation was complex. It was challenging. It was fluid and it was constantly changing daily. On the hour it could change.

1432

A. We could be looking at drilling holes and the weather would close in. We'd have to go to another phase. So it was constantly evolving and changing by hour. There's no blueprint to an operation like this and whilst I may have 34 years of policing I've never worked in an operation that has been so complex and intense in any context of what I've done. I know there's been some criticism of the timeliness of risk assessments and the decision-making process and I can understand that because I dealt with that frustration daily from the team at the front end. However, I'm still going to say, and I'm going to say it today, that process required due diligence. There were occasions where I could tell out of haste mistakes were going to be made and due diligence had to be put across that process to make sure they weren't made and no one died on my watch.

Q. Just pausing there for a moment. You were in Court when you heard Commissioner Panckhurst ask Assistant Commissioner Nicholls about this arrangement, and more particularly, it wasn't his words but was effectively, or might have effectively, been the emasculation of you in your role because of the superintendence of the Wellington layer. What do you say about that?

A. It is what it is. I can't change it.

Q. Well yes, but the suggestion that was put was that that may have strait-jacketed the incident controller, namely you, that operational decisions which might be expected to be your province, were being taken up at a national level in Wellington. What do you say to that?

5 A. I think if we look for the future, I believe the person sitting in my position should have operation responsibility in decision-making, there's no doubt about it, but I can't change time.

Q. Yes I know, but we're looking forward as part of this exercise rather than –

10 A. But having said that, there are two key decisions I would not be comfortable making as one man. It is the sealing of that mine when there's a possibility of people being alive, and secondly, putting people underground. They are decisions that need collective wisdom to be made and I feel it's unfair to have an incident controller, no matter who they are, solely make that decision.

15 Q. What value then did you put in the relationship that you had with Wellington and the layer that it had?

A. I think I offered some operational value. I was the meat in the sandwich between the front end and Wellington. I could influence them as to what
20 decisions needed to be made and explain how risky and how timely it should be made. I also think that I was able to utilise the team at Wellington for some of the bigger ticket items that I couldn't facilitate. For example, the bringing of the GAG to New Zealand was a huge logistical nightmare that I was able to give to someone else. I was able
25 to deal with things globally through Police National Headquarters and source them quite quickly. An example of that is the Floxal or the nitrogen generator. We were able to reach out to Australia and get that here within days rather than weeks. We were able to facilitate that arriving in Auckland, clearing customs, being driven and shadowed
30 down the length of New Zealand to the West Coast and being delivered. So I think from an operational commander's perspective, I was able to offer AC Nicholls a real sense of what was happening on the ground, to explain to him some of the frustrations we were all facing, and also seek

where possible, guidance from him at a strategic level as to what we were doing, and I would hope that I also added value in terms of co-ordination and command of the overall operation.”

1437

5 Q. Yes. So you've told us you feel that the risk assessment decision-making and the use of experts, at least viewed from your perspective, worked well. And you've also touched on the question of rate or authority being given to you in terms of operational decision-making?

10 A. Can I perhaps explain that sir?

Q. Please.

A. To put it bluntly, as incident controller it was nice to have the higher level rubbish taken away from me. You've got to understand in the context that there was a lot of stuff above me that I was glad that I wasn't dealing with, in terms of Government, in terms of the pressure put on AC Nicholls from embassies, and all those things that need to be dealt with in Wellington I wasn't having to deal with. I would hope that I was, which I was, I was able to just get on and focus on the West Coast and the operation. You need someone in that role at a very senior level to do those things for you otherwise the incident commander becomes a one-arm paperhanger to everyone. You need to push those high level things off to someone like AC Nicholls and get them to do them for you and shield you from those people. If I now perhaps turn to sealing and survivability?

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20

25 Q. Yes please.

A. "I was aware during the first 24 hours there was suggestion that a fire might be burning in the mine. A question of sealing the mine was raised during some of the IMT meetings, however it was agreed by all those, by any decision to seal the mine would never be adopted by the whole group. It needed to be a group decision."

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THE COMMISSION ADDRESSES WITNESS

EXAMINATION CONTINUES: MR MOORE

A. "During the initial rescue phase we were heavily reliant on the expertise and advice of PRC management staff. They knew the mine better than any of us. I first met Mr Peter Whittall on the evening of the 19th of November. I knew from talking to Peter that he'd had extensive mining experience and he had also been involved in the design and management of Pike River Coal Mine. Out of necessity the emergency services looked to Peter and his team for advice. Constantly Mr Whittall and his staff expressed to me and my team that the men could be alive and rescued. In the initial stages there was no evidence to suggest that all the men had died. Everyone involved in the rescue operation, including myself, held the general hope that the men would be rescued. It was my honest belief, based on the advice I was given by those who knew the mine best, this was the case. It was not until the second explosion that I personally believed that all hope of survival was lost. As a result there was immense frustration amongst all of us working on the operation, that's Mines Rescue, were unable to enter the mine. It was agreed by all the agencies at the scene the mine was volatile and the environment inside was unsafe for entry. No one from PRC ever suggested to me that they thought the mine should be sealed. Mr Whittall was reported publicly as saying that sealing was not his first, second or third option. I took that from his statement that he considered sealing the mine as a last resort, only once that it had been proven that there was absolutely no hope of survival.

25 1442

A. I have read the statements filed by Mines Rescue where they suggest that Mines Rescue have stated from an early stage that the mine should be sealed. While I recall the question of sealing and the inertia of the mine was discussed at a number of IMT meetings, the consensus was this was not an option. It was not an option that should be exercised until the IMT was satisfied that no one was alive in that mine."

30

Q. And you've already told us about the relationship that you had with Mr Trevor Watts and the high regard that you personally and your police team at Greymouth had for him?

A. I do sir, yes.

5 Q. And still do?

A. Look I can't speak highly enough of Trevor and his team, or the team from Australia. When you look at it, it was a terrible situation and they worked tirelessly, day and night at that site.

10 Q. Did you feel that you had a honest and effective enough relationship with Trevor Watts that if that was his view, namely sealing, and that it was being ignored by the IMT or anyone else, that he could approach you to raise that?

A. I do sir, yes.

Q. Thank you.

15 A. "No one from any other agency raised this issue with me either. The reason given to me as to why the mine should be sealed was to prevent any further explosions. A second explosion would've made the recovery of any bodies harder. However, I would not have decided the opportunity to recover the bodies would out-weigh the opportunity to rescue those who might be trapped, so long as there was some realistic responsible hope for survival. On the 20th of November, the Department of Labour staff at the mine advised that they had instructions from Wellington that the mine would not be sealed until there was no chance of survival."

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25 Q. Just pausing there. What was your understanding of the mechanism by which that message was conveyed. There were Department of Labour officers there at the mine, at the forward command weren't there?

A. There was, sir, yes.

Q. How many. Do you remember?

30 A. On that particular occasion, I think there were two.

Q. Right. And was your understanding of the way in which this message from the Department of Labour was conveyed and from where?

A. It was my understanding from my first response team that went to the site, being Sergeant Cross and some of my constables, that it was conveyed in a meeting between PRC, police and Mines Rescue staff.

5 Q. And the message about the mine not being sealed until there was any chance of survival, do you know whether there was a, to your knowledge as conveyed to you by your staff, any Wellington component in that direction?

10 A. Yes, sir, it was my understanding from my own team that the Department of Labour staff said that this would not occur until they had instruction from Wellington.

Q. And that was predicated on the basis that the department wouldn't authorise the sealing of the mine until there was no chance of survival. Is that correct?

A. That is correct sir, yes.

15 Q. And was that largely consistent with what you understood to be the consensus of the IMT in any event?

A. That is correct sir.

Q. Thank you.

20 A. "In relation to this particular aspect I am fortified by the view of the brief of evidence filed by Kenneth Singer, dated the 28th of August 2011."

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Q. Yes, I think we've already seen that and the Commission will be aware of that. But that's paragraph 152 and I think beyond as well isn't it? Is there another paragraph that?

25 A. To 157, sir.

Q. Right, thank you.

30 A. "Throughout Operation Pike in the mining disaster, we undertook to keep the families informed throughout. A variety of different systems were put into place to ensure the families outside Greymouth were also kept informed and both nationally and globally. These included, for example, an eTXT tree, a secure website that only family members could use, an 0800 number and when important messages were required to be given for those families who could not manage to get to

Greymouth, and the inspector in charge of this phase, prepared a script to be read to each family members. I have subsequently found that New Zealand Police facilitated and attended 48 police family meetings, 150 family members signed up for the eTXT and 84 family members registered on the website and also utilised email as a point of contact.”

5

Q. Was this a closed website, was it?

A. Yes, sir it was developed as part of a process by Inspector Mark Harrison where family members could go onto it, could receive updates and also log comments, that they each received a unique PIN or a number that gave them access and other members of the public could not gain access. It meant basically for those family members globally and outside Greymouth, where possible, we could put information on that site and they could communicate with each other and with us.

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Q. What's this “eTXT tree?” Was it eTXT tree you mentioned?

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A. Yes, being a technophobe, it's a system that you can set up and I've seen it being used on a computer where you can put in multiple phone numbers in and send one text message to multiple people at the same time and it was utilised to let people know that there was a meeting coming up, or that significant things were developing and if we were drilling holes, to hopefully give them up to date information at what stage we were at.

20

Q. And the 0800 number, that was a dedicated number, was it?

A. Free calling number, sir.

Q. How would that be used, or for what purpose would that be used?

25

A. It meant that people could phone in for free and speak to someone or receive information.

Q. Who would they speak to?

A. Initially it's my understanding that Inspector Mark Harrison or Inspector Wendy Robilliard carried a cellphone and you could link into that. It just meant that you wouldn't have to make a phone call or a toll call. “We also, in addition to this, provided each family with a police liaison officer to work with the families.”

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Q. Right, just pausing there. So that was a dedicated liaison officer per family, was it?

A. Yes, sir. Some police officers might've had two or three families and some would have one. And it was their job to liaise to work with the families to assist them where possible.

Q. So was that a first point of call for police, or what did you see the family liaison officer's role being in that?

A. I saw it as a crucial role to make sure that they were kept up to date with what's happening where possible. I saw it as a crucial role to fill the void of, and bring to the table any issues that they may have. I also saw it as a crucial role once Air New Zealand left, that we had to fill the void. Now that's, it's not uncommon, it's one of those situations when you deal with fatalities on a one on one basis, you may provide a single police officer to deal with grieving families, but in this particular case we had 29 families and multiple family members that we were trying to support. And it's a system that was refined as we went along and it was a system that we've since refined and used in Canterbury after the 22nd of February with the quake where some of the learnings that we took from the Greymouth and the Pike families, we were able to go to Christchurch and improve and I think we never, to be honest, New Zealand Police was never prepared for that amount of families to support and we had to look at for the future of picking people that are suited to that role and it also, I can personally say that some of my team that were involved in that, it took a personal toll on them as well. "At a later time, police arranged for the Focus Trust to assume primary responsibility for the ongoing welfare that once we left –

1452

Q. Who are the Focus Trust?

A. They're a community-based trust that deals with welfare and grief issues. Having said that, we still continued to attend family meetings. Inspector Wendy Robilliard keeps in regular contacts and where it's appropriate to provide information for New Zealand Police, she still does

so and that's become part of her key role for Operation Pike. She still keeps in contact with the family meetings.

Q. Now you mentioned a moment ago, Air New Zealand. What was their role?

5 A. Initially, it is my understanding that Mr Whittall reached out to Air New Zealand who had been dealt with similar major crisis involving plane tragedies for support. And Air New Zealand initially arrived and supported the family and did an outstanding job. But then came a time when they left and we wanted to make sure that there wasn't a void, so
10 we stepped in and did our best to fill that void.

Q. Thank you.

A. "Although I could have delegated responsibility to liaise directly with the families, I believed as the senior commissioned officer present for Operation Pike and the incident controller I had to take on this role
15 personally. However, had I known the operation would run for so long and be so complex, be so challenging, and so time consuming, I would have arranged for someone else to share this responsibility with me. I have read the briefs of evidence put in by the families and I'm personally gutted. I can understand your criticism, but at the end of the day I did
20 my best. I committed myself to running family meetings twice a day, each lasting an hour. For each of those meetings I spent at least half an hour with members of my team and also the PRC management staff, particularly Peter Whittall. In communicating with the families, I thought it was critical to be honest and tell them the truth. It was inevitable in a
25 tragedy such as this that rumours would circulate, and on behalf of New Zealand Police I could not speculate or buy into rumours. Everything needed to be confirmed and conveyed to the families. Furthermore, it was essential that whatever went to the media was known by the families in advance. The problem was that the news got
30 no better; it got worse. I felt that once I was committed to this regime of meeting with the families, if I left it would be interpreted that I'd backed away from them, and in hindsight I should have delegated this responsibility to someone else to take up the role. There were times

when it was necessary for families to hear from technical experts, for example, Peter Whittall who continued to provide information to the families. I believe he undertook this role well and gave it 100% and made sure that they received the right information from a mining perspective. I also felt it was helpful that the families hear from other experts and I could understand their frustration when constantly they asked me questions and I was unable to answer them. I asked Trevor Watts of Mines Rescue if he was prepared to speak to the families. He declined to do so. I knew he was busy. I knew I was conscious of the fact that he was focusing on his primary role of rescue and recovery.

1457

A. It would also have been, knowing Trevor, difficult for him personally to face the families, but I know that doing so would've been greatly appreciated by them. I thought a great deal about how the liaison with the families might have been improved. And I have the following suggestions for the future. I think it's appropriate that we adopt, on behalf of New Zealand police, a senior police officer as soon as possible to be tasked to become the family liaison person."

20 Q. This is for the meetings?

A. That is correct sir. But it doesn't mean that the incident controller, such as myself, would not attend. I would see my role in the future as attending those meetings to provide information where possible and keep them up to date.

25 Q. But not every meeting for the whole of the meeting?

A. No sir.

Q. Is that what you're saying?

A. That's correct, and someone else taking over the role as the family liaison person. I also think it would've assisted the families and the public in New Zealand if we'd provided early on a command chart, or an example of how the CIMS model works so they could get a better understanding of how the operation was being co-ordinated, that it wasn't solely a police operation and that they could understand the

30

various agencies and what people were doing. And it is something we should do for the future. I believe there was a great deal of misunderstanding, not only by some family members but also the public of New Zealand who didn't understand how the CIMS model works, and I think for the future it should be put up quite quickly so people understand the various agencies, the emergency services and what each person is doing in a role so they can know who is doing what, and quickly.

Q. So would it be more than just your face as the incident controller, although you'd be the one who would present the picture but you would explain those around you who are providing the advice on the multiplicity of issues that you had to juggle with?

A. That is correct sir, yes. I think it would make it a lot clearer in the context of emergency services, we understand the CIMS framework and work with it but to the average person on the street they don't and it would hopefully provide a clearer picture of what people are doing. I also want to reassure each of the family members and the friends of the 29 miners everyone involved in this operation did their very best to bring the men home. We all worked extremely well together and we are all extremely disappointed that we had not been able to achieve that goal for you.

Q. Just pausing here superintendent. This may not be the sort of chart that you were thinking of but I'm just going to put up and ask Ms Basher to put up a chart, which is PIKE13117/16. Is that the sort of thing, it's not?

A. No sir it's not.

Q. What's the sort of thing that you would contemplate?

A. I think one of the counsel raised that there was a handwritten chart, the command chart that was taken from the base within the first 24 hours and later put into a more formal structure on how the police operation was running. I'm talking mainly about that.

Q. We'll see if we can find that before you finish your evidence in chief.

A. Thank you sir.

Q. Sorry to have interrupted you. I think you were going to start to talk to us about the fifth topic heading, which is media. Is that right?

A. I am sir. "In addition to my other duties I had to run two media briefings every day. These were usually undertaken by myself and Mr Whittall.

5 As with the families meetings we preceded each briefing with a meeting between Peter and myself to ensure we had consistency of approach and messaging. And again, in the benefit of hindsight if I'd realised how onerous a task this was and how big the media scrum was, I would've tasked someone else to take up this role for me.

10 Q. These media meetings, certainly over the rescue phase, when you're probably at your most frantic, how many of those were you attending a day?

A. I did two family meetings a day and two media briefings a day, each of them took an hour.

15 1502

Q. And how much preparation would you do in advance of each of those meetings?

A. Personally I'd do an hour to an hour and a half. I had to make sure that I got all the IAPs from the previous night. I needed to make sure I was
20 fully briefed from my own team at the frontend to understand what had happened in the previous 24 hours. I'd then meet with Peter and we had to sit down for half an hour and talk about each of our roles and what we were doing. I then had a team of police communications people with me who were looking at the particular meeting as to what
25 the messaging would be to make sure it was clear and it was direct and it was based on evidence.

Q. So, how many hours what do you say would be engaged a day on duties relating to media and family?

A. Six. At least six hours a day.

30 Q. Right. Now, I'm going to ask you to turn to item number 6 which you were going to tell us a bit about the family meeting on the 24th of November 2010, when it was conveyed to the families. There

had been a second explosion which was bigger than the first. Can you tell us about that please?

5 A. "The prospect of telling the families that all hope of rescue was now over was dreadful. In my 34 years of policing, it would have to be the worst day of my life. In terms of dealing with 29 grieving families in a room full of people. I'd been to the mine site where I'd listened to the team and understood that they were preparing, if possible, the option of entry to the mine and then the second explosion took place. I then drove back down to the families meeting which we'd scheduled that afternoon and I met with Mr Whittall in the carpark. I had present with me, Barbara Dunn who was my communications manager who also took notes for me every meeting I went to."

10 Q. She took notes at all the family meetings did she?

15 A. She did so, yes sir. "We stood outside in the carpark and I watched family members arriving. I discussed with Mr Whittall who would give that message. He decided, and I agree with him, they were his men and he wanted to break the news. We stood in that carpark and we spoke about how the message should be given. Barbara Dunn tore a piece of her notebook out and said to Peter, "This is what you need to say and be honest about it." I could see that Peter was struggling with that because these are people he knew and he worked with. We went into that meeting, Peter stood up and he announced to the families that we'd just come from the mine and we were about to mount a rescue operation. I have never seen such an outpouring of grief in my life. It was not the way that message should've been given at all."

25 Q. When you say, "Outpouring of grief," you say he mentioned that it was planned to enter the mine, was the reaction to that news that you remember?

30 A. People stood and clapped. "It then became apparent that the wrong message had been given and it should not have been given that way and I had to interject. And hindsight's a fine thing, but that message needed to be given honestly and clearly. Some people would say that we should've sent the families away and put them back another day but

5 it had to be told that day, because that situation needed to be explained and be honest about it. It's one of those situations where I've gone over in my mind constantly and still think about it. It was not the way it should've been given and I apologise to each of you for the way that message was given. I do not blame Mr Whittall for the way the message came out. To his best ability and based on the emotion and the knowledge that we'd both just faced, it is my belief it resulted in Peter being unable to confront the task in front of him."

1507

10 Q. This note that was torn out of your associate, Barbara's notebook and given to Mr Whittall as to how the message should be conveyed, do you remember what was written on that piece of paper?

A. Not specifically but I recall standing in that carpark with Peter and Barbara Dunn and Minister Gerry Brownlee, and saying, "In situations like this you have to be honest and factual. You have to be direct and in a situation like this there is no good news, you can't dress it up." And when you look at it, it had to be done in such a way that was caring, had compassion but you have to be honest in these situations and tell people the way it is.

20 Q. Thank you.

A. "Standing there I could tell that Peter was not comfortable. It is my belief he didn't want to give that message, whereas for all of us involved on that day, the realisation was those men had perished and it had to be told. If I turn now to the parallel contingency planning for Operation Pike, particularly the GAG. During the rescue phase the focus was on rescuing the men underground. However, in parallel there are other objectives taking place, such as discussion around inertisation of the mine was considered part of this and also the disaster victim identification, it was part of the operation. We were planning for every contingency so we were looking at all other parallels in relation to the rescue, recovery and other options. In the course of the IMT briefings various methods of inerting the mine were discussed, including the use of a GAG. I had read the briefs of Mr White, Mr Brady and Mr Whittall

which have been filed in relation to a meeting that took place at Greymouth Police Station on the 23rd of November with myself and then Commissioner Howard Broad. Mr Doug White said that he requested the GAG to be brought over from Queensland, but the police indicated that they would not do so, least the impression be given the families and the police had given up all hope.”

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Q. Yes, just pausing there. That reference to what was said by Mr White was a reference to his evidence before this Commission rather than anything he said at that meeting, is that right?

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A. That is correct, sir, yes.

Q. So you're commenting on his comment to the Commission that the police wouldn't deploy the GAG because it might indicate to the families and properly that the police had given up all hope?

A. That is correct, sir, yes.

15

Q. And your response to that?

A. I recall this meeting was discussing the GAG. This was the first time it had been explained to me what the purpose of the GAG and the Floxal was, how they worked and why it was thought necessary to deploy them at Pike River. My recollection is somewhat different to Mr White's and Mr Brady's. I am certain that the police did not at any stage indicate the GAG was not wanted. Indeed, I have been told by Assistant Commissioner Nicholls that I could obtain any equipment that was thought necessary no matter where it was in the world. My recollection of this discussion ended when we agreed that we would prepare to have the GAG brought to New Zealand.

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25

Q. And you've looked at some notes that were prepared by Ms Barbara Dunn. I don't propose to display them because I have already done that in relation to the cross-examination of Mr White. For the record, the document is PIKE01842. The relevant page is page 36. That note from Ms Barbara Dunn records, "Prepare GAG ready to come." Do you remember seeing those words in her notes?

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A. I do, sir, yes.

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Q. That's consistent with what you understood was resolved and agreed at this meeting, is that right?

A. That is correct, yes. "However, this decision on the 23rd of November 2010 is an example of a failure to plan a parallel contingency.

5 There was no reason why planning to obtain the GAG could not have been commenced at a much earlier stage on the basis that it was hoped it would not need to be used, but if it had to be used there would be a minimum delay in deploying it. Because the decision to deploy the GAG was not made until the 23rd of November, there were delays in having it delivered and installed after the second explosion."

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Q. You have however, on the other side of the ledger, indicated to us this inflatable seal was ordered from Western Australia at a relatively early stage in the rescue phase, is that correct?

A. That is correct, sir, yes.

15

Q. And did that arise from an IAP for the 23rd of November? I'm going to ask it be put up please, it's PIKE01896?

WITNESS REFERRED TO PIKE.01896

Q. And if you look at the last bullet point, yes, actually everything from "Critical information" down, please? Now you're familiar with this IAP, are you?

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A. I am sir, yes.

Q. We can see that the last bullet point of the critical information which was imparted as a consequence of that IAP, records, "Inflatable seals been made in Perth, ready today." Can you see that?

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A. I do, sir.

Q. And do you recall when it was relative to that date that the order or contact was made with Perth to set about constructing these inflatable seals?

A. It is my understanding sir, it was on or about Sunday the 20th, sorry, Sunday the 21st of November when we first requested that.

30

Q. Okay. Right if you could now deal with heading number eight, "Recovery phase" – tell us about that?

A. “Following the second explosion on the 24th of November 2010, I believe that all those gathered at the mine believed that there was no longer any chance of survival. The urgency which had previously been characterised in the initial phase, in the rescue phase diminished and the focus of the operation moved to long term stabilisation of the mine to allow for re-entry for recovery. In the hours before the explosion there had been the prospect that the Mines Rescue might be able to enter the mine, because the conditions appeared for the first time to allow that possibility. Mines Rescue and a panel of experts were discussing the possibility of entry, but more information was required before discussion to enter could be made by the response co-ordinator in Wellington. It was at that point that the mine exploded. On that particular afternoon I attended at the mine and was present when the second explosion took place and you could see all the team that were working there on that day were doing their best and were planning to look at possibly going in.

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A. It is my understanding from being there that Kenneth Singer, one of the Australia team, felt that they need some more analysis and came back and said, “Something’s not right,” and then the mine exploded. Explosion of the mine had a devastating effect on all of us at the site, we’d all been buoyed by the possibility that entry could may be made. It was a very sobering experience for me personally and it emphasised to us how valuable and robust the information of risk assessments had to be before entry could be made. And I undoubtedly believe that those decisions save lives. I turn now to the recovery phase and what it was like. This phase remained extremely challenging but we all wanted to recover the men’s bodies for the families. The mine remained a challenging environment. It was volatile, it was dangerous and there was also a threat of further explosions. During that period Mr Whittall recommended Associate Professor Dave Cliff from the University of Queensland is a suitable person to advice me operationally on this phase of the operation. He was contacted immediately and came to the

site. I met with him frequently, every day he was there, and sought his advice on a range of issues. It is my belief that he supplemented the knowledge and skills of the men at the front end. I also arranged for Dr David Bell, a geologist, to visit the site. We needed his expertise in relation to sealing the Slimline. There were fissures and cracks and evidence that gases were escaping from the mine throughout the hillside. It was also arranged that David Reece, who is a mining expert and a manager himself from Australia, come and provide advice and operational support to me. He was also brought to the mine and provided valuable support for not only myself but the Department of Labour in relation to the ongoing investigation. Other experts and expertise were also identified. We utilised a drain camera, we utilised the services of a CAL scan from Solid Energy in order to obtain images of the interior of the mine to establish what we were facing. I also accessed the experts who were engaged in Wellington under the guise of Assistant Commissioner Nicholls. In particular Dr Beever who came and visited the site and worked with me over a number of days. The GAG was brought to the mine by Queensland's Mines Rescue, who owned and operated it. The GAG was initially expected to run only for several hours to inert the mine. In the event it actually ran for multiple weeks. On the 18th of December 2010 a Floxal was imported from Australia, which is a nitrogen generating device.

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- A. It initially ran in tandem with the GAG and then continued to run for some months after the GAG was removed. If we put into context, each of these particular devices required a great deal of logistics, pre-planning to get them to the site. It required a lot of work onsite to prepare before they even arrived. They had to be flown into New Zealand. The Floxal had to be shipped into Auckland. It had to be long-hauled down the island using our commercial vehicle unit which are police officers. It had to be transported up to the site and each of these took hours and days to do. So, it wasn't a quick-fix to get them there. To assist with inertisation of the Slimline, the main vent shafts

were sealed. Dr David Vella advised that many of the natural fissures in geology were extensively leaking from all parts of the mine. It wasn't an easy process."

Q. In terms of your final comments, can you analyse what at least, in your view, highlighted what went well and then we'll look at the other side of the ledger.

A. "I think in particular the following aspects worked really well. There was no doubt that the commitment of all those involved in this operation went above and beyond what is expected of them. In my time as a senior commander in this role, we rotated and used the services of over 300 police officers. We were rotated in and out from all around New Zealand. My team from the west coast who initially attended this tragedy did exactly what they're trained to do. They were all well versed and practiced in the CIMS model. By the time I arrived the process had already been set up and I'm extremely proud of them. The police staff travelled to Greymouth from all over the country, which is not an easy feat. With exception, everyone worked extremely hard and everyone on the site was totally committed to this operation and I could not have asked for more. In terms of logistics the police worked well with our key partner, being New Zealand Defence and a variety of other agencies to arrange equipment to be brought to the mine site from all over the world. I cannot personally speak highly enough in terms of the commitment and dedication by New Zealand Defence. To put it into context, they shipped fuel across the Southern Alps in tankers daily. They provided logistical services which are above –

1524

Q. That's for the GAG was it?

A. For the GAG.

Q. Yes.

A. They provided on site services in relation to the GAG and they pulled out all the stops globally to get those items here above and beyond what they were expected to do. In terms of inter-agency co-operation, there were multiple agencies who worked on this operation under the CIMS

model. They worked collectively together and worked well. in terms of the mine, the staff from PRC, Mines Rescue New Zealand and Australian, St John's, New Zealand Fire Service, SIMTARS, and local contractors all worked as a team. I saw relationships formed between people that normally would not come in contact with each other who all had one common goal and that worked well. In my opinion, there are no more fatalities and the decision-making process contributed to this. There are some areas of improvement, and I'll cover those. Although the operation went well, with the benefit of hindsight there are some areas of practice which need to be improved. The first is parallel contingency planning. It is always important to plan for more than one possible outcome. Most search and rescue operations complete a rescue and recovery outcome. We did not. Although there should have been parallel planning, there was parallel planning in relation to DVI processes. I do not believe enough emphasis was placed on the desirability of having a parallel sealing and inertisation strategy. For example, the need for the GAG was raised at a reasonably early stage in the IMT process. If arrangements had been made at an earlier stage to have the GAG on standby, in the event it became obvious that the men had not survived, it could have been installed at an earlier stage and we need to learn from that. The decision-making and approval model. As incident controller I feel that I could have and should have made some of those operational decisions at Greymouth.

Q. When you say, "some," are you really saying all but for the two that you nominated earlier in your evidence?

A. Yes I am sir, with the exception of sealing and putting men underground to mount a rescue, which I believe are decisions that need a collective decision-making process. It is my belief that the ICT or the incident control person should have responsibility for –

Q. It's not so much because the decisions are difficult decisions to make technically, but rather that the consequences of the decision are likely to be or have the potential to be very significant in terms of loss of life?

A. They are sir. They're huge in terms of complexity. There are also the national ramifications and also the impact on the families. But the routine decisions in relation to drilling holes, utilisations of robots and suchlike should be the domain of the incident controller.

5 Q. Thank you.

A. The next thing is in relation to families.

Q. I think you've spoken about that. I don't think we need to go there anymore, I think you've developed that, and you've also spoken about improvements in terms of the media and the liaison. So those would be
10 core issues that you think could be worked on. There may be others but those are the primary ones that you would certainly contemplate. Have I got that right?

A. I do sir, yes.

Q. A couple of more questions. It has been suggested and you would have
15 heard it because you were sitting in the back of the Court when Assistant Commissioner Nicholls was cross-examined, about this claim that either jointly or severally, the Department of Labour or the police stifled certain aspects of conversation, particularly around the question of the sealing of the mine. Do you remember questions of that sort
20 being asked of Assistant Commissioner Nicholls?

A. I do sir, yes.

1529

Q. You were at the forward command base, admittedly not there all the time, but you were there. Did you detect anything yourself which would
25 give support to that proposition?

A. No, I don't, sir.

Q. Another issue that was raised was the claim that you never told the families about the possibility of a fire inside the mine. We're talking here about the rescue phase. You remember that being put in
30 cross-examination anyway to Assistant Commissioner Nicholls?

A. I do sir, yes.

Q. Well, you were the man delivering the message. What do you say you said on that issue?

A. To put it into context, on a number of the family or media briefings, I focussed on the operational aspects that New Zealand Police were involved in and other rescue services that were part of the team, and Mr Whittall was able to give a better description of the mine and its environment and what was happening underground. I was not going to stand up at a family meeting or a public meeting and criticise a man who had a view who had 35 years in mining. I'm not a mine expert. I was dependent of Mr Whittall providing that information and I don't think the families, if I'd stood up and said that, I would've been run out of town. I was dependent on his knowledge of what was happening for him to explain that. You can see from the messaging that changed probably on the Monday where the reality was that we were possibly heading into a different operational phase where the messaging I gave did talk about "dire, grave and the possibility was diminishing," but we were dealing with a situation that was fluid and daily changing.

Q. But the questions of gravity and direness and we can see it from the police flow chart if we were to go to it, were messages that you were starting to deliver towards the latter stages of the rescue phase, is that right?

A. That's correct, sir, yes.

1532

Q. Do you remember whether you or anyone else at any of the family meetings mentioned the question of a fire in the mine?

A. I recall from one of the earlier meetings that the notes that Barbara Dunn took that Mr Whittall talked about a heating underground.

Q. You don't remember the word, "Fire," being used at all?

A. No I don't sir.

COMMISSION ADJOURNS: 3.32 PM

COMMISSION RESUMES: 2.48 PM

THE COMMISSION ADDRESSES COUNSEL – LEAVE TO CROSS-EXAMINE

5

THE COMMISSION:

It might just be worthwhile mentioning, Commission has given an assurance to Mr Brady, who is the next witness who has a longstanding and quite pressing commitment in Australia on Friday, that we will ensure that his evidence is given tomorrow, and that's part of the reason that we sought the estimates that you've just given. It could give rise to the need, Superintendent, to interpolate Mr Brady in the course of your evidence but that's something we will review at the end of today in light of progress.

15 **WITNESS:**

That's fine sir.

1551

CROSS-EXAMINATION: MR GALLAWAY

Q. Superintendent, you've heard my cross-examination, I think, of Assistant Commissioner Nicholls?

A. I have sir, yes.

Q. And one of the issues that I raised with the assistant commissioner was the checking of the risk assessments that were done at forward command, do you remember those series of questions that I asked him about?

A. I do sir, yes.

Q. The questions largely, or began by stemming from his brief of evidence at paragraph 36, where he said that the risk assessments were completed at forward command, and I assume you agree with that?

30 A. I do sir, yes.

Q. 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, you sir?

A. Correct sir.

5 Q. And you then reviewed them with the group of experts you had available. Now, you're shaking your head and I presume you're – where I was going with the assistant commissioner is, who were those experts and you'll recall that he talked about a lawyer in the Ministry of Defence and so on. Did you have a group of experts available at incident control
10 to review those risk assessments?

A. What I had and what I saw was a number of technical advisors which also included some of the people at the front, at the forward command. For example, a number of the risk assessments that were routinely done in relation to things that were not of significance would be peer reviewed
15 simply by myself and Anna Tutton who's our legal advisor and forwarded on. There were some risk assessments where, if I put it into context, I tried to act like a buffer. There were some occasions when the RAs came through, you could see there was big gaps so I'd forward them back again and say, "Look, it's not going to cut it, you need to fill
20 these holes," and there were some examples of risk assessments where the attachment documents were for Australian mines or other situations, so I kind of got to the stage where I was trying to add value by critiquing and to make sure that the risk was mitigated and then, if possible, go back to the subject experts at the frontend and say to them, "Guys, this
25 is just not appropriate."

Q. So you were trying to speed up the process in that way by getting it correct before it went up to Wellington?

A. Yes I was sir, yes.

1554

30 Q. So, just so I'm clear, and I'm not being critical, I'm wanting to understand what was actually happening. You didn't have a team of experts assembled to review the risk assessments in Greymouth. Was that right?

A. Initially what was happening is that the RAs were coming to Greymouth and were being peer reviewed by people like Kevin Poynter from DOL, David Bellett and Johan Booyse, and then later, as the operation moved, at that level I had beside me Professor David Cliff, David Reece and the like.

Q. Now, so what are you reading when you're –

A. Sir, in evidence there's been produced this document here, which the Commission's got, and what I've simply done is put the names to those positions.

10 Q. So there weren't Mines Rescue people looking at those risk assessments at incident control?

A. No sir because to put it into context, as part of the IMT process they were involved in that.

15 Q. Exactly, so yesterday when Assistant Commissioner Nicholls said that Trevor Watts was involved at Greymouth and reviewing those, the questions that I then put to him expressed exactly that point, that if that was the case then those who were preparing those risk assessments were then reviewing them, that wasn't actually happening?

20 A. In a number of the risk assessments sir the reason why I involved legal counsel was that a number were contractually complex and that we need to ensure that because New Zealand police were the lead agencies that we were introducing, or someone was introducing, something into that environment, it required some rigour to be made sure that we weren't culpable. And a number of those decisions were
25 having to be turned around quite quickly at our level to ensure the RAs were sent to Police National Headquarters.

30 Q. Yes. Now when did Associate Professor David Cliff become involved at your end? We know that, I think, he became involved with the expert panel in Wellington around the 30th of November. Were you referring matters to him before that?

A. Yeah, he became available, I can't specifically recall the date in November but after a meeting with Mr Whittall it was recommended that

we should engage him and he arrived the next day within 24 hours and then I involved him in that process straightaway.

Q. So that was, I think, the evidence is isn't it, around the 30th of November that he arrived?

5 A. But I also know there was a slight mistake in the ACs evidence in that Dr David Cliff was not talking to Doug White, he was talking to the Australian team because they had worked with him previously.

Q. Which Australian team?

10 A. SIMTARS and Mines Rescue, they were reaching out to him and communicating. Because by the time he got to New Zealand he was fully aware of what was happening at the front end, he knew what was going on because he'd been engaged and it's the right thing to do.

1557

15 Q. I'm not being critical, I'm just trying to work out where he was involved and where your involvement began.

A. Yeah.

20 Q. So the risk assessments that were prepared between the time that the operation started and the 24th of November, we know don't we, that the expert panel wasn't put together by the police until the 24th of November in Wellington?

A. That's correct, sir, yes.

Q. Heard that evidence, so who was reviewing the risk assessments up until that time?

25 A. They were being looked at, at the front end by the team who created them, as I've said, initially they were looked at by members of –

Q. You might have to slow again, sir.

A. Sorry, my mistake. They were initially being looked at by members from the Department of Labour, such as Kevin Poynter, David Bellett and Johan Booyse.

30 Q. Right, so can I just confirm there. They're all Department of Labour employees?

A. They are, sir, yes.

Q. Not Mines Rescue's experts are they?

A. No, they're not.

Q. All right and then, carry on, after that, who was reviewing them?

5 A. And then as I've said later when Professor Cliff, Mr David Reece and also we engaged Dr David bell, because when we were looking, collectively of the greater we, we were looking at sealing the Slimline, we needed the expertise and peer review of a geologist, because obviously that was a crucial point if we were going to seal the Slimline, you couldn't do it if there were fissures.

10 Q. When did David Reece become involved and what was his involvement?

A. I can't remember the specific date sir, but I tasked Inspector Mark Harrison, who has an extensive background in emergency management, to find a geologist who had knowledge of mining and he knew of Dr David Bell and we engaged him to come to Greymouth to support me operationally in relation to that phase.

15 Q. See, the people who you've listed as reviewing those risk assessments, I suggest were all involved after the 24th of November and what I'm trying to establish is, who at – once the risk assessments went through you and were either sent back to forward command or up to Wellington, who were the experts reviewing them between the 19th and the 24th of November?

A. In Wellington sir, or Greymouth?

Q. In Wellington.

A. I have no idea.

25 Q. So you were unaware of what review process was taken up there during those days?

A. I was aware from AC Nicholls that he had clustered round him the people he's talked about in his evidence, and I was aware of that.

1600

30 Q. Yes, okay. At paragraph 320 of your brief sir, and you're talking about the 23rd of November, you've said, "While police were initially reliant on the expertise and advice of those present at the mine site, as incident controller I formed the view that police needed the ongoing advice of

independent experts. Experts from other agencies such as New Zealand Fire Service and the Department of Labour were already assisting the police at the Police National Headquarters and I was aware that those working at the mine site were communicating with mining experts. I considered that it would be useful to have additional experts available to the police at operational level.” Who were they? Were they appointed?

A. No. It was a case of I’d identified that at my level as the IC that I required some independence in relation to the risk assessments and I requested through AC Nicholls that those people be sourced.

Q. And how was that request made?

A. It was made as part of one of the many conversations we had, and it may have been made as - that’s been produced in evidence in relation to Inspector David White was my second in command.

Q. Yes.

A. And I’d said to him well there’s various phases that we’re now going into that require other experts in terms of knowledge of what’s occurring.

Q. So you felt it was necessary for you to have an independent expert at incident control?

A. I did sir, yes.

Q. And what sort of issues did you want that independent expert to deal with?

A. I thought it was important to have someone who was neutral from the environment, ie didn’t work for Pike River Coal, who could provide me with mining – I’m not a mining expert.

Q. I think that’s accepted sir.

A. And I wanted someone who could sit beside me and guide me through when the risk assessment documents came forward, when the IAPs came to the table, could say to me, “Superintendent, this is what you’re facing. This is what you should be doing.”

Q. And did you want that person to have some Mines Rescue expertise, given the nature of the issues you were dealing with?

A. Sir, in hindsight it would have been great.

Q. So the answer is yes?

A. Yes.

Q. You did? And was that person appointed?

A. No.

5 Q. Do you know why not?

A. No I don't. I think that – no I don't.

Q. Did you follow up on it?

A. No –

Q. Look, and I appreciate you were busy. We've all heard about –

10 A. It was a moving feast.

Q. Yes. But it would have been preferable for you to have a Mines Rescue expert at that level throughout that time?

A. It is, and I think that it, with the passage of time it will be more than appropriate.

15 Q. I asked Assistant Commissioner Nicholls yesterday about a conversation that was had between Inspector White and Inspector Brown at 2.30 on the 21st of November, so the Sunday, and that was the one where you had indicated to Inspector White that you wanted more research done around the issue of moving from rescue to recovery?

20 A. I did sir, yes.

Q. Can you explain, in making that request what sort of issues you were expecting to have researched?

A. I wanted to find out operationally that if we were moving into a recovery phase, what I was facing, what equipment I required, what the front end needed. I also wanted to find out what - were there any complicating factors that I may be facing, and I wanted to know so that if the worst case scenario took place how was I going to deal with it operationally and what was required to support me in that.

25 Q. And is it fair to say that in conveying that message Inspector White said to Inspector Brown that you wanted that research done earlier rather than later. You were indicating, weren't you?

30 A. I was.

Q. That it was urgent that you had that research done?

A. Yeah, look I think that I was listening to the, what was happening at the mine site, I was reading the IAPs, I was seeing the RAs and I was thinking we're going to end up heading down a path which is going to be really serious and tragic. I wanted to make sure I was ready for it. I didn't want to be caught napping.

5 1605

Q. No, and by then, of course, Seamus Devlin had turned up to an incident management meeting and said, "Is anyone discussed sealing the mine." So, I presume that those factors were weighing on your mind when you made that request as well?

10 A. Totally.

Q. Who did you expect to undertake that research?

A. What we looked at is from a policing perspective we engaged Inspector Mark Harrison, as who I've said has significant experience in civil emergencies and in dealing with disasters, not mining disasters, and I had tasked him that he should be working with Trevor Watts and his team, so from an operational perspective I could get a handle on what I was required and what I would be looking at going forward. I was under no illusion that New Zealand Police would be going underground, but I wanted to make sure that when Mines Rescue did that we were there to support them and also be available to take what they gave us.

20 Q. So, to your knowledge, what research was done in relation to your request?

A. I know that from a policing perspective Inspector Mark Harrison arrived. I sat down with him and tasked him as to what I wanted him to do. I gave him two key tasks. One was to co-ordinate the DVI phase and the possible recovery phase.

25 Q. Sorry to interrupt you, when did he arrive? Do you remember?

A. I think it was the Monday?

30 Q. So the 22nd?

A. Yes. And I also tasked him to gain a better understanding from a police officers' perspective, on what Trevor and his team, Trevor Watts, would be facing.

Q. And so, to your knowledge, that happened, the research was done?

A. Yes, he came out with a, and I think it's in evidence sir, a plan of what would take place in terms of recovery, from a police perspective. I also asked him to identify one are the key partners we should be working with. Apart from Mines Rescue and SIMTARS and that team, who else we should be engaging with. And that involved, also, simple things like, if we managed to get underground and recover the 29 men, how would we deal with that and was the capability available at Greymouth Hospital to deal with multiple fatalities. What would we do in relation to identification in terms of DNA and some very simple policing things to say, who else should we be working with in parallel to do that in case it does happen?

Q. That research didn't then take into account the issue of survivability?

A. No, not initially, but it's my understanding after the second explosion I said to Inspector Harrison, "We need to look beyond what we're doing here and engage some medical practitioners, a forensic dentist," and other people that could join the discussion in terms of survivability.

Q. In terms of the issue of survivability, and you've heard me questioning Assistant Commissioner Nicholls in relation to it, do I take it, sir, that your evidence is that you were largely relying on the evidence of Mr Whittall in that regard up until the second explosion?

A. Yes and no. I had to take cognisance of what Mr Whittall said, he's man of over 30 years' mining experience, but I was also reading the IAPs, I was trying to get an understanding of what the gas sampling meant, trying to get an understanding what we were facing, what heat underground really means, and at the same time I was planning for the worst, hoping for the best.

Q. But planning for the worst, takes you into recovery, obviously. It doesn't deal with the issue of survivability?

A. No it doesn't sir, perhaps if I put it into context. The day I left Nelson and they asked me to pick up multiple body bags, I didn't think I was going to recover bodies. I thought I was going to rescue men. But someone said, "Let's have those available on the worse case scenario."

So, it's kind of like bringing things down with you knowing that this is the path but you had to be prepared for another path.

1610

5 Q. Faced with these circumstances again, I think Assistant Commissioner Nicholls agreed that it would be desirable to consider the issue of survivability from the outset so that good decision-making could be made around those findings. Do you agree with that?

10 A. Hindsight's always a fine thing, but this was unique in terms of in the history of New Zealand policing I don't think any of us have faced a tragedy of this magnitude. And yes I do agree.

Q. And that, I think, ties in with the parallel contingency planning that you talked about with Mr Moore, where I think you agreed that a greater degree of that in relation to sealing, survivability issues along those lines would be desirable in the future?

15 A. Sir, I hope we never ever face a tragedy of this magnitude but I think the lessons learnt are well adhered to.

Q. Yes. And so what I'm just wanting you to agree with me is that if in the future there is such a disaster there will be much more parallel contingency planning?

20 A. You can bet on it.

Q. I was interested in a comment you made in your brief sir that after the second explosion the urgency that had attached to the operation, it's at paragraph 352, diminished as the advice received from experts was that there was no chance of survivability. That comment that the urgency diminished seems a little surprising given that the sealing of the mine at that time, or introducing the GAG, was vital to preserve the mine. Do you wish to comment on that?

25

A. I think the word, "Urgency," has been taken out of context. We merge into a long-term phase where we knew that a long-term the environment had to be stabilised so the re-entry could be made. So when I say, "The urgency went," wasn't a case of planning for an entry tomorrow, it was a case of stabilising the environment for a long-term entry. And I think, yeah, it's not a case that we sat round and drank tea, we gave it

30

everything we got but we knew that it was going to be a long-term journey.

Q. You accept though that had there been a much greater degree of parallel contingency planning in relation to sealing and survivability then the inertisation of the mine could've taken place much sooner after the second explosion?

A. Yes and no. I think you need to understand that even if we had a, for example, a GAG somewhere in New Zealand, which we don't, it would've taken some time and days to take it to that site, to set it up, to build the container to put it in the portal to seal it, to shot concrete it, to make sure it was a safe working environment, couldn't happen overnight.

Q. But it could've happened, I'd suggest, an awful lot faster had that parallel contingency planning taken place?

A. It could've sir, yes.

Q. Now at paragraph 98 you talk sir that Mines Rescue, this is of your brief. "Had the expertise equipment and training to enter the mine following the explosion any entry to the mine was to be carried out by the trained Mines Rescue personnel only, not by police officers. I was aware that the only organisation with authority over the individual members of the Mines Rescue team was Mines Rescue, consequently senior Mines Rescue officials would need to have authorised the entry of any Mines Rescuers." How did you become aware of that?

A. I became aware of that quite early on arrival at the mine site in that Area Commander Canning, Sergeant Judd, had informed me that at the end of the day it was Trevor Watts and his team that would have to go underground. So the ultimate decision will be made to them whether it was safe to go or not.

1615

Q. Just a couple more issues sir, if I can just have a moment. The inter-agency briefings that you held sir, at Greymouth, included according to paragraph 279 of your evidence, "Police, St John ambulance, fire service, defence, district health board, Department of

Labour and latterly the Coroner's office. They didn't include the Mines Rescue Service, did they? 279?

A. Thank you sir. No they didn't sir.

Q. Do you accept that in the future they should?

5 A. I certainly do.

Q. Do you have an explanation for why they weren't included in those briefings?

10 A. Because they were involved at the IMT, at the front end where they needed to be. They were the guys on the ground that were in that phase, so I knew they were engaged and involved in that process. The meetings that were being held at Greymouth were the emergency services who were involved, so when I looked at that meeting, I had knowledge that Trevor and his team were involved in the IMT at the front end.

15 Q. But in the future, it would be desirable to have representatives, or a representative of Mines Rescue in those inter-agency briefings?

A. Correct, sir, yes.

20 Q. At paragraph 189 of your evidence, you've referred to – and again, this is on Sunday the 21st of November, Mines Rescue identifying some of the possible fire fighting options and you list five of them. "Use of high expansion foam, nitrogen, sealing the portal, GAG jet engine, and a reduction of airflow allowing the fringe to come back and extinguish the fire and put a tarpaulin over the portal." What steps did you take to look at those options, following them being mentioned on Sunday the 21st?

25 A. It is my understanding either the next day or shortly thereafter, those operation experts at the front end at Pike, came up with a chart that displayed those options and which was the most preferred.

30 Q. You see at paragraph 195 you said that, "It was clear to all involved that sealing or closing the mine was not an option. The safe rescue of those trapped remained the priority." Are you aware of what investigation took place by police in relation to those other fire fighting options that I've listed?

A. I'm sorry sir, how do you mean?

Q. Well, you've said on Sunday the 21st, "Mines Rescue identified that some of the possible fire fighting options were," and I've listed them, "High expansion foam, Floxal, sealing the portal, GAG and reduction of airflow" and then you've said at paragraph 195, that sealing wasn't an option and what I'm asking you is, did you look at the other options at that time?

A. Yeah, what we tasked – what was tasked with the IMT was to look at those options, come up with some type of plan as to which was the most quickest, the most feasible and the most practical solution.

10 Q. And what was your understanding of what transpired as a result of that?

A. My understanding sir, that as a result of that, there were possibly three meetings where it was finally decided that the GAG was the most practical and preferable option.

15 Q. Lastly sir, the mention you made of the request you made of Mr Watts to go and address the families and Mr Watts will address this is his evidence, he said to you, didn't he, when he was asked that he was remained heavily involved in the front end. He felt that he was needed there and that he felt there was a danger if he went and met the families, then he would be losing a vital degree of objectivity in his decision making?

A. I can understand totally that Mr Watts didn't wish to speak to the families.

1620

Q. But do you accept that he conveyed that to you?

25 A. That's your words, but what I'm saying is that it's more likely as Trevor said to me, "Gary, you're paid to do this," and I can understand why. He was focused on the rescue and recovery operation, he was focused on leading his team, but on the other hand I had to balance it against the needs of the families who wanted to hear from that man who needed to understand that what we were doing, I couldn't provide that.

30

Q. I understand that, but you likewise understood the reasons that Mr Watts didn't feel comfortable doing that because it would take him away from his job?

A. Yes and no. I can understand why he wouldn't do it, but I looked at it and thought it was an hour out of his day that I could have explained to the families. He could have explained greater than I could what he was doing.

5 Q. Can you understand that for a person in his position charged with making the decision about whether the men go into the mine, can you understand his concern that meeting with families could have affected his objectivity and decision-making?

A. I can understand that.

10 **CROSS-EXAMINATION: MR STEVENS**

Q. Superintendent Knowles, you had said in answer to questions from my learned friend Mr Moore today that you thought the use of experts worked well, and so I wonder if I could just take you to a few documents please on that. Is that still your view?

15 A. Fine sir.

Q. It's still your view?

A. Sorry sir, can you repeat it?

Q. Is it still your view that the use of experts worked well?

A. In the context of what I was dealing with in Greymouth, yes.

20 Q. Could you - SOE01400118 and it's at page 40 of that, and this is the sequence of events document that the police put together. You're familiar with that sir?

A. I am sir, yes.

WITNESS REFERRED TO SOE.014.00118

25 Q. And could I have highlighted please the section, "Expert advice". This was the log for Tuesday 23rd November and it was some time after midday. Is that what we interpret from the document?

A. It's my understanding sir, yes.

30 Q. And this was Dr Paul Beever who was going to join you in Greymouth wasn't she?

A. Dr Paula Beever, yes sir.

Q. Sorry, Paula. And that was the first time that she was joining you?

A. Correct sir, yes.

Q. And the comment was that she will be able to provide technical translation, correct?

A. That's correct sir, yes.

5 1625

Q. Why at lunchtime on the fourth day after the explosion, if the use of experts was working well, did you need technical translation?

A. I didn't ask for her sir.

Q. So that entry is incorrect, you didn't need her?

10 A. It was my understanding from Police National Headquarters, that she had some degree of knowledge in relation to combustion, to gassy situations and explosions and she was being sent down to support me in relation to her technical knowledge.

Q. Your answer was that you did not ask for it, but was it indeed expected to be helpful for you?

15

A. I would hope so, sir, yes and it was.

Q. Yes. And I re-put, why did you need that assistance if it was working well?

A. I think, sir, when you look at it any offer of assistance was gratefully received and accepted and if she could provide some other technical assistance I was not going to say no.

20

Q. Can I take you to another document please, and I take it that the reference to, "PIC," is Pike incident controller, that's you isn't it sir?

A. It is sir, yes.

25 Q. PNHQ01974/1. I'm sorry, is it slash 2, oh well, perhaps both.

WITNESS REFERRED TO PNHQ.01974/1 AND 2

Q. Ms Basher could we have please the first page of that document just to identify it please? That's I take it a briefing document for headquarters in Wellington, is that right sir?

30 A. That's correct sir, yes.

Q. And at 6.30 again on the Tuesday, 6.30 pm, 1830 hours.

A. That's correct sir, yes.

Q. Could I look please at paragraph 15 of that document? Now, you've just said that PIC is you, and you are asking, it's on the Tuesday, for a panel of experts?

A. No sir, that was not necessarily me.

5 Q. Well, then, can you tell me, was it you or was it the person that took the other shift?

A. It could've been the nightshift commander, I don't recall making that request.

10 Q. The nightshift commander was in an equivalent position to you wasn't he?

A. He was sir

Q. So either you or the nightshift commander was seeking a panel of experts? Now, I take it that the police position is there was seamless communication between Greymouth and Wellington?

15 A. Yes sir, there was communication.

Q. So we should be able to rely upon this briefing document in Wellington as accurately reflecting the views of Greymouth when it refers to matters resolved in Greymouth?

A. You should sir, yes.

20 Q. And so either you or your night-time equivalent was wanting a panel of experts on the Tuesday evening and including professors?

A. I would never ask for professors.

Q. So does that mean it was your night-time equivalent asking?

A. Yes sir, it could've been.

25 Q. Why do you know did he ask for professors?

A. I can't speculate sir, I'm not him, nor will I.

Q. Oh, come, surely the two of you communicated that's the only way you could operate?

A. I'm not him, I'm not going to comment for what he may have asked for.

30 Q. Did the two of you operate seamlessly or not?

A. We had a briefing handover. I don't recall, and I never asked for professors et cetera.

1630

Q. Assistant Commissioner Nicholls sought in a memo that we went through yesterday, also a panel of experts where the wording was, "Such as professors," didn't he?

A. It's my understanding, yes sir.

5 Q. Yes. And that passage I've highlighted to you in this briefing document, at 1830 hours on Tuesday the 23rd, again refers to the people on the West Coast as, "Practitioners?"

A. That's correct sir, yes.

Q. And was that an expression that you would've used?

10 A. No.

Q. So it's only your alternate in the evening that would use that expression. Is that what you're telling us?

A. He obviously uses different language than I do.

15 Q. Part of the CIMS model is surely that you talk the same language, correct?

A. I'm not going to be pedantic and argue with you but at the end of the day I would not ask for professors and I would not call the team at the mine panel or practical expert, practitioners, it's not my language.

20 Q. So you are sure it is therefore being your alternate who used that language, yes?

A. Maybe his sir, yes.

Q. You said in your evidence today about people that gave up their time freely and they were experts and you named two. One was Jimmy Gianato?

25 A. Gianoto sir.

Q. And the other was Dr John St George. Did you have any dealings with Dr St George?

A. Yes I did sir.

30 Q. Were you aware of his view of the West Coast practitioners, sorry, the West Coast mining fraternity?

A. No I wasn't sir.

Q. Did you hear the evidence of Assistant Commissioner Nicholls?

A. I did sir, yes.

Q. You're familiar with his evidence?

A. I've listened to it sir, yes. I listened to him give it over the last two days.

Q. And you're aware that certainly he relayed that Dr St George indicated that the best teams in the world, this is in respect of borehole 43, were at Greymouth. You aware of that?

A. I am sir, yes.

Q. And that advice from those Mines Rescue experts, and so that goes beyond just the drilling team, were, "The best you can get?"

A. Totally agree sir.

10 Q. But at the time you weren't aware of that?

A. I knew that the men and women who were part of the operation were the best I've ever come into contact with.

Q. When did you become aware that Dr St George thought that the people, the experts on the West Coast were, "The best you can get?"

15 A. I think I became aware of it in one of the conversations I had with AC Nicholls, he relayed it to me.

Q. Sorry, I may not have put it very clearly. The question was, when did you become aware of it?

A. I've got no idea sir.

20 Q. Was it prior to the second explosion or you've got no idea?

A. I'm not going to answer your question if I don't know sir.

Q. My question was, was it before the second explosion or do you not recall?

A. I do not recall sir.

25 1635

Q. Could I look please at document PIKE.17614?

WITNESS REFERRED TO PIKE.17614

Q. Sir, could you just confirm that this is, I understand, a transcript of your staff briefing again on the Tuesday, do you recognise that? Third paragraph it refers to, "I've just had to brief the families on that particular point," which was about the robot. That was your function, wasn't it sir?

A. It was sir, yes.

Q. So can you just confirm that this is a transcript of your briefing to your staff in Greymouth?

A. That's correct sir, yes.

5 Q. Could we go to the next page please and can we go to about the first third of the final paragraph there? It commences with, "Dave is going to try to bring a panel together today for me so that we can get some expert working with us so that we can look at these high level decisions and have some confidence as to what is going on." Those were your words, correct?

10 A. Correct, sir.

Q. On the Tuesday, you did not have confidence as to what is going on, did you?

15 A. No, you're taking it out of context. What we were trying to do is obviously provide some rigour and some peer review of the decision making process, which is prudent.

Q. So that you could have confidence in what was going on?

A. That's what I've said sir, yes.

20 Q. Yes. Now you also – sorry, if we can go up to the second paragraph on that page? Do you accept, we probably don't need to highlight it but, on the Tuesday – sorry, can you assist us just before we go to that? Were these briefings normally, superintendent, were they normally in the morning?

A. Mine were, yes, sir.

Q. Do you recall what time, or would it vary?

25 A. It varied. I got into the office about 6.30 in the morning and did a handover for half an hour, read the IAPs and they usually took place about somewhere between 7.30 and 8.00 am.

Q. So on the Tuesday morning you'd had some issues with the Department of Labour stalling you the night before, correct?

30 A. That's correct sir, yes.

Q. On risk assessments, and can we go then please to the last page – I'm sorry, who, on the panel of experts and we don't need to go back to it,

but it referred to, "Dave is going to try and bring a panel together." Who was Dave?

A. Dave was Inspector Dave White who is my second in command.

Q. And on that last page of your briefing transcript then there's someone – I
5 take it this Ross Henry speaks?

A. That's correct, sir.

Q. What was his role please? Superintendent?

A. I'm just reading it, sorry, sir, can I read it first?

Q. Sure.

10 A. Ross Henry would've been one of the police officers who's working as part of my team and resourcing to helping me to source logistics and staffing.

1640

Q. Now that passage there indicates there's a bit of an issue with, I take it,
15 with staff moving around all over the place and that is particularly an issue with staff moving between Greymouth and the mine, correct?

A. I think he was talking about the movement of staff around the country to the site, making sure we had the right people. He wasn't specifically about the forward command or the forward site.

20 Q. Well, his second sentence I presume, well it is expressly about the forward site isn't it?

A. It is sir, yes.

Q. So another issue you were looking at on the Tuesday was that the mine needed to be your main focus. Is that what we take from that?

25 A. I think what he was saying, you can read down further, I said, "Good, well done. As far as staffing goes do you need any more resources brought in? Ross, we still need to look at that. I think we have enough for today." So he was in charge of for me, helping to set up the rosters at the forward base, making sure we had enough police staff there, and
30 his comments when you put into context were around we need more staff at the front end. We need to source them from outside Greymouth. Where should we get them from? And when you look at my response to him, "Good, well done. As far as staffing goes do you need any more

resources brought in?" So I was asking him back, outside this environment do we need more police staff? He was talking about nothing but my own people.

5 Q. Superintendent, did you have no issues at all in terms of the flow of staff between the mine and Greymouth?

A. It was a logistical nightmare.

Q. Yes, fair enough. About how long did it take to go between the two of them?

10 A. It took approximately 40 minutes and then we would have to do a handover between shifts so a full briefing took place. What we did in the latter part of the operation as part of the recovery phase is that we then introduced a system where incoming staff spent two days as part of the handover. So they would go to the mine site. They would work with the forward command team, they would learn the roles and then a handover
15 would take place. We wanted to ensure that any new staff arriving first of all received a full briefing at Greymouth as to the nature and complexity of the operation. They then went forward and the commanders who we employed for New Zealand Police received a full briefing and a two-day handover.

20 Q. When did you implement that two-day handover?

A. It was in the latter part of the operation in terms of when it became, the operation became a lot longer we were looking at having staff for a longer period. We were making sure that that took place.

Q. This did not occur during the initial crisis did it?

25 A. No sir.

Q. No. Could I just then move to some of the pressures on you, superintendent, and these aren't meant as criticisms. It was just what your workload was. You'd said that for your family briefings as I understood it, you said today that that might be one to one and a half
30 hours. That was I think your evidence to Mr Moore?

A. That's correct sir, yes.

Q. And the meetings, the family briefings would each take an hour, is that right?

A. That's correct sir, yes.

Q. Your staff briefings, how long did they take?

A. About 30 minutes.

Q. And your media briefings, how long might those go for?

5 A. Anywhere between 20 to 40 minutes.

Q. And your preparation, superintendent, for those, that was about an hour was it?

10 A. No. I was able to combine the pre-briefings for the media and the families by looking at the subject matter and then deciding what was going to be given to the families first, and then replicating that into the media briefings.

1645

Q. And you'd have to repeat that for the subsequent evening family briefing wouldn't you sir.

15 A. That's correct sir.

WITNESS REFERRED TO PIKE.11293/1

20 Q. Now, sorry, just as part of that sequence you also, I think, gave evidence that you would meet with Peter beforehand, I presume that's Peter Whittall you'd meet with him before both the family and the media briefings?

A. That is correct sir, yes.

Q. And would you have some meetings just with the police and then some with the police and with Mr Whittall?

A. Yes sir.

25 Q. That's, I think, your diary for fixed appointments on the Tuesday, is that correct?

A. That is correct sir, yes.

30 Q. And that happened to be the same day we were looking at in terms of when I was examining on whether the experts were working well, so, your family briefing and preparation, would that be perhaps up to a couple of hours at eight in the morning?

A. No, I would've arrived at work about 6.30.

Q. 6.30.

A. I would've received the briefing from overnight, read the IAPs, read any RAs that were in process, get a good understanding what had happened in the last, since I left the night before and I would then brief my own team and then, if I could put up the command structure, this is not me alone, there was a whole team of police officers underneath me who were with me supporting this process.

Q. How many reported to you?

A. If you could bring up document, and I'll give you the reference number. It's PK11065 on page 10, that's it there.

10 **WITNESS REFERRED TO DOCUMENT PK11065**

A. If you look at the structure that I had in place, so you start from the top. This is the police structure. I was the officer in charge, I had a staff safety officer who was Senior Sergeant Martin Paget that looked at any safety issues that we might be faced with. I had a staff welfare officer who was sole jobbed to make sure that those employed as part of the operation were looked after. I had a 2IC which was Inspector Dave White, who has immense experience in civil defence and emergency planning. I had a Police National Headquarters liaison team.

20 1648

A. Had all those media liaison people who were helping me prepare for the briefings. Had a defence liaison officer who on that occasion was Major Dave Griffen. I had the forward command. I had an investigation team. Had a family liaison team. Had a antemortem and DVI team. An operations airbase support team. I had a logistics team and ICT to do my comms. I had a planning intelligence sergeant. I had a sergeant plus three who were just overload I could utilise. I had a log keeper, a staff officer and a full complement of admin support on a daily basis.

25

Q. So is that up to 17 people apart from the admin support that would be liaising or reporting to you directly?

30

A. Correct sir. If you look at that structure, the bottom line all report to my 2IC, which is Dave White, which is quite common in a police operation. At a higher level he reported to me and in my absence he filled in for

me. So if I left the office, went to the mine site, went anywhere else, he stepped up.

Q. Now if we could please return to the document that we were at, 11293. You - presumably your night-time equivalent you had a session with him on each changeover?

A. I did sir, yes.

Q. And was that something that you did from the very outset?

A. Yes.

Q. And just looking at your diary for the Tuesday, sir do you accept that there was probably in terms of the preparation and time involved in just those activities that there might've been eight or nine hours tied up in those activities?

A. No, because you have to put it in context that the family briefings were at 4 o'clock, they may be half an hour to an hour?

Q. Yes.

A. So he would come on at 19.00, which is 7 o'clock. As I explained, this particular day was busy but there were some days where I had no appointments or no one coming and going and this was just a particularly busy day.

Q. Superintendent Knowles, so that would've been typical of the first few days would it not?

A. Well the first three days I didn't go to bed.

1651

Q. Yes, right. Can I move to another topic please? Your counsel put to you the questions, and you were here yesterday about, the suggestion that the Department of Labour and the police stifled debate on sealing the mine. Were you aware that, I think it was Mr Firmin, told the incident management team at the mine that effectively the option was off the table?

A. Sir, I am aware of it, having seen that particular IAP document, that they had said that for sealing they'd have to go back to Wellington.

Q. Sorry, it was Mr Poynter, I think?

A. One of them sir.

Q. And what was the delay in you getting that document?

A. Which ones that sir?

Q. I think you said, IAP, sorry?

5 A. There was no delay, it would've been produced and in the initial stages they were produced hourly, and so as they were produced during my shift they were electronically sent to me, printed out and I read them.

Q. So do you accept that Mr Poynter told the incident management team on the Saturday that sealing was not an option at that stage? I can take you to a reference –

10 A. Sir, I take your word for it, yes.

Q. Was there any occasion that you're aware of when any police member told the incident management team or Mines Rescue or any of the Solid Energy experts at the mine that that was incorrect and that they should consider the options of sealing the mine?

15 A. Not that I know of, sir. Bearing in mind that my understanding for that meeting is that Sergeant Cross attended that. It was fairly early on and he wouldn't have said that, I know he hasn't.

Q. Now just, can I take you to another document please, which is the day before the second explosion. It's an options model and it's
20 DAO.029.0005.

WITNESS REFERRED TO DAO.029.0005

Q. Have you seen that document before?

A. I have sir, yes.

1654

25 Q. Can you confirm that that was a document created by a member of Pike and that was Steve Ellis, by New South Wales Mines Rescue Dave Connell, the Queensland Deputy Mine Inspector Ken Singer, Trevor Watts and from Mines Rescue and Seamus Devlin from New South Wales Mines Rescue, is that your understanding?

30 A. It is my understanding sir, yes.

Q. And I think that there was a police facilitator present, simply as a facilitator, is that correct?

A. There was sir, yes.

Q. And to the best of your knowledge that list I've just given you they were the only people involved in preparing that?

A. It's my understanding.

5 Q. And that was done again on the Tuesday? Can I just take you down to the third box in the middle, in the orchid colour? The options are for fire exists. Your understanding was that there was a fire in the mine on that day?

A. Sir, it was my understanding there was a heat source yes.

10 Q. Sorry, I don't want to be pedantic with you, but I put to you that there was a fire in the mine and you said, you understand there was a heat source, is the...

A. Well, this document says there's a fire. Eliminate fire.

Q. Yes. So, that necessarily means we go to the left-hand side, to the yes option and there are four options aren't there?

15 A. There are sir, yes.

Q. And locate the seat of the fire and drill and douse it and you will see that that was a very low probability wasn't it?

A. It was by the look of this sir.

Q. And no criticism, no one knew where the fire was did they?

20 A. No they didn't sir.

Q. So you had white smoke venting out of the main shaft but no one knew from where, other than it was probably inbye at the main shaft correct?

A. That's correct sir, yes.

25 Q. And so the first option was to seal and the blue box underneath the seal says, "One day," and that was the likely timeframe to do that wasn't it?

A. That's correct sir, yes.

Q. And then there was nitrogen and the GAG machine and that was three days. Could you just read please the comment that that group came up with in respect of those three options underneath that?

30 A. Is it the heading sir, "Eliminates fire by lowering O2 content?"

Q. Yes.

A. "Any potential survivors at this stage will have needed to have had a self-sustaining air pocket that is unlikely to be altered with these options."

1657

5 Q. And would you accept that that was an expert group that had put that document together?

A. Yes I would sir.

Q. Now the sealing of the mine ultimately took, I think, until the 12th of December didn't it superintendent?

10 A. It did sir, yes.

Q. Was there further consideration of sealing the mine between what this expert group came up with on the Tuesday and the second explosion on the Wednesday?

15 A. I think from memory sir this is the first of three such documents and it changed. Then it was finally decided that the GAG was the preferable option. This was the first one. So there was a change.

Q. Before the second explosion or after it?

A. I don't recall.

Q. No. And sorry I'm not trying to trap you?

20 A. I know you're not sir.

Q. I don't have any other documents?

A. Yeah, neither do I.

Q. Can I just take you briefly through what occurred. The second explosion was at 2.37 the next day, 2.37 pm?

25 A. On the Wednesday the 24th sir, yes.

Q. You, I take it, understood that a second and subsequent explosions were likely to be more severe and extreme than the first explosion didn't you before it occurred?

A. That is my understanding sir, yes.

30 Q. And indeed that's precisely what happened wasn't it?

A. It was.

Q. Was there a variety of people giving you that advice superintendent, that a subsequent explosion would be more severe and more damaging?

A. That was indicated from the IAPs.

Q. Yes. And were you aware that that was also likely to give rise to roof collapse?

A. No I wasn't.

5 Q. No. In your evidence you've said after the second explosion that the police quickly concluded that no one could've survived. Is that a fair representation of it?

A. That's fair sir.

10 Q. And the Coroner concluded that everyone was dead on seven in the morning on the 27th of November. Is that your understanding?

A. That's my understanding sir.

Q. Notwithstanding that, the police after that date continued to seek advice on the possibility of survivability didn't they?

A. Is that before or after the Coroner, sir?

15 1700

Q. After the Coroner's.

A. I think what we needed to go through is a process to be reassured that survivability, there was none.

20 Q. Part of that process included a meeting that Mr Robin Hughes was asked to attend, wasn't it? Were you aware of that?

A. That was, my understanding that was facilitated by Inspector Mark Harrison, yes.

25 Q. And were you aware that they were told, the attendees at that meeting that it was absolutely a critical issue, that they had to, from the police perspective that they had to determine, a critical issue they had to determine whether there was any prospect of survivability?

A. It needed to be addressed, sir.

30 Q. Yes. Were you aware from Mr Hughes evidence that every single person at that meeting got called out to undertake other tasks and he was left there by himself without that issue being determined?

A. No, I wasn't sir.

Q. Were you aware that he left a message with the police after that to say, "Call me when you're ready to discuss it again?"

A. No, I'm not sir.

THE COMMISSION ADDRESSES MR STEVENS – QUESTIONS

CROSS-EXAMINATION CONTINUES: MR STEVENS

5 Q. It wasn't until the 29th of November in the afternoon, superintendent, when you gave conditional approval for the GAG machine, was it?

A. Was that, sorry sir, me personal or New Zealand Police?

Q. I understood it was from you, it's in your evidence at 495. Would you like to check that? And superintendent I'm happy whether it was you or
10 the police, I just want to establish the timeline.

A. Sir, it says at 12.45 pm Assistant Commissioner Nicholls gave conditional approval for the use of the GAG. Assistant Commissioner Nicholls imposed the following conditions," and it lists them.

Q. I'm sorry. Right, thank you, and are you aware that it was then the
15 1st of December when the GAG finally started to operate?

A. I am aware of that sir.

Q. And that it wasn't until the 12th when the mine was finally sealed?

A. That's correct, sir, yes.

WITNESS STOOD DOWN

20

WITNESS INTERPOSED

COMMISSION ADJOURNS: 5.03 PM

INDEX

CROSS-EXAMINATION: MR WILDING.....	1813
QUESTIONS FROM COMMISSIONER HENRY.....	1853
QUESTIONS FROM COMMISSIONER BELL:	1855
QUESTIONS FROM THE COMMISSION.....	1858
QUESTIONS ARISING: MR MOORE	1860
GARY COLIN MITCHELL KNOWLES (SWORN).....	1871
CROSS-EXAMINATION: MR GALLAWAY	1907
CROSS-EXAMINATION: MR STEVENS	1920