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TRANSCRIPT OF PROCEEDINGS

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*The attached transcript, while an accurate recording of evidence given in the course of the hearing day, is not proofread prior to circulation and thus may contain minor errors.*

2009 VICTORIAN BUSHFIRES ROYAL COMMISSION

MELBOURNE

THURSDAY 5 NOVEMBER 2009

(77th day of hearing)

BEFORE:

THE HONOURABLE B. TEAGUE AO - Chairman

MR R. MCLEOD AM - Commissioner

MS S. PASCOE AM - Commissioner

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1 CHAIRMAN: Mr Rozen, perhaps you might briefly introduce the  
2 matter and before you call Detective Superintendent  
3 Hollowood I will say something more.

4 MR ROZEN: This morning the first matter that will be examined  
5 concerns the death of Mr Colin Fletcher Paul. Mr Paul  
6 died at his house at 17 Kerami Crescent, Marysville.  
7 Mr Paul's date of birth was 28 February 1925. He was  
8 83 years of age as at 7 February 2009.

9 Commissioners, there are a number of members of  
10 the Paul family both in the hearing room and also joining  
11 us via videolink from Darwin, as I understand it.

12 CHAIRMAN: Yes. Perhaps if you just take a seat, Mr Rozen, and  
13 I will on behalf of the Commission welcome the members of  
14 the family of Mr Paul, and that includes the people that  
15 are only represented by a camera at this stage, but it is  
16 important that you understand that what we are doing is  
17 having the kind of hearing that we think is appropriate to  
18 achieve the needs of the Royal Commission to understand  
19 certain of the facts that can be used to frame our  
20 recommendations but also do it in a way that is, as much  
21 as possible, family friendly.

22 The position is that the police have accumulated  
23 a lot of material, whether it is from statements from  
24 family members, from neighbours, from CFA people, from  
25 other sources and they have got photographs and other  
26 audio material and, instead of that having to be done by a  
27 lot of individual witnesses, the process that's used is  
28 counsel assisting, which is Mr Rozen, will call Detective  
29 Superintendent Hollowood, and through the process that  
30 involves a number of audiovisual pieces, as well as some  
31 reference to the statements that have been prepared, we

1 can build up a picture so that in a relatively short space  
2 of time you can see, really, why that evidence provided on  
3 a hearsay basis gives most of the information you are  
4 likely to need.

5 There will still be gaps and discrepancies and if  
6 there is something that particularly concerns you, then  
7 what I will do at the end of the evidence from Detective  
8 Superintendent Hollowood is to say, "Are there any  
9 questions?" and that means that you could either come to  
10 Mr Rozen or just put your hand up and say there is  
11 something you would like and you want to check with him or  
12 address it directly to us, but it means you will have that  
13 opportunity at the end. Otherwise, what we will do is all  
14 wait during the process that means the interchange between  
15 Mr Rozen and Mr Hollowood will be the way that most of the  
16 material will come out and you will get used to the idea  
17 of listening to Mr Hollowood or watching the screen as the  
18 way in which we proceed. Mr Rozen.

19 MR ROZEN: Thank you, Mr Chairman. I recall Detective  
20 Superintendent Hollowood.

21 <PAUL STEPHEN HOLLOWOOD, recalled:

22 MR ROZEN: Detective, for the benefit of the members of the  
23 Paul family, could you explain your role and also what  
24 Operation Phoenix is?---Yes. My role is the senior  
25 investigative officer in charge of the Phoenix Taskforce  
26 which was established on 7 February to investigate the  
27 circumstances of the Black Saturday bushfires and we have  
28 basically followed the investigation of all the fires  
29 involving deaths and also criminal cause from the  
30 beginning and most of these investigations are still on an  
31 ongoing manner.

1 Thank you, Detective. One of the aspects of the Phoenix  
2 Taskforce is the investigation of the Murrindindi fire and  
3 the Murrindindi fire related deaths and that goes under  
4 the code name Operation Groove?---That's correct.

5 Under Operation Groove there was an investigation into the  
6 circumstances surrounding the death of Colin Fletcher  
7 Paul?---That's correct.

8 Could you please bring that up on the screen. Firstly, if we  
9 could please start by having a look at the fire perimeter  
10 map. If you could explain to us, please, Detective, what  
11 is depicted on the map?---The map actually depicts with  
12 the black outer line the extent of the fire which started  
13 at Murrindindi. We can also see two points indicated.  
14 The first one which I'm indicating at the moment is in the  
15 vicinity of the Murrindindi Mill in Murrindindi, the point  
16 of origin of the fire, and 23 kilometres to the south-east  
17 is the location of where the events occurred in respect of  
18 Mr Paul's death.

19 As part of the investigation was a video recording taken from  
20 an aeroplane?---Yes, it was.

21 Perhaps if you could please play the Marysville post-burn  
22 fly-over video. This recording was made on 26 February  
23 2009?---Yes, it was.

24 And it is taken from a plane which is flying in a broadly  
25 northerly direction, from south of Marysville and then  
26 over the township?---That's correct.

27 (Video played to the Royal Commission.)

28 MR ROZEN: To orientate ourselves, we can just make out the  
29 Gallipoli oval at the top of the screen there?---Yes.

30 We see, Detective, that in parts of the forest the crowns of  
31 the trees are almost untouched by the fire, whereas in

1 other areas the crowns are burnt but the leaves are still  
2 in place, and then in a third area we see the crowns have  
3 completely burnt and all that are left are the  
4 branches?---That's correct.

5 That is the Gallipoli oval we can see there?---Yes, it is.

6 The buildings and vehicles there arrived after the fire and are  
7 there as part of the clean-up effort; is that  
8 right?---That's correct.

9 Thank you. The investigation also included a number of  
10 satellite images that were taken of the property at Kerami  
11 Crescent?---Yes.

12 Perhaps if you could take us to those, please. Is that a  
13 satellite image taken from an elevation of 200 metres of  
14 the property at Kerami Crescent prior to 7 February  
15 2009?---Yes, it is.

16 Could you explain to us what the red dot indicates?---The red  
17 dot indicates the location of where the deceased was  
18 found.

19 Can you show us the post-burn version, if I can call it that,  
20 of that area. So we see the house there completely  
21 destroyed?---Correct.

22 And the surrounding area we can obviously see is burnt?---Yes.

23 Can you show us that same image but from a greater elevation,  
24 please?---That's from 400 metres, from 800 metres, a  
25 kilometre, two kilometres, four kilometres, and at eight  
26 kilometres. We can contrast that with before the fire and  
27 how it had actually looked.

28 So Kerami Crescent, we can see its location relative to the  
29 Gallipoli oval in that photograph. It is to the north of  
30 the oval?---Yes, it is.

31 Just on the northern outskirts of the township of

1 Marysville?---Correct.

2 As part of the investigation, Detective, police have completed  
3 a re-enactment based on evidence obtained in the course of  
4 the investigation. I wonder if you could take us through  
5 that, please?---The re-enactment has been conducted around  
6 17 Kerami Crescent in Marysville. Colin resided alone at  
7 17 Kerami Crescent. The premises was a two storey mud  
8 brick and timber home with three bedrooms, a lounge and  
9 dining room, kitchen area, billiard room, bathroom and  
10 laundry. There was a carport attached to the premises,  
11 which was on approximately half an acre, an irregular  
12 shape. The property was between Kerami Crescent and  
13 Marysville-Woods Point Road. The house was positioned at  
14 the north-eastern section and the western segment was  
15 heavily wooded. There were two sheds west of the main  
16 house, one a timber shed and the other a smaller toolshed.

17 At about 8.56 am on 7 February Colin Paul called  
18 his son, Greg Paul. There was no mention of fires during  
19 that particular call. In the morning some time on  
20 7 February Colin travelled to the Marysville community  
21 golf and bowls club where he remained until lunchtime.

22 At about 2.21 pm Colin received a call from his  
23 son, Andrew Paul. Colin had commenced preparations in  
24 case fire threatened his property such as filling buckets  
25 with water.

26 At 4.53 pm Colin received a telephone call from  
27 his granddaughter, Rebecca Peters. Colin stated that not  
28 all was well due to a fall that he had had a couple of  
29 days earlier, and he was at home with the airconditioning  
30 on. Rebecca advised Colin of information she had obtained  
31 from the CFA website and Colin stated that he could see

1 smoke over the hills but had not been alerted as yet.  
2 Colin stated that he was intent on staying to defend his  
3 property and used the phrase, "They will have to prise me  
4 out of here."

5 At about 5.08 pm Colin spoke to his  
6 daughter-in-law, Sandra Paul, and stated that he was  
7 staying to fight the fires and that he had some drums of  
8 water and hoses prepared. Colin said if a fire did come,  
9 he was "going down with the ship". At 5.35 pm Colin  
10 received a phone call from his son, Trevor, who stated  
11 that he had been monitoring the CFA website and that there  
12 was a potential threat to Colin's property. Trevor urged  
13 his father to collect his valuables and evacuate. Colin  
14 stated that he wasn't going to leave, he had experienced  
15 fires before and that this was just another one.

16 At about 6.11 pm Colin received a call from his  
17 daughter-in-law, Sandra Paul, during which he stated that  
18 he was staying to fight the fires and had drums of water  
19 and hoses prepared. At 6.26 pm Colin received a telephone  
20 call from his son, Trevor. Trevor stated that his father  
21 was still adamant that he had no intention of evacuating  
22 and said, "I'm going down with the ship."

23 At about 2.30 pm on 8 February in response to a  
24 request from Greg Paul, three police members and one  
25 civilian attended at 17 Kerami Crescent and on attending  
26 they observed the premises had been destroyed by fire and  
27 Colin's burnt-out vehicle was in the driveway. They  
28 deemed the site unsafe to enter and left.

29 At about 9 pm Greg Paul, son of Colin, and a  
30 Victoria Police member arrived at his father's property to  
31 search for his father. On searching the ensuite and main

1 bedroom he located what he believed to be the remains of  
2 his father. At 9 pm Greg Paul marked the remains with  
3 crime scene tape and left to advise other police.

4 At 6.25 pm on 9 February a DVI team, disaster  
5 victim identification team, of six members attended at the  
6 property and observed that the dwelling had been destroyed  
7 by fire and located the human remains within the scene.  
8 The scene was photographed and the recovery process  
9 commenced.

10 Thank you, Detective. As part of the investigation photographs  
11 were both taken by the police officers and also some  
12 photographs were obtained from family members. If I could  
13 take you to a sample of those photographs, please.

14 Firstly, in relation to the property prior to the fire  
15 there is a photograph under the heading "Pre-burn",  
16 I think photograph number 1. Is that a photograph taken  
17 prior to 7 February 2009, obviously enough, from  
18 the driveway of the property?---Yes, it is.

19 A significant number of photographs were taken of the property  
20 after the fires as part of the investigation. If I could  
21 take you to the first one of those under "DVI scene", it  
22 is number 1, a photograph taken from the driveway. We can  
23 just make out the number 17 and the sign "Paul" on the  
24 left-hand side of the photo?---That's correct.

25 And that photograph depicts the scene after the fires went  
26 through on 7 February 2009 and we can see that immediately  
27 behind the house was a heavily forested area?---Correct.

28 The second photograph, photograph number 2, is of the same  
29 scene but a little closer. It is almost taken from the  
30 identical position to that pre-burn photograph that you  
31 showed us a moment ago?---Yes, it is.

1 The third photograph I would like to take you to is number 3  
2 and we see one of the damaged mud brick walls of the  
3 property there?---Yes.

4 And the general degree of destruction of the house is clearly  
5 shown there?---That's correct.

6 As was indicated by the chairman at the commencement of this  
7 morning, a number of statements were obtained from family  
8 members and neighbours and others who could shed light on  
9 the circumstances surrounding the death of the late  
10 Mr Paul. I would like to take you to some of those  
11 statements now, if I could, starting with the statement of  
12 Gregory Paul. Mr Paul indicates that he is the son of the  
13 late Mr Paul and as it turns out is himself a sergeant of  
14 police in the search and rescue squad based in  
15 Williamstown. He explains that he is the youngest of five  
16 children, that his late mother and late father lived in  
17 the property at Kerami Crescent but that his mother died  
18 some years before 2009 and since that time his father had  
19 lived at the property on his own?---That's correct.

20 He describes on page 1 of his statement the property in the  
21 middle paragraph and he says, "My father lived in a three  
22 bedroom mud brick house in Kerami Crescent, Marysville.  
23 The house was two storey and contained a lounge room,  
24 dining area, kitchen, billiard room and bathroom/laundry.  
25 There was a carport attached to the premises also. The  
26 house was situated on an irregular shaped block that ran  
27 between Kerami Crescent and Woods Point Road. The house  
28 was at the eastern end of the block, with the western end  
29 being heavily wooded. There was also some bush area at  
30 the extreme east of the block. In addition to this there  
31 were two sheds on the property. There was a timber shed

1 and a smaller toolshed, both located to the west of the  
2 main house." Mr Paul goes on and explains the  
3 circumstances in which the house came to be built, that  
4 the property was purchased in 1988 and his parents built  
5 the house themselves making bricks out of mud that was  
6 sourced from the land that was cleared for the slab and  
7 that the timber frame itself was largely comprised from  
8 hand-milled timber from trees cut down from the site.

9 On page 2 he explains that his mother died  
10 Christmas Eve 2002 and since that time his father had  
11 lived in the house on his own. He explains at the top of  
12 page 2 that, "The house was more than a house, not only to  
13 my father but to our family. Many family Christmases and  
14 other special events were held at the house and it was  
15 like a base for us all. It was because of the fact that  
16 the house was like sacred ground to my family that my  
17 father chose to stay and defend the property."

18 Mr Paul also provided some information about the  
19 work background of his late father which is relevant to  
20 the investigation. He goes on on page 2 of the statement  
21 to say, "In addition to the attachment to the property, my  
22 father was an experienced firefighter and had successfully  
23 defended other properties from bushfire. My father worked  
24 for the Soil Conservation Authority, a former incarnation  
25 of the Department of Sustainability and Environment for  
26 about 35 years from 1950 to 1985. Prior to that he had  
27 been an infantry soldier in the 7th battalion in World War  
28 II and had fought fires as part of his army service. My  
29 father had fought fires in the Sydney area before being  
30 deployed in the Pacific Theatre in World War II."

31 Mr Paul goes on, "My father was also a member of

1 the Civil Defence, which later became the State Emergency  
2 Service, but had ceased his involvement as he was busy  
3 with other community groups. When he was living in  
4 Alexandra he would help out with firefighting efforts with  
5 the CFA, but he was not a member of the CFA. In his time  
6 with the Soil Conservation Authority my father had  
7 lectured home owners on bushfire awareness. He had an  
8 extensive knowledge of firefighting and preparation for  
9 fire events."

10 If I could turn now, please, to the statement of  
11 Mr Andrew Paul, another son of the late Mr Colin Paul.  
12 Andrew Paul states that he lives with his family in  
13 Taggerty and he also gives evidence about the  
14 circumstances in which the house came to be built at  
15 Kerami Crescent and the family's attachment to the house.  
16 He also has a bit to say about the state of his late  
17 father's health as at 7 February 2009. In the middle of  
18 the first page of his statement, the paragraph commences,  
19 "At the time of his death my father was overall healthy  
20 and mentally alert. Until a few days before the fire he  
21 was able to get around very well for someone his age. He  
22 was very active in the local bowls club and used to drive  
23 other aged people from the community to doctors'  
24 appointment and the like. A few days before the 7th of  
25 February 2009, however, dad took a fall in the lounge room  
26 and injured his lower back restricting his mobility. He  
27 could still drive around, but it slowed his walking  
28 considerably, even though he did manage to go to the bowls  
29 club the day before the fire to carry out his normal  
30 coaching duties."

31 In addition to that statement there was also a

1 statement obtained from the manager at the Marysville Golf  
2 Club. I don't think I need to take you to that statement,  
3 Detective, but a Mr Stirling gave evidence about Mr Paul  
4 and in particular in relation to seeing him at 2 o'clock  
5 or before 2 o'clock on 7 February 2009 and stated that  
6 Mr Paul had been unable to play bowls on that occasion  
7 due, it seems, to the injury referred to by Mr Andrew  
8 Paul?---That's correct.

9 If I could take you back to the statement of Greg Paul, he also  
10 provides some evidence about the fire planning  
11 arrangements that were in place at Kerami Crescent at the  
12 bottom of page 2 of his statement. In his statement he  
13 says, "I was not specifically aware of my father's fire  
14 plan for the house in the event of a bushfire. When  
15 lecturing in his Soil Conservation Authority days, he  
16 instructed people who wanted to stay and defend their  
17 property to wait out the main firefront and, once it  
18 passed, to go out and put out any spotfires at the  
19 property. The other alternative was always to leave  
20 early. I assumed that his own fire plan was to stay and  
21 defend the house."

22 Then at the top of page 3 of the statement Greg  
23 Paul says, "I do recall and have since seen letters to the  
24 effect that he," his late father, "wanted to purchase a  
25 fire pump and water tank for the property but this had not  
26 been done before the fires of 7 February 2009." He goes on  
27 in the next paragraph to say, "Between Christmas 2008 and  
28 the New Year period my oldest brother Rob and his partner,  
29 Sunnee, were staying with my father. Rob and Sunnee  
30 usually live in South Australia. My wife Sue and I went  
31 up to the house and had a bit of a working bee to make it

1 fire ready. The working bee was Rob's idea. Rob had been  
2 staying there for a few days and was doing various things  
3 about the property and my wife and I went up there for a  
4 day to help out. Most of the fire preparation involved  
5 the removal of fuel and undergrowth from the wooded areas  
6 of the block. We made two large piles of material to the  
7 west of the house that were to be burnt in autumn.  
8 Another brother, Andrew, lives nearby also and regularly  
9 calls in and helps out generally, as does the rest of the  
10 family."

11 Mr Paul went on, "As far as firefighting  
12 equipment goes, my father had access to town water and had  
13 garden hoses set up to fight the fire if need be. He had  
14 access to tools like rake/hoes. As far as dedicated water  
15 supply and things like that, my father had intended to  
16 purchase the tank and pump but had not done so at the time  
17 of the fires."

18 If I could turn to the evidence obtained about  
19 the circumstances on 7 February 2009. You have already  
20 given us an overview of the various conversations between  
21 family members and the late Mr Paul. If I could just take  
22 you to two of those. Firstly, there was a conversation  
23 between a granddaughter, Rebecca Peters, and she provided  
24 a statement to investigating police. She explains that  
25 she is 32 years of age and lives in Diamond Creek with her  
26 partner and two children. In the second paragraph on the  
27 first page she says, "My Papa (my grandfather) lives in  
28 Marysville at 17 Kerami Crescent. My Papa's real name is  
29 Colin Fletcher Paul. He was 83 years old. He lived at  
30 his address by himself for the last six years since Granny  
31 passed away."

1                   She then explains her movements on 7 February.  
2                   If I could take you to page 2 of her statement, please.  
3                   About a quarter of the way down the page there is a  
4                   paragraph that commences, "I rang Papa on his home  
5                   telephone." She gives the number. "Papa answered.  
6                   I can't recall what time I made the call but the police  
7                   have since told me that I made the call at 4.53 pm and  
8                   that I spoke to Papa for 459 seconds. When Papa answered  
9                   the phone he was surprised and happy to hear from me.  
10                  I told him I rang to see how he was faring with the heat.  
11                  Papa said he was comfortable at home as he had the split  
12                  system air conditioning running. He said he wasn't all  
13                  that good as he had had a fall a couple of days before.  
14                  He said he was asleep on his chair and the phone rung and  
15                  he jumped up to answer it and his legs didn't work and  
16                  that he had fallen face first onto the floor. He said he  
17                  was using two walking sticks to get around. He said he  
18                  had been at the bowls club. I told him that I had been on  
19                  the CFA website and that I could see smoke from our  
20                  backyard. I told him that on the CFA website it also had  
21                  said there was a small grass fire at Marysville. He said  
22                  that he had not been alerted about anything, but he said  
23                  he could see smoke billowing over the hill. He didn't say  
24                  which hill. He said he could not see any fire, just  
25                  smoke. I asked him if he had his fire plan in order. He  
26                  scoffed at me and said that he was not going anywhere.  
27                  I said what if they have to evacuate everyone. He said  
28                  "They will have to prise me out of here." I said, "Oh,  
29                  Papa, at least get in the bathtub with a blanket."

30                  Ms Peters on page 3 of her statement says that  
31                  she tried to ring her grandfather again at about 7 pm to

1 check on him. She says, "At this time I hadn't heard  
2 anything about what was happening in Marysville. It was  
3 just a gut feeling to give him a call. Papa's phone was  
4 engaged, I tried a few more times and the phone was still  
5 engaged. I just assumed that he was talking on the phone  
6 and everything was okay."

7 Just while that page is open, a little further  
8 down Ms Peters makes reference to the events on  
9 8 February. After receiving a text message from her  
10 friend about Marysville, she says, "I jumped back on the  
11 website and tried to look up Marysville. That is when we  
12 saw there was an urgent threat to the Murrindindi area.  
13 There was also something on the website similar to  
14 residents in the Marysville area had all evacuated to the  
15 local oval and had been all accounted for and were all  
16 okay."

17 That reference to information about everything being okay and  
18 people being evacuated to the Marysville oval is also  
19 referred to in other statements that were obtained as part  
20 of this investigation?---That's correct.

21 The other statement I would like to take you to concerning  
22 events on 7 February is a statement of Mr Trevor Paul,  
23 Trevor John Paul. Mr Paul gives evidence that he is also  
24 a son of the late Mr Colin Paul, that he, that is  
25 Mr Trevor Paul, lives in Brookfield and he says in the  
26 second paragraph on page 1, "My father, Colin Fletcher  
27 Paul, resided at 17 Kerami Crescent, Marysville. I rang  
28 him and spoke of the potential danger and encouraged him  
29 to gather all near and dear things and go down to the  
30 local bowling club. He was adamant that he wasn't going  
31 to leave, he had experienced fires before and this was

1 just another one." He goes on and talks about the rest of  
2 the conversation. Then in the next paragraph he says,  
3 "The first phone call was made from our landline to his  
4 number at 5.35 pm and went for 15 minutes and 47 seconds.  
5 I was still stressing to him about getting down to the  
6 bowling club at the conclusion of this call." He goes on,  
7 "My second call was from my mobile phone to his number at  
8 6.26 pm and went for six minutes and 22 seconds. I was  
9 getting pretty concerned at this stage but he was still  
10 adamant that he wasn't leaving. He tried to lighten the  
11 situation by stating 'I'm going down with the ship'. My  
12 wife even commented that I've really raised my voice over  
13 the phone. I did on this occasion, but dad was resolute  
14 about staying."

15 That conversation was recorded at 6.26 and investigations  
16 indicate that the fire entered Marysville subsequent to  
17 the south-westerly wind change at about 6.46 pm?---That's  
18 correct.

19 On the second page Mr Trevor Paul refers to having a  
20 recollection of making other calls from his landline later  
21 in the evening but he has checked his phone records and  
22 6.26 seems to be the last call that he made to his  
23 father's number?---Yes.

24 As part of the investigation a statement was also obtained from  
25 a Kerrie Bantick, which I would like to ask you a little  
26 bit about. Ms Bantick gives evidence that she lives at  
27 116 Marysville Road, Marysville, which is a location on  
28 the Melbourne side of Marysville, approximately two  
29 kilometres to the west?---Yes.

30 And she explains that Mount Gordon is directly to the north of  
31 her property?---Yes.

1 And that of course is the direction in which the fire  
2 ultimately came towards Marysville?---Correct.

3 She explains on the first page of her statement a little bit  
4 about her property which she says was purchased in 2001  
5 and she completed building the residence in 2003 into  
6 2004. On the second page of her statement at the top of  
7 the page she refers to having a conversation with Briarley  
8 Malcolm, a friend, in relation to a local Community  
9 Fireguard group. She says that her friend "informed me  
10 that she had been to a similar meeting and that she had  
11 found it to be very beneficial. She asked me if I would  
12 like to accompany her to the one that she was going to.  
13 As it sounded like a good idea, I readily accepted. The  
14 meeting was being convened by the CFA educator - her name  
15 was Siobhan. I can't remember her surname. This was  
16 during the time period of the Alpine bushfires in the  
17 state of Victoria."

18 She goes on, "The meeting that was being  
19 organised was for residents of Talbot Drive, Kerami  
20 Crescent, Woods Point and Red Hills Road in Marysville.  
21 The meeting was to be held at a guest house by the name of  
22 Nanda Binya Lodge on the Woods Point Road. Although my  
23 residence does not come within this area, I wanted to  
24 attend to be educated as far as possible concerning fire  
25 safety and prevention."

26 She goes on towards the bottom of the second page  
27 to say, "The meeting on 23 November was conducted during  
28 the evening. Siobhan conducted presentations on what to  
29 expect during a bushfire and the different types of fires  
30 that could be encountered in this area. I know she  
31 explained that there were basically three different types

1 of fires that you would expect. The first was a  
2 slowly-moving bushfire. This was a fire that slowly crept  
3 along in the grass and bushland. The second was described  
4 as a firestorm, where a fire would crown in the top of  
5 trees, fed by the undergrowth, and the third was described  
6 as a fireball. I can't remember how Siobhan described the  
7 fireball, but I believe that it was something that may  
8 have occurred during a firestorm."

9 She goes on and states what was done to  
10 demonstrate that. Then at the top of page 3 of the  
11 statement, four lines down Ms Bantick says, "I actually  
12 found her presentation to be very informative and  
13 educational regarding fire types and what to expect.  
14 However, Siobhan did explain that a firestorm was  
15 something that we would be likely to never experience in  
16 this lifetime or words to that effect. I think that she  
17 said it happened once every 100 years or similar."

18 Ms Bantick then goes on to say that she went to  
19 approximately five of the community fireguard group  
20 meetings. She says she attended as many as she could.  
21 Halfway down page 3 she says, "During these meetings, we  
22 discussed our own personal 'stay or go' policies as well.  
23 Siobhan generated discussion amongst us as far as the  
24 decision making process in the 'stay or go' policy. We  
25 were told that it was a personal decision that would be  
26 made by the residents individually in the event of a fire.  
27 The impression that I got was that people had to make  
28 their own decision based on the type of fire that was  
29 presenting and the type of property and location of their  
30 property."

31 She goes on, "I know that on this first meeting

1 I was keen to get an indication from Siobhan as to whether  
2 my property would be safe in the event of a fire having  
3 regard to its location and surroundings. I actually  
4 showed Siobhan some aerial photographs of my property  
5 which she looked at for me. Siobhan was quite definite  
6 that my property would be safe to stay and defend in the  
7 event of a fire in our area. This was very reassuring for  
8 me, although I wasn't completely convinced of her definite  
9 view. I mean, we are surrounded by bush, albeit some  
10 distance from the residence. As far as I'm concerned, the  
11 meetings were informative and gave me a better  
12 understanding of what may occur during a bushfire. They  
13 reiterated what I already knew about fires and the  
14 majority of the information was not new to me. I have  
15 lived in the country all of my life and I would say that a  
16 lot of the information was based on common sense. Some of  
17 the people who came to this meeting were city people who  
18 would not have had much experience with living in the  
19 country and the dangers associated with that. In my mind,  
20 these lectures would have been much more informative to  
21 them."

22 She goes on and explains that she was given a  
23 booklet, "Living in the bush", a bushfire survival plan  
24 workbook, and she was able to present her original of that  
25 book to the officer taking the statement.

26 Halfway down page 4 she says, "I cannot say  
27 exactly who was at each of these meetings, as from memory  
28 nobody kept a register of attendees on the nights they  
29 were held. Siobhan may have a list of attendees as she  
30 may have kept a register. I have a list of some of the  
31 people who attended at least one of the meetings and

1 possibly more. I can't tell you which meeting they  
2 respectively attended. The list details basic telephone  
3 contact details, addresses and whether they had a 'stay or  
4 go' policy decided or not."

5 "I have a copy of that list here and I will  
6 quickly point out what it details. Bearing in mind that  
7 this list was prepared in 2006, it shows the intentions  
8 that the residents had at that time, not necessarily what  
9 they intended to do just before or at the time of the  
10 fires in February 2009. This first list has the details  
11 of 14 properties that were included in the fire group  
12 area. These are the ones that attended the meetings.  
13 There were a lot of other residences and properties within  
14 this area where they did not attend the meetings."

15 I won't take you to the individual names included  
16 on the list that was provided, but Ms Bantick does note  
17 that the late Mr Colin Paul was at the meeting and has  
18 recorded, she says, that he was intending to stay at his  
19 property?---(Witness nods.)

20 She says that she gave Senior Detective Gleeson a copy of the  
21 list, and that's produced in the investigation report.  
22 I don't need to take you to it. Two-thirds of the way  
23 down page 5 of her statement Ms Bantick says, "Briarley" -  
24 that's her friend - "and I sat down and made a list that  
25 related to the list originated in 2006 and the residents  
26 that we knew of who had attended the fire group meetings.  
27 At the time of compiling this list with Briarley in 2009,  
28 I did not have access to the original list at that time so  
29 it was compiled from memory."

30 I just pause there for a moment. What Ms Bantick  
31 there is referring to is, after the 7 February 2009 fires,

1 sitting down and compiling a further list referring back  
2 to the people who were at those original meetings and  
3 trying to summarise what they actually did on 7 February  
4 2009 and what the consequences were in terms of whether  
5 they survived the fires, were able to save their  
6 properties and so on?---Yes, that's right.

7 She then sets out in some detail to the best of her ability  
8 what people did and what the consequences were. Without  
9 taking you to the list, Ms Bantick was able to note that,  
10 of all of the people that she could recall having been at  
11 the original fireguard meetings, four had died on  
12 7 February 2009 and of those three had stayed to defend  
13 and one had fled in her car; eight houses and properties  
14 were lost; and two properties were saved by people who had  
15 stayed to defend?---Yes, that's right.

16 She sets out that detail and it includes a reference to the  
17 late Mr Paul. Finally in relation to that statement on  
18 page 6 in the middle of the page she says, "I have been  
19 asked as to whether I believe that attending the fire  
20 group meetings may have influenced my or the other  
21 attendees' opinions regarding our safety or the perception  
22 of our safety in the event of a fire. I personally don't  
23 think that the meetings that were held three years  
24 previous to the actual event would have had too much  
25 bearing on what the outcome was. I can only say that  
26 peoples' opinions in 2006 may have been completely  
27 different in 2009. If it had have been a continuing  
28 situation where these meetings were held say annually that  
29 you would have had an up-to-date list of residents and  
30 what their intentions were. I don't think that what  
31 Siobhan had told these people or had advised these people

1 to do in 2006 would have had anything to do with the  
2 outcome. For instance, some people who had listed  
3 themselves as staying and defending actually vacated at  
4 the earliest opportunity and survived. It's something  
5 that I can't really comment on as to what people may or  
6 may not have been thinking at the time they became aware  
7 of the fire on February the 7th." That was the statement  
8 that Ms Bantick provided to the investigators?---That's  
9 correct.

10 Finally, Detective, there was an autopsy conducted in relation  
11 to the body of the late Mr Paul. The autopsy was  
12 conducted by a forensic pathologist, Mr Cala?---Yes.

13 And Mr Cala concluded that the cause of death was the effects  
14 of fire?---Correct.

15 They are the questions, Commissioners, that I have for  
16 Detective Superintendent Hollowood.

17 CHAIRMAN: Yes. Thank you. Any questions?

18 MR LIVERMORE: No, sir.

19 CHAIRMAN: Are there any questions from any members of the  
20 family?

21 MR ROZEN: It would appear not.

22 CHAIRMAN: Thank you, Detective Superintendent and Mr Rozen.

23 Thank you very much to members of the family, both in the  
24 hearing room and who are present by videolink. We  
25 appreciate it can be a somewhat distressing situation, but  
26 we hope that the way it has been presented has been  
27 appropriate in all the circumstances. Sorry, there is one  
28 query.

29 MR ROZEN: I understand, Commissioners, that there is a matter  
30 that one of the family members wants to raise.

31 CHAIRMAN: Maybe it is easiest at this stage perhaps if you go

1 and confer at the back. If it is a long matter, you can  
2 suggest that we leave the bench, otherwise we will wait  
3 until we can see if it can be sorted out.

4 MR ROZEN: All right. We will see how it goes. If I could be  
5 excused, please.

6 CHAIRMAN: Yes, indeed.

7 MR ROZEN: I don't need to trouble you with that. That's  
8 something that we have been able to resolve.

9 CHAIRMAN: It is important, though, that the opportunity be  
10 allowed.

11 MR ROZEN: Yes.

12 CHAIRMAN: So there is nothing more?

13 MR ROZEN: Just to tender the brief, if I could, please.

14 CHAIRMAN: Yes.

15 #EXHIBIT 492 - Police presentation of the circumstances  
16 surrounding the death of Colin Fletcher Paul and attached  
17 photographs.

18 CHAIRMAN: We will adjourn now until 11.30.

19 <(THE WITNESS WITHDREW)

20 (Short adjournment.)

21 MS RICHARDS: Commissioners, next this morning we are to  
22 examine the deaths of Nicole Jefferson and Jamie Bowker,  
23 who lived together at 51 Kings Road in Marysville. Nicole  
24 Jefferson was 29 years old on 7 February. Her date of  
25 birth was 17 May 1979. Jamie Bowker was 36, having been  
26 born on 30 June 1972. Mr Bowker was found deceased at  
27 their home at Kings Road and Ms Jefferson's body was found  
28 some distance away opposite 48 Falls Road near Gallipoli  
29 oval. There are members of both families present in the  
30 hearing room.

31 CHAIRMAN: Perhaps I might address myself to those, so you can

1 take a seat for a few minutes. Could I say to the members  
2 of the family who are here that on behalf of the  
3 Commission it is appropriate that I welcome you here and  
4 give you an indication of what it is that you can expect  
5 over the next half an hour to an hour, based on past  
6 experience.

7 We have a need to find out, for the purposes of  
8 making our recommendations, as much as appropriate in  
9 relation to the circumstances of the deaths, but it is  
10 also desirable that we allow, in making our assessment,  
11 for the fact that it shouldn't be an ordeal to the members  
12 of the family. So, the process that's been worked out  
13 involves essentially Ms Richards as counsel assisting the  
14 Commission asking questions of Detective Superintendent  
15 Hollowood concerning a variety of matters.

16 The police are have put together a lot of what  
17 I call audiovisual material, the photographs and video  
18 clips and a variety of other things that make it easier to  
19 picture events substantially as they occurred without  
20 going into a great deal of detail. The police have also  
21 got statements from a lot of people and it may well be  
22 that they're members of the family who are present, but  
23 essentially the idea is to go through those with a view to  
24 getting a reasonably detailed but not precisely detailed  
25 matter, so it means that sometimes the order of events,  
26 the timing of events can be out, but essentially in many  
27 of these circumstances it is very difficult to get those  
28 things in any degree of precision, but it is done in what  
29 we call a hearsay way because, instead of calling all of  
30 those people to give evidence, we get it through Detective  
31 Superintendent Hollowood who has made himself very

1 familiar with the material.

2 So, it is in that way that we proceed. Whilst  
3 90-plus per cent will be done with questions asked by  
4 Ms Richards of Detective Superintendent Hollowood, at the  
5 end I will ask whether there are any further questions  
6 and, whilst I will ask my fellow Commissioners and other  
7 counsel at the Bar table, if there is some particular gap  
8 or some particular matter that you think warrants a query  
9 that doesn't seem right to you, I will give you that  
10 opportunity and you can get a message to one of the  
11 counsel staff who can discuss it with Ms Richards as to  
12 whether it is appropriate then to be put to Detective  
13 Superintendent Hollowood.

14 But, at this stage what I will do is hand it back  
15 to Ms Richards to proceed to call Detective Superintendent  
16 Hollowood and see where it goes from there. Thank you.

17 MS RICHARDS: Thank you, chairman. I recall Detective  
18 Superintendent Hollowood.

19 <PAUL STEPHEN HOLLOWOOD, recalled:

20 MS RICHARDS: Detective, as part of Operation Groove were the  
21 deaths of Nicole Jefferson and Jamie Bowker of 51 Kings  
22 Road, Marysville, investigated?---Yes, they were.  
23 They were found in separate locations. Why were their deaths  
24 investigated together?---Because originally most of the  
25 events related back to the house where they were residing  
26 and most of the evidence actually relates to what happened  
27 at the house and then after.

28 If I could ask you to take us to the fire perimeter map,  
29 Detective. On the screen there is a map showing the fire  
30 perimeter. Can you describe the location of 51 Kings Road  
31 in relation to that?---Certainly. The black line you

1 actually see surrounding this particular area is the  
2 extent of the fire, the fire having commenced in the  
3 vicinity of the Murrindindi Mill in Murrindindi, which is  
4 located on this red point. If we move a bit closer, the  
5 distance between this point and the premises where we are  
6 going to be talking about very shortly is about 24  
7 kilometres line of sight in the Marysville township.

8 If we could move now to the before fire satellite image of the  
9 location, firstly of the house at 51 Kings Road?---That's  
10 a view from 200 metres and it indicates the property  
11 boundary and the house just sitting under the canopy of  
12 the tree. As we move out a bit to 400 metres we can see  
13 the other neighbouring properties actually sitting in that  
14 particular area and the street slightly hidden by the  
15 trees just underneath that location.

16 And that's an area of state forest on the other side of Kings  
17 Road?---Yes, it is.

18 Could we move up to an elevation of I think one or two  
19 kilometres and identify where in location to their home  
20 Ms Jefferson's body was found?---Ms Jefferson's body was  
21 found in the location I'm just indicating here just at the  
22 top of the image and that's fairly close proximity to the  
23 football oval in Marysville.

24 Thank you. If we could look now at the image taken after the  
25 fire?---That's the post-burn image.

26 If we could look a little closer, it is clear from that image  
27 that the house was completely destroyed in the fire, as  
28 indeed were all of the neighbouring houses?---Correct.  
29 That's right.

30 Could you please take us now to the reconstruction of the  
31 movements of Ms Jefferson and Mr Bowker on

1 7 February?---These events take us to 7 February at about  
2 4.20 pm and telephone records indicate that at 51 Kings  
3 Road the internet was accessed at this time. However,  
4 there is no information as to what sites were actually  
5 accessed. At 4.38 pm Gordon Jefferson, Nicole Jefferson's  
6 father, called Jamie Bowker's mobile phone. The call  
7 lasted for about eight minutes and Gordon remembers making  
8 the call but has no recollection of the exact  
9 conversation.

10 At about 5 pm or later, Christopher Haden, a CFA  
11 lieutenant, and his fire crew drive up Kings Road,  
12 Marysville, in the Marysville tanker to fight a fire at  
13 the top of Kings Road. As they did, four or five  
14 residents came out of their homes and asked the  
15 firefighters what they should do. The residents were  
16 advised to go down to the football ground immediately.  
17 The fire crew then continued up Kings Road where they  
18 fought a fire near the intersection with Martin Street for  
19 20 to 30 minutes. A number of other fire units assisted.  
20 Christopher Haden puts this time at around 4 pm. However,  
21 other firefighters have provided statements suggesting it  
22 was much later, possibly after 5 pm.

23 At about 5.39 pm telephone records indicate that  
24 a call was made to a number that accessed the SP Ausnet  
25 fault line. Telephone records also indicate that the  
26 internet was again accessed at this time. There is no  
27 information available as to what site was actually looked  
28 at.

29 Again, telephone records at 5.40 pm. A call was  
30 made from the landline at 51 Kings Road, Marysville, to  
31 Gordon Jefferson's landline phone at his home in Wantirna.

1 The call lasted for about four minutes. Gordon stated  
2 that Nicole had rung him and told him that the CFA had  
3 gone up Kings Road and there must be a spotfire up there.  
4 Gordon asked Nicole what she was going to do and she  
5 stated that she and Jamie were inside the house with the  
6 cat and were weighing up their options. He states she  
7 didn't sound too concerned. This is the last time Gordon  
8 had contact with his daughter.

9 At around 6 pm, when the wind changed to a  
10 southerly, it became too dangerous for the Marysville  
11 tanker to remain fighting the fire at the top of Kings  
12 Road and they evacuated back down Kings Road into  
13 Marysville attempting to escape the fire and while driving  
14 along Kings Road Haden observed the same residents he had  
15 seen on his way up Kings Road. The residents were again  
16 asking for advice. Haden stated that they were panicky  
17 and he again told them to evacuate immediately.

18 At about 6 pm, Amanda Brewer, a friend of Jamie  
19 and Nicole, was watching the news and became aware of the  
20 fire and she sends a text to Nicole's mobile and receives  
21 a message back saying "Message not delivered". At about  
22 6.12 pm a call was made from 51 Kings Road to the  
23 roadhouse on Maroondah Highway, Buxton. It has been  
24 established that Jamie and Nicole are not known to anyone  
25 at the roadhouse and, as the roadhouse was unattended at  
26 this time, it is not known who made the call. The call  
27 went unanswered.

28 At about 6.15 pm Amanda Brewer again called  
29 Nicole and Jamie on their home phone but the call was not  
30 answered. A short time later she again called their home  
31 phone and Nicole answered, sounding panicky. When Amanda

1 asked if everything was okay, Nicole responded with,  
2 "I have to go. I have to go. I have to go and save my  
3 house." Amanda was not aware if they had any fire plans.

4 At 7 pm onwards there were numerous calls to the  
5 landline at 51 Kings Road, Marysville, and to Nicole  
6 Jefferson's mobile phone, but none of these calls were  
7 answered.

8 Just after sunrise on 8 February on the Sunday,  
9 Christopher Haden decided to do a reconnaissance of the  
10 Marysville township and drove out of the Gallipoli oval.  
11 He first went to Falls Road and there located the body of  
12 a young girl he had seen in Kings Road the previous  
13 evening, Nicole Jefferson. He reported the discovery to  
14 the local police by radio and got the pumper tanker to  
15 block Falls Road to prevent vehicles using it. He then  
16 left that scene to search further.

17 At about 1 pm on that particular day Senior  
18 Constable Peter Collyer met with Bruce Ackerman and they  
19 attended in Falls Road outside Gallipoli Park. At this  
20 location they located Nicole Jefferson laying face down on  
21 the nature strip near the entrance to Bruno's Sculpture  
22 Gallery. Senior Constable Collyer described the deceased  
23 as being in what appeared to be a half-kneeling position  
24 against a small tree. Peter Collyer placed a blanket and  
25 tarp over her.

26 At about 12.30 pm on Monday the 9th, Detective  
27 Senior Constable Gleeson and a disaster victim  
28 identification team attended at Falls Road to commence the  
29 DVI process. On 12 February the police attended at 51  
30 Kings Road, Marysville. The premises had been destroyed  
31 by the fire. Senior Constable Huygen located human

1 remains in a bathroom area in the building. The remains  
2 were identified as Jamie Bowker.

3 Thank you, Detective. As part of the investigation, have  
4 investigators gathered a number of photographs of the  
5 house before the fire and of the scene at which both  
6 Ms Jefferson and Mr Bowker were found?---Yes, we have.

7 If I could take you to some of the photographs of the house  
8 before the fire first. If we can look at photograph  
9 number 1. Could you tell the Commission, please, what  
10 that photograph depicts?---Yes, that actually depicts the  
11 house before the fire commenced.

12 Are you able to say from what angle or from what direction that  
13 photograph is taken?---Not that particular one, no.

14 These were photographs supplied by a witness, were they  
15 not?---Correct. They were.

16 If we could look at the next photograph. This looks to be  
17 taken from the rear of the property?---Yes, it is.

18 As does the next one. The last of this series of photographs  
19 appears to show the side of the house?---That's correct.

20 Moving now to photographs that were taken of the house after  
21 the fire, could we look at photograph number 3 in that  
22 series, please. This photograph, as I understand it, was  
23 taken facing south-east?---Yes, that's correct.

24 It shows the car also completely destroyed?---Yes, as well as  
25 the house.

26 And the following image, number 57 in that series, is taken  
27 closer up facing west?---Yes, that's correct.

28 There are then two photographs of the scene where Ms Jefferson  
29 was found. If we could look at the first of those,

30 please. That is an image taken facing east, so looking  
31 towards I think Bruno's Sculpture Garden?---In Falls Road,

1           yes.

2   And the blurred area in the centre of the image is where

3           Ms Jefferson's body was found?---Correct.

4   And the final in the series of photographs is shown looking

5           down Falls Road?---Correct.

6   On the right we can see some open space through the trees and

7           that is Gallipoli oval?---Yes, that's right.

8   And again that slightly blurred area at the base of that tree

9           in the centre of the photograph is where Ms Jefferson's  
10          body was found?---That's correct.

11   In addition to the photographs, of course, a number of

12          statements have been taken by investigators. Two in

13          particular that I will go to are those of Gordon Bruce

14          Jefferson, Nicole's father, and Amanda Brewer, a friend of

15          Nicole and Jamie. A particularly notable feature of this

16          case is that Nicole Jefferson was eight and a half months

17          pregnant at the time of the fire?---Yes, that's right.

18   She was due to give birth on 22 February?---Correct.

19   And according to her father, Bruce Jefferson, in his statement,

20          all was going well with the pregnancy?---Yes.

21   She had been attending regular doctors' appointments and

22          prenatal classes and most recently had stayed with her

23          parents on 4 and 5 February to attend those classes and

24          those appointments?---Yes, that's right.

25   In his statement Mr Jefferson also describes the house at 51

26          Kings Road. If we could go to the third paragraph on the

27          first page of his statement, please. He describes the

28          house as follows: "The house was three bedroom with a

29          timber frame. It was about 30 years old. The roof was

30          corrugated tin. The outside was a fibro cement type

31          material. The block used town water only and there was no

1 fire roof sprinklers or other fire protection that I know  
2 of. The house was on a third of an acre and the garden  
3 had a mixture of native trees and also roses,  
4 rhododendrons and other flowering plants. Jamie also had  
5 over a thousand day lilies in pots scattered around the  
6 block. The trees were close to the house and the block  
7 was only across the road from the state forest."?---Yes.

8 That description is entirely consistent with both the pre-burn  
9 satellite images and the photographs of the house that we  
10 have seen?---Yes, it is.

11 In relation to fire preparation and planning, Mr Jefferson says  
12 right at the very end of his statement that, "Nicole and  
13 Jamie had told me that they had a fire plan but had never  
14 discussed the specifics of the plan with me." As we have  
15 heard, it does not appear from the description of the  
16 house or from what investigators have found that there was  
17 any particular fire preparations or firefighting  
18 equipment?---That's correct.

19 Ms Jefferson's and Mr Bowker's friend, Amanda Brewer, also  
20 states in her statement that she knew nothing of their  
21 fire plan or if they had one?---Yes.

22 So it is the case, is it, Detective, that investigators have  
23 not uncovered any evidence of a particular fire plan or  
24 any particular fire preparation?---That's correct.

25 Moving to the events of 7 February, Mr Jefferson in his  
26 statement describes on page 2 the most recent visit of  
27 Jamie and Nicole to her parents on the 4th and 5th, and  
28 then he moves in the last paragraph to communications on  
29 7 February. He says, "At about 5 pm, I'm not really sure  
30 of this time, but phone records will show the exact time,  
31 I had a phone call from Nicole. She didn't sound too

1 concerned and told me that the CFA had gone up Kings Road  
2 and there must be a spotfire up there. I asked her, 'What  
3 are you going to do?' She said, 'We're inside the house  
4 with the cat and we're weighing up our options.' I told  
5 her to be careful. She said 'OK'. I asked her to call me  
6 back later and that was the last I heard of her."?---Yes.

7 Mr Jefferson's statement goes on to record a number of  
8 unsuccessful attempts to contact his daughter later that  
9 evening on all of the phone numbers he had, both for her  
10 and for Mr Bowker?---That's correct.

11 Another witness who gives evidence of communications with  
12 Ms Jefferson shortly before the fire reached Marysville is  
13 Amanda Brewer, a close friend who was to be Ms Jefferson's  
14 birth partner?---Yes.

15 And she gives evidence of attempting to send a couple of text  
16 messages to Ms Jefferson at about 6 o'clock that evening  
17 and receiving a message that those text messages had not  
18 been received?---Yes.

19 She tried unsuccessfully at 6.15 to call Nicole and Jamie's  
20 home phone number and then she states at the top of the  
21 second page of her statement, "After about five minutes  
22 I tried the home number again and this time Nicole  
23 answered. I only spoke to her for less than a minute.  
24 Nicole was panicked and I asked if everything was okay.  
25 Nicole called me by my nickname of Moo Moo and she said  
26 words like, 'I have to go. I have to go. I have to go and  
27 save my house.'" Again, that was the last occasion on  
28 which Ms Brewer spoke with Ms Jefferson?---Yes, it is.

29 That is the last definite evidence of communication with either  
30 Ms Jefferson or Mr Bowker?---Yes.

31 In relation to the deaths of Ms Jefferson and Mr Bowker, two

1 arson chemists' reports have been included in the  
2 brief?---They have.

3 Karen Ireland prepared a statement or a report in relation to  
4 the death of Nicole Jefferson. If we could go to her  
5 statement, which notes that Ms Ireland attended at Falls  
6 Road on 9 February?---Yes.

7 There is a description of the location, which I won't go to in  
8 detail. If we could go to the second page under the  
9 heading "Fire direction/damage", Ms Ireland notes, "The  
10 fire appeared to have approached from the south-west  
11 through trees about the houses on the south-western side  
12 of Falls Road. The fire travel indicators such as the  
13 tree leaves showed a consistent pattern of fire travel  
14 from the houses on the south-western side of the road  
15 towards the paddocks and football field. The paddock  
16 grass and timber fences were charred. However, the  
17 football field further to the north had sustained little  
18 or no burning. The leaves on the trees along the fence  
19 were heat affected but not consumed." Is that consistent  
20 with the observation of investigators?---Yes, it is.

21 There is then some information about Ms Ireland's observations  
22 of Ms Jefferson, although she had been covered and  
23 Ms Ireland didn't view her directly. She does note that,  
24 "A substantial amount of what appeared to be blood was  
25 found on the ground near the base of the tree. Given the  
26 ground was uneven and there were rocks nearby I concluded  
27 that the deceased may have tripped or fallen to the  
28 ground."?---Yes.

29 She then notes under the heading "Evacuation/escape" that, "The  
30 deceased was on foot and it was not clear from her  
31 position in which direction she was travelling. Given

1 that the fire was heading to the north-east, she was  
2 probably heading towards the clearing of the football oval  
3 rather than toward the southern houses which would have  
4 been under direct fire attack prior to the fire reaching  
5 the football oval. The houses along the south-western  
6 side of the road were mostly destroyed and it is possible  
7 that she had exited from one of these houses." We now  
8 know, do we not, that she had come from further away, from  
9 51 Kings Road?---Yes, and that was about 460 metres she  
10 had actually travelled.

11 "It would appear that the deceased had become incapacitated by  
12 a fall on the roadside, rather than from the fire itself,  
13 although smoke and embers may have been an issue in this  
14 immediate area at the time of the fall," which again is a  
15 consistent observation with other evidence that is  
16 known?---Yes.

17 Under "Issues" Ms Ireland notes that, "The deceased appeared to  
18 have decided to evacuate rather than defend the fire, but  
19 delayed the decision unduly. The decision to seek refuge  
20 on the oval may have been appropriate but the physical  
21 condition of the deceased may have affected her  
22 mobility"?---Correct.

23 There is then a statement prepared by George Xydias, also an  
24 arson chemist, in relation to the death of Mr Bowker. He  
25 describes attending at 51 Falls Road on 12 February.  
26 Again, I would like to highlight aspects of his report  
27 starting under the heading of fire direction on the third  
28 page. Mr Xydias notes that, "The fire appeared to have  
29 approached from the south to south-west across the street,  
30 through both the trees and the underbrush along the slopes  
31 of the gully from the nearby forest and the other

1 properties along the street. The scattered trees and  
2 underbrush, the grass, leaves and other fire travel  
3 indicators exhibited a consistent pattern of  
4 north-easterly progression. The contours of the terrain  
5 and the distribution of the surrounding properties and the  
6 nearby bushland appeared to have influenced the direction  
7 of fire travel up this region of the town (and the gully).  
8 Other houses along the street were also extensively fire  
9 affected, most also similarly destroyed," which is  
10 consistent with the photographs and the post-burn  
11 satellite image that we have seen?---Yes.

12 Then in relation to "Damage/examination" Mr Xydias says, "This  
13 house was destroyed, with effectively complete consumption  
14 of all the combustible components of the structure."  
15 A little further on he notes, "The damage was extensive  
16 and comparatively consistent across the entire structure,  
17 reflective of the slope of the terrain and the building's  
18 proximity to the vegetation and trees. The nearby houses  
19 and other smaller structures were similarly destroyed."

20 There is then a description of where Mr Bowker  
21 was found in the bathroom, as you have indicated. Under  
22 the heading "Firefighting equipment, water supply, power",  
23 Mr Xydias notes that, "Water to the property was provided  
24 from underground/town piping with no freestanding water  
25 tank evident anywhere about the property. There was no  
26 indication of either a dedicated petrol or electric  
27 firefighting pump or a generator located, nor any hose or  
28 sprinklers apparent about the exterior for the purpose of  
29 firefighting." Also Mr Xydias notes that there did not  
30 appear to have been any attempt at firefighting or  
31 extinguishment?---Yes.

1 Under the heading "Evacuation/escape" Mr Xydias notes that "the  
2 circumstances may not have provided sufficient time for  
3 alert or evacuation. There was no obvious evidence of  
4 preparations being made for either evacuation or  
5 firefighting"?---Yes.

6 There are a number of issues that Mr Xydias notes. Firstly,  
7 while there was town water available at this property,  
8 there was no suitable firefighting pumps or hoses  
9 apparent?---Yes.

10 There is other evidence before the Commission about the  
11 availability of town water in the Kings Road on  
12 7 February. Mr Xydias notes, "There was no obvious  
13 attempt at firefighting or wetting down. There were a  
14 number of trees, potted plants and other vegetation too  
15 close to the house, posing a direct threat of fire  
16 transfer to the structure. While there did not appear to  
17 have been any attempt at firefighting or evacuation, the  
18 question must be raised as to whether the deceased was  
19 aware of the approaching fire or fire hazard on the day."

20 We do know that Ms Jefferson at least was aware  
21 that the CFA had gone up Kings Road to fight a spotfire,  
22 but beyond that it is difficult to tell how much warning  
23 Ms Jefferson and Mr Bowker had of the approaching  
24 fire?---That's correct.

25 Mr Xydias considers and really rejects the possibility that  
26 Mr Bowker was already debilitated or had mobility issues,  
27 and notes that the location of his body indicated that he  
28 was probably aware of the approaching fire and had decided  
29 that taking refuge in the bathroom was the most  
30 appropriate course?---Yes.

31 The final point I would like to highlight is the last dot point

1 on that page, that "this section of Kings Road-Robertson  
2 Gully Track was along the edge of the forest reserve  
3 skirting the township. In the circumstances, the only  
4 escape routes were perpendicular to the direction of fire  
5 travel, in this case either towards the town centre or  
6 down the gully and into the forest. The location of the  
7 bushland in such close proximity to this road/property is  
8 of some concern"?---Yes, that's correct.

9 Autopsies were conducted on both Ms Jefferson and Mr Bowker.

10 In Ms Jefferson's case by Katherine White?---Yes.

11 Who does not definitively determine the cause of death but  
12 states that it is consistent with the effects of  
13 fire?---Correct.

14 And notably there is nothing in Dr White's report that would  
15 indicate that Ms Jefferson was incapacitated by a fall or  
16 that there had been any significant loss of  
17 blood?---That's correct.

18 Perhaps discounting the theory in Ms Ireland's report?---Yes.

19 In relation to Mr Bowker, David Ranson conducted the autopsy  
20 and he found that his death was due to the effects of  
21 fire?---Yes.

22 Those are the matters I have for the Detective. Commissioners,  
23 are there any questions?

24 CHAIRMAN: Any questions?

25 MR LIVERMORE: Just one matter, sir.

26 <CROSS-EXAMINED BY MR LIVERMORE:

27 Mr Hollowood, could you go to page 2 of the summary. This is  
28 just on the question of warnings. The summary records  
29 that telephone records for 51 Kings Road indicate that the  
30 internet was accessed for a second time that afternoon at  
31 5.39 pm?---Correct.

1 But there is no information available as to the sites that were  
2 accessed?---Correct.

3 But what the investigation did uncover was that by 5.27 pm the  
4 CFA website had displayed an urgent threat message for the  
5 Marysville area, giving the time of the warning at 5.15  
6 and stating in part "Marysville and Buxton can expect to  
7 come under direct attack from the Murrindindi Mill  
8 fire"?---That's correct.

9 But you were unable to ascertain whether that 5.27 CFA website  
10 message had been accessed at the 5.39 internet  
11 access?---That's correct.

12 That's all. Thank you, sir.

13 CHAIRMAN: Perhaps I will address myself to members of the  
14 family to inquire whether there is any matter or any  
15 question that you would want to raise. If not, you will  
16 tender the brief.

17 MS RICHARDS: I would like to tender the brief this morning,  
18 yes.

19 #EXHIBIT 493 - Police presentation of the circumstances  
20 surrounding the deaths of Nicole Jefferson and Jamie  
21 Bowker and attached photographs.

22 CHAIRMAN: I thank the family in the circumstances for  
23 participating in the process, knowing that it is not  
24 necessarily a pleasant experience but it is important  
25 I think from both points of view that you have been here.  
26 So thank you again.

27 <(THE WITNESS WITHDREW)

28 LUNCHEON ADJOURNMENT

29

30

31

1 UPON RESUMING AT 1.30 PM:

2 CHAIRMAN: Yes, Mr Rozen.

3 MR ROZEN: Thank you, Commissioners. The first matter that we  
4 are to examine this afternoon concerns the circumstances  
5 surrounding the death of Leonard Postlethwaite. The late  
6 Mr Postlethwaite was 82 years of age as at February 2009.  
7 He was born on 26 June 1926. He died at his residence at  
8 86 Falls Road, Marysville. There is a member of the  
9 Postlethwaite family present in the hearing room.

10 CHAIRMAN: Yes. If you just take a seat, I will address myself  
11 to Mrs Postlethwaite. What I have customarily been doing  
12 in relation to family members is to welcome them here and  
13 I welcome you here, but of course you have been here  
14 before so you know the routine better than other people.  
15 But what's different about this process is that, because  
16 we need a lot of information even about sensitive matters  
17 for the ultimate recommendations of the Commission, a  
18 process has been devised between the Commission and the  
19 police that enables us to get the benefit of, in effect,  
20 the best information that the police are able to provide.

21 That's being provided to us in a variety of  
22 formats, audiovisual formats as well as reference to  
23 statements. The way that's done is by questions which are  
24 going to be put to enable hearsay evidence, but in a way  
25 that we regard as totally satisfactory, to be obtained  
26 through Detective Superintendent Hollowood and that  
27 process will now commence and if at the end of the  
28 questions that are put to Detective Superintendent  
29 Hollowood there are other matters that need to be raised,  
30 I will ask various people if they have any questions and  
31 that can include you.

1           So, if there is any gap or any discrepancy or any  
2 other matter that you would like to raise, simply indicate  
3 that there is something you are curious about, whether it  
4 is to the Commission staff, that is probably the easiest  
5 way, and they can raise it with Mr Rozen and it can be  
6 raised with Detective Superintendent Hollowood.

7           We will now proceed upon the basis that Mr Rozen  
8 will take Detective Superintendent Hollowood through the  
9 material. Thank you.

10 MR ROZEN: Thank you, Mr Chairman. I recall Detective  
11 Superintendent Hollowood.

12 <PAUL STEPHEN HOLLOWOOD, recalled:

13 MR ROZEN: Detective superintendent, you head up the Phoenix  
14 Taskforce?---Yes, that's correct.

15 And the Phoenix Taskforce is responsible for coordinating all  
16 of the investigations into the fires of 7 February 2009 or  
17 certainly those that resulted in fatalities?---Yes, that's  
18 right.

19 One aspect of the overall investigation concerns the  
20 investigation into the Murrindindi fire and Operation  
21 Groove is the code name that's been given to that aspect  
22 of the Phoenix Taskforce's work?---Yes, it is.

23 One of the deaths that's been investigated as part of Operation  
24 Groove is the death of Mr Leonard Postlethwaite?---Yes.

25 If you could please refer to the investigation brief that's  
26 been compiled in respect of that matter. Firstly, if you  
27 could please bring up the fire perimeter map. If you  
28 could please explain what's depicted on that map?---Yes.  
29 Just upon this map here we see a black outline which goes  
30 around this area which indicates the full extent of the  
31 fire which commenced near the Murrindindi Mill in

1 Murrindindi, and what we have indicated here at the top  
2 left-hand side is the point of origin of the fire and  
3 Mr Postlethwaite's house, which is 24 and a half  
4 kilometres away in Marysville.

5 Thank you. The investigation involved a video recording that  
6 was taken from an aeroplane on 26 February 2009. Perhaps  
7 if you could play that recording, please.

8 (Video played to Royal Commission.)

9 MR ROZEN: Just to orient people who are seeing this for the  
10 first time, Detective, the plane is flying in a broadly  
11 northerly direction from south of Marysville over the  
12 township?---Yes, it is.

13 You can just make out in the top left-hand corner, or you could  
14 a moment ago, the Gallipoli oval comes into view, right  
15 about now?---That's correct.

16 That road that we saw just to the left of the oval, that's in  
17 fact Falls Road, is it?---Yes, that's correct.

18 Some satellite photographic images were taken of both the  
19 location at 86 Falls Road and the surrounding area.

20 Perhaps if you could take us to those, please?---Yes.

21 This is an image from 200 metres of 86 Falls Road.

22 We see that the Postlethwaite property was at the intersection  
23 of Martin Road and Falls Road?---Correct.

24 And what does the red dot signify?---The red dot signifies  
25 where Mr Postlethwaite's body was found.

26 So the house in fact faced Martin Road?---Yes.

27 And driveway access was from Martin Road, even though the  
28 address was 86 Falls Road?---Correct.

29 Perhaps if you could show us the post-burn image. We see that  
30 the house was completely destroyed, as were the other  
31 houses in the immediate vicinity?---Yes.

1 That image is from 200 metres, an elevation of 200 metres.

2 Could you show us the same image from higher up,  
3 please?---That's from 400 metres, from 800 metres, a  
4 kilometre, two kilometres and eight kilometres.

5 Perhaps if you could show us the pre-burn version of that. As  
6 part of the investigation, Detective, a re-enactment was  
7 created setting out the circumstances surrounding  
8 Mr Postlethwaite's movements and communications into the  
9 address and out of the address of 86 Falls Road?---Yes.

10 Could you please take us through that re-enactment?---It takes  
11 us to the events of 7 February 2009 in the afternoon.  
12 Leonard Postlethwaite was at home with his wife, Elaine.  
13 The day is extremely hot and later in the day it becomes  
14 overcast and windy. At about 4.10 pm Elaine Postlethwaite  
15 notices smoke in the sky and using her home phone she  
16 called her daughter, Kay Ronalds, and spoke about the  
17 fire. Elaine Postlethwaite noticed smoke was now red and  
18 that Leonard Postlethwaite said that it was from the sun  
19 and not the smoke. At about 4.44 pm Kay Ronalds called  
20 Elaine Postlethwaite on Elaine's home phone to advise her  
21 that people were starting to evacuate. Kay indicated she  
22 was heading to Buxton. Elaine also received a call from  
23 her sister, Patricia Lawson, and was advised of fires in  
24 Narbethong.

25 At about 5.14 pm Elaine Postlethwaite called her  
26 daughter, Ann Cuzens. Elaine was advised people were  
27 starting to seek refuge at the Cumberland Guest House. At  
28 5.48 pm Elaine Postlethwaite received a call from her  
29 daughter, Ann Cuzens. Elaine was told by her daughter to  
30 "Get in the car and go". Elaine took this seriously and  
31 knew that it was time to leave. She collected a few of

1 her belongings and put the dog in the back of the ute.

2           Soon after 5.48 pm Elaine Postlethwaite tried to  
3 persuade Leonard to leave. He declined. Leonard went to  
4 the verandah and sat on a chair. Elaine indicated the  
5 fire was coming down Martin Road. Soon after 5.48 pm,  
6 Elaine could not drive so she proceeded to walk out of  
7 their driveway into Martin Road and then into Falls Road,  
8 the whole time looking over her shoulder hoping that  
9 Leonard would follow.

10           Elaine noticed an emergency service truck turn  
11 into her street. At about 5.48 pm CFA members John  
12 Ratcliffe and Glenn Creighton in a CFA vehicle turned into  
13 Martin Road and saw Leonard Postlethwaite sitting on his  
14 front verandah. Gary called out to Leonard to "Get the  
15 hell out of there."

16           Some time after sunrise on 8 February, CFA  
17 members patrolling the area approached 86 Falls Road,  
18 Marysville. They observed the house totally destroyed by  
19 fire. CFA members Michael Gleeson and Chris Haden sight  
20 Leonard Postlethwaite's twin cab HiLux in the yard. They  
21 approach and discover the remains of Leonard at the rear  
22 of the passenger side quarter panel of the utility. They  
23 also observe what appeared to be the remains of a dog  
24 chained in the back of the ute.

25           At about 2.25 pm on 9 February Detective Leading  
26 Senior Constable Gleeson and a disaster victim  
27 identification team attended at the location to take  
28 possession of the remains.

29 Thank you, Detective. As part of the investigation a number of  
30 photographs were taken by investigating officers. If

31 I can just take you to one photograph, please. This is a

1 photograph of what remained of the house at 86 Falls Road  
2 after the fire?---Yes, it is.

3 And can you tell us where this photograph is taken from,  
4 please?---It is taken from Martin Road along the driveway  
5 into the house.

6 So the photographer is standing on Martin Road or on the  
7 footpath of Martin Road looking, and on the right-hand  
8 side we see the remains of the HiLux vehicle that you have  
9 referred to in the presentation?---Yes.

10 It is at the end of the driveway there, and that's how it was  
11 found, facing into the property?---It was.

12 The late Mr Leonard Postlethwaite's body was found, as you have  
13 told us, behind the passenger side rear wheel?---Yes, it  
14 was.

15 And quite close to the verandah of the property?---Correct.

16 A number of statements were obtained from witnesses. The  
17 witnesses that were interviewed as part of the  
18 investigation include family members, in particular  
19 Mrs Elaine Postlethwaite, as well as CFA officers and  
20 police officers?---That's correct.

21 If I can take you firstly to the statement that was obtained  
22 from Mrs Elaine Postlethwaite. Mrs Postlethwaite  
23 explained to the investigating officers that she had lived  
24 in Falls Road, Marysville, for a total of 50 years but not  
25 for all of that time had she lived at the property that we  
26 are concerned with, 86 Falls Road. She had lived there  
27 since 1980, so 29 years?---Correct.

28 The house itself was a kit home made of California redwood.  
29 She explained that she lived there with her husband,  
30 Mr Leonard Postlethwaite, with whom she had been married  
31 for 48 years. As you have told us, Mrs Postlethwaite was

1 at home with her husband on 7 February 2009 and she  
2 explains in her statement that she spoke to one of her  
3 daughters, Kay Ronalds, and Kay said to her that she had  
4 spoken to a police officer whom she knew as Thommo who  
5 said the fire was coming from elsewhere. She said she saw  
6 smoke. She said, "I then saw that the smoke was red but  
7 Leonard Postlethwaite said that the colour was from the  
8 sun high in the sky."

9 She went on and referred to other communications  
10 with both of her daughters, Kay and Ann. Ann was actually  
11 in Marysville at the Cumberland Guest House and she said  
12 that Ann said to her, and this is two-thirds of the way  
13 down the first page, "Get in the car and go."

14 Mrs Postlethwaite said, "I knew then it was time to leave.  
15 I then grabbed my handbag with a Tattsлото ticket, a  
16 camera, my prayer book and the dog and put him in the ute.  
17 I was trying to persuade Leonard Postlethwaite to leave.  
18 He then put his shoes on, went outside and sat in a chair  
19 on the verandah. I could not persuade him to leave.  
20 I said, 'The fire is coming down from Martin Road. He  
21 said, 'It will never come from the east.'"

22 She went on to describe that, "There is concrete  
23 driveways on two vacant blocks between our block and the  
24 direction of the fire," and that Leonard believed that  
25 they would provide protection to them. She said, "As  
26 I only had a faulty garden hose I did not think we could  
27 protect the house. By this time I could hear the  
28 crackling of the fire and I could clearly see the smoke  
29 and flames. As I cannot drive, I knew I had to start  
30 walking. Again I tried to convince Leonard Postlethwaite  
31 that we should go. He looked up towards Martin Road but

1 stayed on the verandah. I walked out of the driveway into  
2 Martin Road and then into Falls Road, the whole time  
3 looking over my shoulder hoping that my husband would  
4 follow. It was then that an SES truck turned into my  
5 street and I was hoping that they would convince my  
6 husband to leave. Some time after the event my daughter,  
7 Kay Ronalds, told me that Michael Gleeson of the CFA went  
8 to my house and tried to help my husband who was going to  
9 his car but it was too late to help him. As I was walking  
10 down Falls Road, John Hunter drove past and said, 'Do you  
11 want a ride?' As I had no other form of transport  
12 I accepted. Hunter drove me to Marysville golf course in  
13 Buxton Road. Hunter met up with his wife, Anne, who was  
14 on ambulance duty. He sought advice on where to go."

15 She goes on and describes how they went to Alexandra after  
16 that, but she didn't see her husband again?---That's  
17 correct.

18 Mrs Postlethwaite makes reference to being picked up by John  
19 Hunter and a statement was also obtained from Mr Hunter  
20 which I would ask you to turn to, please. Mr Hunter  
21 explains that he also lived in Falls Road, Marysville,  
22 with his wife and two children, Josephine and Kathryn, who  
23 were living with them. At page 3 of his statement, after  
24 setting out in some detail his movements on 7 February,  
25 towards the bottom of the page, the last sentence of that  
26 second last paragraph, he says, "At about this time, which  
27 would have been about 6.55 pm, I received a phone call  
28 from Josephine who said for me to just get out and go."  
29 Josephine was the Hunters' daughter?---Yes.

30 He goes on, "After taking this call I got into my car, a Ford  
31 Escape four-wheel-drive, and drove down Falls Road heading

1           toward the Gallipoli Park oval. As I was driving down  
2           Falls Road I saw a neighbour, Elaine Postlethwaite, who  
3           was walking toward the oval. She was very distressed. I  
4           stopped my car and gave her a lift. She told me that her  
5           husband refused to leave their home. I then drove to the  
6           oval. By the time I reached the oval I saw that cars were  
7           leaving the oval and heading toward Alexandra. I assumed  
8           that it must have been unsafe at the oval and that the  
9           cars were heading toward away from Marysville. With  
10          Elaine on board I followed the line of cars. I can't  
11          recall the state of the fire environment at this time as  
12          my mind was preoccupied with Elaine who was quite  
13          distressed and feeling that she wanted to go back to her  
14          husband."

15         Mr Hunter then goes on to describe going to the golf club,  
16          catching up with his wife and going to Alexandra, still  
17          with Mrs Postlethwaite in the car, and then as it turned  
18          out they met Mrs Postlethwaite's daughter at Alexandra and  
19          Mrs Postlethwaite was taken care of by her daughter after  
20          that time?---Correct.

21         You have made a number of references to the activity of CFA  
22          officers and their communications with the Postlethwaites  
23          during the day. If I can take you to some statements that  
24          were taken from those officers, firstly Mr John Ratcliffe.  
25          He provided a statement in which he explained that he also  
26          lived in Falls Road, Marysville, that he was the first  
27          lieutenant at Marysville CFA and had been a CFA officer  
28          for some 30 years. He details being on duty on 7 February  
29          in that capacity and what he did during the course of the  
30          day.

31                         If I can take you to page 3 of his statement, in

1 the very last paragraph on page 3 he has just explained  
2 that, together with a Mr Gary Creighton from the Alexandra  
3 CFA, he attended at a fire on the Kings Road and explains  
4 that they decided to leave that location as it was getting  
5 black and dark and pretty smoky.

6 In the very last paragraph on page 3 he says,  
7 "Gary", that is Gary Creighton, "and I drove back along  
8 Falls Road and as we got to Martin Road and I looked back  
9 over my shoulder and I could see the entire mountain above  
10 Steavensons Falls was on fire. We turned up Martin Road  
11 and I saw Lenny Postlethwaite was sitting on his front  
12 verandah. Gary called out to Lenny to get the hell out of  
13 there. We continued up to the top of Martin Road and  
14 Kings Road. By this time all hell had broken loose up  
15 there. We were only gone for 10 to 15 minutes if that.  
16 We were all told to get the hell out of there. There was  
17 just a massive fire. Everything was on fire. The fire  
18 roared like one of those Flls. It was so noisy. The wind  
19 was as strong as I have ever seen."

20 Can I take you, please, to the statement of  
21 Mr Gary Creighton. Mr Creighton gives evidence that he is  
22 a full member of the CFA in Alexandra and that he has been  
23 a member for over 30 years. He gives an extensive  
24 description of his activities on 7 February. Could I take  
25 you to page 9 of his statement, please. He is also  
26 dealing with the matter that Mr Ratcliffe was describing  
27 in the statement that I just took you to. Right at the  
28 bottom of page 9, he has turned into Martin Road together  
29 with Mr Ratcliffe and he says this: "Where we were  
30 stopped, I looked out my window to the left and I could  
31 see a man sitting on the verandah of his house which was

1 on the corner of Martin Road and Falls Road. I yelled out  
2 to the man to come with us and I was waving my arms in our  
3 direction saying, 'You have to come with us'. I had asked  
4 John [Ratcliffe] by this time who this man was and John  
5 had told me that it was Len Postlethwaite. John told me  
6 that he could see the man's wife walking down Falls Road  
7 in the direction of the oval. I told this man again that  
8 he had to come, to which the man replied to me, 'I built  
9 this house, mate, and I'm staying.' There was no way that  
10 I could talk this bloke into coming with us and I said to  
11 him again, 'Come with us because we won't be back.' He  
12 shook his head and I wished him good luck."

13 Just for completeness, there was a reference in  
14 Mrs Postlethwaite's statement to a Mr Gleeson, a CFA  
15 officer, talking to Mr Postlethwaite trying to assist him  
16 to leave. A statement was obtained from Mr Gleeson.  
17 I don't need to take you to that, but would you agree that  
18 Mr Gleeson does not make any reference to any such  
19 discussions but rather talks about the events on  
20 8 February when he went to the address and found the  
21 situation after the fire had been through?---Yes.

22 Given what Mr Creighton has said, it may well be it was

23 Mr Creighton that was the CFA officer that was talking to  
24 Mr Postlethwaite?---Yes, that's correct.

25 As you have already told us, Detective, Mr Postlethwaite's body  
26 was found at approximately one metre from the rear of his  
27 ute and a post-mortem report was provided in relation to  
28 an autopsy that Dr White carried out on 12 February 2009.  
29 Dr White concluded that the cause of death was from the  
30 effects of fire?---That's correct.

31 They are the questions that I have for the Detective,

1 Commissioners.

2 MR LIVERMORE: No questions.

3 CHAIRMAN: Any questions?

4 MRS POSTLETHWAITE: No, not at the moment, thank you.

5 CHAIRMAN: Thank you, Mrs Postlethwaite.

6 #EXHIBIT 494 - Police presentation of the circumstances  
7 surrounding the death of Leonard Postlethwaite and  
8 attached photographs.

9 CHAIRMAN: That will now complete this set of the proceedings.  
10 We again thank you for going to the trouble of coming to  
11 this part of the hearing. Thank you again. We will now  
12 adjourn until 3.30.

13 <(THE WITNESS WITHDREW)

14 (Short adjournment.)

15 CHAIRMAN: Yes, Mr Rozen.

16 MR ROZEN: Commissioners, the next matter that we will examine  
17 concerns the circumstances surrounding the death of  
18 Melissa Bunning. Melissa Bunning died at her house at 56  
19 Falls Road in Marysville. She was 37 years of age, having  
20 been born on 17 August 1971, and there are a number of  
21 members of the Bunning family present in the hearing room,  
22 Mr Chairman.

23 CHAIRMAN: Yes. Thank you, Mr Rozen. Could I welcome those  
24 members of the Bunning family who are here and say that we  
25 appreciate your going to the trouble of attending because  
26 we know it will be a potentially distressing appearance.  
27 By way of background could I say we are in one sense  
28 pleased to have this inquiry at this time because it is  
29 necessary for us to get out the facts, but the aim is to  
30 try and do it in a way that is sympathetic to our  
31 appreciating the distress it can cause and that's why we

1 are adopting the process of having a lot of hearsay  
2 evidence, in fact it is virtually all hearsay evidence, so  
3 we don't have to have people cross-examined as to their  
4 direct personnel involvement.

5 That means that we are using counsel assisting  
6 and a senior detective to bring out the material, partly  
7 in an audiovisual way, partly by reference to statements.  
8 We are not going to descend to the detail, but we are  
9 concerned that the position in a broad sense be made clear  
10 to you. There will be an opportunity at the end not only  
11 for those involved in the Commission to ask any further  
12 questions, but also to give you the opportunity to ask any  
13 questions if you think there are some gaps or  
14 discrepancies that need attending to.

15 But, at this stage what I contemplate we will do  
16 is rely upon counsel assisting, Mr Rozen, and Detective  
17 Superintendent Hollowood to give the evidence, as I have  
18 indicated, on a hearsay basis. Thank you, Mr Rozen.

19 MR ROZEN: Thank you, Mr Chairman. I recall Detective  
20 Superintendent Hollowood.

21 <PAUL STEPHEN HOLLOWOOD, recalled:

22 MR ROZEN: Detective, the Phoenix Taskforce is the overall  
23 police investigation of the Black Saturday  
24 bushfires?---Yes, it is.

25 You are the head of the Phoenix Taskforce?---Yes, that's  
26 correct.

27 The investigation into the Murrindindi fire has been codenamed  
28 Operation Groove by the police?---Correct.

29 And an aspect of Operation Groove involves an investigation  
30 into the circumstances surrounding the death of Melissa  
31 Bunning?---It does.

1 If you could please open the presentation in relation to that.

2 Firstly, Detective, could you take us to the fire  
3 perimeter map, please, and if you are able to explain to  
4 us what it is that is depicted on the screen?---Yes. The  
5 map and particularly the black outline indicates the area  
6 of the fire, the actual destruction that was caused during  
7 this particular fire. The two points that we have marked  
8 on this particular map is the point of origin of the fire,  
9 which was near the Murrindindi Mill near Murrindindi, and  
10 the premises we are going to be talking about very  
11 shortly, which is just over 24 kilometres line of sight  
12 from where the fire actually commenced to the Marysville  
13 township.

14 Detective, there were some satellite photographs taken of 56  
15 Falls Road and the area around it. If you could perhaps  
16 take us to those, please. That's an image that was taken  
17 before the fires on 7 February 2009?---Yes, it is.

18 And indicated there is the house at 56 Falls Road and there is  
19 a red dot there. Can you please explain to us the  
20 significance of that?---That indicates where the  
21 deceased's remains were actually found inside the house.

22 We can see a house on the corner of Mount Kitchener Avenue and  
23 Falls Road, which is the neighbouring property to 56 Falls  
24 Road. If you could perhaps just indicate that house for  
25 us. If you are able to show us the post-burn image, that  
26 is the image taken after 7 February 2009, we can firstly  
27 see that the property at 56 Falls Road was completely  
28 destroyed?---Yes, it was.

29 And the red dot once again indicates the location in which the  
30 remains of the late Melissa Bunning were located?---Yes.

31 Most of the other houses in the vicinity of 56 Falls Road were

1 destroyed in the fire, although it is noticeable that the  
2 one on the corner that you pointed out a moment ago, on  
3 the corner of Mount Kitchener and Falls, was unaffected by  
4 the fire?---That's right.

5 Can you show us the image from a greater elevation,  
6 please?---That's taken from 400 metres, 800 metres.

7 If we just stop there for a moment. If you trace back along  
8 Falls Road towards the bottom of the image, we can see  
9 that there are some other houses on the same side of Falls  
10 Road which appear were not damaged or at least not  
11 extensively damaged in the fire?---Correct.

12 And I think you were telling us that was from 800 metres and we  
13 can see the Gallipoli oval at the top of the image?---Yes.

14 Perhaps if you can keep bringing us further out from that  
15 image?---That's from a kilometre, two kilometres, four  
16 kilometres and eight kilometres.

17 That's a post-burn image. If you can show us the pre-burn  
18 image of that, we can see the extent of the area burnt in  
19 the area of Marysville?---Yes.

20 There are two video clips that are included in this  
21 investigation. Firstly, if I could ask you to take us to  
22 the video footage that was taken from an aeroplane on  
23 26 February 2009.

24 (Video played to the Royal Commission.)

25 MR ROZEN: The pilot is flying the plane in a northerly  
26 direction from south of Marysville and then over the town  
27 itself?---Yes.

28 We can just make out the Gallipoli oval at the top of the  
29 screen there?---Yes, we can.

30 That's Falls Road there running alongside the oval?---Correct.

31 Thank you, Detective. There is another video image which was

1 taken from a car driving along Falls Road. Perhaps if you  
2 could show us that and can you explain to us how this  
3 footage is put together?---Yes. It takes a 180 degree  
4 view, so it basically shows the left-hand and the  
5 right-hand aspects of the road actually as we proceed  
6 along it. So we can see there 56 Falls Road just to the  
7 left-hand side.

8 This was recorded on 13 February. If you can just pause it  
9 there, please, Detective, if you are able to. I think  
10 that house that remains standing after the fire, that was  
11 just about to come into the picture as we play it through  
12 again. So the car in which the camera is mounted is  
13 driving along Falls Road in the direction of Gallipoli  
14 oval?---Yes, it is.

15 56 Falls Road is there identified as the location where the  
16 late Ms Bunning lived?---Correct.

17 And we can just now see the house that was on the corner of  
18 Mount Kitchener Avenue that you are indicating with the  
19 arrow?---That's correct.

20 As part of the investigation police reenacted the events of  
21 7 February 2009 insofar as they applied to this particular  
22 matter. Could you take us through the re-enactment,  
23 please, Detective?---It takes us to the events of  
24 7 February 2009. After 3.30 pm neighbour Justin Lloyd  
25 states that shortly after this time he noticed a massive  
26 pall of smoke above the pine trees about 150 metres away  
27 and opposite his house. After 3.30 pm, Justin went to  
28 Melissa's house to warn her of the fire. He knocked on  
29 the front door a couple of times, called out her name and  
30 also called out that there was a fire coming. He received  
31 no response and assumed that Melissa was out.

1 (Emergency telephone call played.)

2 WITNESS: At 6.49 pm that call was made through to 000. We can  
3 hear only the operator actually talking and in the  
4 background we can hear a smoke detector going the whole  
5 time. At about 6.51 pm a second call was made to 000  
6 which lasted for 11 minutes 40 seconds. Despite extensive  
7 inquiries with ESTA, Telstra and rural police  
8 communications, we have not been able to locate any record  
9 of this particular call.

10 At about 2.42 pm on 17 February, Detective Senior  
11 Constable Timothy Robinson attended at 56 Falls Road with  
12 a disaster victim identification team which included  
13 Senior Constable Mark Chandler. On searching the house,  
14 human remains were located in a bath at the rear section  
15 of the house which was burnt out and the scene was secured  
16 until the following day. Detective Senior Constable  
17 Robinson returned to 56 Falls Road, Marysville, with other  
18 police and commenced the DVI recovery process.

19 Thank you, Detective. A number of statements were obtained  
20 from neighbours and other people who had contact or  
21 attempted to make contact with Ms Bunning on 7 February  
22 2009, and who knew her prior to that day. I would like to  
23 take you to those. Firstly, in relation to the health of  
24 Ms Bunning, that is obviously a significant aspect of this  
25 investigation. Could I take you, please, to the statement  
26 of Gayle Walters. Ms Walters explains in paragraph 2 of  
27 her statement that she is a very close friend of Melissa's  
28 who had known her for some time and that she also lived in  
29 Marysville.

30 At paragraph 8 of her statement, which is on page  
31 2, she said this: "I met Melissa Bunning in November 2006.

1 I was doing seated massage at the Marysville Primary  
2 School fete. Seated massage enables my clients to sit  
3 down and I perform neck and shoulder massage. Melissa  
4 happened to be at the fete that day and placed her name on  
5 my whiteboard alongside a particular time. My memory is  
6 that Melissa was one of my last clients on that particular  
7 day. Whilst massaging Melissa and having a general  
8 conversation with her, Melissa told me that she suffered  
9 from fibromyalgia. I told Melissa that I did not know  
10 what that was and Melissa explained to me that it was  
11 similar to chronic fatigue syndrome but on a much more  
12 severe level. She explained that she was in constant pain  
13 and required very soft massage. Over time I learnt a lot  
14 about fibromyalgia."

15 Ms Walters then goes on to talk about subsequent contact that  
16 she had with Melissa and expresses concerns about her  
17 health and the like?---Yes.

18 A statement was also obtained from Ms Bunning's general  
19 practitioner, Dr Lachlan Fraser. Dr Fraser gave evidence  
20 that he is a general practitioner, had a practice in  
21 Marysville prior to 7 February 2009, and at paragraph 6 of  
22 his statement on page 2 he said this: "In relation to  
23 Melissa Bunning, I first met Melissa in 2007. I met  
24 Melissa on a professional basis when she became a patient  
25 of mine. I think it may have been towards the end of 2007  
26 not long after Melissa moved into Marysville. I believe  
27 Melissa moved to Marysville from Camperdown towards the  
28 end of 2007."

29 At paragraph 8 of his statement Dr Fraser said,  
30 "Without going into any specifics of any of Melissa's  
31 medical consultations with me as her doctor, I can say

1           that I saw Melissa on a professional basis on 11 occasions  
2           between December 2007 and her last consultation with me on  
3           2 February 2009. I can say that Melissa suffered from an  
4           anxiety disorder and in my professional opinion it may  
5           have been a contributing factor in her unfortunate death.  
6           I say this in the sense that although some normal healthy  
7           people not suffering from any type of medical problem or  
8           condition also perished in these fires, I think Melissa's  
9           anxiety disorder would have been heightened significantly  
10          and may have affected her normal thought processes.  
11          I would also like to add that Melissa did not have a car  
12          and no doubt felt that her house was the safest place to  
13          be until the fire passed."

14                         He was asked about whether he was aware of any  
15          fire plans et cetera and he said that he was unable to  
16          comment on that topic as it was never discussed with  
17          Melissa.

18                         If I can turn, Detective, to examine the  
19          statement that was taken from the neighbour, Mr Lloyd.  
20          You have already made reference to Mr Lloyd's attempts to  
21          contact Ms Bunning on 7 February 2009. At paragraph 6 of  
22          his statement Mr Lloyd says, "In about 2007 I remember  
23          Melissa Bunning moving in next door at 56 Falls Road.  
24          I would describe my relationship at first with Melissa as  
25          quite good." Then he went on to talk about the contact  
26          that he had with her.

27                         If you go over to paragraph 11, please, he is  
28          describing here the events of 7 February 2009 late in the  
29          afternoon. He says, "Mum went to her friend's house to  
30          help move the horses and while mum was away I went next  
31          door to Melissa's house to warn her. Melissa's house was

1 also made of weatherboard and there were no obvious signs  
2 of any firefighting equipment. I knocked on the front  
3 door a couple of times and was also yelling out her name  
4 and the fact that there was a fire coming. As I got no  
5 response I assumed she was out. If I knew Melissa was  
6 definitely inside I would have smashed her door down to  
7 try and get her out. I also did not have any phone  
8 numbers for Melissa. Melissa did not have a car. I last  
9 saw Melissa the day before in her garden, but I did not  
10 speak to her." He then went on and described what he did  
11 for the remainder of the day.

12 Detective, as part of the investigation into the circumstances  
13 surrounding Ms Bunning's death there was a statement  
14 obtained from Karen Ireland?---Yes.

15 Ms Ireland in her statement explains that she is employed by  
16 the Victoria Police Forensic Services Centre as a forensic  
17 officer. That she has held that position since 1995 and  
18 specialises in the investigation of fires?---Yes, that's  
19 correct.

20 She explains that she attended at 56 Falls Road on 18 February  
21 2009 together with other police officers and gives a  
22 description of the house there, at the bottom of page 1,  
23 as being a "single storey house constructed of asbestos  
24 cement sheet walls, timber frames and floors, plaster  
25 internal walls and a corrugated iron roof." She notes  
26 that there were no vehicles present at the residence.

27 On the second page under the heading "Fire  
28 direction" she concludes: "The fire appeared to have  
29 approached from the south and south-west, via residential  
30 properties behind the house in question." In the second  
31 paragraph under that heading, "The house block was not

1 overgrown and had very few trees on the property.  
2 However, the fire travel indicators such as leaf freeze  
3 and charring to the existing plants and trees at this  
4 address and neighbouring addresses showed a consistent  
5 pattern of fire travel to the north. Although the trees  
6 in this surrounding area were affected by fire to some  
7 degree, they still had most leaves on their branches,  
8 indicating that the bushfire was not intense in this area  
9 of Marysville."

10 Just pausing there for a moment, we saw that from the photos  
11 that were taken, that a lot of the trees in the immediate  
12 area around the house seemed to have most of their leaves  
13 still on them?---Yes, they did.

14 Under the heading "Damage" she notes that the house was  
15 essentially destroyed by the fire. In the third paragraph  
16 under that heading she states, "The grass to the front and  
17 rear yards was charred in patchy areas; the grass and  
18 gardens did not appear to be overgrown. The pattern of  
19 fire damage to this property and surrounds suggested that  
20 most of the buildings could have been saved with minor to  
21 moderate firefighting activity. In my opinion, the house  
22 probably ignited as a result of ember attack, possibly in  
23 the roof space." She then goes on to note that  
24 Ms Bunning's body was found inside the bathtub in the  
25 bathroom.

26 Moving over to page 3, under the heading  
27 "Firefighting equipment" she notes, "Water was provided by  
28 the town water supply; there were no water tanks located  
29 on this property. No firefighting pumps, generators or  
30 firefighting hoses were present. There were no house  
31 sprinklers or other fixed fire protection systems."

1 I will just pause there. That is consistent with the  
2 observations contained in the other evidence that's been  
3 obtained?---Yes, it is.

4 In the investigation?---Yes.

5 She goes on, "An ordinary garden hose was connected to a small  
6 sprinkler system in a rear garden bed and a second garden  
7 hose was located in the front yard garden." Under the  
8 heading "Firefighting", she states, "I did not identify  
9 any equipment which appeared to be specifically for  
10 firefighting and there was no evidence to suggest that any  
11 firefighting activity had occurred on this property."  
12 Under the heading "Evacuation/escape", "There was no  
13 evidence to suggest that the deceased had attempted to  
14 evacuate this property and no obvious evidence of packing  
15 or preparations being made for evacuation. Remains of a  
16 suitcase were found in the south-eastern corner of the  
17 house; however, it appeared that this was a bedroom and  
18 may have just been stored in this room. The football  
19 oval, which would have been a local refuge option, was  
20 located only a few hundred metres to the north from this  
21 house."

22 Under the heading "Issues" Ms Ireland concludes,  
23 "There was no evidence at this premises to suggest that  
24 any preparation had taken place for evacuation in the  
25 event of a bushfire, or defence of the house during a  
26 bushfire. A simple sprinkler system or fire hoses would  
27 have probably saved this home and the occupant if they had  
28 been prepared. This suggests that the deceased may not  
29 have had any warning of the approaching bushfire, and  
30 possibly not even the weather conditions expected on the  
31 day of the fire."

1                   Going over to page 4, Ms Ireland concludes, "The  
2                   lack of a vehicle meant that escape by foot was initially  
3                   the only means of evacuation for the deceased. If they  
4                   were elderly or incapacitated in any way, travel by foot  
5                   was probably not a viable option. In cases such as these,  
6                   a fire plan with alternative arrangements should be set in  
7                   place where possible. The bathroom was an obviously  
8                   inadequate refuge for the deceased in the long-term. Once  
9                   the firefront has passed it is essential that any  
10                  occupants of the house evacuate. Without fighting any  
11                  fires to or immediately around the house, all unprotected  
12                  structures will burn to completion, at which point any  
13                  occupants will be trapped inside a burning building with  
14                  limited escape routes."

15                 And that was the report that was provided by the forensic  
16                  scientist?---Yes, it was.

17                 Finally, Detective, a post-mortem report was obtained in  
18                  respect of an autopsy carried out by Dr Sarah  
19                  Parsons?---Yes.

20                 Dr Parsons in her report states that she conducted the autopsy  
21                  on 20 February 2009 and found that the cause of death was  
22                  consistent with the effects of fire?---That's correct.

23                 If you just excuse me for a moment, please. I have just been  
24                  handed a note, Detective and Commissioners, in which it  
25                  has been pointed out that the reference in Mr Fraser's  
26                  statement to Melissa having moved to Marysville in late  
27                  2007 from Camperdown is in fact incorrect and it should be  
28                  that she moved to Marysville in January 2006 from  
29                  Ashburton.

30                 I take it, Detective, you wouldn't take issue with that  
31                  information which has been provided to us from Melissa's

1 brother?---Certainly.

2 That being duly noted, they are the matters that I have for  
3 Detective Hollowood.

4 CHAIRMAN: Thank you. Any questions?

5 COMMISSIONER McLEOD: I just have one query, Superintendent.

6 Could we just go back to the forensic scientist's report,  
7 perhaps the second last page.

8 MR ROZEN: That is page 3 of Ms Ireland's statement.

9 COMMISSIONER McLEOD: "Issues". In the course of the report  
10 there is the suggestion that the fire at the house may not  
11 have been particularly severe because the undergrowth  
12 surrounding the house didn't appear to be completely  
13 burnt, which perhaps leaves the impression that the  
14 circumstances surrounding this house fire from a bushfire  
15 point of view weren't as severe as they may have been  
16 elsewhere?---Yes.

17 That may well be the case in a relative sense, but from the  
18 aerial photograph of the area where there was only one  
19 house that remained unburnt I think it seems a somewhat  
20 strange comment to make to imply that circumstances were  
21 not especially severe when there is virtually no house  
22 remaining standing in the area. Would you like to comment  
23 on that, Superintendent?---Yes, I think what Ms Ireland is  
24 actually saying is in effect there are really two fires;  
25 the bushfire that actually goes through a particular area,  
26 which is the material outside of the house, and sometimes  
27 that will pass through a lot quicker than the remaining  
28 fire once a house has actually caught fire. I think what  
29 she is trying to distinguish the difference there is, as  
30 the bushfire passes through, the threat on the outside  
31 becomes less but the threat nevertheless then starts to

1           become the fire in the house and the house actually then  
2           alights. Of course the problem is the timing for anybody  
3           inside a house to be able to be aware that it is safe to  
4           move from inside a house to outside would be very  
5           difficult when there is a lot of smoke around and still a  
6           lot of intense heat.

7   Certainly. But I think it is fair to say that the overall  
8           circumstance of the fire was that it was a severe fire by  
9           any test?---Yes, certainly; no doubt.

10   MR ROZEN: Just perhaps in relation to that, Detective, the  
11           particular passage where Ms Ireland makes the observation  
12           that's been referred to by Commissioner McLeod reads as  
13           follows, and I will read it out to you, "Although the  
14           trees in this surrounding area were affected by fire to  
15           some degree they still had most leaves on their branches  
16           indicating that the bushfire was not intense in this area  
17           of Marysville." Is what you are saying that the  
18           observations being made there are that the reference is to  
19           a relative degree of intensity compared to other areas of  
20           Marysville?---Correct, less intensity with the vegetation  
21           fire, but obviously there's a high intensity with the  
22           house fires that resulted as a consequence of it.

23   MR LIVERMORE: No questions.

24   CHAIRMAN: I was going to inquire whether there are any  
25           questions. I will ask that. Are there any questions that  
26           any members of the family would like to raise?

27   FAMILY MEMBER: Do you want us to stand up or sit down?

28   MR ROZEN: Perhaps it would be best if I come over and you can  
29           tell me. If you will excuse me, please.

30   CHAIRMAN: Yes.

31   MR ROZEN: Commissioners, I should just place on record that

1 the concerns that are being raised are concerns of a more  
2 general nature about the nature of the process that the  
3 Commission is pursuing and the interrelationship between  
4 this process and any coronial process that might take  
5 place.

6 CHAIRMAN: Just so that I make it clear, there is no way in  
7 which this process should prejudice the process that would  
8 normally apply so far as an inquest is concerned. It is  
9 just that that is likely, potentially, to go into more  
10 detail than we would be able to go into given the time  
11 constraints that are imposed upon us and regrettably is  
12 likely, because of the detailed work that is required of  
13 the police, to take some time yet. So at least you have  
14 some idea of the position as a result of this hearing, but  
15 there is no way that what we are doing should in any way  
16 prejudice the position with respect to the possibility of  
17 a full coronial inquest being held. That's a matter that  
18 is entirely for the coroner.

19 MR ROZEN: Thank you, Commissioner. With that matter being  
20 noted, there are no further questions that can usefully be  
21 asked of Detective Hollowood at this stage. I should  
22 tender the brief, however.

23 #EXHIBIT 495 - Police presentation of the circumstances  
24 surrounding the death of Melissa Bunning and attached  
25 photographs.

26 CHAIRMAN: I thank the members of the family for participating  
27 in the process, even though I can understand from the  
28 query that's been raised that it is only a limited  
29 process, but it is one that really is very important in  
30 its own way. So, with that word of thanks, I will now  
31 adjourn the hearing of the Commission until tomorrow at

1 9.30.

2 <(THE WITNESS WITHDREW)

3 ADJOURNED UNTIL FRIDAY, 6 NOVEMBER 2009

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