
TRANSCRIPT OF PROCEEDINGS

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2009 VICTORIAN BUSHFIRES ROYAL COMMISSION

MELBOURNE

FRIDAY 6 NOVEMBER 2009

(78th 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: Yes, Mr Rozen.

2 MR ROZEN: Good morning, Commissioners. This morning we will
3 examine the circumstances surrounding the deaths of
4 Elizabeth Fiske and Dalton Fiske. Elizabeth Fiske was
5 born on 13 July 1964. On 7 February 2009 she was aged
6 44 years. Elizabeth married Glen Fiske in July of 1984
7 and they had three children, Kellan aged 20, Bronte aged
8 16 and Dalton aged 15. On 7 February 2009 Dalton was
9 15 years of age, having been born on 19 December 1993.
10 The family resided at 32 Lyell Street, Marysville, and had
11 done so for 16 years.

12 Commissioners, Glen Fiske was at 7 February 2009
13 and remains the captain of the Marysville CFA, a position
14 he had held for four years. He had been an operational
15 member with the CFA for 25 years. His son Kellan was also
16 a member of the CFA and Mr Fiske's late wife, Elizabeth,
17 was a support member of the CFA assisting with
18 administration, communications and catering. There are
19 members of the Fiske family present in the hearing room,
20 Mr Chairman.

21 CHAIRMAN: Yes, thank you. If you take a seat briefly,
22 Mr Rozen. I will welcome the family and give some
23 explanation. Thank you very much, members of the Fiske
24 family, for participating in what can only be from your
25 point of view a difficult occasion. It is perhaps
26 desirable that I explain to you that what we hope to
27 present to you is something that will not be unnecessarily
28 distressing, and we do that in a way that enables us to
29 obtain the information that we need for the purposes of
30 making our ultimate recommendations but in a way that
31 doesn't descend into detail. That has some disadvantages.

1 I will explain one in a minute.

2 But effectively what we are doing is having
3 Mr Rozen, as counsel assisting, ask questions of Detective
4 Superintendent Hollowood, who is the most senior detective
5 involved in the Phoenix Taskforce, about matters that
6 relate to the statements that were obtained by the police
7 and the statements obtained from family members, from
8 neighbours and from experts. That's done on a hearsay
9 basis because it enables it to be done relatively more in
10 a condensed fashion rather than taking witness by witness
11 who give the matters personally.

12 It does have its drawbacks, and I'll illustrate
13 this by reference to a matter that has come up in a couple
14 of previous hearings. When you have a person like a
15 scientist who has visited the scene, they make certain
16 assessments based upon what they see. That does not
17 necessarily correspond with what the position was before
18 the damage was done. So, having read the papers already,
19 I know that there is one particular thing that I thought,
20 "Well, everyone in the family will say that doesn't add
21 up." So you will understand there may be gaps and there
22 may be discrepancies. There may be things that you think
23 are wrong.

24 At the end what I will do is, after asking my
25 fellow Commissioners if they have any questions, after
26 Mr Rozen has finished, I will give you the opportunity of
27 saying, "Yes, there is a question or two that we would
28 like to put." It is probably best done through Mr Rozen.
29 He will, if necessary, go and just check with you.

30 But the aim through this process is to enable us
31 to have in an appropriate way the facts. Hopefully you

1 will learn some matters that you won't have known before,
2 but it will not preclude you if you wanted a full-blown
3 inquest, which of course could take hours and perhaps days
4 if it was necessary to do so.

5 But at this stage what we will do is proceed as
6 I have indicated by Mr Rozen now calling Detective
7 Superintendent Hollowood and proceed through the normal
8 process of dealing with a number of matters on an
9 audiovisual basis at least at the start and then
10 proceeding to examine some of the statements that have
11 been obtained. Mr Rozen.

12 MR ROZEN: Thank you, Mr Chairman. I recall Detective
13 Superintendent Hollowood.

14 <PAUL STEPHEN HOLLOWOOD, recalled:

15 MR ROZEN: Detective, for the benefit of those in the hearing
16 room, could you please explain your role in relation to
17 the Phoenix Taskforce and give us a brief explanation of
18 what the taskforce is?---Yes. My role is as the senior
19 investigative officer in terms of the bushfires
20 investigations of Black Saturday. Predominantly that's
21 been investigated by the Phoenix Taskforce, which has
22 looked at all fires in Victoria whereby death has been
23 caused or there has been other criminal cause as well.

24 MR ROZEN: Thank you, Detective. The aspect of the Phoenix
25 Taskforce concerned with the Murrindindi fire has the code
26 name Operation Groove; is that correct?---That's correct.

27 As part of Operation Groove has there been an investigation
28 into the circumstances surrounding the deaths of Elizabeth
29 Fiske and Dalton Fiske at 32 Lyell Street,
30 Marysville?---Yes, there has.

31 If you could please open the investigation brief and if you

1 could commence, please, by taking us to the fire perimeter
2 map, please. If you are able to explain to us what is
3 depicted on the map, please, Detective?---Yes, the map
4 actually depicts with the black line around the outside
5 here the full extent of the fire as it occurred on
6 7 February. The two points that have been marked on that
7 map, the first one I'm indicating at the top left-hand
8 side of the image is the point of origin of the fire in
9 Murrindindi, and the location of the Fiske home, which was
10 in Marysville, and that was just over 23 kilometres away
11 line of sight.

12 The location of the Fiske household was 32 Lyell Street. A
13 number of satellite images have been taken of the house,
14 and perhaps if we could turn to those now, please. If you
15 could tell us what's depicted on that image,
16 please?---Yes. The image with the yellow lines shows the
17 property boundaries. We can see the house as it was prior
18 to the fires. The little red indicators on there indicate
19 the location of where the deceased remains were actually
20 found.

21 The photograph that we have on the screen there is a photo that
22 was obviously taken prior to 7 February 2009. Can you
23 show us the equivalent image after 7 February, please? We
24 can see from that the houses in the vicinity of 32 Lyell
25 Street were nearly all completely destroyed?---Yes, they
26 were.

27 Can you give us, please, the benefit of that image taken from a
28 higher elevation?---That's taken from 400 metres, from
29 800 metres, one kilometre, two kilometres, four kilometres
30 and at eight kilometres.

31 If you show us the pre-burn image of that shot then we can see

1 the extent of the burning in the vicinity of Marysville.
2 Just a little bit about Lyell Street itself. Lyell Street
3 runs north-south through the town of Marysville?---Yes, it
4 does.

5 And number 32 is located between Kings Road and Sedgwick
6 Street?---Yes, it is.

7 As part of the investigation, Detective, two video recordings
8 were taken. The first of those is an aerial video which
9 I would ask you, please, to bring up.

10 (Video shown to Royal Commission)

11 MR ROZEN: This footage was recorded on 26 February
12 2009?---Yes, it was.

13 It is taken from a plane which is flying essentially in a
14 northerly direction from south of Marysville and then over
15 the township?---Yes, it is.

16 On the screen there we can just make out the Gallipoli oval at
17 the top of the screen?---Correct.

18 Thank you, Detective. There was another video which was
19 recorded. If you could bring that up, please, and explain
20 to us what it is that we are seeing?

21 (Video shown to Royal Commission)

22 WITNESS: This is actually a view travelling along Lyell Street
23 on 13 February. The view forward is to the left and right
24 with a 180-degree view. As we go along Lyell Street, we
25 will very shortly see the address where we are talking
26 about today at 32.

27 The vehicle is travelling south along Lyell Street?---Yes.

28 In the direction of Kings Road?---Correct.

29 As is indicated on the screen, it was recorded on 13 February
30 2009?---Yes. We just saw 32 just indicated there. We can
31 see the entry going into number 32.

1 That's the driveway there, is it?---Yes.

2 Thank you, Detective. Have the investigating officers put
3 together an audiovisual re-enactment of the events of
4 7 February 2009?---Yes, we have.

5 That re-enactment is based on statements and other material
6 that's been gathered by the investigating officers?---Yes,
7 it has.

8 Perhaps if you could take us through that re-enactment,
9 please?---Just prior to 10 am on 7 February Glen Fiske
10 returned to the family home and had a brief conversation
11 with Elizabeth about the weather and the state of
12 readiness of their home. Kellan is at home at this
13 particular time.

14 At about 2 pm Kellan Fiske leaves the family home
15 to go to the CFA station at Marysville to assist with
16 general maintenance work.

17 In between 3 and 4 pm Elizabeth and Dalton leave
18 the family home to go to the local swimming pool. While
19 there, Elizabeth doesn't enter the pool and asks the
20 McFadzean family to look after Dalton, who is in the pool,
21 and leaves to go to the CFA to listen to the radio, and
22 then she returns to her home.

23 At 4 pm Dalton is dropped off at his home by the
24 McFadzean family. The McFadzeans observe Rhys Hodgins'
25 car in the Fiske driveway. After 4 pm Glen Fiske returns
26 home to check on Elizabeth and Dalton and ensure that they
27 are prepared for the fire.

28 At about 4.22 pm Dalton Fiske then goes to
29 FoodWorks to purchase bathplugs and water pistols. At
30 about 4.25 pm Jason Stirling arrives by car at the Fiske
31 home. He speaks with Glen, who advises him to go home and

1 tell his parents, "It's going to be real bad." Jason
2 leaves within five minutes.

3 At about that same time Rhys Hodgins arrives at
4 the Fiske family home and speaks with Elizabeth, who was
5 the only person home. She was preparing the residence,
6 and he observes the bath and washing machine full of
7 water. He helps by moving the washing machine away from
8 the wall and removing the machine hose fittings at
9 Elizabeth's request. At about 4.25 pm Dalton returns
10 home.

11 At about this same time Rhys Hodgins asks
12 Elizabeth what was happening and she tells him about the
13 fire at Murrindindi Mill. Rhys Hodgins uses the CFA radio
14 at the Fiske home but can't hear anything. He then uses
15 the Fiske computer to check the CFA website and observes a
16 large amount of fire tankers at the Kilmore fire.

17 At about 4.40 pm Hodgins leaves and the
18 sprinklers on the house are turned on, the front of the
19 house just below the gutters. Dalton Fiske is running
20 around the house trying to clear up everything flammable.

21 At about 5.41 pm Rosemary Fiske called Elizabeth
22 on her mobile. The power was out at Rosemary's home at
23 the time. Elizabeth said that she and Dalton were staying
24 to protect the house. Rosemary advised that she was
25 leaving and that Elizabeth should also leave.

26 At about 5.45 pm Bruce Ackerman walked to the
27 Fiske home and spoke to Elizabeth. She was on the front
28 lawn with a hose. It was unknown if the hose was on or
29 off. Ackerman suggests that Elizabeth and Dalton
30 evacuate, but she says she is staying. Ackerman returns
31 to his home and does not sight Dalton during that visit.

1 At about 6.03 pm Bruce Ackerman calls the Fiske
2 home on the home phone. He speaks with Elizabeth, who
3 says they are staying and are prepared and have removed
4 all flammable items from around the house. At about 6.24
5 pm Kingsley Fiske called on the home phone and spoke with
6 Elizabeth, who sounded focused but not panicked. She said
7 she and Dalton were staying to fight the fire and protect
8 their home. Elizabeth said the fire was at Granton.

9 At 6.25 pm Catherine Donehue, Elizabeth's sister,
10 called and spoke with Elizabeth on the home phone.
11 Elizabeth answered the phone within a few rings and stated
12 that there were fires everywhere. She and Dalton had just
13 patrolled outside of the house for ember attacks and
14 declared they were going to save the house.

15 At 6.30 pm Glen Fiske returned to the house and
16 spoke with Dalton, who was on the verandah. He then
17 returns to his firefighting duties.

18 At 6.39 pm Bruce Ackerman again rang the Fiske
19 home phone and spoke to Dalton Fiske, who sounded very
20 nervous. Ackerman asked if he was okay. Dalton said he
21 was and that his mother was out the front putting out
22 spotfires. That was the last time Ackerman spoke to
23 Dalton and believes the firefront hit shortly after.

24 Between about 8.30 and 9 pm Glen Fiske returns to
25 the home with local policeman Ian Thompson. The house is
26 fully involved with flames; the roof collapsed, some brick
27 walls still standing. They are unable to leave the car
28 due to the heat. Later at an undetermined time Glen and
29 Kellan Fiske return to their home but cannot locate
30 Elizabeth or Dalton. Then they return to the Marysville
31 oval.

1 At sunrise on 8 February Glen Fiske returns to
2 the family home with Chris Haden, another firefighter, and
3 Glen checks the bathroom area where he locates human
4 remains. Glen Fiske and Chris Haden leave, and Glen
5 returns with Senior Constable Ian Thompson. They conduct
6 another search and locate further remains in the bathroom.
7 Thank you, Detectives. As part of the investigation, police
8 officers also photographed the scene at 32 Lyell
9 Street?---Yes.

10 And if I can just take you to some of those photographs,
11 please. The first one is photograph number 1. This shows
12 us the driveway of the property which is on the western
13 side of Lyell Street?---Yes, it is.

14 And the photographer is pointing in a south-westerly direction
15 in taking this photograph?---Correct.

16 The next photograph is number 6, another photograph of the
17 scene in Lyell Street?---Yes, it is, facing south.

18 The next photograph is photograph number 9. What are we
19 looking at here, Detective?---We are looking down the
20 driveway, and that's facing in a westerly direction.

21 The next photograph, number 12, shows two burnt-out vehicles at
22 the front of the property?---Correct. It does.

23 And there was a third vehicle, was there not, that was in the
24 carport?---Yes.

25 On the right-hand side of that photograph we can see the ruins
26 of the house with a brick wall partially standing?---Yes,
27 we can.

28 The next photograph is number 15; once again, a photograph
29 taken of what remained of the house at 32 Lyell Street
30 with once again partially remaining brick walls?---Yes.

31 And the rest of the house destroyed. We can see the corrugated

1 iron roof that's collapsed as a result of the
2 fire?---That's correct.

3 And finally, photograph number 31, a photograph taken from the
4 front of the property in a westerly direction?---Yes.

5 And we see on the right-hand side there, do we, the other
6 vehicle that was parked in the carport?---Correct.

7 And parked facing in away from the road; is that
8 right?---That's right.

9 Detective, the investigators interviewed a large number of
10 witnesses as part of the investigation into this
11 matter?---Yes, they did.

12 The witnesses who were interviewed included neighbours of the
13 Fiskes' as well as relatives and other firefighters and
14 police officers who were involved in events on the 7th and
15 then on subsequent days in February?---Yes, that's right.

16 What I would like to do now is take you to some of those
17 statements. Firstly if I could take you to the - perhaps
18 I will come to that statement in a moment. I won't ask
19 you to go to the summary, but I will just read out, if
20 I could, a paragraph of the summary which summarises the
21 evidence about the home. Investigators conclude that the
22 home, as described by Kellan Fiske, was a four bedroom
23 brick house with a corrugated iron roof and that the house
24 had a fireplace with a chimney and there was a circular
25 gravel driveway that went across the front of the house
26 and around to the carport. Kellan also told investigators
27 that there was a sprinkler system consisting of black PVC
28 piping that ran across the top of the house just below the
29 gutter?---Yes.

30 If I could take you now to the statement of Glen Fiske, please.

31 Mr Fiske explained to investigators that he was the

1 husband of the late Elizabeth Fiske and father of the late
2 Dalton Fiske?---Yes.

3 And that he was captain of the Marysville CFA. Mr Fiske was
4 asked about what fire plans were in place in relation to
5 the family. At the bottom of page 1 of his statement, the
6 last paragraph there, he said, "On Friday, the 6th of
7 February, I went to work as normal at ITC Timber in
8 Alexandra. On the Thursday night me and my family did a
9 few things around the house to prepare. We also did a bit
10 on the Saturday. Things like moving some timber around
11 and making sure there was good access to the property. We
12 also had a few 44-gallon drums around which we had full of
13 water. We also had a talk about being ready on the inside
14 of the house. Having said that, we didn't know how bad it
15 was going to be, so these preparations were really only a
16 token."

17 He went on, "On the Friday afternoon Bronte" -
18 the daughter - "went straight from school to one of her
19 friends' houses in Alexandra. She stayed there until
20 Sunday. On the Friday night I discussed with Liz whether
21 she was comfortable to stay because it was looking
22 serious. She basically said that she was happy to stay
23 and that she knew she would have to be prepared. Overall
24 the discussion amongst us all was that if Kellan and I had
25 to go out to fight a fire, Liz and Dalton would stay at
26 home to protect the fire." Presumably that should be
27 "protect the house". "Dalton did not intimate anything
28 that he was reluctant to stay. Discussions about fire
29 preparations was part of our family dialogue. One thing
30 that did stick in my mind was that on the Friday night
31 I received a phone call from one of the elderly residents

1 of the town telling me that she was evacuating that
2 night."

3 Similarly in relation to fire planning, Kellan
4 Fiske also described the plans that were in place in his
5 statement at paragraph 6. I don't need to take you to the
6 statement of Kellan. We will leave the statement of Glen
7 on the screen and I will just read out the passage in
8 Kellan's statement at paragraph 6. He told investigators
9 this, "We had a fire plan that if there was a structure
10 fire that we would all evacuate to the letterbox and meet
11 up there. In the event of a bushfire we had to make sure
12 that all the sinks and baths were full of water and that
13 the 44-gallon water drum in the carport was full."

14 That's the paragraph there. I think it is about
15 six lines down that I have reached, "Dad always said only
16 to stay if we felt comfortable. He told us that there was
17 no shame in leaving. Part of the fire plan was that once
18 the firefront had passed to get up into the roof space and
19 check. We had planned to draw the curtains to stop
20 radiant heat. Personal wise, we were to wear shoes and
21 long trousers and sleeves. I cannot remember having any
22 direct discussions with my family about any specific plans
23 for this Saturday." That reference there is to Saturday,
24 7 February 2009?---Yes.

25 If we can go to the events of 7 February 2009 as described to
26 investigators. Perhaps if we can start with the statement
27 of Mr Glen Fiske again. Starting on page 2 of his
28 statement, Glen Fiske described his activities on
29 7 February 2009 in detail to investigators and of course
30 much of what he described involved the tasks he carried
31 out as the captain of the Marysville CFA?---Yes.

1 I won't take you through the detail of that. But on page 3 of
2 his statement, about a third of the way down, Mr Fiske
3 said this. After describing events of the morning in
4 relation to the CFA brigade headquarters in Marysville and
5 communications he had with other CFA officers in
6 neighbouring brigades, including Alexandra, he said, "At
7 some stage after this I went home to check that Liz and
8 Dalton were prepared and ready. I was aware that
9 Marysville was under threat at this stage." Just skipping
10 over a passage there, "She convinced me that this was not
11 going to be a problem." Then finally, "Both her and Dalton
12 made out they were on top of things. I then left and was
13 more than satisfied that they were on top of things."

14 If we go over to page 4, please. After
15 describing in more detail other activities that he engaged
16 in, about three quarters of the way down the page Mr Fiske
17 said, "After I did this I briefly returned home. As I was
18 pulling into the driveway I noticed there was fire in the
19 front yard. I think Liz had rung me and told me this,
20 which was the reason I went and had a look. I pulled up
21 to the top of the driveway and Dalton was on the verandah.
22 He walked out to the top of the step and we spoke. He
23 yelled out to me that there was fire in the front yard.
24 I remember saying that that would be all right and told
25 him to stay safe and 'you and mum make good decisions'.
26 Dalton then said that his mum was on the phone. I told
27 him that I couldn't stay and that I had to go. He was
28 dressed all dark, so I think he had his boilersuit on. He
29 also had riggers gloves on. I looked in behind him to try
30 and see Liz, and the house was in darkness. So I reckon
31 the power was off at this stage. I noticed that it was

1 dark and ominous."

2 Mr Fiske then goes on to describe going back to
3 the fire station and being in the fire station during the
4 period when the firestorm passed through Marysville after
5 the wind changed from the south-west?---Yes.

6 Towards the bottom of page 5 of his statement, at the end of a
7 long paragraph, he says in relation to those activities
8 whilst he is in the CFA headquarters, "We had to go out
9 about two or three times to put this fire out. On one of
10 those trips out I went and got my phone from my car.
11 I then started to ring Liz and Dalton. I tried both their
12 mobiles and the home number. I think that both their
13 mobiles went straight to message bank. When I rang the
14 home number it rang through to message bank. When
15 I looked at my phone I noticed that I had a missed call
16 from Liz's mobile at 7.02 pm. I also remember that later
17 in the night, after midnight, I accidentally deleted a 101
18 message call thinking that it was from the day before.
19 I'm not sure who this message came from, but it may have
20 been left by Liz at 7.02 pm."

21 Mr Fiske then goes on to describe his activities
22 during the course of the night, the efforts he made to try
23 to get back to the house to check on the welfare of
24 Elizabeth and Dalton, and you have summarised those in the
25 course of the presentation?---Yes.

26 And ultimately Mr Fiske in the company of both a police
27 officer, Mr Thompson, and a firefighter, Mr Haden, was
28 able to get back to the property and found the remains as
29 you have described them?---Yes.

30 If I can take you to the statement of Kingsley Fiske, please.

31 Mr Fiske states that he is the older brother of Glen Fiske

1 and that he spent 7 February at his home in Vermont. A
2 quarter of the way down the first page of his statement he
3 says he heard about the fire at Murrindindi, "became
4 nervous about Marysville when I heard Narbethong was under
5 ember attack".

6 He went on to describe what he then did. He
7 says, "At this time I rang Elizabeth. I used my mobile
8 phone. This would have been after 6 pm, 10 past, 20 past.
9 It was in fact 24 past. Elizabeth answered the phone.
10 I knew Glen and Kellan would have been out with the CFA.
11 Elizabeth said that the fire was at Granton and that she
12 and Dalton were going to fight the fire and protect the
13 home. Elizabeth didn't sound panicked but she was focused
14 and a bit intense, not her usual cheeky self. Elizabeth
15 said that Dalton was dressed in his dad's fire overalls
16 and she commented that he looked like a dog. I didn't
17 speak to Dalton during the call. As soon as I knew the
18 situation I said, 'I'll get out of your hair'. She said
19 that she'll back and said, 'Don't worry about calling me.
20 I'll ring you.' I waited for about two hours and tried
21 repeatedly to ring Elizabeth, but the calls went through
22 to message bank. Elizabeth would have been up with all
23 the CFA training and would have been preparing for a
24 normal bushfire, but of course this was far from normal."

25 If I can take you to the statement of Rosemary
26 Fiske. Rosemary Fiske explained that she was married to
27 Norman Fiske and was the sister-in-law of Elizabeth. She
28 lived in Marysville and worked part-time in Narbethong.
29 On page 3 of her statement she describes a conversation
30 that she had with Elizabeth late in the afternoon on
31 7 February. A third of the way down the page she says,

1 "While waiting for Jacquie I think that was when I rang my
2 sister-in-law. Elizabeth Fiske. I call her Lizzy.
3 I rang her using my mobile phone. I must have called
4 Lizzy's mobile because the power was off at this time.
5 I don't know what time the power went off. I asked Lizzy
6 what she was going to do. Lizzy said that she and her son
7 Dalton, who's about 16 years, were staying to protect the
8 house. Lizzy lived in Lyell Street, Marysville. I told
9 her we were leaving and I think I said she should too.
10 I told her about my dog being stressed with the heat.
11 Lizzy said to bring my dog to her and she would look after
12 her."

13 Investigators also took a statement from
14 Catherine Donehue, who is the sister of the late Elizabeth
15 Fiske. Halfway down the first page of her statement,
16 having explained that she lives in Benalla and had become
17 aware of fires, particularly the Kilmore fire, during the
18 course of the day, she says halfway down the page, "I got
19 home at about 4.30 pm. I still didn't know Marysville was
20 under attack. My husband, Dave, rang me and said that it
21 would be a good idea to ring Liz as the fires were around
22 Marysville. I rang Liz straightaway. I used my home
23 phone number to ring Liz's home phone number. I think
24 this was about 6.15 to 6.30 pm. Liz answered the phone
25 within a few rings. I asked Liz what was going on and she
26 said there were fires everywhere. She said that she and
27 Dalton had just patrolled the outside of the house for
28 ember attack. I asked her if they were going to be safe
29 there and she said that they were going to save the house.
30 Liz went on to say that they were looking glamorous
31 dressed for the fire. Liz said that Dalton was wearing a

1 bandana and goggles and I'm sure she said he had Glen's
2 boots on."

3 Over the page on page 2, "Liz said that she had
4 water in the bathtub, every basin, the hoses were inside
5 attached ready to go. Liz said that she had the washing
6 machine full of water and could use the machine to pump
7 the water. I kept saying, 'Don't be a hero'. Liz said
8 that they would be fine. I didn't speak to Dalton, but I
9 think he was standing near her because I asked her to take
10 a photo of him. During the call Liz said that Glen was
11 there. She yelled out to Dalton that dad was here.
12 I said, 'Quick, go and see what Glen's got to say' and
13 I would ring her back later that night. I then hung up.
14 I told her I loved her and I would ring her. I also said
15 to Liz to make sure she had a cotton or wool shirt on and
16 long pants. Liz said that she had."

17 Ms Donehue then goes on to describe later
18 attempts to contact Elizabeth and that she was
19 unsuccessful.

20 If I can take you next to the statement of Rhys
21 Hodgins, whom you have already made some reference to,
22 Detective, in the summary. Mr Hodgins explained that he
23 was a friend of Kellan Fiske, and described Kellan as
24 being one of his best mates and that he knew the family
25 well and knew the house at 32 Lyell Street well as well.
26 He gives evidence of going to the house at 32 Lyell Street
27 during the course of the afternoon. This is on page 2 of
28 his statement, about a third of the way down. He said
29 this, "I then got in my car and went back up to Kellan's
30 place. Katie's dad then went for a drive but I don't know
31 where though. It was about 4.20 pm and Liz was home then.

1 There was no-one else there. Liz told me they had just
2 been at the swimming pool and that she had just got home.
3 About five minutes later Dalton got home. I asked Liz
4 what was going on but she didn't really know. She told me
5 there was a fire at Murrindindi Mill. They have a CFA
6 radio there so I tried to have a listen to that. It was
7 extremely quiet. There was nothing. I decided to go on
8 the computer there and check the CFA website. I just saw
9 a whole lot of fire tanks at the Kilmore fire. There was
10 nothing at our area because we didn't realise how far the
11 Murrindindi fire had gone. I was starting to get worried
12 because there was nothing on the radio. Liz was filling
13 up the bath and pretty much everything else that could
14 hold water. I saw the bath and washing machine full of
15 water at that time. I had to move the washing machine
16 about a metre off each wall away from the tap. Liz asked
17 me to do this. Then I took the actual hose fittings off
18 so I could get a garden hose on it. Liz had asked me to
19 get all the garden hoses from around the house. During
20 this time Dalton had come home. Liz then told me to go so
21 I could go and look after my girlfriend. I remember Liz
22 saying something about how bad the communication was on
23 the radio because one of the guys couldn't get through to
24 headquarters. I left there at about 4.40 pm. When I left
25 they had turned the sprinklers on out the front of the
26 house. The sprinklers were located across the top of the
27 house just below the gutter. As I was leaving Dalton was
28 running around the house trying to clear up everything
29 that was flammable. At that point I wasn't too worried in
30 terms of what they were doing. This is the last time
31 I saw them. When I last saw them they weren't really

1 panicking; they were just doing what they had to do.
2 I remember standing and looking at the smoke with Liz
3 because it was so amazing. When she said goodbye she
4 wasn't panicking, she was just more serious because she
5 didn't want to make you panic. I'm 100 per cent certain
6 that they were not drinking alcohol. I have said this as
7 a result of being asked a specific question in the course
8 of making this statement. When I last saw Dalton he was
9 wearing a pair of sandals, a pair of black boardshorts.
10 I think he was wearing a rash vest that was black with
11 white sleeves. When I last saw Liz she was wearing a
12 white shirt and I think she was wearing black
13 three-quarter pants or shorts. I can't really remember."

14 The next statement I would like to take you to,
15 Detective, is a statement of Bruce Ackerman. Mr Ackerman
16 gives evidence of having lived in Marysville for 22 years
17 and being a neighbour of the Fiskes. He describes in
18 detail his own activities on the 7th and preparations he
19 made in relation to his house. At the bottom of page 2 of
20 his statement he says in the last paragraph, "Outside the
21 house I ran all of the hoses out, filled the double spa,
22 trough, sink and four basins within the house and then the
23 water went off. The firefront hit my home at around 5.45
24 pm and I believe I did all of these things in that
25 45-minute space of time after arriving home. I rang
26 Elizabeth Fiske, who is a neighbour of mine, and asked her
27 whether she was all right. She said she was staying and
28 also told me that she was prepared. She also said that
29 she had removed all the flammable items from around the
30 house as a result of a question I asked her. I had a
31 feeling she was not being truthful with me as there was no

1 way she could have physically done all of this in that
2 short space of time. I rang her on my mobile twice and
3 I went down to her house once."

4 Over on page 4 of his statement in the second
5 paragraph, five lines from the bottom of the second
6 paragraph, Mr Ackerman said, having described what he had
7 done in the meantime, "This was around the time that
8 I went to the Fiskes' house where I spoke with Liz Fiske,
9 who was out the front with a hose, and I suggested that
10 she and Dalton should leave. She told me outright that
11 she was staying. She was not the sort to argue with, so
12 I did not argue the point. I did not see Dalton. He must
13 have been inside."

14 About two-thirds of the way down that same page
15 Mr Ackerman then describes what happened in the meantime,
16 that the sky got blacker and blacker and the fire started
17 spotting around his yard. He said, "I rang the Fiskes on
18 my mobile, I think to their home number. I spoke with
19 Dalton Fiske, Liz's son, and I asked him whether he was
20 okay. He said that he was and that Liz, his mum, was out
21 the front putting out the spotfires. I sensed that Dalton
22 was very nervous over the phone and I tried to reassure
23 him that it would be okay. Dalton is usually quiet and
24 shy but was very nervous on the phone. At this point the
25 power and the water were off and I was using a torch
26 inside and outside. I estimate this would be around 6.15
27 pm. After the black period came a huge wall of flames and
28 it became bright and light. During the 15-minute
29 firefront I popped in and out of the house checking for
30 ember attack. I doused a number of spots during that
31 period of time."

1 On top of page 5, "Once the firefront had passed
2 from the south-west, I jumped up on the ladder with the
3 torch and some buckets and checked all the spouting, front
4 and rear, and put out the obvious spots, downpipes on
5 fire, leaves on fire on the roof and in other little
6 areas. Within a short space of time this was done.
7 I then bolted down to Glen and Liz Fiske's, as I couldn't
8 see their house. It was obvious that their house was
9 engulfed in a towering inferno of flame. I could only
10 hope at that point that Liz and Dalton were not in the
11 house."

12 Mr Ackerman then goes on to describe his
13 activities during the rest of the evening and on the 8th,
14 including attempting to go back to the house with
15 Mr Fiske?---Yes.

16 Finally, Detective, a report was obtained from a forensic
17 scientist, Karen Ireland?---Yes, it was.

18 Ms Ireland in her report explained that she is a forensic
19 officer employed by the Victoria Police Forensic Services
20 Centre and has been in that role since 1995?---Yes.

21 And she has expertise in the investigation of fire scenes and
22 giving evidence in court in relation to those
23 investigations. She states that she attended at 32 Lyell
24 Street at the request of police on 10 February 2009, gives
25 a description of the location and of the house, but of
26 course she was only able to do that based on what she was
27 able to see whilst she was at the location?---Correct.

28 On the second page of her report, halfway down the page, there
29 is a heading "Fire direction". Ms Ireland says, "The fire
30 appeared to have approached from the south-west, through
31 trees at the perimeter of these premises, and via southern

1 and south-western properties. There were gum trees along
2 the western fence perimeter and scattered trees at the
3 front of the property with few bushes and shrubs. The
4 fire travel indicators, such as leaves, showed a
5 consistent pattern of travel to the north-east."

6 She describes the damage to the property and that
7 the house, as she says, was essentially destroyed. On
8 page 3 she refers to the location of two deceased persons
9 in the bathroom underneath debris and lying close
10 together, as she explains.

11 Under the heading "Firefighting equipment, water
12 supply, power", halfway down page 3, she says, "I did not
13 identify any firefighting equipment such as pumps, hoses
14 or sprinklers about the house or gardens. The house was
15 not equipped with fixed roof sprinklers or any other type
16 of water system." Just pausing there, if I could; there is
17 other evidence, for example, from Mr Hodgins and Kellan
18 Fiske, which describes in some detail roof sprinklers that
19 were in location and in fact were being used on the
20 afternoon of 7 February. So in those circumstances we
21 obviously have to take what Ms Ireland says in light of
22 the other evidence that police obtained?---Yes. Because
23 the sprinklers were of PVC construction, it is likely that
24 there was nothing left for her to be able to observe.

25 Yes, thank you, Detective. Under the heading "Firefighting" on
26 page 3 she says, "A small fire extinguisher was found
27 outside the front of the house among the collapsed
28 brickwork, however it was not clear if it had been in use.
29 There was no other obvious evidence of any firefighting
30 activity." Under the heading "Evacuation/escape", Ms
31 Ireland said, "The fire approached Marysville from the

1 south-west via Narbethong. There was no obvious evidence
2 of preparation being made for evacuation, and what
3 appeared to be their main vehicle was parked underneath
4 the carport, facing away from the driveway." We saw that
5 in the photograph that you took us to?---Yes.

6 She refers to two possible evacuation routes by vehicle, one to
7 the north on the Buxton-Marysville Road and one to the
8 east on the Marysville-Woods Point Road. She does add,
9 however, that both routes would have required some travel
10 in the general direction of the path of the fire. Late
11 evacuation once the fire had reached Marysville would have
12 resulted in the deceased having to travel in dangerous
13 conditions (high winds, blocked roads, poor visibility
14 from smoke) and would most likely have resulted in their
15 vehicle being caught by the fire."

16 Under the heading "Issues", Ms Ireland says as
17 follow, "Town supply of water to this house limited the
18 extent of firefighting capability to within this home
19 only. Water tanks would have provided an additional water
20 supply independent of the town water allowing for use of
21 some firefighting equipment external to the house. The
22 bathroom was an obviously inadequate refuge. Sheltering
23 within any room of the house without active monitoring of
24 the fire situation at hand and without the extinguishment
25 of any spotfires about the house during the firefront
26 would have most certainly resulted in the house and/or
27 roof space catching fire, probably without the occupants'
28 knowledge until the house fire was well developed. The
29 front yard of this and the adjacent properties were
30 limited to minor patchy burning consistent with drop down
31 of burning leaf litter and ember attack. In this case it

1 may have been better for the occupants to have retreated
2 to Lyell Street prior to or at least after the firefront
3 had passed than to have passively sheltered within the
4 house."

5 Just in relation to that last observation about
6 passive sheltering, post-mortem reports were conducted in
7 relation to both of the deceased. In each case it was
8 concluded that they died from the effects of fire. The
9 post-mortem reports were carried out by Dr Milne?---Yes.

10 I won't take you to the report itself, but it is correct, isn't
11 it, that in relation to the body of Dalton Fiske there is
12 a reference in the post-mortem report to there being a
13 hose or piece of hose found together with Dalton's
14 body?---Yes.

15 We saw that there was other evidence of hoses being brought
16 inside the house. There was a reference to that in one of
17 the statements?---That's correct.

18 So the reference that we see in the report of Ms Ireland to
19 passive sheltering needs to be seen once again in light of
20 all of the evidence that's been gathered by the
21 police?---Yes.

22 Commissioners, they are the questions that I have of Detective
23 Hollowood. Do the Commissioners have any questions?

24 CHAIRMAN: Are there any questions from the Fiske family?

25 I will just reinforce the matter, just because it has been
26 highlighted to some extent by me at the start. We could
27 have had Ms Ireland here and cross-examined her, and
28 I think the end result might well have been she would have
29 modified her opinion in the light of the additional
30 material that we all now have through this hearing that
31 she did not have. So you can assume that we wouldn't be

1 accepting the opinions stated in the light of the
2 deficiencies of the factual material that she had as to
3 matters where there obviously are those differences.

4 So, having given that indication, if there are no
5 further questions what we will do now is adjourn. I will
6 first do two things. The first thing is to thank you all
7 for having put yourself through the ordeal of coming
8 today. I again express our appreciation of your having
9 been involved. The other thing is I will treat the brief
10 that we have now had through the evidence of Detective
11 Superintendent Hollowood as exhibit 496.

12 #EXHIBIT 496 - Police presentation of the circumstances
13 surrounding the deaths of Elizabeth Fiske and Dalton Fiske
14 and attached photographs.

15 MR ROZEN: If the Commission pleases. Could Mr Hollowood be
16 temporarily excused?

17 CHAIRMAN: Yes, he is excused. We will adjourn now until
18 11.30.

19 <(THE WITNESS WITHDREW)

20 (Short adjournment.)

21 MS RICHARDS: Commissioners, next we are to examine the deaths
22 of Elizabeth Ann Liesfield, James David Liesfield and
23 Matthew Daniel Liesfield at Nanda Binya at 29 Woods Point
24 Road in Marysville. Mrs Liesfield was born on 17 August
25 1964 and was 44 on 7 February. Her two sons, James and
26 Matthew, were 14 and 13 years old. Their dates of birth
27 were 28 February 1994 and 22 November 1995 respectively.

28 Mrs Liesfield and her sons died at Nanda Binya, a
29 bed and breakfast accommodation business that had recently
30 been acquired by Mr and Mrs Liesfield which was home to
31 the Liesfield family. Their bodies were found in an

1 outdoor spa at the property.

2 Mr Liesfield is present in the hearing room
3 today. If he is able to, he would like to give evidence
4 at the conclusion of the hearing.

5 CHAIRMAN: Yes. Perhaps I will briefly outline matters as to
6 how the matter will proceed. Mr Liesfield, could
7 I indicate that the nature of these proceedings is such
8 that we expect it to be a difficult process for someone in
9 your position because the Commission has to have brought
10 out matters relevant to the deaths of all the people who
11 died for the purposes of determining what best can be done
12 in the future to minimise the prospect of it happening
13 again.

14 Rather than have a detailed inquest-like
15 proceedings which everybody has to be potentially put in
16 the witness box and cross-examined, we vary that by having
17 the maximum use through audiovisual and the reading of
18 statements of what would be otherwise criticised as being
19 hearsay evidence because it just comes from Detective
20 Superintendent Hollowood. But because it is a process
21 that enables a great deal of information to be obtained in
22 a relatively short way, we have found that it is a very
23 sensible way of proceeding.

24 But we vary that. If you feel that you are in a
25 position to give evidence at the end of Detective
26 Superintendent Hollowood's evidence, then we will call
27 upon you. We are allowed a certain latitude that wouldn't
28 be applicable in a courtroom as to how we then proceed.
29 So we will wait and see how that comes until we have heard
30 from Detective Superintendent Hollowood, and then I will
31 call upon you to indicate how you are minded to proceed at

1 that time. Yes, Ms Richards.

2 MS RICHARDS: I recall Detective Superintendent Hollowood.

3 <PAUL STEPHEN HOLLOWOOD, recalled:

4 MS RICHARDS: Detective, as part of the Operation Groove
5 investigation were the deaths of Elizabeth Liesfield and
6 her sons, James and Matthew Liesfield, at 29 Woods Point
7 Road, Marysville, investigated?---Yes, they were.

8 Could you take us first to the fire perimeter map and indicate
9 the location of where Mrs Liesfield and her sons were
10 found?---The fire perimeter map just with the black lines
11 actually indicates the full extent of the fire which
12 started at Murrindindi. The two points we have got
13 located here are the point of origin of the fire to where
14 the Liesfield property was in Marysville, which was just
15 over 24 kilometres by line of sight.

16 There are satellite images indicating the position of the
17 property. Could we go first to the image taken before the
18 fire. That is at an elevation of 200 metres, that
19 image?---Yes, it is.

20 If we could go out to a higher elevation. We can see on the
21 left-hand side of the screen just the very edge of
22 Gallipoli oval?---Yes, we can.

23 It is the case, isn't it, that Nanda Binya, as I have
24 described, a bed and breakfast accommodation business, is
25 located just near the junction of Woods Point Road and
26 Lady Talbot Drive?---Yes, it is.

27 We can see that it is pretty much surrounded by
28 bush?---Correct.

29 Woods Point Road is the easterly route out of Marysville that
30 goes through very dense forest?---Yes, it does.

31 And there is a slight cleared area to the east of the

1 property?---Yes.

2 If we could look now at the satellite image taken after the
3 fire. That shows very clearly that both Nanda Binya and
4 almost all of the surrounding properties were destroyed by
5 fire?---That's correct.

6 Detective, could you take us now, please, to the reconstruction
7 of the events of 7 February?---The Liesfield family
8 resided and operated the Nanda Binya Lodge at 29 Woods
9 Point Road, Marysville. Nanda Binya had five
10 self-contained accommodation rooms, a common lounge and
11 dining area and held up to 40 people and a residence for
12 the owner all under one roof. The property had recently
13 been purchased by Roderic and Elizabeth Liesfield, who had
14 taken possession on 28 January 2009, and the family
15 commenced occupancy the following day. Elizabeth and
16 James and Roderic were at Nanda Binya. Matthew was
17 playing golf. Roderic attended another accommodation
18 premises at Magnolia House to reset an airconditioner.

19 Between 1.30 and 2 pm Roderic Liesfield, whilst
20 at Keppel Waters, heard the CFA fire warning siren which
21 sounded for approximately one and a half minutes. He did
22 not take this as a warning to evacuate because of the
23 limited duration of the siren.

24 At 2.30 pm Roderic returned home to find that
25 Elizabeth had asked the guests to leave Nanda Binya
26 because of the fire risk, which they were in the process
27 of doing when he arrived. The final guests departed at
28 about 3.30 pm.

29 After 2.30 pm Matthew Liesfield returned home
30 from playing golf. They then commenced preparation for
31 the approaching fire.

1 Between 3.30 and 5 pm Roderic, James and Matthew
2 cleared the roof guttering and blocked the downpipes. At
3 5.45 pm the family had dinner and the electrical power to
4 Nanda Binya had been lost during that afternoon.

5 At approximately 6 pm Roderic returned to the
6 roof to finish clearing a section of the guttering whilst
7 James squirted water onto the roof to fill the guttering
8 in readiness for the firefront. Matthew and Elizabeth
9 went to the spa area and pushed blankets into the water.
10 Their plan was to use the spa and wet blankets for shelter
11 from the fire if it was necessary.

12 CHAIRMAN: Could I just interrupt there. My understanding was
13 that the plan was to use the water in the spa to wet the
14 blankets and to take those into the car or a vehicle
15 rather than to use the spa. That suggests a different
16 interpretation, would you agree, that mine might be
17 right?---Yes.

18 MS RICHARDS: I will take you, Detective, later to
19 Mr Liesfield's statement where he explains the fire plan
20 that they had?---From 6 pm onwards Roderic observed the
21 wind change and spotfires igniting. James attempted to
22 extinguish some of the fires. James headed towards the
23 spa where Elizabeth and Matthew were, whilst Roderic
24 attempted to get a vehicle, but the fire was burning
25 directly beside the station wagon and the tyre was already
26 burning.

27 Roderic realised his family were not at either
28 the vehicle and retraced his route from the front of the
29 premises to investigate where his wife and sons were. As
30 he turned to run back towards the rear yard he heard the
31 windows of the house break, followed by an unusual sucking

1 noise as if a rush of wind was coming past him. This wind
2 came from the west and was of sufficient strength to force
3 him into the lounge room. The wind was coming from behind
4 him as he moved through the lodge. He grabbed a fire hose
5 on a reel in the hall and ran with it towards the spa
6 across the dining room and out the door, but it did not
7 reach and had no water pressure. Roderic tried to get to
8 the spa, but could not because of the intensity of the
9 fire.

10 Later in the evening Roderic, unable to reach his
11 family, made his way over to two young she-oak trees
12 approximately 20 metres from the lodge where he remained
13 for one and a half hours while the fire raged. Later in
14 the evening Roderic then started to make his way towards
15 the spa area and observed that the roof of the gazebo had
16 collapsed in on top of the spa and all of the structures
17 were destroyed. He knew his family was gone. He then
18 moved away and made his way down the main street to get
19 help.

20 After 8 am on 8 February Senior Constable Peter
21 Collyer and local resident Bruce Ackerman attended the
22 remains of Nanda Binya. Ackerman removed a piece of iron
23 roofing from the spa and located three bodies.

24 At 2.20 pm on that day Detective Senior Constable
25 walls attended the scene with other police and observed
26 three bodies in the spa. The police then commenced
27 recovery of the bodies as part of the disaster victim
28 identification process.

29 Thank you, Detective. As part of the investigation have
30 investigators gathered a number of images of the scene
31 after the fire?---Yes, they have.

1 If I could take you to three of those now. Could we see the
2 first of those on the screen, image number 2. These
3 series of photographs are a series of photographs showing
4 the overall damage to the guesthouse caused by the fire.
5 If you are able to, Detective, could you indicate on one
6 or more of the photographs the location of the spa in
7 relation to the house itself?---Not from that particular
8 view.

9 CHAIRMAN: Can I suggest from the first view that it is on the
10 left, that's only because your reconstruction diagram had
11 the turning of the vehicles at an end that in effect faced
12 in, so that the spa would have been on the left?---Yes.

13 Mr Liesfield is nodding, so I think we have got that one right.

14 MR LIESFIELD: It is actually on one of those photos. It is
15 there, under that.

16 MS RICHARDS: Under that sheet of iron.

17 MR LIESFIELD: On the right, underneath there.

18 MS RICHARDS: So that is on image 7, to the right of the
19 photograph?---Yes.

20 We also saw in that series of photographs the two cars that
21 were depicted in the reconstruction. There is the ute,
22 which is relatively intact?---Yes.

23 And the station wagon, which has clearly been extensively
24 damaged by fire?---Correct.

25 There have also been a number of statements taken by
26 investigators, principal among those is the statement of
27 Mr Liesfield. I will just go through a number of issues
28 that are covered in those statements. Firstly, it is
29 apparent from the statements that there were no particular
30 health issues identified for either Mrs Liesfield or for
31 her sons?---No.

1 If I could go then to the statement of Mr Liesfield in relation
2 to the property at Nanda Binya, he explains starting in
3 the second paragraph that before moving to Woods Point
4 Road he and his family were living in Buxton. He then
5 says, "The settlement day for the Marysville address was
6 28 January 2009. We started moving from Buxton to
7 Marysville on 29 January 2009. The weather was extremely
8 hot that week so we moved our belongings over a number of
9 days"?---Yes.

10 Then he describes the property in the following terms, "The
11 Marysville property was a bed and breakfast with five
12 self-contained motel rooms with a common lounge and dining
13 area that held 40 people. The property was known as Nanda
14 Binya. There were a number of gas bottles situated around
15 the property." Then he gives details of the size and
16 number of the gas bottles and their location.

17 There is a more detailed description of the
18 property in the report prepared by the forensic chemist,
19 Karen Ireland. I might just take you to that, Detective,
20 if we could go to Ms Ireland's statement next. If we
21 could start under the heading "Description" at the bottom
22 of the first page. Ms Ireland describes the property as
23 following, "Nanda Binya was located on a large property.
24 The building was constructed of brick, with a steel deck
25 roof and consisted of what appeared to be a number of
26 units along the north-eastern side, as well as general
27 purpose rooms on the south-western side. It was built
28 into the slope so that the south-western side nearest the
29 road was a single storey, while the north-eastern side
30 appeared to possibly be a combination of single and double
31 storey rooms. The building faced north-east over gardens

1 and grassland. It appeared that the building and units
2 had windows and possibly sliding doors along the
3 north-eastern side, and these rooms could be accessed from
4 this side of the building as well as from an internal
5 south-western hallway. Remains of a spa were observed on
6 the north-eastern side of the building, near the centre of
7 what was probably a timber decked area. A paved barbecue
8 area was identified on the south-western side of the
9 building."

10 There is then a reservation about whether there
11 were balconies. "A dirt driveway ran around most sides of
12 the building and it was lined with smaller plants and
13 trees. Paths around the garden beds were also identified
14 along the north-eastern side of the building." So that
15 description of the property was obviously based on
16 observations after the fire?---Yes.

17 If I could go now to what facts have been gathered about the
18 fire planning and preparation by the Liesfields at Nanda
19 Binya. Clearly the fact that Mr and Mrs Liesfield had
20 only recently acquired the property is significant
21 here?---Yes, it is.

22 Mr Liesfield talks in his witness statement about their fire
23 preparation, starting at page 3. He makes the point, "We
24 had only been living at Nanda Binya for a week and hadn't
25 finished cleaning the gutters. We had been trying to
26 clear them for the last few days but because of the
27 weather the trees kept dropping their leaves too quickly.
28 We were in the process of pruning back the trees and
29 cleaning the gutters." Then he describes with James and
30 Matthew clearing the gutters on the roof after the guests
31 had left at about 3.30 pm that afternoon?---Correct.

1 He says, "I was on the roof clearing the gutters. James was on
2 a ladder clearing the gutters along the back of the
3 building and Matthew was filling plastic bags with stone
4 and dirt to block the drains. Once the bags were full,
5 Matthew would throw them onto the roof so we could block
6 the drainpipes and then James was using the hose to fill
7 the gutters with water. I think James was on the short
8 extension ladder because I remember him going inside to
9 get it. We did this for an hour and a half." So that was
10 some of the fire preparation that was done on the
11 afternoon of 7 February?---(Witness nods.)

12 It is apparent from Mr Liesfield's statement, however, that the
13 fire plan that was in place was to leave. If we could
14 look at the statement at the bottom of that page.
15 Mr Liesfield said, "We didn't have a specific fire plan,
16 but over the years we had talked about getting wet
17 blankets and then going to the car. I had wanted about
18 half a dozen wet blankets just in case we needed them."
19 Over the page at page 4, at the end of the third
20 paragraph, Mr Liesfield refers to the last occasion when
21 he spoke to his wife and then says, "We had planned to
22 leave to go to Alexandra"?---Yes.

23 Is it fair to conclude from that, Detective, that the
24 Liesfields had developed a fire plan on that day which was
25 to leave in a car with wet blankets?---Yes.

26 It is apparent also from Mr Liesfield's statement that there
27 was some firefighting equipment at Nanda Binya, as you
28 would expect of accommodation?---Yes.

29 There is a fire extinguisher and a fire hose reel referred to
30 in his statement?---Correct.

31 Although there is no sign of any external firefighting

1 equipment and certainly no alternative water
2 supply?---Correct.

3 Moving then to the events of 7 February, it is apparent from
4 Mr Liesfield's statement that a group of nine women and a
5 baby were staying at Nanda Binya on 7 February and in fact
6 had arrived the previous evening?---Yes.

7 Statements have been taken from two of those guests, Helena
8 Hunt and Claire Molloy?---Correct.

9 If we could just go to Helena Hunt's statement. Starting on
10 page 2 of her statement, in about the middle of the page
11 she describes going to the spa to cool off and having some
12 difficulty with a sticking gate, which is an issue also
13 highlighted by Mr Liesfield?---Mm-hm.

14 Then she says, "Then we were just talking and then Katie came
15 out on the balcony and told us Rod had seen smoke or
16 something like that." She then describes, "The next minute
17 the sun and sky went bright red and it went all quiet and
18 I couldn't hear any birds anymore. The wind was quite
19 strong and I could see leaves flying all around. After it
20 went red I got out of the spa and virtually ran to the
21 front of the house, and then what I saw really frightened
22 the hell out of me. All I could see was this great big
23 huge bellow of smoke and the redness in the smoke. It was
24 like it was just down the hill. So I ran back inside and
25 Katie was there and I said I was going, 'I'm not staying.'
26 Katie said, 'If you're going, I'm going,' and we all
27 helped pack up. We packed up the cars and everything."

28 She then states, "Rod just came in and said,
29 'You'll be ready if you have to evacuate,' and I told him,
30 'I'm not waiting and we're going anyway.'" Then she
31 describes finishing packing and evacuating in convoy and

1 driving towards Alexandra with the other guests?---Yes.
2 She doesn't place a precise time on their departure, but it
3 might have been as late as 5 pm, looking at the second
4 last paragraph of her statement?---Yes.
5 Claire Molloy, the other guest, gives a similar account of
6 their departure in her statement, doesn't she?---She does.
7 If we can go to Mr Liesfield's statement, he gives a full
8 account of his movements on the day. Starting at the top
9 of the second page of his statement, Mr Liesfield
10 describes leaving Nanda Binya to go to Magnolia House,
11 another accommodation residence that he and his wife
12 owned?---Yes.
13 While he was away from Nanda Binya he received a report of
14 smoke to the west from another guest at another
15 accommodation place that they ran, Keppel Waters?---Yes.
16 He says that he briefly heard the fire siren between 1.30 and 2
17 but, as you have described, didn't take that as a sign to
18 evacuate?---Correct.
19 He says in the third paragraph on that page, "I arrived back at
20 Nanda Binya. It was about 2.30. Elizabeth had told the
21 scrapbooking ladies to pack up their belongings and leave.
22 They all did this straightaway and left within 15 to
23 30 minutes. I told Kate, the convenor, to go to the main
24 street of Alexandra, which is about 40 kilometres away,
25 and wait in the pub," which is a slightly different
26 account of events than that given by Ms Hunt in her
27 statement?---Yes.
28 Shortly after the guests had left Mr Liesfield describes
29 Matthew returning from playing golf?---Yes.
30 And then describes in terms that I have already gone to the
31 work that he and James and Matthew undertook to clear the

1 gutters and fill the gutters with water?---Correct.
2 Then in the last paragraph on page 3 of his statement
3 Mr Liesfield notes that at some point power had been
4 lost?---Yes.
5 They had dinner at about 5.45 and had finished dinner by 6.
6 Then after dinner the family resumed making preparations,
7 which included Matthew and Elizabeth going to the spa to
8 wet the blankets preparatory for departure?---Correct.
9 Mr Liesfield then describes in his statement he was clearing
10 out the gutters, James was squirting water onto the roof
11 to refill the gutters. "Matthew had gone to help
12 Elizabeth with the blankets in the spa area. They were
13 pushing blankets into the spa." Then he says the
14 situation changed rapidly?---Yes.
15 From here on it is clear that a great deal happens within a
16 very short space of time?---Yes, it does.
17 Very quickly there were spotfires everywhere around the house.
18 James headed for the spa where Elizabeth and Matthew
19 already were?---Yes.
20 Mr Liesfield went to check on which, if any, of the cars was
21 fit to leave in, and found that the station wagon was
22 already on fire?---Mm-hm.
23 And then returned through the house to look where the family
24 were and whether the ute was all right?---Yes.
25 And before he could do either, to summarise his statement, he
26 was prevented from reaching his family or from seeing the
27 ute by the house being consumed by fire?---Yes.
28 He then took shelter in a clear space away from the house and,
29 by the time he was able to approach the house again, the
30 spa had been destroyed?---Yes.
31 As you described earlier, he then left and went down towards

1 Gallipoli oval where he was able to obtain some assistance
2 for his own injuries?---Correct.

3 If I could take you now, Detective, to the statement prepared
4 by the forensic chemist, Karen Ireland. We have already
5 looked at one aspect of this, her description of the
6 property. She attended at Nanda Binya on 9 February in
7 company with investigators?---She did.

8 And inspected the scene, and this statement is based on that
9 inspection?---It is.

10 She notes at the top of page 3 that the remains of the three
11 deceased were found inside the spa?---Correct.

12 If I could just note what she says in relation to firefighting
13 equipment and firefighting and evacuation, escape and
14 issues. She says, "No water tanks were observed on this
15 property, and the holiday units were presumably supplied
16 by town water. I did not identify any firefighting
17 equipment such as pumps, hoses or sprinklers about the
18 building nor any ordinary garden hoses. None of these
19 items were observed among the debris although, given that
20 some perimeter walls had collapsed outwards, this
21 observation must be considered tentative." Indeed there is
22 other evidence of some firefighting equipment inside the
23 building?---Yes, there is.

24 "There were no water tanks or any other type of water
25 receptacle in the vicinity of this house. Given that the
26 house was in a residential area, it is reasonable to
27 assume the water supply to the house was via the town
28 supply which would not rely on any individual pumps for
29 flow/supply to the house." Then she notes, "Loss of power
30 to the house would not stop the use of water, however
31 water pressure would be adversely affected by fire damage

1 occurring in other areas of Marysville"?---Yes.

2 That would appear to be what Mr Liesfield in fact

3 experienced?---Correct.

4 "Firefighting", "There was no evidence of any firefighting

5 activity outside the building. No pumps, generators or

6 firefighting hoses or sprinklers were observed." That

7 observation is consistent with what is known of the

8 Liesfields' fire plan, which was to leave?---Yes.

9 Then she notes under "Evacuation, escape and issues", "If the

10 deceased persons had access to a vehicle, there were very

11 limited options of road evacuation routes from this area

12 of Marysville. Late evacuation to the east via the

13 Marysville-Woods Point Road would have required driving

14 through dense forest on very winding roads and in the

15 general direction of fire travel but ahead of the

16 firefront which contains considerable risk. Late

17 evacuation via the Buxton-Marysville Road would have

18 required travelling directly towards the fire before

19 travelling in the general direction of fire travel. In

20 each case late evacuation would probably have resulted in

21 the vehicle being caught by the fire. It was not clear at

22 the time of my examination if the deceased were holidaying

23 in these units." In fact we know they were the residents

24 there now?---Yes.

25 "The decision by the deceased to immerse themselves in the spa

26 water covered by blankets was probably the best option in

27 these circumstances. Although obviously inadequate

28 refuge, no other viable alternatives were identified."

29 I will just briefly refer to the autopsy reports.

30 Forensic pathologist Clive Cooke conducted an autopsy on

31 Elizabeth Liesfield on 11 February and his findings were

1 that the cause of death was undetermined, although
2 consistent with the effects of the fire?---Correct.

3 Forensic pathologist Alex Olumbe conducted autopsies on both
4 James and Matthew on 12 February, and he found the cause
5 of death in both cases to be the effects of the
6 fire?---That's correct.

7 Commissioners, unless there are any questions, I tender the
8 brief.

9 CHAIRMAN: Any questions?

10 MS BUTTON: Just one matter.

11 <CROSS-EXAMINED BY MS BUTTON:

12 Detective Superintendent, I act for the State of Victoria.

13 I just wanted to clarify one aspect of your presentation,
14 if I might. Would you mind bringing up the slide in your
15 interactive presentation that deals with the period from 1
16 to 2 pm. You will note there that you have described that
17 Mr Liesfield whilst at Keppel Waters heard the CFA warning
18 siren sounding for approximately one and a half minutes.
19 You may be aware of evidence in this Commission that the
20 CFA sirens are not public warning sirens but are brigade
21 alerting mechanisms. Can I ask whether in describing the
22 siren in that way you were picking up what's included in
23 Mr Liesfield's police statement where he refers to the
24 siren in similar terms?---Yes, it is the witness's
25 description.

26 You are not intending to suggest by the description here that
27 the Marysville siren was or was intended to be used as a
28 public warning siren?---No, I'm not.

29 MS RICHARDS: I tender the brief and ask for Detective
30 Superintendent Hollowood to be excused for the moment.

31 CHAIRMAN: Yes.

1 <(THE WITNESS WITHDREW)

2 #EXHIBIT 497 - Police presentation of the circumstances
3 surrounding the deaths of Elizabeth Liesfield, James
4 Liesfield and Matthew Liesfield and attached photographs.

5 CHAIRMAN: Do you wish to speak to Mr Liesfield?

6 MS RICHARDS: I have had an indication from him that he wants
7 to proceed.

8 CHAIRMAN: Yes.

9 MS RICHARDS: So at this point I call Mr Liesfield.

10 CHAIRMAN: Yes, thank you.

11 <RODERIC ARTHUR LIESFIELD, sworn and examined:

12 WITNESS: Thank you very much for this opportunity. I would
13 actually - --

14 MS RICHARDS: Mr Liesfield, I'm just going to ask you a couple
15 of questions first?---Okay.

16 Just for the record, your full name is Roderic Arthur
17 Liesfield?---Yes. They call me Rod.

18 You are currently residing in the temporary village at
19 Marysville?---Yes.

20 You have had an opportunity this morning to review the police
21 statement that Detective Superintendent Hollowood has
22 referred to during his evidence this morning?---I was
23 surprised with some of my movements, not the way they
24 actually were.

25 Is that statement true and correct?---It is not overly
26 accurate, but it is a general yes. Where I was in respect
27 of the fire in relation to my family, no, I wasn't
28 outside; I was in the building when we got hit.

29 Do you have a copy of it there with you, if there are any
30 aspects of it that you would like to correct?---No,

31 I haven't actually. I didn't actually bring it with me.

1 It is still down there in my bag.

2 We will supply you with another copy?---This statement is
3 accurate. As what was actually given was not accurate.

4 This is actually accurate.

5 So, as far as you are concerned, we should rely on your
6 statement?---Yes. It is not all there. It is only a
7 summary of what actually happened.

8 Thank you. Mr Liesfield, this morning you have provided
9 lawyers assisting the Commission with two further
10 documents?---Yes.

11 One is a document headed "Our story, Marysville a few days
12 after 7 February 2009, Black Saturday"?---(Witness nods.)

13 And that is an account of what happened to you and your family
14 on that day consistent with your police statement but with
15 some additional information?---Yes.

16 The second is a document with a picture of Nanda Binya before
17 the fire and after the fire which covers a number of
18 issues that you want to raise. If I can ask you about the
19 first document, is that a true and correct account of
20 events of 7 February?---Yes.

21 I tender that, if I might.

22 #EXHIBIT 498 - Document headed "Our story, Marysville a few
23 days after 7 February 2009, Black Saturday"
24 (WIT.7528.001.0001). Document read by Mr Liesfield.

25 MS RICHARDS: The second document you would like to read to the
26 Commission today?---Yes, if possible, if I can.

27 Yes, please go ahead?---It basically starts: my beautiful wife
28 and two fantastic boys would be alive today if: if it
29 hadn't been for mine and everyone else's expectation that
30 at least one of the warning and safety systems that we
31 were all depending on for information had actually worked,

1 these being phone, radio, fire siren, water supply and
2 proper fuel reduction burning. The phones, unbeknown to
3 me, all calls were automatically being redirected to
4 message bank by the exchange and no warning phone calls
5 were received. From the information I have gained, that
6 was actually at 3.38 in the afternoon when our phones
7 actually shut down.

8 A close friend heard Marysville mentioned on the
9 radio and tried ringing us. This was at 3.38 pm on 7
10 February. This came up as a voice message two days later.
11 Several attempts to warn us by telephone from others
12 suffered the same fate. This was in spite of the fact
13 that we were using both Telstra and Optus networks,
14 neither functioned during this emergency.

15 The official fire broadcaster, ABC 774, was
16 giving information specifically relating to the Kilmore
17 fire and none whatsoever in relation to any other areas.
18 The local FM radio followed suit. Radio ABC 774 does not
19 have the consistent transmission to Marysville and many
20 other areas of the state. In spite of this, the local FM
21 radio station was instructed not to broadcast information
22 regarding the fires. It is my belief, and I believe that
23 it is common knowledge, that this was because the ABC
24 didn't want confusion or interference with their emergency
25 transmission. The ABC would have been fully aware of the
26 fact that there are areas where their transmission cannot
27 be received and that Marysville was one of them. However,
28 I am told that the local radio station, to their credit,
29 ignored this instruction and broadcast a warning.

30 My knowledge as to why the fire siren was the
31 local community warning system is this: it is common

1 knowledge that the fire siren is the local community
2 warning system. I had confirmed this knowing four years
3 previously, as I worked through a re-accreditation for the
4 ESA camp site - that is actually the camp site at
5 Marysville which is now the current temporary village -
6 and noted that the local fire siren was able to be listed
7 as the back-up to the camp warning system.

8 The local community generally, as well as myself,
9 expected this warning system to have operated because of
10 the following: weekly testing at most CFA stations,
11 publications (electronic and paper based), historical
12 experience and as there is no other warning system in
13 country Victoria.

14 There was no warning siren. I can confirm this
15 as I went into the township specifically to check. I can
16 also confirm that there is no written policy in existence
17 with the CFA that stopped the use of sirens, with common
18 knowledge being correct in that the siren should have been
19 used.

20 Legislation and politics made it impossible for
21 Captain Glen Fiske, in charge of the Marysville CFA, to
22 activate the siren until he was directed to do so by his
23 supervising officer, who must start within the chain of
24 command, thus the Chief Commissioner of Police or her
25 representative.

26 The three people charged with protecting
27 Victorians during a disaster were not present for most of
28 Black Saturday at the firefighting nerve centre.

29 Superintendent Rod Collins, the state emergency response
30 officer, told the Bushfires Royal Commission - this is a
31 quote from The Age - that the then Chief Commissioner,

1 Christine Nixon, did not arrive at the centre until 4 pm.
2 Superintendent Collins said he briefed Ms Nixon and
3 believed she stayed at the Integrated Emergency
4 Coordination Centre in Melbourne for about an hour. He
5 said he left the centre at 5 pm and by that time he had
6 not seen Deputy Commissioner Kieran Walshe, who has the
7 delegated power of the chief commissioner in an emergency,
8 or Police and Emergency Services Minister Bob Cameron.
9 Though I actually know, will this Commission expose those
10 accountabilities?

11 The only water supply to the north-east of
12 Marysville was fed via a water main that was above ground
13 in part. During the holocaust this main was ruptured at
14 the above ground portion by a falling tree. We had a very
15 good gravity supply water system with up to 1600 kpa
16 during a peak demand summer evening period. In normal
17 circumstances given the 'stay or go' policy, knowing we
18 could have stayed and feasibly defended the property and
19 our lives had we decided that way.

20 Unbeknown to us, as demonstrated by the
21 photograph, a section of mains water pipe was inexplicably
22 above ground 50 metres from the roundabout on Woods Point
23 Road. This created a critical vulnerability to the mains
24 water supply and fire defences of the entire town.

25 The last fuel reduction burn area to the north of
26 Marysville took place nearly 50 years ago, in spite of
27 best practice and conventional wisdom. Since 1851 there
28 have been inquiries, as noted in the national inquiry on
29 bushfire mitigation and management, "A nation charred"
30 done in 2003. I quote from that, "A consistent theme has
31 been that greater emphasis, resources and activity should

1 be directed towards what are commonly referred to as
2 'prevention activities'. This includes things such as
3 education and awareness, clearing of fuel around
4 buildings, track access and fuel reduction." Page 254.

5 A study of all the Royal Commissions, inquiries
6 and investigations into previous fire disasters have
7 indicated that the recommendations for fuel reduction
8 burning have been ignored. There is a picture here, this
9 picture taken 55 kilometres from Warburton on the Woods
10 Point Road, is a good example of most of the Marysville
11 area before the fires because there had been no fuel
12 reduction burning in this area since 1939. If we look to
13 history, it will be remembered it was possible to ride
14 through this country on horseback during the goldrush at
15 Woods Point. Now and at the time of the fires it would
16 not have been even possible to walk through this country.

17 Not only has there been insignificant fuel
18 reduction burning since 1939 but there are only two fire
19 containment lines that have been purpose-built in
20 Victoria. One is under the powerlines from the LaTrobe
21 Valley to Melbourne. The other is beside the road that
22 goes towards Woods Point from the Warburton turn-off.
23 This is protecting Melbourne water - Thomson Dam.

24 In comparison, the town of Marysville, with a
25 permanent population of over 500, with visitors in
26 addition of up to 3,000 during peak weekends (such as
27 7 February) has in comparison only one supposedly
28 continuous and meagre backburn line. One is a picture of
29 the eastern break Woods Point Road and the other one is
30 Red Hill Track. We lived within 200 metres of that
31 eastern break Woods Point Road track.

1 On the very last page is actually from Billy
2 Graham. The man has a very good view of what is happening
3 to our countries. It is a prayer that says, "Heavenly
4 Father, we come before you today to ask your forgiveness
5 and to seek your direction and guidance. We know Your Word
6 says, 'Woe to those who call evil good,' but that is
7 exactly what we have done. We have lost our spiritual
8 equilibrium and reversed our values. We have exploited
9 the poor and called it the lottery. We have rewarded
10 laziness and called it welfare. We have killed our unborn
11 and called it choice. We have shot abortionists and
12 called it justifiable. We have neglected to discipline our
13 children and called it building self-esteem. We have
14 coveted our neighbour's possessions and called it
15 ambition. We have polluted the air with profanity and
16 pornography and called it freedom of expression. We have
17 ridiculed the time-honoured values of our forefathers and
18 called it enlightenment. We have abused power and called
19 it politics. Search us, Oh God, and know our hearts
20 today; cleanse us from every sin and set us free. Amen!"

21 But now I ask: what can I do now that no-one else
22 is in a position to be able to do, or what could I do that
23 would give the greatest benefit to those who will have to
24 face the same problem year after year? Thank you very
25 much.

26 Thank you, Mr Liesfield. I should make sure that that second
27 document is included in exhibit 498.

28 CHAIRMAN: Yes, I agree.

29 MS RICHARDS: Mr Liesfield, I would like to thank you for your
30 courage in giving evidence today and telling us what you
31 have told us?---Thank you very much.

1 May Mr Liesfield be excused if there are no questions?

2 CHAIRMAN: Thank you, Mr Liesfield, very much.

3 <(THE WITNESS WITHDREW)

4 MS RICHARDS: I think it is incumbent on me to note that,
5 although the document that Mr Liesfield read is
6 undoubtedly his genuinely held belief, there has been
7 evidence heard by the Commission already and there will be
8 evidence heard about each of the topics he has addressed
9 which is not entirely consistent with the account that he
10 has given.

11 CHAIRMAN: Yes, I understand that and I understand why there
12 has been some reticence in the circumstances for some
13 parties to engage in cross-examination as to matters to
14 which you have referred.

15 MS BUTTON: Thank you, sir, for those remarks. As you have
16 apprehended, the State does not wish to cross-examine
17 Mr Liesfield but should note for the record that, as
18 Ms Richards has intimated, the evidence of Mr Liesfield is
19 inconsistent with various evidence that has been recently
20 heard in this Commission.

21 CHAIRMAN: Yes, thank you. There being no other matters, what
22 we will do now is to thank Mr Liesfield again for
23 participating in the way that he has and adjourn now until
24 2.30 pm.

25 LUNCHEON ADJOURNMENT

26

27

28

29

30

31

1 UPON RESUMING AT 2.30 PM

2 CHAIRMAN: Yes, Mr Rozen.

3 MR ROZEN: Commissioners, the last matter that we are to

4 consider this week concerns the circumstances surrounding
5 the death of Laurel Avis Lewis. Mrs Lewis was born on
6 6 October 1927. She was 81 years of age on 7 February
7 2009. Mrs Lewis lived at 16 Lady Talbot Drive,
8 Marysville. She died in her car on the northern verge of
9 Woods Point Road in Marysville approximately 120 metres
10 south-east of the intersection of Marysville-Woods Point
11 Road in the township of Marysville. There being no family
12 members present in the hearing room, I recall Detective
13 Superintendent Hollowood.

14 CHAIRMAN: Yes, thank you, Mr Rozen.

15 <PAUL STEPHEN HOLLOWOOD, recalled:

16 MR ROZEN: Detective, could you please take us to the
17 investigation report in relation to the death of
18 Mrs Laurel Lewis. Perhaps if you can take us to the
19 satellite image, please, of the location in which
20 Mrs Lewis's body was found. That's an image from
21 200 metres?---Yes.

22 And the red dot indicates the location of the car that was
23 being driven by the late Mrs Lewis, and her body was found
24 inside that car?---That's correct.

25 Perhaps if you can show us the post-burn image of that area.

26 If you can show us the image from a greater elevation to
27 give us the context, please, Detective?---That's
28 400 metres, 800 metres, one kilometre, and you can see the
29 Gallipoli oval starts to come into view.

30 So the location would be about one kilometre north of the oval
31 or thereabouts?---Thereabouts, yes. That's from two

1 kilometres, four and eight.

2 Thank you. Investigating officers prepared a map setting out
3 the probable movements of the deceased, piecing together
4 as best they can from the evidence that was
5 obtained?---Yes.

6 Perhaps if you could bring up the probable movement map,
7 please. From other evidence, Detective, it would appear
8 that the late Mrs Lewis left her home at 16 Lady Talbot
9 Drive in her own car?---Correct.

10 The body was located at the point that we see identified by the
11 red dot with 130G?---Yes.

12 It seems likely in the circumstances that Mrs Lewis drove along
13 Lady Talbot Drive and then into Woods Point Road in an
14 attempt to escape the fire?---That's correct.

15 Could you please take us to the first of two videos which were
16 recorded. I don't think we need to look at the fly-over
17 video, but there are two videos under the heading
18 "Scenes".

19 (Video shown to Royal Commission)

20 MR ROZEN: This first one recorded on 13 February 2009 shows us
21 Lady Talbot Drive?---Yes, it does.

22 (Video shown to Royal Commission)

23 MR ROZEN: Then what are we looking at here in the second
24 video?---This view is along the Marysville-Woods Point
25 Road heading towards Buxton-Marysville Road. So this
26 would have been the route that she would have travelled
27 along.

28 That's the car in which Mrs Lewis was found?---Yes, that's
29 correct.

30 Police have put together a re-enactment of the movements of the
31 late Mrs Lewis on 7 February 2009?---Yes.

1 Take us to that, please, Detective?---At about 12.10 pm on
2 7 February Bronwyn Shiel, her husband, Paul, and son,
3 Connor, arrived at Laurel Lewis's home. They remained
4 there for lunch until Bronwyn, Paul and Connor leave to go
5 to the pool. Laurel remains at the house.

6 At about 3.22 pm Laurel Lewis took a call from
7 Bronwyn on her home phone. Bronwyn told her mother about
8 the fires. Bronwyn, Paul and Connor returned to Laurel's
9 house. They asked Laurel to leave with them, but Laurel
10 refused. Laurel was calm at that time.

11 At about 3.52 pm Laurel calls a neighbouring
12 address at 9 Lady Talbot Drive, Marysville, home of the
13 Morgan family. At about 4 pm the Shiel family leave.

14 At 4.06 pm Laurel again called the Morgan's house
15 at 9 Lady Talbot Drive in Marysville. The call lasted for
16 over six and a half minutes. However, the Morgans' later
17 died in the fire.

18 At 4.20 pm Laurel used her home phone to call her
19 daughter Merrilyn Withington. Laurel told Merrilyn there
20 were some logs on fire at the Narbethong mill near
21 Marysville. Laurel said she would pack her belongings as
22 per her fire plan but would not yet leave her home.

23 At about 4.36 pm Bronwyn Shiel called her mother,
24 Laurel, on Laurel's home phone. Bronwyn told Laurel there
25 was a lot of smoke around and that she and her family had
26 gotten through the spur. Laurel was calm at that time.

27 At 4.38 pm Laurel Lewis called the address of 9
28 Lady Talbot Drive, Marysville, on her home phone. The
29 call duration was about one and a quarter minutes.

30 At 5.06 pm Bronwyn Shiel called her mother,
31 Laurel, on her home phone. Laurel said, "Everything is

1 still fine." At about 5.28 pm Laurel Lewis used her home
2 phone and called her daughter Merrilyn. Laurel informed
3 Merrilyn that Bronwyn and her family had arrived at their
4 home safely.

5 At 5.28 pm Laurel talked of speaking with
6 neighbours Harley and Errol Morgan. She said that Harley
7 had been monitoring the CFA radio and had given Laurel
8 updates. Laurel said she had packed her box, ready to
9 take if she evacuated.

10 At 6.04 pm Merrilyn last spoke with her mother,
11 and Laurel told her she had the car packed, that the car
12 was parked heading out of the carport. Laurel also stated
13 the power had gone out but she was using a battery
14 operated radio to listen to fire updates.

15 At 6.41 pm Laurel used her home phone and called
16 her friend Beverley Garner. They speak for three and a
17 half minutes. However details of the conversation are not
18 known.

19 At 6.44 pm Bronwyn Shiel last called her mother.
20 Laurel said she was not leaving yet but has everything
21 ready to go for when it was time to leave. Bronwyn tried
22 again at 7.12 pm to call her mother but states that the
23 telephone lines were down.

24 Alexander Moncrieff walked from Gallipoli Park
25 towards his home address with Michael Wasley on
26 8 February. He observed a vehicle stationary up against
27 an embankment. Moncrieff saw what he believed to be human
28 remains in the front of the vehicle. He removed the rear
29 registration plate of the vehicle and left it in a
30 conspicuous place with the vehicle.

31 At about 11.30 am on 9 February forensic officer

1 Karen Ireland attended at Laurel Lewis's burnt out
2 vehicle. She was accompanied by a disaster victim
3 identification recovery team headed by Senior Constable
4 Starr and the DVI process commenced.

5 Thank you, Detective. One of the difficulties that confronted
6 investigators in this case over and above the normal
7 difficulties that investigators confronted in these cases
8 is that there were a number of conversations between the
9 late Mrs Lewis and neighbours, the Morgans?---Yes.

10 As you pointed out, the Morgans died in the fire as well and
11 obviously it has been unable to ascertain what the content
12 of those conversations was?---That's correct.

13 Except to the extent that Mrs Lewis did relay some of the
14 contents of those conversations to one of her
15 daughters?---Yes, she did.

16 Can I take you, please, to two photos which have been taken by
17 police officers. The first clearly enough shows us the
18 final resting place of the vehicle and where the late
19 Mrs Lewis's remains were found?---That's correct.

20 It is clearly there on the wrong side of the road in the gutter
21 up against the embankment?---Correct, heading in towards
22 the Marysville township.

23 The second photo is also a photo of the vehicle, but taken from
24 the front of the vehicle?---Correct. That's right.

25 We can see how extensively damaged the vehicle was in the
26 fire?---Yes.

27 If I could take you to some of the statements that were
28 obtained by investigating officers. The two main
29 statements that enabled investigators to piece together
30 the events of 7 February were statements taken from two
31 daughters of the late Mrs Lewis?---Correct.

1 The first of those is Merrilyn Withington. If I could take you
2 first to Ms Withington's statement. Firstly, if I can
3 take you to page 3 of the statement. There is a
4 description of the house in Lady Talbot Drive which
5 I don't need to take you to. But in relation to a fire
6 plan - actually, sorry, it starts on page 2 of the
7 statement at the bottom of the page, two-thirds of the way
8 down, "In terms of a fire plan, mum had always been
9 conscious of the danger of fires in that area. She
10 regularly attended CFA meetings and had developed her own
11 fire plan. She has never planned to stay and fight any
12 fires at her own house as she didn't have facilities to do
13 that. Mum had always kept the tin hat box next to the
14 front door in the fire season which was filled with family
15 heirlooms and sentimental objects to take in case of fire.
16 She also kept fire safe clothing close by that she could
17 put on in case of an emergency. Mum's fire plan was that
18 she was always going to leave the house in case of fire
19 and take the box and family heirlooms with her."

20 A statement was also obtained from another
21 daughter, Bronwyn Shiel. On page 4 of her statement,
22 towards the bottom of the page Ms Shiel gives very similar
23 evidence as to the fire plan arrangements that her late
24 mother had in place?---Yes, she did.

25 If we could go back to page 1 of the statement of Bronwyn
26 Shiel, please, about a third of the way down, as you have
27 already told us, Detective, Ms Shiel visited her mother on
28 7 February 2009. She sets out, starting on page 1, what
29 she did, went to her mother's place and then ultimately
30 went to the pool.

31 At the top of page 2, if I can take you there,

1 please, she takes up the story having left her mother's
2 home. She says, "I called mum at home at 3.22 pm and told
3 her about the fires. I could see smoke in the skyline at
4 this time coming from the Buxton area. There was heaps of
5 people at the pool at that time. It was a hot afternoon
6 and a lot of people had arrived in that last hour. I was
7 concerned about the fire but it seemed that everyone else
8 was pretty calm. The couple who were near us with the
9 kids were calm but they decided to leave and they said
10 something about beating the fire home. I thought they
11 might have been from Buxton. There was another guy at the
12 pool who had a pager from the CFA and he was getting
13 calls. He stood there looking at the smoke on the horizon
14 and he got dressed. When the CFA guy was looking at the
15 smoke he said to us, "Are you locals?" We told him no and
16 he said something about the smoke coming from the Kilmore
17 fire. A few people started to leave and I told Paul that
18 we should go. Paul got back in the pool and I called him
19 out. We left the pool at about 3.30 pm and went to mum's.
20 I didn't even get out of my bathers. We got to mum's and
21 packed our things to go pretty quickly. I asked mum to
22 come with us but she said no. She was calm and I knew she
23 had her fire plan. Before we left she said she was going
24 to move her car so that it was facing down the driveway.
25 I noticed before we left that she had taken some things
26 off the wall and placed them in boxes near the front door
27 to pack in the car."

28 If I could just pause there for a moment, the
29 photographs taken by investigators which I didn't take you
30 to but they do indicate that there were a number of items,
31 including crockery and other such items, that had been

1 packed by Mrs Lewis?---Yes, that's right.

2 In accordance with the discussion she had had with her

3 daughters?---Correct.

4 Going back to the statement of Ms Shiel, at the bottom of page

5 2, she says, "I don't know exactly what time we left, but

6 I know we were on the road on the way home at 4.08 pm when

7 I rang my sister, Merrilyn, and told her there was a fire

8 near Marysville and that mum was staying behind, although

9 she would have expected that anyway."

10 She goes on then to describe getting to

11 Healesville. About a quarter of the way down page 3 she

12 says, "By the time we got to Healesville, which was at

13 about 4.36 pm, I called mum to tell her there was lots of

14 smoke around and we got through the spur okay. We had to

15 put the headlights on because it was very smoky. There

16 were a lot of cars heading over the spur back towards

17 Narbethong. It was crazy. When I called mum at that

18 stage she was still pretty calm. She never really

19 panicked anyway. I'm pretty sure mum had been in phone

20 contact with Harley and Errol, who lived across the road."

21 That's a reference to the neighbours, the Morgans?---Yes,

22 it is.

23 Ms Shiel goes on, "Harley was a member of the CFA and he would

24 advise mum about those things. I called mum again at

25 about 5.06 pm when we were coming through Lilydale just to

26 see if she was all right. She said everything was still

27 fine. We got home at just after 5.10. I called her again

28 from home about three or four times to see how she was.

29 She was still very calm and said everything was fine.

30 They were very short calls so I didn't tie up the line.

31 I last spoke to mum at about quarter to 7. She wasn't

1 leaving yet, but she had everything ready to do when it
2 was time to leave. I had been looking on the CFA website
3 and I told mum that the fire was in a direct line to
4 Marysville. She told me that she had the car packed with
5 all of her boxes of china and her hat box. She said she
6 was just waiting until she was ready to leave. I tried to
7 ring mum again at just after 7 but the phone lines were
8 down."

9 Just at the top of page 4, before leaving the
10 statement of Ms Shiel, she says, "I stayed up that night
11 until midnight checking the CFA website. I read something
12 on the website that night that all residents of Marysville
13 were safe on the oval. I felt better that mum would be
14 safe and went to bed." Then she goes on and explains that
15 she subsequently discovered that that wasn't correct and
16 explains the circumstances in which she ultimately found
17 out about her mother's demise?---Yes.

18 The only other statement I need to take you to, Detective, is
19 the statement of the forensic scientist, Karen Ireland.
20 Ms Ireland explains that she attended at the location on
21 Marysville-Woods Point Road on Monday, 9 February. Under
22 the heading "Location" she explains, "Marysville-Woods
23 Point Road is located on the north-eastern side of
24 Marysville heading generally in an easterly direction from
25 the town." She explains, "The vehicle in question is
26 approximately 120 metres south-east from the intersection
27 of Marysville-Woods Point Road and Buxton-Marysville Road
28 and Murchison Street, the main street of Marysville."

29 She gives a description of the location of the
30 car, that it was next to a sign for Ellimata Holiday
31 Cottages, and we saw that sign in both the video and in

1 the photographs that you took us to?--Yes.

2 On the second page in the middle of the page under the heading
3 "Fire direction" Ms Ireland says, "The fire travel
4 indicators, such as the freezing of the tree leaves and
5 charring to the tree trunks along both sides of road, were
6 consistent with the fire travelling to the north-east from
7 the general area of the football oval." The damage to the
8 vehicle is then described at the bottom of page 2, and
9 Ms Ireland notes that there was a substantial amount of
10 old books, a camera, photographs and a substantial amount
11 of crockery on the front nearside passenger seat found in
12 the vehicle?---(Witness nods.)

13 She says on page 3, "The deceased was found sitting in the
14 driver's seat of the vehicle." Then towards the bottom of
15 page 3 under the heading "Evacuation/escape" she says
16 this, "I concluded that the deceased had made the decision
17 to evacuate his or her home after loading the vehicle with
18 household goods and mementoes." I will just pause there.
19 At the time Ms Ireland wrote this report she was unclear
20 whether or not the deceased was a male or a
21 female?---Correct.

22 "The direction the vehicle was travelling suggested the
23 deceased had lived in the north-east or east of Marysville
24 and they were heading generally towards the path of the
25 fire to evacuate. Marysville-Woods Point Road is very
26 winding east of Marysville and the road accesses forest
27 areas over mountainous terrain. The decision to drive
28 towards the Marysville centre and exit via
29 Buxton-Marysville Road to the north of the town would seem
30 a reasonable decision in this case."

31 Then on page 4 under the heading "Issues"

1 Ms Ireland says, "Given that the deceased had packed
2 household items in their car, they must have had some
3 warning that the fire was approaching. Any delay in
4 leaving their home would have put the deceased at risk of
5 not evacuating Marysville in an appropriate or timely
6 manner. High winds had caused roads to become dangerous
7 and covered with obstacles such as trees and branches, a
8 factor which the deceased may not have considered when
9 deciding what time to evacuate their home. Although it
10 appeared that driving over the branch had caused the
11 accident, speed may have also been a contributing factor.
12 Given that the deceased was found sitting in the driver's
13 seat, it is possible that they had become incapacitated
14 from the accident and did not attempt to escape the car.
15 The driver's door would not have been able to open in this
16 case, but there was no sign that they had attempted to
17 evacuate from the nearside passenger door." The reference
18 there to the driver's door being unable to open was
19 because the vehicle was hard up against the wrong side of
20 the road, the verge on the wrong side of the road?---Yes.
21 Finally, Detective, a post-mortem report is included in the
22 brief setting out the details of an autopsy that was
23 conducted by Dr Cala. The autopsy was conducted on
24 17 February 2009, and Dr Cala concluded that the cause of
25 death was effects of fire?---Correct.
26 They are the questions that I have of Detective Hollowood in
27 relation to this case. Any questions, Commissioners?
28 CHAIRMAN: There are no further questions. In the
29 circumstances, we will again thank Detective
30 Superintendent Hollowood and excuse him until I think
31 later in November.

1 MR ROZEN: The 30th, I think, when we resume this aspect of the
2 hearing.

3 <(THE WITNESS WITHDREW)

4 CHAIRMAN: Otherwise, as I understand it, we adjourn until
5 Monday the 16th at 9.30 am.

6 MR ROZEN: That's correct, sir. I should just tender the brief
7 before the Commission rises.

8 #EXHIBIT 499 - Police presentation of the circumstances
9 surrounding the death of Laurel Lewis and attached
10 photographs.

11 CHAIRMAN: We will adjourn now until 16 November.

12 ADJOURNED UNTIL MONDAY 16 NOVEMBER AT 9.30 AM

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