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INDEPENDENT COMMISSION AGAINST CORRUPTION

THERESA HAMILTON ASSISTANT COMMISSIONER

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OPERATION VIKA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 9 JUNE, 2015

AT 10.07AM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

ASSISTANT COMMISSIONER: Please be seated. Yes, Mr Katekar.

MR KATEKAR: Commissioner, what I'll first do is indicated what the batting order is for today.

ASSISTANT COMMISSIONER: Yes.

10 MR KATEKAR: Then I've got some documents to tender. Then I have a couple of questions for Mr Springett before he's examined by another party and then I'll move on to the other witnesses.

ASSISTANT COMMISSIONER: Yes.

20 MR KATEKAR: The batting order after Mr Springett is Mr Yorke, then Mr Rogers then Mr Parnaby, then Mr McDonald, then Mr O'Malley. It is certainly my desire if it's possible to seek to finish all of that today. The second thing that I need to do is tender some documents. One of the things, Commissioner, you're aware of is that I need to examine the Rural Fire Service officers in relation to policies and procedures for section 44, events in the future. And the Rural Fire Service has answered some questions of the Independent Commission Against Corruption in relation to those matters and there's three documents on that I wish to tender. I'll hand, I'll hand those three up at once. The first is dated 23 April, 2015. I'll hand up two copies for the Commission. The second one is dated 14 May, 2015 and the fourth one is not dated but I'm going to refer to it as a document dated 5 June, 2015, handed to us last week. Those – at least two of those documents, I think have – sorry – the 23 April, 2015 document has an annexures but it's not proposed to tender those.

30 ASSISTANT COMMISSIONER: Yes. Well those three responses from the RFS will be Exhibit 67.

#EXHIBIT 67 - THREE BUNDLES PROVIDED TO ICAC BY THE NSW RFS DATED 23 APRIL 2015, 14 MAY 2015 AND 5 JUNE 2015

40 MR KATEKAR: Commission, please. The next document that I have to tender is an Internal Audit Bureau report on section 44 related procurement of May, 2015. I tender that.

ASSISTANT COMMISSIONER: Yes. The IAB report will be Exhibit 68.

#EXHIBIT 68 - NSW RFS IAB INTERNAL AUDIT OF SECTION 44 RELATED PROCUREMENT DATED MAY 2015

MR KATEKAR: The next thing that I wish to do is hand up a statement which has been provided to the Commission today by the representative of Mr Robin Rogers. It's a statement made by him dated 8 June, 2015.

ASSISTANT COMMISSIONER: Yes. The statement of Mr Rogers will be Exhibit 69.

10 **#EXHIBIT 69 - STATEMENT OF ROBIN ROGERS DATED 8 JUNE 2015**

MR KATEKAR: The last one is a bundle of documents handed to me this morning by the representative of Mr Hacking and it relates to his medical condition in 2011 and 2012. Mr Hacking's representative seeks to rely on its contents for the purposes of assisting the Commission in coming to the view about his vulnerability at the relevant times. I'm content for it to be tendered and I tender it but before I do so I seek a suppression order in relation to it that it is, that its availability is restricted to the legal
20 practitioners for the parties, for the parties represented in this room for the purposes of advising on the matters the subject of this inquiry.

ASSISTANT COMMISSIONER: Yes. Well, that report in respect of Mr Hacking, this is Mr John Hacking I - - -

MR KATEKAR: Yes, Arthur John Hacking.

ASSISTANT COMMISSIONER: Will be Exhibit 70 and it will be subject to the restriction indicated by Counsel assisting.
30

#EXHIBIT 70 – MEDICAL RECORDS OF ARTHUR HACKING

THE AVAILABILITY OF EXHIBIT 70 WILL BE RESTRICTED TO THE LEGAL PRACTITIONERS OF THE PARTIES REPRESENTED IN THE ROOM FOR THE PURPOSES OF ADVISING ON THE MATTERS THE SUBJECT OF THE INQUIRY

40 MR KATEKAR: Thank you, Commissioner. Now, next I just wish to ask Mr Springett three questions before he is further examined. May I proceed?

ASSISTANT COMMISSIONER: Yes, yes.

MR KATEKAR: Sorry. Mr Springett, you negotiated the contract with Telstra under which the SARC Fund was created?---Correct.

Yeah. You reported to Mr Parnaby at the Rural Fire Service?---Yes.

10 Did you tell Mr Parnaby about the Fund?---I can't recall whether it was in my submission to him or not.

You can't, you can't remember whether he knew about it or not?---(No Audible Reply)

Is there any reason why you would not have told him about it?---No.

Mr Hacking had authority over the use of the Fund?---Yes, he did.

20 Did you have authority over the use of the Fund?---Yes, I did.

Did you use the Fund?---I didn't.

You didn't. So Mr Hacking – was Mr Hacking the only person using the Fund?---Yes.

What knowledge did you have of the way in which Mr Hacking was using the Fund?---I was aware that he'd ordered a number of handsets from the Fund.

30 Did you have any suspicion that he was handing it out to his friends or family?---No, I didn't.

Did you have any reason to suspect that he might be doing that?---No.

Should the Commission understand that you understood Mr Hacking to be a scrupulously honest man?---Yes.

They're my questions for Mr Springett.

40 ASSISTANT COMMISSIONER: Yes. Does anybody wish – Mr Brewer?

MR BREWER: Yes, I do. Thank you, Commissioner.

ASSISTANT COMMISSIONER: Yes.

MR BREWER: Mr Springett, I just want to ask you some questions. I represent Mr Homsey. You understand that?---Yes.

And am I right that you've been here for every day of the evidence so far before the inquiry?---Yes.

All right. Sir, you gave some evidence about, and you were asked some questions about, some logistics work that was carried out between the Rural Fire Service and involved my client. Do you remember those questions? ---Yes.

10 You understood prior to that situation arising that my client wasn't in the business of logistics. Is that right?---I was told by Mr Hacking that he could do logistics work for - - -

I see. All right. And the situation is isn't it that the – a purchase order went out for those, for those logistics jobs. Is that right?---Yes, it did.

All right. And Rural Fire Service, either you or Mr Hacking, determined what the, what the value of that work should be according to the going rate or industry rates, is that right?---Ah, no, the, the rate was worked out between Mr Smith and - - -
20

Worked out between?---As far as I know between Mr Smith and Mr Homsey.

I see. All right. So that's – you're guessing about that are you, that my client was involved in determining the value of those works?---Oh, yes, yes.

Sorry?---Yes.

30 You are, thank you. And – because you said that at page 360 of the transcript about line 18 you were asked about a purchase order for \$4,050 and the question was put to you do you, did you arrive at that price and you said it would have been a price arranged with Mr Smith and Mr Homsey so that, when you, when you included Mr Homsey in that answer that was a guess wasn't it?---Oh, yes.

And the fact of the matter is that, and no criticism of you is intended, Ray Smith was a person who had, you had shared premises with at some stage, is that right?---Yes, correct.

40 All right. And you rang my client I suggest in the 2012/2013 season, somewhere in that timeframe, and you said something along these lines, Is there any chance with some of the logistics jobs that we could give Ray, Ray Smith some work or Ray some work?---I, I don't recall that.

All right. Is it possible that you made such a call?---Ah, it could be possible.

Right. And my client agreed that yes, if some work was to – if there was some logistics work that he would see if Ray could be employed?---Yes.

All right. And Ray Smith – how old was he?---Ray?

Ray Smith, how old was he?---About 47.

About 47. And he was a bit, he was a bit light on with employment and work wasn't he, in income?---Yes.

10

All right. And so you were just being good-natured in, in suggesting that he might be used for these logistics jobs?---Well – or work with Mr Homsey.

Yeah, all right. And the fact of the matter is that some of these logistics jobs involved the delivery of equipment to somewhere remote and there would often be an overnight stay involved as well, correct?---To be honest, sir, I can't recall any overnight stays.

20

All right. Thank you. And you gave some evidence on, again on Friday in answer to questions put to you by my learned friend Mr Moses, and this is at, commences at 367 of the transcript, and he asked you about \$1,000 that you had received from my client?---Yes.

Do you remember those questions?---Yes.

The situation is that you heard my client make admissions in evidence about paying Mr Hacking many, many tens of thousands of dollars, you heard that evidence didn't you?---Yes.

30

All right. And so you were being asked only about one discreet payment of \$1,000, is that right?---Yes.

And you confidently told my learned friend that when my client gave evidence about that being in respect of a logistics job that he was lying, is that right?---Yes.

All right. I suggest to you that you are wrong about that, what do you say about that?---No.

40

You gave some evidence at page 368 line 40 where you said to my, allegedly to my client, "I don't want anything off you for Christmas." Is that right?---Yes.

I suggest you never said that, what do you say about that?---Disagree.

All right. Well, the fact of the matter is that you got, you received some canapés from my client for Christmas didn't you?---Yes.

All right. So he either – only two possibilities arise from that, he either didn't say it or you didn't receive anything?---I received the canapés which I had offered to pay for.

All right. And I think – I suggest to you that the \$1,000 that you received from my client was not placed into your hand as you attempted to drive away from his premises, what do you say about that?---I disagree.

10 All right. So you were in the act of driving and you were sitting behind the driver's seat, were you?---Yes.

Had your hands on the steering wheel?---Yes.

So he took – he physically took your hand off the steering wheel and put – put the money into your hand, did he?---No. He walked over to my car window. I wound down the window and he basically stuck his hand through the window and said, "Merry Christmas." Put the \$1,000 in my hand and pulled his hand out very quickly.

20 So where, where did you remove your hand from to receive a \$1,000?---I moved my hand back into the car.

I see. But did you take your hand off the steering wheel to grab the money, did you?---Yes. Yeah, yeah.

All right. Well, why - - ?---I wasn't, the vehicle wasn't moving at the time.

30 I see. Why didn't you just drive away if you were so resolute about not receiving the money?---I was in my car, I had the seat belt and was about to leave the premises and Mr Homsey walked over towards the car and I wound down the window, he stuck his hand in and said, "Have a Merry Christmas," and shoved the \$1,000 into my hand.

Well, what I want to suggest to you, the fact of giving a \$1,000 and saying, Merry Christmas were two unrelated events. What do you say about that?---Disagree.

I suggest the \$1,000 was for Ray for a Logistics job?---No.

40 And - but you had already received four bottles of wine from my client on 27 November. Is that right?---Yes.

And that was where he also provided you a copy of the menu from which you were going to choose the canapés which you later ordered. Is that right?---Yes.

And you, I think attended the D'Vine Group premises at Somersby on or about Christmas Eve to pick up those canapés. Is that so?---Yes.

And at the same time you borrowed a piece of equipment that I think coincidentally belonged to Rural Fire Service known as a Cambro warmer. Is that right?---Yes, yes.

And I suggest that on occasions after it was established that Mr Homsey would either process Logistics jobs through his account and or arrange courier services with someone other than Ray. That you on occasions rang my client and said words to this effect “I’ve already paid Ray, I need reimbursement”?---No.

I suggest that happened twice and that on one occasion you met at a laundry and my client gave you either \$1,500 or \$1,800 for Ray Smith?---There was – the last order that was done which was in 2014, late 2014, I believe, where we met at the laundry and he gave he, I think it was \$1,150 for a job that I had paid Ray for.

And I suggest that was one of two occasions that you received money in that way from Mr Homsey?---I’d received payments from Mr Homsey on a number of occasions to pass onto Ray. Yes.

Pardon me. Mr Moses put this question to you on page 367 of line 36 and this is in relation to the \$1,000 being reimbursed for courier services, a topic that had just been discussed. Do you understand that?---Right.

And Mr Moses put this, “And he was lying when he said that wasn’t he?” and you said “Yes.” Do you remember saying that?---I’m sorry, I don’t know the context, sorry.

All right. The context – well I’ll just go back a question. “And you of course sat there through the evidence of Mr Homsey when he alleged that you had been given that money in order to reimburse you for courier services you had paid for. Do you remember him giving that evidence?” Answer, “Yes.” Question, “And he was lying when said that, wasn’t he?” Answer, “Yes.”?---Yes.

Do you understand that? Question, “And you knew did you not that he created a false purchase order in respect of courier services in order to provide you cash that you were not entitled to. Correct?” And you said “No.” Is that right?---That’s correct, yeah.

The fact of the matter is that Mr Homsey didn’t create the purchase orders, did he?---No.

But Rural Fire Service created them. Is that right?---Correct.

Nothing further. Thank you.

ASSISTANT COMMISSIONER: Yes. Thank you, Mr Brewer. Mr Dunne.

MR DUNNE: Yes.

ASSISTANT COMMISSIONER: Do you wish to re-examine?

MR DUNNE: Yes, just a few.

10 Mr Springett, you have been asked questions by both Counsel Assisting and Mr Moses for the Rural Fire Service in relation to the \$1,000 for which you were just asked questions by counsel for Mr Homsey?---Yes.

Now, the questions you were asked by both Counsel Assisting and Mr Moses were that you knew that the \$1,000 was a corrupt payment?---Yes.

And you agreed with that?---Yes.

20 You knew that accepting the \$1,000 was wrong. Is that correct?---Yes.

Did you perform any particular service for Mr Homsey in relation to the receipt of that \$1,000?---No.

What did you consider the nature of that \$1,000 to be?---A Christmas gift.

And did you create a purchase order in relation to that \$1,000?---No.

30 Did you get anyone else to create a purchase order in relation to that \$1,000?---No.

And so it follows as far as you're aware that no invoice was received by the Rural Fire Service in relation to that \$1,000?---I would assume so, yes.

And to your knowledge no payment was made by the Rural Fire Service in relation to that payment of \$1,000?---As far as I'm aware.

40 In relation to the canapés you saw – well, you've answered questions that you had a price list in your hand when you left Mr Springett's premises. What was your intention in relation to the order for the canapés?---I actually sent Scott an email with a list of canapés that we wanted for Christmas and that I was to pick them up just prior to Christmas Day.

And you've given evidence I think that there was some discussion about payment on Christmas Eve when you picked them up?---Yes.

And do you agree that Mr Homsey said words to the effect of his business would pay for them or something along those lines?---Yes.

What was your intention about those canapés?---No. I said I want to pay for them.

And did you have any further discussion with Mr Homsey in relation to payment for the canapés?---I think in mid-January I said, oh, where's the invoice for, for that?

How did that discussion take place?---I can't remember whether it was on the phone or in person to be honest with you. I just - - -

10

And you haven't paid for the canapés have you?---No, I haven't.

Have you had any further discussion with Mr Homsey in relation to payment for the canapés since January?---No, I haven't.

Why is that?---Obviously in February, 2012 – 2015, sorry, the ICAC investigation commenced and my solicitor at the time told me to have no contact with Mr Homsey or his companies.

20

Do you recall how much the canapés, the total amount for the canapés was? ---I don't. I was waiting for the invoice but I'd worked it out around, just over the \$400 mark.

I see. And it was and is your intention to pay for those. Is that right?--- Absolutely.

You tell the Commission. One final point, you were asked some questions by Counsel Assisting about the bottles of wine that you were given on that occasion that you attended Mr Homsey's premises in December, 2014?

30

---Yes.

And the Counsel Assisting suggested to you that you'd been sharing wines with Mr Homsey at that stage?---Yes.

That was in a line of questions about whether you were his friend or not? ---Yeah.

And what do you tell the Commissioner about this sharing of wines?

40

---Basically, I mean I've – he would provide me with some bottles of wine and occasionally I would provide him with bottles of wine that I thought were of use to his company. He would provide me bottles of wine and ask me to taste them to see if – what my thoughts were on them.

All right. So you've told the Commission that you accept that taking the \$1,000 from Mr Homsey was wrong?---Yes.

But you didn't see that exchanging bottles of wine was the same thing and was wrong?---No.

Okay. Thank you.

ASSISTANT COMMISSIONER: Thank you.

MR KATEKAR: This witness can be excused as far as I'm concerned, Commissioner.

10 ASSISTANT COMMISSIONER: Thank you. You are now excused, Mr Springett?---Thank you, Commissioner.

THE WITNESS EXCUSED

[10.29am]

MR KATEKAR: I now call Mr Steve Yorke.

MR CHALMERS: Good morning, Commissioner.

20 ASSISTANT COMMISSIONER: Good morning.

MR CHALMERS: Chalmers, solicitor. Commissioner, Mr Heenan who is the solicitor looking after Assistant Commissioner Yorke is not able to get here. I've been asked to look after Assistant Commissioner Yorke's interests in the meantime and before he is sworn in could I just ask the Commission or Counsel Assisting particularly, in relation to the exhibit tendered at Exhibit 67 is the document that's undated but presumed to be 5 June, 2015, is that Mr O'Malley's response to section 21 just so I can be clear?

30 MR KATEKAR: Yes, it is.

ASSISTANT COMMISSIONER: Yes, yes it is.

MR CHALMERS: Thank you. I've told Assistant Commissioner Yorke in relation to the section 38 objection and he'll be taking it.

ASSISTANT COMMISSIONER: He will take it.

40 MR CHALMERS: Thank you.

ASSISTANT COMMISSIONER: Thank you. Have a seat, Mr Yorke.

Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection.

There is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

10 **PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL
DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE
COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO
BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON
OBJECTION. THERE IS NO NEED FOR THE WITNESS TO MAKE
OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER
GIVEN OR DOCUMENT OR THING PRODUCED.**

ASSISTANT COMMISSIONER: Mr Yorke, will you take an oath on the Bible or make an affirmation?

20 MR YORKE: On the Bible.

ASSISTANT COMMISSIONER: Thank you. Could the witness be sworn please.

ASSISTANT COMMISSIONER: Thank you. Yes, Mr Katekar.

MR KATEKAR: Thank you, Commissioner.

Mr Yorke, your full name please?---Stephen George Yorke.

10 You're known as Steve?---Ah, Steve, yeah.

And you're assistant commissioner?---Correct.

How long have you been assistant commissioner?---Two, three years.

Two or three years?---Yeah.

All right. Can you give an approximate start date, was it, was it sometime
in 2012?---Yes, I think so, yes.
20

All right. Before that what was your position?---I was a chief
superintendent.

Chief superintendent?---Yes.

What I'm first going to do is get my, get it clear on what your financial
delegation was first of all outside a section 44 event and then inside a
section 44 event?---Sure, sure.

30 The first one is can you go to appendix 1, General Delegations in – oh,
actually it's Exhibit 1, page 37 and this indicates a non-section 44
delegation as I understand it?---That's correct.

And is this right, that you at least from the time you became assistant
commissioner you were a group manager for this purpose?---Yes. For
clarification though the, the position and rank are separate.

Right?---So as the rank is not related to, to the actual position so as a – I was
appointed as a group manager in around 2009 I think.
40

2009. So since 2009 - - -?---Yes.

- - - and including today - - -?---Yes.

- - - you were at a group manager level as far as this general delegation is
concerned?---Correct, up until March this year when I became a director
under the new GSE Act.

So from March 2015 you've moved up to - - -?---Director - - -

Director?--- - - - response and coordination.

Then next can we go to the next page, this is what's referred to as a special, special delegation?---Correct.

And before March 2015 were you at level 5, group manager response and coordination?---That's correct.

10

And where it refers to special delegations is this right, that this applies during a section 44 declaration period?---Yes.

And it also – is it understood by you to also apply when there's an emergency involving other Government agencies but not necessarily the Rural Fire Service but where the Rural Fire Service is called in to aid? ---Correct, correct.

20

Correct?---So assisting the SES during flood work for example, assisting the police, the Malcolm Naden was a, search was a particular one where we applied what we call major incident conditions which are, you know, the same conditions apply.

And this delegation's triggered during that - - -?---Correct.

- - - event, that kind of event?---Yes.

30

Next I want to ask you about section 44 policy and procurement during section 44 events and could the operator please turn to page 65 in Exhibit 1 and you'll see it comes up on the screen and I'm going to ask you about paragraphs 2.23 and 2.24?---Ah hmm.

In particular 2.23 refers to occasions when it's necessary to purchase urgent goods and services?---Yes.

“And that in such circumstances delegations may apply - - -?---Ah hmm.

40

- - - to authorise purchase of stores or the provision of services to a value sufficient to meet that particular emergency”, and that's in paragraph 2.24 – and so just pausing there the delegation that I went to a moment ago for 150,000 was for this purpose?---Ah, yes. Effectively, yes.

Well when you say effectively yes - - -?---Yes. Yes.

Then the last sentence in paragraph 2.24, “The price paid must be reasonable and proper and the quantity must not be in excess of that necessary to meet the immediate needs of the emergency.” You understand that that's the policy?---Yes.

And that that's the policy that's applied – I don't exactly know when this document was. It says 19 December, 2013. That's the date of the document?---Yes.

Did it also apply in 2012 as best you recall?---I can't recall.

10 You can't recall. Well I'll ask you more generally – I'm going to take you back to 2012 because I want to ask you questions about 2012, not yet?---
Yep.

Did you understand in 2012 that for the purposes of section 44 procurement and your delegation in section 44 circumstances that it was A, for the purposes of getting goods and services – do you agree with that?---Yes.

And that the quantity in those circumstances must not be in excess of that necessary to meet the immediate needs of that emergency? Do you agree - - -?---Yes.

20 Do you agree - - -?---Yes.

- - - that that's the understanding you would have had in 2012 as far as your exercise of your delegation was concerned at that time?---Yes, although it is fair to say that we obviously pre-emptively um, sourced goods and services leading into significant events to ensure that we have the capability to deal with those events.

30 Yep. Well you've anticipated that's the direction that I'm going?---Ah
hmm.

You'll understand why. Do you say to the Commission today that in exercising your delegation under the – that I referred to for section 44 events that you also used that general delegation – sorry, that delegation for the purposes of acquiring goods and services in advance of section 44 events?---
Ah, I didn't actually sign off anything in respect of those particular goods and services - - -

Right?--- - - - until such time as there was a section 44 in place.

40 Yes?---In reference to my earlier comments there were things like aircraft for example which we'd get every year that we would acquire the services for um, the season. And then when they were used we would sign off on those and sign. So there were contractual arrangements that were put in place pre-season in relation to those goods and services, for example.

Do you agree with this, that in – pre-season?---Yes.

In anticipation of needing say the aircraft in an emergency?---Ah hmm.

Arrangements can be put in place in anticipation of that need?---Yes.

Do you agree with that?---Yes.

But that at the time you're doing it in pre-season there's no urgency, do you agree with that?---Yes.

10 And then in those circumstances do you agree that your special delegation of \$150,000 wouldn't apply?---Ah, yes, I would agree it's, wouldn't apply um, but I guess it's then, would depend on when the actual um, when we would be invoiced in relation to that particular um, event. So even though we, I might sign off on that we actually wouldn't be paying anything until such time as, you know, there was a, that service was used or whatever.

20 So as far as your exercise of your general delegation function at say \$150,000 you envisaged that that applies at a point in time when, for example, an invoice is approved. Is that correct?---When, when it comes to me, yes.

But – and this is I guess where we're time shifting and I'm for the Commission's purposes - - -?---Ah hmm.

- - - trying to get a grip on – you'll understand this?---Yes.

30 That where we're getting to is we're, we're, we're trying to get – the Commission is seeking to get a grip on the procedural process in order to make recommendations for the purposes of preventing corruption in the future?---Sure.

And so as far as the early steps are concerned, is this correct, there's a process by which vendors are selected and prices are arrived at for the purposes of future acquisition, you agree?---Yes, that's certainly the case in aviation, yes.

So it's in aviation - - -?---Yeah.

40 - - - and I'm going to suggest to you that it could also apply to snack packs for the same reason?---Yes, it could.

Do you agree with that?---Yes.

It could?---Yes.

No reason why not?---No.

But say for aviation in your example, I'm not a – you know, I haven't looked at anything to do with aviation for the purposes of this Commission

but taking your example, that in the circumstances where vendors and vendor selection and goods – or good or services selection and price selection is, is arrived at, that an ordinary procurement process can be undertaken for that purpose?---Yes.

ASSISTANT COMMISSIONER: I'm sorry, and are you saying it would be undertaken?---No, I think that - - -

10 Like was a normal procurement process undertaken for the aviation services for example?---There's a, there's – contractual arrangements are in place for the aviation side of things, yes.

A standing contract or a - - -?---Yes, yes, and that's done - - -

- - - or a preferred supplier or - - -?---Yeah, well, that's actually done through the National Aviation Firefighting Centre.

20 All right?---So it's actually a national body that arranges those contracts in New South Wales. It comes off those contracts.

And in terms of signing off prior to the actual section 44 event, did you consider that you could sign a purchase order prior to the section 44 event? ---I, I didn't sign any purchase orders.

All right. And you didn't have to did you?---No.

That's not where the delegation - - -?---No, no.

30 But you wouldn't have signed invoices prior to the - - -?---No.
- - - section 44 event?---No.

That was your understanding - - -?---No. That's right.

- - - of how it could work?---I didn't sign invoices unless they were attached to a section 44.

Yes. Yes.

40 MR KATEKAR: I'm just picking up on that last answer that during a section 44 event you may be called upon to sign purchase orders for that section 44 event?---No.

But you may be called upon to authorise payment of invoices for a section 44 event?---No. I'd be asked to – what would come to me in my role generally as the – well, in my role as the SOC, which is a State Operations Controller, would be a request to State Operations for a logistics order and, and in my role I would sign that off if I agreed with that logistics request

being placed through to me and that was generally on the State. So if I can give you an example. If, if there was a fire in Cobar and we needed to move a task force which is 15 trucks and associated equipment and so on to – from Sydney to Cobar a request would come to me to authorise for example fuel and meals for that crew going up. I, I would authorise that on the basis that the Logistics Procurement cell would then arrange for fuel stops, feeding and so on. After the event, sometime after the event, it could be weeks, months, I would then see an invoice from a particular vendor for the supply of fuel and/or food for that, for that transport which I would then
10 authorise.

Yeah. So there's two points in the process in which you would be involved, correct? First at the logistics request point?---To State Operations, yes.

Yes. To start. So the logistics officer, say, may come to you and say this is what's required, can you please authorise the request?---That's correct.

And then it would be, and this is you would go out of the loop and then it would be up to the logistics officer to raise the purchase order - - -?---Yes.
20 - - - consistent with a logistics request?---Yes.

Do you agree?---Yes.

And then presumably the work would be done, hopefully?---Yes. Yes.

Then there would be an invoice raised against the purchase order?---That's correct.

30 And then you may be asked to authorise the payment of the invoice?---Oh, I would be asked.

You would be?---Yes.

Is this right, because you signed the logistics request you would be the person asked to sign the invoice?---No. I was actually, because under the delegation as Group Manager Response and Coordination every invoice would come to me.

40 Every invoice?---Every invoice.

While you were State Operations Controller?---No, no. After the event.

After the event?---Yeah, well if it was a protracted season - - -

I see?--- - - - under my, under my group manager's, my group manager's hat on I would sign off logistics orders while other operations were still going on.

Yes?---Or may still be in an operational mode as well.

But at the end of the process, or at least maybe some months later - - -?---
Correct.

- - - you'd get all the invoices - - -?---Correct.

- - - yourself?---Yes.

10

All of them?---Yes.

And there could be thousands?---Literally thousands.

I think there's a document in the - I won't take you to it - where it was suggested that during a - I can't remember which year - during a particular fire season there was in excess of 4,000 purchase orders and 18,000 invoices?---That's correct.

20

And that's the order of magnitude you would recall?---It's actually more than that because that doesn't include um, the acquisition of aircraft which is separate, also the um, invoices that we get from the other firefighting authorities and supporting agencies which are separate to the invoices that we raise. So Fire and Rescue for example, the Police um, SES, any of those agencies that would assist. National Parks and Wildlife Forest Corporation, any invoices that they would occur for that event would also come through to me, through the finance section for me to authorise.

All right.

30

ASSISTANT COMMISSIONER: Mr Yorke, can I just clarify something - did you consider that you were able to sign off on logistics requests up to 150,000 prior to a section 44 event being underway?---Ah, I don't believe that I, I did send, sign - - -

So you didn't take the view that I think some people have expressed here that you could pre-order or pre-emptively decide that certain things would be needed should there be a section 44 event and you could sign for them under section 44 as a logistics order?---Ah, Commissioner, I think certainly there were pre-emptive - as I've indicated with the aircraft side of things - I mean, the Commission's been shown the memorandum for example - - -

40

Yes?--- - - - demonstrating a strategy for the forthcoming season, the 2014 - sorry, '14/'15 season which I signed because I agreed with that strategy as a strategy that during the course of the season that there was a potential to order up to that level of um, snack packs, water, and particularly foam for example, and retardant because during the previous fire season we nearly run out of foam and retardants. In fact we were talking to Victoria about

providing supply to New South Wales because we got critically low with that. So to me it was a, quite a reasonable strategy to look to pre-emptively determine that during the course of the season that there was a potential for those orders to be placed.

Prior to that had that been occurring do you know, prior to that large order?
---No.

10 No?---No. That, that I believe was the first time that we'd looked strategically and I think it also comes off the back of the – year 2013, the '12/' 13 fire seasons and the '13/' 14 fire season where we had significant activity. We had the Coonabarabran incident where there was significant losses and infrastructure losses in that area and of course in October we had, you know, the Blue Mountains fires which were obviously everyone was well aware of the, you know the impact that that had. So, I think we were being proactively looking at what we needed to do given the circumstances that the BOM were, the Bureau of Meteorology were putting to us was that the '14/' 15 season was going to be as bad as if not worse than the previous season.

20

Yes. Thank you. Yes, Mr Katekar.

MR KATEKAR: Thank you. I'm going to explore that a little further with you but I'm just anxious not to leave the other topic that we just touched upon about the number of invoices that you had to sign?---Yes.

About the number of invoices that you needed to sign?---Yes.

30 After the event you were provided presumably with piles of invoices to sign?---That's correct.

Perhaps some thousands of invoices to sign at once?---Yes, quite possibly.

Who provided you with those invoices?---They came down from the procurement section so - - -

That is John Hacking?---So Paul Springett, John Hacking, Wendy Buckett and Matthew Lane.

40 Right. Any, any of those four would provide you with a pile of invoices for signature?---Correct.

What was the process that you undertook before you signed each invoice?--- Effectively what would happen is the invoices would come down and they'd be stamped okay to process. So in the first instance I would take that that the procurement section had reviewed the request, reviewed the purchase order, aligned that with the invoice and ensured that, you know, the invoice met the purchase order in the first instance and that, you know, there were

no anomalies in that respect. I would also – so what I would do is check that there was – that was the okay to process was there signed by one of the officers. And that the – there was a purchase order, there was a section 44 number on that invoice and that that fell within the date of the section 44. So to the best of my ability with all those thousands of invoices that's what I, that's what I – the process I undertook. If there were questions I had I would go back to the procurement guys and query those invoices and so on.

10 Right. No, no. Thank you. The next question is and I ask this as general statement that perhaps the larger the invoice the more attention you might've paid to it?---Yes. Yeah.

And if there was – if the amount of the invoice was small then perhaps you might've passed over it more quickly?---If the invoice seemed genuine in the sense of, yes, it was a small invoice, there was, you know there was several thousand dollars involved, it looked appropriate for the incident then of course I would sign that off.

20 Move it forward?---Yes.

I guess, well, what I'm getting to is invoice splitting. You're aware that - - - ?---Yes.

- - - during this Commission that there's been some suggestion that there's say a purchase order for say 10,000 snack packs and then 10, 1,000 snack packs orders come in?---Yes.

30 I'm going to ask you your views as to that process as far as to what extent that impacts on the likelihood that you might pick up on any anomaly in that process?---Look, clearly the smaller as you've indicated during the course of this Commission and in light of the pile of invoices that I would see, the fact that there might be two or three of them in there for a lesser amount. Yeah, clearly that wouldn't draw my attention as would one larger request or invoice.

40 Right. Although and perhaps – does this assist you as well – it's correct, isn't it that under your financial delegation if there's one purchase order and a number of invoices, you're financial delegation needs to be exercised having regard to the sum of those invoices for that purchase order? Is that right?---Well the issues, I didn't always – I didn't see the purchase order so they were never – they weren't married up. So, so I would only see the invoice.

Right. So you were only given the invoice?---Yes. Yes.

So you wouldn't know?---No. No.

ASSISTANT COMMISSIONER: Could you look up the purchase order number, was that on a computer that you could access or - - -?---No.

All right. So you couldn't check the purchase order, you'd have to call if you wanted to see it?---Yes.

MR KATEKAR: Well - - -?---And that's where the okay to process situation come into play.

10 It's true isn't it, although you may well not have noticed, it's true isn't it, that each invoice should have a purchase order number on it?---Yes.

But you possibly in the process that you told me about you checking, didn't check whether there was the same purchase order number on various invoices - - -?---No.

- - - that's not part of the process that you undertook?---No. No.

20 All right. I'm going to move on from that now. But I'm going to go to the memorandum that we spoke about a minute ago that you raised and I can't remember what volume it is but that one. What volume is it so I can – Exhibit 10, page 25. You gave evidence a moment ago that this was a planning memorandum?---Yeah. I think it's, yeah, a strategic pre-season view of what the requirements may be is the way that I viewed this.

And on page 2, your signature appears?---That's correct.

30 Before you signed that did you have a conversation with Mr Hacking about it?---I can't recall.

You can't recall?---No.

Do you recall signing it?---I recall signing it but I can't recall that it, you know, I mean it's my signature and as I said earlier, based on the previous season to me this made sense to be proactively looking at the forthcoming season. I guess what, if I can clarify that, I didn't expect though that that we would need to order that amount. That would simply be based on the season as it panned out. So - - -

40 So do I – sir, I don't understand that answer. You, you - - -?---In signing that I wouldn't expect that on the next day we would order 100,000 - - -

100,000?--- - - - pallets of, you know, 100 pallets of water and so on and so forth, no.

What was the purpose of the memo?---I think it was primarily about making sure that the consequence that we had during the previous fire season, that

is, particularly in relation to the foam that we had sufficient orders to, to act as a, as a backup that we could restock if required as, as goods got used.

Well, there's a couple of things in that. First of all just looking at it it's got 100,000 snack packs. Do you agree?---Yes. Yes.

10 Did you have it in mind when you signed this memo that John Hacking would take steps, perhaps at an appropriate later time to order that number of snack packs so that they would be available in stock for use during the season?---Yes, in part, yes.

What's the other part?---No, no, in, in not, not 100,000 straight up but in part orders that, that would be the case, yes.

That he would be – from this memo was essentially authorised to go out and get that amount of snack packs as, as - - -?---As required.

20 - - - as he saw appropriate for the purposes of pre-ordering for the season?---Yes, yes.

All right. Did you know when you signed this memo how much a 100,000 snack packs were worth?---Based on the dollar value of the previous amount, yes, it would be 1.4.

Right. So you understood it was about 1.4?---Yep.

30 Did you put any thought into, at the time you signed this memo as to whether for a \$1.4 million purchase that some kind of procurement process should be undertaken?---Yes, I would have thought so.

Right. Well when you say yes, you would have thought so did you understand – what understanding did you have as to what Mr Hacking would do once he had this memo?---That as the, in his role that he would go through the normal procurement processes - - -

Oh, I see?--- - - - to ensure that that would be done.

40 So you understood, is this right, that it would be a \$1.4 million purchase that he would need to undertake ordinary procurement processes, not section 44 procurement processes?---Yes.

You did?---Yes.

All right. So you were authorising to do that, essentially to go ahead and do it but that your understanding was that he would follow ordinary procurement procedures in doing so?---Well, I can't authorise that because it's way above my delegation.

Well, quite?---So effectively the Commissioner had to sign off on that so - -
-

Well - - -?---It was beyond my delegation to do so.

ASSISTANT COMMISSIONER: Well I think outside of section 44 it was even beyond the Commissioner's delegation. Wasn't his \$1 million outside of section 44?---Yes, but I think this is, this again was a strategy. It wasn't necessarily saying that the next day we were going to go out and spend \$1.9
10 million. It was simply a strategy to say that over the forthcoming fire season this is the, the probably acquisition.

Yes.

MR KATEKAR: So that – the Commissioner's anticipated my line of inquiry in the sense that even though the Commissioner has signed this the Commissioner's delegation was only \$1 million outside section 44?---Ah
hmm.

20 Do you agree?---Ah hmm.

So the Commissioner couldn't authorise a \$1.4 million purchase on his own, do you agree?---Yes. Yes.

So is this right, that your, is your evidence to the Commission today that in signing this this was a green light to get the wheels in motion?---Yes. It was a, was a strategy. It's not a, it was not a purchase order. It was, it was effectively a strategy based on pre - - -

30 Or a logistics request?---Or a, or a - - -

Was it a logistics request?---Well, it wasn't on a logistics request form. It was simply a strategy in the sense of, given our, the previous season that this was a, you know, appropriate level of goods and services that may be required during the forthcoming season.

Well what it says, I'll remind you, is that it's a pre-order from suppliers and it says, "The Commissioner approves the pre-ordering of goods and services." I guess my, I wonder, perhaps you can assist, whether it was
40 envisaged – and the Commissioner's not here, I'm asking about you, when you signed this did you envisage that because it was for a section 44 event that the section 44 event delegations could be used even though on 30 June, 2014 you weren't in a section 44?---You could make that assumption, yes.

You could make that assumption?---Yes. Yes.

All right. Because well, here's where I'm going to just so that we're all clear, my question was, was that your understanding at the time, and is that right, was that your understanding?---Yes.

The next thing I want to go to – I don't know what folder this is again – in 10 again. It's page 27? Yeah. Now, I'll remind you of this document?---Ah hmm.

I'll remind you of a couple of things?---Ah hmm.

10

First of all I think it was 2 August, 2014 there was a section 44 - - -?---That's right, Clarence Valley.

- - - declaration?---Yes.

And I'm just going to tell you straight, I'm sure you're aware of the evidence – Mr Hacking says that he gave this document to you without the handwritten 100,000 in the quantity. Do you remember signing this document?---Yes, that's my signature.

20

That's your signature?---Yes.

Do you remember actually, as you sit there remember actually doing it?---(No Audible Reply).

No?---No. I don't.

And – I'm not saying you should I'm just – I do need to ask you that question though?---Yes.

30

On 4 August, 2014 what was your position?---I was the State Operations Controller on that day.

Yeah?---I'd been so since the start of that declaration which was the 2nd of August.

And, well let, because there's a couple of things. One is you were State Operations Controller you said, on that day?---Yes.

40

So that means were you sitting in the seat in the situation room?---Yes.

On that day?---Yes.

But presumably not for 24 hours?---No.

So you did some shifts on and some shifts off?---Yes.

Correct?---Yes.

But is this right, would you only have signed this document when you were sitting there?---I wouldn't have, as the State Operations Controller I would have been in the centre of the room essentially for the whole day.

Well, I guess - - -?---Well, the whole shift.

10 Where I'm getting I'm just trying to imagine your document, your signature is on this document. It's dated 4 August, 2014. You were State Operations Controller on that day?---Ah hmm.

One possibility is that you were actually sitting in the seat of state – in the chair and another possibility could be you were somewhere else or you were off-shift and you had to do things at night or – should the Commission understand that you were actually sitting in that seat at the time you signed this document?---Oh, I couldn't say at the time that I signed that document exactly where I was.

20 No?---But on that day I was, it was the end of my three day shift as State Operations Controller.

How many hours a day were you spending in that seat?---It's a 12 hour shift but essentially you spend longer than that.

Well, let's talk about that. You don't remember signing this document, correct?---Oh, not - - -

30 No. So that the next place that I need to go is the practice or at least what happened when documents of this kind were given to you. Were you just given a document like this to sign by the logistics officer in the room at the time?---Yes.

And the practice, is this right, was – let's assume it was John Hacking – would come over to you and say, "You need to sign this because we need snack packs"?---Yes.

And you'd sign it?---Effectively - - -

40 Correct?---Yes.

Because he asked you to?---Well, what I guess isn't transparent there is I also didn't see the, the request from, whether there was a request from the actual incident itself.

Yes?---So there may well have been a request from the Incident Controller um, through the logistics officer at the incident who may have requested snack packs for that incident.

Well there's two things about that?---Yes.

One is that looking at this document it's a logistics request on its own, do you agree?---Yes.

And it says, "Pre-Order for RFS snack packs to restock for fire season"?---Yes.

"Goods to be delivered over four months"?---Yes.

10

Have you seen that, in your chair, that is have you actually focussed on those words in your chair might you have taken pause before signing it?---Um, based on the memorandum to me this fell in line with the memorandum about starting to order snack packs in. Um, so it could have well, it could have been both for the fact of pre-ordering - - -

Yes?--- - - - because we were in a section 44.

20

Yes?---And there may have been a request from the IC. I didn't have any vision on that. That's was - and that's generally the case. Um, and it's not uncommon for these requests, as I indicated earlier, that would come to me either without a dollar figure - and not even to me but to others who fulfil the role in the State Operations Centre as the State Operations Controller to sign off on these logistics requests because there was a need.

Because there was a need?---Yes.

It's what you thought you needed to do?---Yes.

30

But here's my question, you knew on 30 June, 2014 that you thought you'd need 100,000 snack packs for the season, do you agree?---(No Audible Reply).

Or at least as a pre-order - - -?---Yes.

- - - as a, as a prudent - - -?---As a number, yes.

- - - as a prudent measure?---Yes.

40

And at that time you were giving the go ahead to Mr Hacking to start the procurement ball rolling in an appropriate way, do you agree?---Yes. Yes.

But then this comes in that says a section 44 - - -?---Yes.

- - - and then there's this logistics request?---Yes.

Do you agree with that?---Yes.

And by force of this logistics request Mr Hacking was able to avoid undergoing the ordinary procurement processes. Do you agree?---Yes, but I had no back – I'd had no background on that. I didn't know what he'd done between the time of signing that memorandum and the time of the section - -
-

You didn't know how he'd got there?---No.

10 Were you aware of any practice – I'm dealing with John Hacking and I don't know whether there was anybody else had the practice, but the Commission has heard evidence that Mr Hacking had a practice of having a need particularly of snack packs, then waiting for a section 44 and then slipping in the logistics request?---Mmm.

Were you aware of any practice of that kind?---No.

Because you were aware at the time of – because Mr Hacking has given evidence that there wasn't 100,000 there when he gave it to you?---Yes.

20 So as far as you were concerned you didn't know – you may not have known what he was acquiring?---Exactly.

Do you agree?---Yes.

And so of itself may not have given you pause to wonder whether he was ordering too much under a section 44 environment?---Yes.

Do you agree, is that right?---Yes.

30 Although it was – did you say it was the Clarence Valley - - -?---That was the first section 44 - - -

Of the year?--- - - - of the season, Clarence Valley.

And where it says goods to be delivered over four months you agree that it wasn't likely that that was going to be a four-month job?---No.

Four-month declaration?---No.

40 It's unlikely to have a four-month declaration?---No.

So that the acquisition of goods over four months is strictly contrary to the policy you agree that section 44 processes should only be used to acquire goods for that emergency?---Yes, although you've got to appreciate that when – we don't know when or where an emergency is going to happen so from the organisation's perspective we have to have a degree of pre-emptive acquisition to ensure that when an incident does happen that we can actually

feed the troops on the ground, provide them with the, you know, the requirements to, to deal with the particular incident so, yes.

You'll get no argument from the Commission about the need?---Yes.

What, what is, what, what the Commission is seeking to grapple with - - -?
---Ah hmm.

10 - - - is the use of the section 44 procedure to avoid ordinary procurement processes and so I guess my question is that in August, 2014, and I've got to say this is not intended to be a criticism, this is an exploration of how the procedures could be altered. I personally could understand the pressure that you might have been under at the time that this was stuck under your nose - - -?
---Ah hmm.

- - - but that to avoid a situation in which \$1.4 million worth of goods without any procurement process when by and large they weren't urgently required then and there - - -?
---Mmm.

20 - - - was avoided - - -?
---Yes.

- - - through these means?---Yes.

And, and so the Commission is searching for a way of meeting the need to make sure that the goods are available as and when they are needed?---Yes.

But at the same time not permitting this kind of conduct by Mr Hacking to reoccur?---Yes.

30 And I don't know whether you can assist the Commission with that, that is, the position that you're in as the State Operations Controller when you're under that amount of pressure - - -?
---Mmm.

- - - is this right, I don't know, tell me, that it is unfair for a person in your position, the State Operations Controller trying to get things done for the people on the field - - -?
---Mmm.

- - - to be given a document of this kind to have to go behind it - - -?
---Yes.

40 - - - and say on, come on, John - - -?
---Yeah.

- - - I think that's, you know - - -?
---Yeah.

- - - that's a little bit – you agree with that?---Yes, I do.

And that procedures, would it be appropriate to suggest and you tell me, that the procedures that are in place at the Rural Fire Service should prevent this

kind of thing coming across your desk in the position of State Operations Controller before it gets there?---Yes.

Next, if the operator could go to volume 10, page 32 please, and what's happened, and you'll be aware of the history, that there is a series of invoices that then started – the purchase order request was 4 August and the first, the first invoice was 29 September like some months later?---Yes.

10 You agree with me that there was a misuse of the section 44 procedure in this environment by Mr Hacking by giving you the purchase order during the Clarence Valley but not getting the order fulfilled until some months later, some weeks later at least?---Yes, one would argue that this – although this was part of I guess the 100,000 requirement in relation to providing us with the stores to facilitate snack packs out into the field so, yeah, the date is certainly well after the section – that particular section 44.

And that shouldn't have happened should it, that is, a section 44 request should be put in for the purposes of that event shouldn't it?---Yes.

20 What this document shows is I think, it's got group manager and your signature appearing there on the right-hand side (not transcribable) process?---That's right.

But then it's gone to Rob Rogers?---That's correct.

And is that because it's above your \$150,000 delegation?---That's correct.

30 All right. And there's a series of other invoices all for, well, there's at least one that's otherwise gone to, you know, elsewhere, 159 that it went through you up to Mr Rogers - - -?---Yes.

- - - because it's over 150?---Correct.

And is this right, that when it's over 150 it should go up?---That's correct.

40 But that if it is over – I'm just asking this hypothetically, there may be instances, it's not intended to be a criticism I'm just asking, should the Commission understand this, that first of all, for an invoice approval Mr Hacking say, he's the logistics officer but let's just say Mr Hacking - - - ?---Ah hmm.

- - - is supposed to sign it as okay to process, you agree?---Yes.

But even if he does it shouldn't be paid on that signature alone, you agree? ---Yes.

There's some suggestions in the documents that there was occasion on which that did occur. Do you – are you able to explain why that may have occurred?---No.

You agree it shouldn't have?---It shouldn't have, no.

Mmm?---But, but it's not my area obviously so it's, it's - - -

10 As far as you're concerned it would be completely invisible to you?
---Correct.

That is, if something happened without your signature and it got paid it's invisible to you?---Correct.

All right?---Correct.

Just in this environment the Dataline program or the Dataline process, you're aware of that now?---Yes.

20 And, and that involves some I think digital image recognition technology so that - - -?---Yeah.

- - - purchase orders can be married up to invoices, you agree?---That's, that's right.

And then there's an approval process which is through the, I think through the computer system?---Yes.

30 Correct?---Yes.

So – but it still requires your approval does it not?---Yes, it does.

Does that really change anything as far as you're concerned?---It means I, I have to open it, open the document up to look at the invoice to be comfortable - - -

And press click?---Yeah.

40 And click it rather than sign it?---Yeah, I've got to open the – view the image which I do.

Right?---So I view the, view the image of the invoice, be satisfied that I think it's appropriate and then go back out and click, click approve.

Does it slow things down or speed things up?---It's, it's a fairly new - - -

Okay?--- - - - process so it'll be interesting when I've got thousands of them.

Well, okay, so it's new. Okay. Because here's my question is that as far as the Dataline program is concerned it's a, it's a different mechanism for imposing the same kind of load upon you to look at that number of invoices for those, for those purposes. Do you agree?---Yes. It's electronic, it's an electronic process that - - -

It's gone from paper to electronic?---Paper based to electronic. Yes.

10 But it's the same?---Effectively, yes.

Hang on for a second. Excuse me.

ASSISTANT COMMISSIONER: Can I just ask you, under the Dataline system can you look at the purchase order if you want to or do you still just click on the invoice and open that?---I look at the invoice. I'm not sure whether I can look at the purchase order or not.

20 All right. And you still get no information about the actual receipt of the goods?---No. Well, I'm sorry, Commissioner. Apart from - on the invoice it says delivered to blah, blah, blah that's - - -

Sometimes that's on there is it?---Yes, yes, yeah.

MR KATEKAR: Excuse me. I'm just - my instructing solicitor's helping me and I need further assistance. I think I'm up to speed now. Could the operator bring up volume 10, page 32, please. And just - you told the Commissioner a little while ago when you reviewed the invoice you'd look to see that it was - is this right - that it was a section 44 number on the
30 purchase order - if the operator can go up, there's an S-4-4-L number. Is that right? And that - did you, did you say that you'd check that there was a section 44 declaration at the time or - - -?---Yes.

Right. Because going further down, above the okay to process stamp, go there, you'll see that there's a number on the bottom right-hand side, I don't know whether this number means anything to you but I'm going to ask, five and there's, I think that's got four zeros but there should be five - - -?---Yes.

40 - - - zeros, one, two. Do you know what that number is?---Yeah. It's the state, it's the state order. Like it's a, it's an account where goods are assigned to the State Operations if you like.

Yeah. In readiness in a sense for allocation to a section 44 event?---Correct. Yeah.

So when you signed this invoice or perhaps either this invoice or as a matter of practice, if you saw that number did that give you pause to consider whether this was a pre-order or for a particular event?---Because was

coming under the State it would then be assigned out to, to the incident as the request came in. So, as I said earlier, it's a bit like having – it was a pre-emptive situation where the, the goods would be stored and then allocated to the section 44s as required.

As required?---So it's like the foam, the stores of foam and so on. As people request those goods they are assigned and allocated to that section 44 and the funds, I assume journalled across.

10 Here's the thing. I guess the direction of my question is that – is this right – that in signing that you were using your section 44 delegation?---Yes.

But that there may be circumstances where you were signing it under a section 44 declaration for section 44 purposes. Do you agree?---Yes.

But not necessarily during a section 44 event?---Look, I couldn't recall whether they were all during section 44 or not.

20 Yes. Fair enough. Well, there's a clue in this document if you can go back up and this, this may be, you know, a matter of procedure. The purchase order number you see that it says S-4-4-L?---Yes.

In seeing that does that suggest to you that the purchase order was raised during a section 44 event?---Yes.

Because this is what the Commission understands and this is your understanding that that number is generated from the manual spreadsheet conducted by the procurement team?---Yes.

30 I should withdraw that – the Logistics team that apply during a section 44 event?---Yes.

And it's because it's got that S-4-4-L prefix number is derived from that manual spreadsheet. You agree?---I would assume so, yes.

You would assume so. So when you see that you think it's been derived from that spreadsheet. Do you agree?---Yes.

40 Which is used during section 44 events?---Yes.

Or at least supposed to be used during section 44 events. Do you agree?---Yes.

So that when, when you sign that, where you see that that the purchase order would've been raised during a section 44 event?---Yes.

You would agree with that. And even though it's got the 5-0-0-0-0-1-2 number?---Yes.

It didn't give you pause to concern about the fact that it was going for stores, is this right, because the purchase order number was during a section 44 event?---Yes.

Is that right?---Yes.

Right. Now does that cover your concern? Look I'm going to a new topic. It might a convenient point?

10

ASSISTANT COMMISSIONER: Yes. We will adjourn for 15 minutes.

SHORT ADJOURNMENT

[11.27am]

MR KATEKAR: Could the operator please bring up Exhibit 8, page 274, please? Now, I'm going to show you a couple of documents. This one – you wouldn't be aware of this because you never saw it but it led to a purchase order which for those in the room is at page 275, of 17 October, 2013. So this is a year before the pre-order that we spoke about before the break and this one is signed by you?---Yes.

20

And it's got snack packs to replenish. My first question is were you aware of any practice to use the section 44 procedure to replenish stocks?---No.

No. But you signed this. Do you remember signing this?---Oh - - -

30

No?---It's certainly my signature. I don't recall signing it.

No?---(not transcribable).

Do you – and this says – and who knows where the truth is given the person who seems to have raised it – where it says three week lead time but it says urgent on the circle. Just putting that aside for the moment do you agree that if stocks are used for a section 44 event in a section 44 event that replenishment may not be urgent?---Sorry, could you repeat that?

40

Let's assume for a moment we've got 50,000 snack packs sitting at the warehouse at Glendenning?---Ah hmm.

And we have a section 44 event and 30,000 gets used and there's 20,000?---Ah hmm.

Say. It's just an example?---Yes.

We need another 30,000 to replenish what's there so we can use them for future events?---Ah hmm.

Do you agree?---Yes.

But we don't know when the next event is?---That's correct.

But we need to replenish at some stage, do you agree?---Yes.

But that's, that replenishment is not of the same of the, as the urgency for the purposes of a section 44 event. Do you agree?---Yes.

10

In which case subject to future section 44 events coming up ordinary procurement practices should apply to replenishment. Do you agree?---Yes. Without knowing though - - -

What - - -?--- - - - what tomorrow might bring.

Without knowing what tomorrow might bring?---Yeah.

20

But let's assume that the section 44 event is finished but your stocks are low so you may have an urgent need to get them back up again, do you agree?--- There may be, yes.

May be because you don't know when the next section 44 event is going to be?---That's correct.

But you're not in a section 44 event at the time are you?---No.

30

So that may impact on the manner in which the procurement process is undertaken, do you agree?---Yes it could.

Yeah. I want to take you next to volume 8, page 276. I'm skipping over the purchase order for that one because I think you never saw it. That's right, you didn't see purchase orders?---No.

And because this is the invoice raised against that purchase order – sorry, raised against a purchase order which in turn was raised against the logistics request I just took you to?---Yes.

40

And it's there, your signature is there again?---Yes.

But above that signature is that number, the 5-0-0-0-0-0-1-2 number?---Yes.

Once you saw that number you would have been aware that it was for stocking, do you agree?---Yes.

Yeah. And it went above to Rob Rogers, do you see that?---Yes.

Can I ask you this, of your understanding of the procedure? It goes through you. If it's above your head it goes to Rob Rogers. Is there a practice of you communicating with Rob Rogers about things that go up to him?---No, I'd do that through the procurement, the procurement guys.

You just give it back and then the procurement guys take it upstairs to - - -?---Well, I'll give it back and say, "This needs to go to Rob. It's not my - - -

10 Rob. And it's up to him - - -?--- - - - it's not my delegation. It needs to go to Rob. And leave it to them to do so.

Beyond his delegation. All right. Because looking at this invoice it – by reason of the number it indicates to you doesn't it that it's for stocks?---Ah, I don't what the requests have been so - - -

20 All right. I guess my – the reason for my putting it that way to you is because of the 5-0-0-0-0-0-1-2 number. Was that part of your process before you signed it as to check what number it was for?---Yes, but, but snack packs, retardants um, there are half a dozen things that all fall under 12 - - -

Right?--- - - - that don't go, that the State holds, or the State – they're assigned against. So from an incident controller's perspective they, they don't order these goods because the State hold them to be distributed from a state perspective. So it's not only this type, it's not only snack packs that go against 5-0-0-0-0-0-1-2, if you like.

30 Yes?---There's foam, there's water, there's other things which are, we consider essential to the operations, in the operations side of dealing with an incident. So there are nothing – they don't, they don't come from the incident themselves. They are, they are there to be drawn out of the stores to that incident.

There's two things, one is – isn't this right – that in October, 2013 – I don't know the answer to it – there may have been a number of section 44 events going at the same time?---Ah hmm.

40 In which case it's possible isn't that snack packs might have been ordered and put under the 12 number and then allocated through journal to - - -?---Correct.

- - - particular numbers depending on the 44 event?---Correct.

So that's one possible - - -?---Yep.

- - - way that it could go through. Do you agree?---Yes. Yes. And there were 19 events at that time in October.

There were 19 events at that time. So as far as you were – possibly as far as you were concerned at the time that you signed this in seeing the 5-0-0-0-0-0-1-2 number, if I can put it that way, it may have been well that’s where it should go for later allocation?---Yes.

That’s a possibility?---Yes. Because as I said earlier snack packs, water, foam are all held under that account.

10 Under that. So when you – because you’re only given the invoice looking at the 5-0-0-0-0-0-1-2 number doesn’t necessarily tip you off that it’s for stocking of itself?---No.

Not necessarily?---No. No. I could have been going to those 19 events for example.

19 events but via, via the route of the 5-0-0-0-0-0-1-2 number?---Correct. Correct.

20 All right. Because the next one I want to take you to is volume – is it 9 or 8? It says 9 but I wonder whether it’s 8. 279. Oh no, hold on. Just checking. It would seem to me to follow – I’ll get the number for those in the room. Volume 9, 628. Volume 9, 628. Now, this is another undated logistics request but I can tell you that the purchase order was raised by Mr Hacking against this logistics request on 22 October, 2013. So it’s seven days after the one that we spoke about a minute ago?---Ah hmm.

And again - - -

30 MR WHITFIELD: Is that correct, Counsel? Have we - - -

MR KATEKAR: Did I say seven days? Five days.

MR WHITFIELD: Wendy Buckett’s name on it, raised.

MR KATEKAR: True, it’s Wendy Buckett’s.

MR WHITFIELD: Person making request. (not transcribable) Mr Hacking’s name.

40 MR KATEKAR: Mr Hacking’s name is not on this. Mrs Buckett’s name is on this. But that’s not the point. It is blank. “Snack packs for stock.” And the reference number at the top is the 5-0-0-0-0-0-1-2 number again?---Ah hmm.

I guess my question to you is that in 2013 was it your understanding that purchase orders – sorry, logistics requests were being raised for stocks in advance of the season?---This is in October?

Yes?---'13?

Yes?---That's when the Blue Mountains fires were on.

Okay?---So there was significant activity at that time.

Okay?---There were 19 section 44s at that time.

All right?---There were 80 section 44s over that season.

10

Right?---Sorry, the previous season there were 48, in '13/'14. So there was significant activity as I indicated in the 2013 season, significant activity with significant losses.

So as far as you were concerned when you saw this at the time it might not have been advanced ordering, it might have been stocks that were needed then and there?---Absolutely.

20

That's - - -?---We had, we had between 1,300 and 1,600 people in the field every day.

30

All right. Next can the operator go to volume 5, page 216? Now, you will undoubtedly not remember this but I'm going to tell you what happened and ask you whether in October, 2012 there was advanced purchasing of ration packs. This document is a purchase order. There's not logistics request that we can find. October, 2012 – it's 20 pallets of ration packs and then what follows – if you can go to page 218 – what follows from this is this document – what's happened is that D'Vine Tastes has split that purchase order for 20 pallets over 10 invoices and they're all the same, and they're all signed by John Hacking and indicated as being signed by you all on the same date, on 1 November, 2012, and the question the Commission has is whether in 2012, at this point in October, 2012 there was advanced purchasing of ration packs? You probably don't know?---I have no idea.

No idea?---No.

And you don't remember signing 10 invoices for the same amount on the same day?---Absolutely, absolutely not.

40

Absolutely not. And one possible, one possibility is that you were given a huge pile of things and, and they were all signed by John Hacking and they were just the invoices and indicating okay to process and they were all about \$20,000 and they were all well within your limits and you didn't see any difficulty with them?---That's correct.

That's correct. Because also, I'll indicate this as a matter of fairness to you, you'll see that there's 5-0-0-0-0-0-4-8 number?---Ah hmm.

That indicates that it's for a particular event?---Yes.

Yeah. So looking at that now based on the procedures that were in place again at that time there's nothing in particular that would have caused you any difficulty at the time but is this right, had you noticed there were 10 invoices you might have said something?---Yes, possibly, yes.

But you've – but it wouldn't be surprising to you that you didn't notice that there were 10 invoices for the same purchase order number?---No.

10

All right. All right. Can you just bear with me for a moment. I don't have any further questions for Mr Yorke.

ASSISTANT COMMISSIONER: Thank you. Yes, does anyone wish to question Mr – Mr Moses?

MR MOSES: Yes. Thank you, Assistant Commissioner. Assistant Commissioner Yorke, you've told the Commission that you are, Assistant Commissioner, Director of Response and Co-ordination. Correct?

20

---Correct.

And in that role you're responsible for the Rural Fire Service Operational Response?---That's correct.

And that includes responding to emergencies, be they bushfires - - -?---Yes.

- - - in support of other State agencies such as SES?---As well as, yes.

Police?---Yes.

30

And interstate deployments?---That's correct.

For example, in Western Australia in the fires in January of this year?---Yes.

And in the Northern Territory as well?---In South Australia and in Victoria.

Thank you?---Northern Territory we provide support for after the cyclone.

40

Thank you. You're also responsible for State Operations?---That's correct.

Aviation and specialist heavy equipment?---Yes.

Counterterrorism?---Yes.

Fire investigation?---Yes.

Incident response and jurisdiction?---That's correct.

And bushfire information line?---Yes.

And you report to Deputy Commissioner Rob Rogers?---Yes, that's correct.

Who in turn reports to the Commissioner?---That's correct.

And you have four direct reports?---That's correct.

10 I can go through them. Manager Operations?---Yes.

Manager Operational Doctrine?---Yes.

Manager State Operations Centre?---Yes.

And Manager State Air Desk?---Yes, Emergency Management is the other. So the four reports are Aviation, the Operations Centre, Emergency Management and Operational Protocol with the specialist areas in arson and counterterrorism.

20

Thank you. You were taken to Exhibit 1, page 37 by Counsel Assisting which relates to financial delegations and I think - - -?---Yes.

- - - you've confirmed that outside of a section 44 event your delegated authority is 50,000?---That's correct.

And during a section 44 it's 150,000. Correct?---Yes.

30 Now, can I ask you about the role of State Operations Controller?---Yes.

And perhaps I can show you this document. I'm going to show you the Operational Management Procedures document which sets out the role of State Operations Controller. I don't think this is in evidence and I'll provide it to Counsel Assisting. I'm content to tender that.

ASSISTANT COMMISSIONER: Yes. The Operational Management Procedures for State Operations Controller will be Exhibit 71.

40 **#EXHIBIT 71 - NSW RFS OPERATIONS MANAGEMENT PROCEDURES DATED 16 NOVEMBER 2011**

MR MOSES: Now, Assistant Commissioner Yorke, you're one of four persons who rotate through the role of State Operations Controller?---Yes. There's three I guess if you like permanent and one support person.

So there's Chief Superintendent Peter - - -?---Superintendent Peter McKechnie.

Thank you?---Assistant Commissioner Stuart Midgley.

Yes?---Myself and Assistant Commissioner Bruce McDonald acts as a, a support if required.

10 And out of the four you're most often the one who usually plays that role whenever the State Operations Centre is operational?---Whenever there's significant events happening or predicted I fulfil that role, yes, irrespective of the roster arrangements.

You've been shown – withdraw that. The Commission has had shown to it by Counsel Assisting a photo of the State Operations Centre. Can I just show you this document which is the State Operations Centre layout. Thank you. I'm content for that to be tendered. This document, if you could just once it's shown to you.?---Yeah.

20 Can you describe what this document represents, Assistant Commissioner? ---Yeah, it's the, it's the layout of the State Operations Centre which defines where the role of the State Operations Controller sits in the centre of the room and the supporting regional major incident co-ordination cells, the functional, functional area support around that and then the various agencies that support us during operations.

30 And the photo that's just come up on the screen just by way of assistance to the Commission, can you just point out if you can where you would be sitting in that room?---In the centre of the room. It's a bit hard to – yeah, in the centre circle there is - - -

Yes?--- - - - is, is where I would primarily be located.

And on that day in question I think you're on the – to my left. You're on, you're with a group of people - - -?---Yes.

- - - on the left-hand side?---Yes.

40 And, and the Deputy Commissioner is there with you as well?---Yes.

And the people sitting there in the blue?---That's Paul Springett and Wendy Buckett in the Logistics cell.

Okay. Thank you. Yes, thank you. If I can then show you a document which is entitled State Operations – if I can tender that document, Commissioner. It has been, it has gone to - thank you.

ASSISTANT COMMISSIONER: Well, I haven't marked – the State Operations Centre layout will be Exhibit 72.

**#EXHIBIT 72 - NSW RFS STATE OPERATIONS CENTRE LAYOUT
DATED 31 JULY 2014**

MR MOSES: Thank you.

10

I'm just going to show you a document, it's part of the State Operations Co-ordination. If that could be shown to you as well, Assistant Commissioner. Can you describe the document that you have in front of you it's titled State Operations Coordination, 2 March, 2001, Organisation Structure Chart, Operations Normal. Could you explain to the Commission what this is?---Yes, it's just the structure of the operations centre under normal operating conditions, that is - - -

20

Can you explain to the Commission what that means, normal operating?--- There are various levels that we have within the service, effectively normal, levels one, two and three, three being the highest and operations normal is effectively when State Operations Centre isn't functioning as such but the officers are within the area surrounding the centre and fulfil their day to day roles in operations. So effectively is just simply giving you a layout of the centre without it being fully manned and it ramps up under the different levels of activity and that's determined by the number of events that are happening and the, and the predicted events as well.

30

Okay. Thank you. If I could seek through Counsel Assisting to have that tendered.

MR KATEKAR: Yes, I'm content for that to be tendered.

ASSISTANT COMMISSIONER: Yes. That Organisational Chart will be Exhibit 73.

**#EXHIBIT 73 - NSW RFS STATE OPERATIONS COORDINATION
ORGANISATIONAL STRUCTURE CHART DATED 25 MARCH
2011**

40

MR MOSES: If I can just ask the Commission to go back to Exhibit 72, 71, I'm sorry. It contains on there - Exhibit 72, I apologise Commission. If the document contains telephone numbers for individuals in various roles and pretty sensitive roles we even ask for a suppression order on the telephone numbers that are contained in Exhibit 72.

ASSISTANT COMMISSIONER: Yes. Well I make a suppression order in respect of any telephone number in that exhibit.

THE TELEPHONE NUMBERS IN EXHIBIT 72 ARE SUPPRESSED

10 MR MOSES: Thank you Assistant Commissioner. So if I can then show you the next document which is State Operations Coordination Operation Centre activators.

ASSISTANT COMMISSIONER: Mr Moses, can I ask where we're going with these? Is there a point you wish to make through this witness?

20 MR MOSES: Sure. I wanted to set out, I wanted to set out the extent of the role of Assistant Commissioner Yorke, and then feeding that into the - if I can call it the activities that are being examined by this Commission. Because what Counsel Assisting has said is that he was, in essence looking to processes and how that could be improved in future but it's important in order for that to be done that one actually understands the role that the Assistant Commission had and the processes otherwise one would be operating in a vacuum and be inadvertently misled as to the actual fact as they attained, if I can call it during the period activity of Mr Hacking.

ASSISTANT COMMISSIONER: Yes.

30 MR MOSES: So we need to present this and I've only got four topics to go through once I get through these matters which I'll get through relatively quickly.

ASSISTANT COMMISSIONER: Yes. I mean I'm certainly happy for you to lead this witness in respect of the points you wish to make about operational matters.

MR MOSES: Yes. Thank you.

ASSISTANT COMMISSIONER: Thank you.

40 MR MOSES: So Assistant Commissioner, do you have the document in front of you?---Yes.

Document State Operations Coordination, 2 March, 2002. Organisation Structure Chart Operations Centre Activated?---Yes.

Can you explain to the Commission what that is meant to depict?---Well that, that depicts the centre when it transitions from normal through to, to activated. So you can see there, they are vastly more positions within the centre and – to cover all aspects of the operation. So from the earlier

document or the earlier operations normal you can see that there's a significant increase in the number of personnel within the centre of the operations room itself.

Would this be what you'd expect to see during the section 44 event?---Yes.

Thank you. So it's through Counsel Assisting I seek to tender that document.

10 ASSISTANT COMMISSIONER: Yes. The Organisational Chart for Activated Status is Exhibit 75.

MR MOSES: And Assistant Commissioner, whilst we're just with the exhibits, the photo that shown by Counsel Assisting in his opening, we would request that that be marked as an exhibit. I don't think it's been marked as an exhibit. Whether that could be provided with an exhibit number?

20 ASSISTANT COMMISSIONER: Yes. Before I do that I think, I think I've marked one of these twice. So, yes, the State Operations layout normal will be 73, the State Operations layout activated will be 74.

**#EXHIBITS 73 – NSW RFS STATE OPERATIONS
COORDINATION ORGANISATIONAL STRUCTURE CHART
DATED 25 MARCH 2011**

30 **#EXHIBIT 74 - ACTIVATED NSW RFS STATE OPERATIONS
COORDINATION ORGANISATIONAL CHART DATED 11
DECEMBER 2012**

MR MOSES: Thank you.

ASSISTANT COMMISSIONER: And if you want the photo tendered of the Control Centre that will be Exhibit 75.

40 **#EXHIBIT 75 - PHOTOGRAPH FROM COUNSEL ASSISTING'S
OPENING ADDRESS**

MR MOSES: Thank you. And just finally, on the topic of State Operations before I move onto another four topics, I'm just going to show Assistant Commissioner Yorke a document working in the State Operations Centre, 2014. Commissioner, we'd asked for a suppression order in respect of the content of this document. That is that access to this only be granted to the

lawyers appearing in this matter for the various parties, persons of interest and Counsel Assisting as well as those that they represent. We've got this document – if I can maybe get the Assistant Commissioner Yorke to explain the document.

ASSISTANT COMMISSIONER: Yes. Well I'll mark that, the document Working in the State Operations Centre, Exhibit 76. It will be a confidential exhibit available to legal representatives only for the purpose of representing their clients.

10

**#EXHIBIT 76 - NSW RFS WORKING IN THE STATE
OPERATIONS CENTRE BOOKLET 2014 EDITION**

**EXHIBIT 76 IS A CONFIDENTIAL EXHIBIT AVAILABLE TO
LEGAL REPRESENTATIVES ONLY FOR THE PURPOSE OF
REPRESENTING THEIR CLIENTS.**

20

MR MOSES: Assistant Commissioner, could you describe this or explain this document to the Commission?---Yes. This document was developed by, my operational (not transcribable) to provide some advice to personnel coming into the operation centre about the workings of the operation centre, how it functions and the roles within the centre itself. So it's an internal document to provide some vision on what happens within state operations and the state operation centre for people who, one, are looking to come and assist within the centre and for those who join the organisation.

30 Yes. Thank you. Now Assistant Commissioner Yorke, I'm just going to run through a couple of topic areas and ask you some questions?---Yes.

In the opening of this inquiry Counsel Assisting referred to Numbered section 44 declarations by year?---Yes.

And just for the reference point for Commission, that was on 2 June at page 4, line 40 through to page 5, line 5. Were you present during that opening? - --Yes.

40 Can I put this proposition to you? Is the number of section 44 declarations meaningless as an indicator of the severity or the length of a fire season?--- Yes. It is. At the end of the day the – it is just a number in the sense of you can have two section 44s during the season they'd be, you know, significant. They could be - impact on the urban interface, they could have significant requirements for resourcing and so on. So the number in some ways is not necessarily relevant. Obviously though the more you have means that obviously activity levels could be high but, but in relation to the specific

event itself, they can, they can go on for weeks and require significant resources.

If I can just show you this chart. So just looking at the document which has been provided for table 5 statistics for 2009 to 2014, the number of firefighters is against the right axis and all the statistics are against the left axis?---Yes.

10 And what is important there from what we gleaned from the statistics I think, as you've said, is one has got to look at the length and severity of the section 44 - - -?---Yes.

- - - rather than how many section 44 declarations are made in a particular season?---Yes. Yes. Or - - -

20 Thank you?---And that's displayed 2012/'13 where I indicated earlier there were 80 section 44s and you see the personnel were 21,807. There were 48 in '13/'14 and there were 23,000 personnel. So again it reflects the fact that a number of section 44 doesn't necessarily equate to the number of personnel in the field and all the resources that may be required to support those incidents.

Thank you. And on the right axis that has the number of fires and firefighters against the right axis?---Yes.

(not transcribable). Yes, thank you. Though Counsel Assisting I'd seek to tender that?

30 ASSISTANT COMMISSIONER: Does this chart tell us for how many days the firefighters were deployed, or when you say 23,000 does that mean 23,000 man days or 23,000 were deployed but you don't know for how long?---No, that's 23,000 were deployed. I don't know the man days in relation to that.

Yes.

40 MR MOSES: In the top left-hand side, Assistant Commissioner, there is reference there to number of days overall under section 44 declarations and - - -?---Yes.

- - - the firefighters deployed?---Yes.

ASSISTANT COMMISSIONER: Well, that's the number of days - - -

MR MOSES: Quite. Yeah.

ASSISTANT COMMISSIONER: - - - that it lasted. I don't know whether that means there were firefighters deployed on every day of that. Not

necessarily I presume?---They would have been deployed every day but the numbers would have varied so - - -

From day to day?---From day to day so - - -

Some more - - -?---Correct.

- - - some less?---Correct. So as the incident ramped up there'd be more, as it ramped down there would be less so - - -

10

Yes?--- - - - the actual calculation of man days I'm not - - -

No?---Would need to be worked out.

All right. Well, the chart of RFS statistics will be Exhibit 77.

#EXHIBIT 77 - NSW RFS FIRE STATISTICS 2009-2014 CHART

20

MR MOSES: You've been asked some questions – now moving on to October, 2013. You've been asked some questions by Counsel Assisting in respect of invoices that were presented in the October, 2013 scenario. These were I think invoices which was Exhibit 8, page 274 and Exhibit 9 at page 628. Can I just show you this document which is a summary sheet of the bushfires that were in New South Wales from 13th to the 26th of October. That is a summary document that has been prepared by the Rural Fire Service in relation to the bushfires in October, 2013?---Yes.

30 And what that shows is the fact that there were 19 section 44 declarations during that period?---Yes.

And 627 bush and grass fires?---Yes.

And it shows the amount of firefighters deployed each day which were 1,300 plus?---Yes.

Yes, thank you. Through Counsel Assisting I seek to tender that.

40 ASSISTANT COMMISSIONER: Yes. Yes, the summary of 2013 bushfires will be Exhibit 78.

#EXHIBIT 78 - NSW RFS SUMMARY OF 2013 BUSH FIRES

MR MOSES: And in respect of the firefighters being deployed each day they would have multiple shifts. So this would be an underestimate of how many - - -?---I would - - -

- - - persons were deployed?---I would suggest so, yes.

Thank you. Just finally on this topic can I just show the Bushfire Bulletin for October, 2013, and again in this particular document it sets out a summary of the major events that occurred during that difficult month for
10 New South Wales?---Yes, absolutely.

And for instance at page 25 through to page 34 it sets out a summary of events that were occurring on a day to day basis?---That's right.

Thank you. I'd seek through Counsel Assisting to tender that document.

ASSISTANT COMMISSIONER: Do you have any objection?

MR KATEKAR: No.
20

ASSISTANT COMMISSIONER: Yes, that Bushfire Bulletin journal will be Exhibit 79.

#EXHIBIT 79 - NSW RFS BUSH FIRE BULLETIN OCTOBER 2013

MR MOSES: I'm just going to move on now to the next topic which is questioning invoices that are - - -?---Yes.
30

- - - presented to you - - -?---Yes.

- - - by persons such as Mr Hacking. The process for you signing documents in relation to matters pertaining to section 44 declarations has been the subject of some questions by Counsel Assisting. Can I just ask that the, if you can take us through the process in respect of invoices which relates to a section 44 declaration - - -?---Ah hmm.

- - - coming to you? Firstly, why do they come to you and secondly, when
40 do they come to you?---I guess historically they've always come to Operations, in the operations centre to the previous manager of State Operations, if you like, historically and then well, my position as group manager um, because they were under the delegation of section 44 they, it's just been a historical I guess, process by which those invoices have come in to State Operations to, to authorise those section 44 invoices. In respect of how they come to me, as the Commissioner has been made aware, they come in various piles just as the invoice, and they will come in multiples of section 44s. I don't, they don't come as one section 44 in a neat package, if

you like, because obviously vendors invoice – some are very prompt in their invoicing and they will invoice the day after the supply of the goods – some in fact take some time. And then obviously when they come in to the procurement area they go through a process of aligning the purchase order and so on before it comes down to me. So I can see multiple section 44s that can vary from anything from over 90 days old to, you know, to a week after the event.

10 The approvals for invoices to be paid are signed subsequently after the emergency?---Yes.

And in your role in taking that task you often questioned invoices that were put before you for your approval?---Yes.

And your signature?---Yes.

And payments were delayed as a result of you requesting further information?---Yes.

20 And when you had before you invoices relating to section 44 declarations, was it your normal procedure to have regard to the schedule of section 44 declarations in order to satisfy yourself that in fact a section 44 declaration had been in existence at that time?---Yes.

And can I just show you an example of a schedule of section 44 declarations. This relates to 2012/2013. You have that in front of you? ---Yes.

30 And that is a document which is or was accessible by you for instance in 2012/2013?---Yes, although in looking at this the actual fire season is not, not correct. This is actually 14/15.

Thank you. And the schedule would assist you to determine whether goods or services that were being provided fell within that period?---Yes.

Thank you. I tender that document.

40 ASSISTANT COMMISSIONER: Yes. The schedule of section 44 declarations for the 14/15 season will be Exhibit 80.

#EXHIBIT 80 - SCHEDULE OF S 44 DECLARATIONS FOR 2012-2013 FIRE SEASON 2015

MR MOSES: And in fact I think you may have been present when Counsel Assisting took Mr Hacking to an instance of a logistics request that had been changed at your request because the expense was not reasonable to incur

under section 44 because it was not emergency related. That's just for the Commissions' reference page 270, line 32 to page 271, line 7?---Yes.

And in your role as Assistant Commissioner and from time to time State Operations Controller, it would be fair to say that somebody in your position would have a, if I can say a unique or special understanding of what was going on during a section 44 in order to determine whether matters that were coming across your desk for approval were reasonable?---Yes.

10 I'm just going to show you just a number of examples and this is really to deal with an assertion at one stage by Mr Hacking which I think was then resiled from by him under examination by Counsel Assisting, that you would just approve anything that came across your desk. What I want to show you is a number of instances where in fact you challenged matters and queried matters and sought further information?---Yes.

20 So the first thing I'm going to show you is in relation to a matter of concern that you raised that there shouldn't be routine servicing of Rural Fire Service vehicles used in support of an SES flood operation but there only could be repairs for the flood damage.

ASSISTANT COMMISSIONER: Mr Moses, I don't understand that this witness's evidence that he did on occasion question invoices is going to be rejected, in fact - - -

MR MOSES: Okay. Thank you.

30 ASSISTANT COMMISSIONER: - - - as you said, Mr Hacking resiled from his evidence to that effect, so - - -

MR MOSES: No, and you're right, Assistant Commissioner. The reason why I was going through this was just to deal with that concern because we did not want there to be, from the Rural Fire Service's perspective, any unfair criticism of Assistant Commissioner York as being somebody who did not go through matters when they were presented to him, in fact what the records of the Rural Fire Service demonstrate is that he, on quite regular occurrence, would challenge and raise matters and seek further information for individuals within the Service as well as outside the Service, and we want to demonstrate that he is somebody who would do that, and if there's
40 no intention of any criticism of the Assistant Commissioner then I can move on?

MR KATEKAR: Yes. Can I indicate this. I don't seek to persuade the Commission that there was any lack of diligence on the part of Mr York in performing the functions that he was given.

ASSISTANT COMMISSIONER: Yes, yes, Mr Moses, I don't think you need to go through this.

MR MOSES: Yes, thank you. If I can just ask one, two questions in relation to this then I'll move on.

ASSISTANT COMMISSIONER: Yes.

MR MOSES: You would query if you thought there was no need for goods when matters were put before you?---Sorry, didn't - - -

10 You would raise a query if you thought there was no need for good when - - -?---Yes.

- - - they occurred? And you didn't do that for the snack packs. Correct? ---No.

No. And the reason why?---As I said earlier, they were under the State Operations order, under 12 - - -

20 Yes?--- - - - and therefore they were part of goods that couldn't be accessed by the incident controller other than going through State Operations, so it was critical that we had those goods available to the incident as required.

Thank you?---So as I said, that included the snack packs, foam and pallets of water.

Thank you. Now, I'm going to move on now to another topic. You also identified issues relation to section 44 procurements after each fire season as part of an after action review. Correct?---Yes.

30 And that is after every section 44 there is a process of lessons learnt in an after action review?---Yes.

And indeed you scheduled a meeting with a number of individuals including Assistant Commissioner McDonald - - -?---Yes.

- - - Assistant Commissioner Midgley, Mr Stephen O'Malley and Mr Springett on 18 December, 2013, to discuss concerns you had about section 44 claims, arrangements and payments?---Yes, that's correct.

40 And I think on that occasion Mr Springett did not attend but the others that I've mentioned did attend?---Yes, they did.

And at that meeting you discussed presentation on that issue of the 2014 Pre-season District Managers' Forum. Correct?---Yes. And I discussed my concerns about some of the invoices that I was seeing coming across my desk.

I'm just going to show you this document. You subsequently had an email exchange with Mr Springett on 3 March, 2014 in relation to shortcomings in procurement, accountability at Bathurst-Oberon - - -?---Mmm.

- - - section 44 which came to light as part of the after action review, and what you wanted to be addressed at the District Managers' Forum?---Yes.

10 And just before I put to you a question, I'm just going to show you another document which is the PowerPoint presentation which you worked with Mr O'Malley's team to prepare for the District Managers' Forum - - -?---Yes.

- - - dealing with financial responsibility and section 44s?---Yes.

MR MOSES: I ask you to go to the last document in the bundle that's been provided to you, it's attached to the 18 June email from yourself to Mr O'Malley and Assistant Commissioner Midgley, do you see that, it's the PowerPoint presentation?---The PowerPoint presentation itself, yes.

20 And you'll see there's a heading in the PowerPoint, payments and claim reimbursement?---Yes.

And you set out there expenses authorised and incurred by and approved by the New South Wales Rural Fire Service when a section 44 has been declared are paid directly by the Rural Fire Service?---Yes.

And then you go through expenses and then planning procedures?---Yes.

30 And then jumping ahead it's got incident controller's responsibilities? ---Yes.

You say there it's not a shopping list?---Correct.

And what were you meaning to convey by that?---That there needs to be some due diligence in respect of goods that were being assigned to those particular incidents and that was the incident controller's responsibility to ensure that that was happening.

40 If you go to the next page, the incident controller is not authorised to approve expenditure and you set out a number of examples and then if you go to issues, 2013/2014 - - -?---Yes.

- - - you raise a number of concerns that had been picked up by yourself and Mr O'Malley's team in relation to instances where there had been an attempt to use section 44 funds for these purposes?---Yes, it's probably fair to say that these, I raised these with the Procurement team as such, they just came through as invoices to me and I questioned them in relation to these particular invoices, as you said earlier this is where I was questioning some of the invoicing that was coming through from particular incidents.

And the presentation to the district managers for, was ultimately made by Mr O'Malley and Assistant Commissioner Midgley because you had been asked by the Commissioner to undertake some other task on that day?
---That's correct.

10 I'd seek to tender that bundle of documents, Commissioner, that are 5 June, 2014 email from Kylie Sugar to Ms Robson and others email of 18 June from Assistant Commissioner Yorke to Mr O'Malley and Assistant Commissioner Midgley.

ASSISTANT COMMISSIONER: Yes, that bundle of documents will be Exhibit 82 and the earlier email re the Bathurst/Oberon section 44 will be Exhibit 81.

#EXHIBIT 81 – EMAIL TITLED BATHURST/OBERON S44 DATED 3 MARCH 2014

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#EXHIBIT 82 – BUNDLE OF NSW RFS EMAILS AND PRESENTATION SLIDES

MR MOSES: And the 23rd – I apologise, part of that bundle, I should have identified also the 23 June email from Assistant Commissioner Yorke to Mr O'Malley.

30 ASSISTANT COMMISSIONER: Yes.

MR MOSES: Thank you. Assistant Commissioner, I omitted to I think have marked as an exhibit the email of 3 March, 2014 which related to the Bathurst/Oberon section 44, maybe you've already done that – you've done that, thank you. I wasn't listening, I apologise.

ASSISTANT COMMISSIONER: Well, Mr Moses, I do my best, I say what I say.

40 MR MOSES: I'll move on. We move on then to the question of preseason orders. I think you heard Counsel Assisting in his opening describe section 44 procurement processes as an abbreviated approval system designed to ensure that the wheels of Government moved quickly enough in order to save lives in time of need?---Yes.

And you would agree with that?---Yes.

In essence it is a process designed to ensure that urgent services and goods are able to be obtained to get to the front line in order to save property and lives?---Yes.

Now basically its meant to be nimble, correct?---Correct.

10 Now I want to take you if I can to the memorandum from Mr Hacking to the Commissioner which you signed on 30 June, 2014, that's Exhibit 10, page 25. If that could be brought up on the screen. Just while that's happening, the document that is the memorandum, that was as you understood it a request by Mr Hacking to get your in principle agreement to the strategy of pre-season purchase of snack packs?---Yes.

And you rely on advice from State Logistics as to what is needed on the fire ground?---Yes.

And that was certainly the case at this time. Correct?---Yes.

20 And what was being sought as you understood it by Mr Hacking was the approval of a procurement strategy, correct?---Yes.

And you did not understand this memorandum to be a signoff for money to be spent without approval. Correct?---That's right.

And this memorandum could not be relied upon for \$1.9 million to be spent. Correct?---Correct.

30 What still needed to occur were Logistics requests and purchase orders?
---That's correct.

And that would mean that processes and procedures would need to be followed in respect of the presentation of those documents in the normal way?---Yes.

And that was your understanding?---That is my understanding.

40 And coming off the back of the devastating 2013/2014 fire season, I think you've said in your evidence this procurement strategy made sense to you, especially as it made reference to items such as foam which you had nearly run out of during that devastating fire season?---That, that's absolutely right.

Yes, thank you. Now, can I then go to the Logistics request of 4 August, 2014, that is Exhibit 10, pages 27 and 28, if they could, yes, thank you?
---Yes.

Now, in respect of this particular document, I think Counsel Assisting has said the quantity which has been handwritten in may not have been on that document at the time it was presented to you?---Yes.

If that had been the case, that would not have been unusual or exceptional for you because what you're dealing with in respect of that issue is authorisation to get this particular goods off and running for persons who required it. Correct?---That's correct.

Now, on 4 August, 2014 when you signed the document, that was the Clarence Valley fires?---That's correct.

10 And there were 76 fires burning in the Clarence Valley or approximately that amount?---Something like that, yes, I can't - - -

And properties were being - - -?---Yes.

And properties were being destroyed?---Yes.

And so at the time this was presented to you, a section 44 was up and running?---Yes.

20 It had been declared on 2 August?---That's correct.

And is it fair to say this, that when something such as this is being presented to you in your role, it's not your role to know exactly how something is to be procured, correct?---No, that's, that's right, I'm dealing with the operation as such.

What you're signing is a logistics request, is approval to procure something?---That's right.

30 And is it the case that you often don't know how many, when, where, or how when you're signing that document, correct?---That's correct.

And you rely on the logistics officers who have made the request and those at headquarters who are coordinating it to deal with the nuts and bolts?---Absolutely.

Now, you were in the middle of a section 44 I think, as we've said?---Yes.

40 At the time this one came through, and is it fair to say that you thought ordering snack packs at that point was a good idea because the 2014/2015 season was predicted to be very bad?---It was and - - -

And you were already having fires?---Yes.

Thank you. Now, in terms of your delegation on logistics requests regardless of whether something is 150,000 or more is it the case that you signed them all? Correct?---That's correct.

And for those within your delegation no further authorisation was requested?---That's right.

And for those outside delegation they are sent on by finance, or should be, to Deputy Commissioner Rogers where your signature demonstrates to the Deputy Commissioner that you've certified it as being appropriate?---That's correct.

10 Just if I can ask this question, for those outside the delegation are they sent on by finance or by logistics? Yeah, by finance or logistics?---Ah, effectively I would give them back to logistics who would then process them. I'm not sure how that process went.

Okay?---I was, I was outside. I would just simply hand them back and say, "These were beyond my delegation," and they would then take them to the next level.

20 And you were the State Operations Controller on the 4th of August - - -?---I was.
- - - and you signed this particular request, correct?---I was.

I have no further questions for the Assistant Commissioner, thank you.

ASSISTANT COMMISSIONER: Thank you, Mr Moses.

MR KATEKAR: If nobody else does I've just got a couple of - - -

30 MR BREWER: I've just got one question.

ASSISTANT COMMISSIONER: Yes, Mr Brewer.

MR BREWER: Thank you. Could I just clarify this, Assistant Commissioner, just the referencing number for section 44 is the first number and the slash and the second number represent the fire season like, '14/'15 001?---Yes.

40 Okay. Could I just ask, Commissioner, in respect of Exhibit 80 it says at the top that it's the '12/'13 fire season. I'm just wondering if it should be the '14/'15 fire season?

ASSISTANT COMMISSIONER: Yes?---Yes.

We did change that, Mr Brewer.

MR BREWER: I didn't hear that. Thank you.

ASSISTANT COMMISSIONER: So you're another one who hasn't been listening and - - -

MR BREWER: I'm sorry.

ASSISTANT COMMISSIONER: I'm taking notes now.

MR BREWER: Thank you. Sometimes the audio doesn't quite make it up this far.

10

ASSISTANT COMMISSIONER: All right.

MR BREWER: Assistant Commissioner, you've been taken to a number of purchase orders and in particular the last one that was on the screen with a handwritten number of 100,000 - - -?---Yes.

20

- - - right, with reference to the snack packs, I noted on that purchase order in brackets were these words, "Goods to be delivered over four months." Now, I take it that vendors wouldn't always immediately have the stock that was required by RFS or might be in the process of producing stock for whatever product, foam, retardant, et cetera. Is that so?---That, that could be the case, yes.

And it wouldn't be unusual would it for a vendor to issue an invoice for the partial supply of that particular purchase order?---Well normally they would have to apply the purchase order. We wouldn't process without it. Align with the purchase order. So whatever the purchase order was that, that's what the invoice should relate to otherwise it wouldn't be processed.

30

All right. But if it was for an amount of product less than the purchase order stipulated and the price, or the charge for that quantity was something below what the total of the invoice contemplated there wouldn't be anything unusual about that would there?---Oh look, that's not my area.

Thank you?---That's a procurement issue.

Thank you.

40

ASSISTANT COMMISSIONER: Yes, Mr Katekar.

MR KATEKAR: Just quickly one thing that I'm not sure that I heard correctly, you mentioned something about a 12 and - - -?---Yes.

- - - and that therefore it needs to go through logistics in order to get out to the field?---Yes.

Do you remember saying that?---Yes.

Can you explain that so that I can understand it?---The 5-0-0-0-0-1-2 - - -

Oh, right?---The 50000012, and you'll see in the, in the PowerPoint presentation there's a slide that says, "Orders that will be placed through State Logistics and/or MILS," which is Major Incident Logistics Cell, or Services and in there you'll snack packs, foam. That's the 12 account.

The 12 account?---Yes.

10 The 50000012? And that's where it's accessed from, correct?---Yes. Yes.

In order to get out in the field it needs to be actioned through logistics?---State, State Operations - - -

State Operations Centre?--- - - - or the procurement cell.

To come out of - - -?---Yes.

20 - - - 5-0-0-0-0-1-2 and then - - -?---Yes.

- - - physically go out?---Yes.

But then be journalled to that event?---Yes. Because - - -

30 Correct?--- - - - we didn't want a situation of, particularly in those, foam's an example where the incident controller – there's a lead time on producing foam and so on so you needed to have stocks of foam for example and therefore ah, we didn't want each incident controller placing an order against the vendor for three pails of foam or five pails of foam and so on. It was better that it was stocked and would go out under that 12 account.

It needs to go via that account?---Yes.

And via logistics?---Yes.

To keep control over orders, correct?---Yes.

And quantities?---Yes.

40 All right. And that's part of the purpose of having the 12 number?---Yes. Yes.

Is that right?---Yes.

Next, in relation to the logistics request that was in blank given to you, could that be brought up? You gave an answer a minute ago 30th of June – no, sorry, I withdraw that. The one of 4 August, 2014?---Yes.

The question I think that was given to you was that when a logistics request is given to you for signature you may not know how many, where or how it's going to be acquired?---Yes. Yes.

10 Now I ask you this, ideally, particularly in relation to things such as snack packs or foam a logistics request would tell you how many?---Ideally but as I, the example I gave earlier in relation to the transfer of the taskforce for example, sometimes that is not known so um, and from my perspective I don't see the request from the incident about what the numbers may be and so on. So - - -

All right. So is this right, just so that we're really clear, when the logistics officer gives you something like that with it blank - - -?---Yeah.

- - - you're agreeing that that function needs to be performed?---Yes.

Do you agree?---Yes.

20 But that you're relying on the logistics officer to arrive at an appropriate amount to fulfil that function?---Correct.

Do you agree?---(No Audible Reply).

But that that arrival might occur after the logistics request has been signed?--That's correct.

30 And do you say to the Commission that that process that is the arrival at the number, it may be necessary to do that after the logistics request has been signed for purely practical reasons?---Ah, yes. That's right.

Right. Would, okay, I'm going to ask you this straight. I know it's one minute to one and it's my last question – but from the Commission's perspective you may or may not appreciate that the insertion of 100,000 into that document was part of the process by which Mr Hacking has facilitated the fraud. Do you agree with that?---Yes.

40 And that regrettably you're, that the faith that you placed in him, or the confidence that you placed in him was misplaced. Do you agree with that?--Absolutely.

And that from the Commission's point of view, for the purposes of preventing corruption in the future that in the ideal world before you're asked to approve say, the acquisition of a certain, of a thing that the quantity of the acquisition should be placed before you before approving it. Do you agree with that?---In an ideal world?

In the ideal world?---That, that is – I would agree.

Yep?---However, we don't operate in an ideal world.

We don't operate in an ideal world?---And therefore um, in some instances it can't be known - - -

It can't be known?--- - - - so therefore all, all we can do is approve on the basis that yes, we know we need to acquire something but we may not have all the facts before us when we do that.

- 10 Is, is there some – would it be possible to inject some discipline such that where it is known or a best guess is able to be given that it is given?--- That's a fair assumption.

That's a fair assumption. But that would be only in perhaps exceptional circumstances when you really don't know that you are forced to approve it without really knowing?---I wouldn't call it exceptional circumstances. It's a common situation. As I said, the, the issue of the transport of a task force to Cobar - - -

- 20 Yes?--- - - - may not be known as to where that task force is coming from, where they need to fuel, where they need to be fed and so on - - -

Yeah?--- - - - at the time that the request comes through.

Is it possible, just dealing with this – I'm sorry, Commissioner, about going over time. I'm just trying to nail this one. Isn't it the situation where if you put all of that responsibility in the hands of somebody well down say, say in the position of the logistics desk that there is a potential for corruption at that point?---Yes.

- 30 And that would it be possible to delegate the function below you where you're the State Operations Officer to somebody else to work with the logistics officer to reduce the scope for the authority that you've been given – that you've given below you to be abused?---Yes.

You agree with that?---Yes.

That's all I have.

- 40 ASSISTANT COMMISSIONER: Thank you. All right. Well, you are now excused?---Thank you, Commissioner.

Thank you for your attendance, and we will resume at 2 o'clock.

THE WITNESS EXCUSED [1.02pm]

LUNCHEON ADJOURNMENT [1.02pm]