

TRANSCRIPT

ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE

Inquiry into the CFA training college at Fiskville

Melbourne — 21 December 2015

Members

Ms Bronwyn Halfpenny — Chair

Mr Tim McCurdy — Deputy Chair

Mr Simon Ramsay

Mr Tim Richardson

Mr Bill Tilley

Ms Vicki Ward

Mr Daniel Young

Staff

Executive officer: Dr Janine Bush

Research officer: Mr Patrick O'Brien

Witness

Mr Mick Bourke, former Chief Executive Officer, CFA.

The CHAIR — My apologies to Mr Bourke and to the public. We are running way behind schedule. Thank you for waiting, even though we are well behind our schedule. Mr Bourke, I am just going to go through a couple of formalities before we get onto our questions, and then we will see how we go. As outlined in the guide provided to you by the secretariat, all evidence at this hearing is taken by the committee under the provisions of the Parliamentary Committees Act 2003 and other relevant legislation and attracts parliamentary privilege. Any comments you make outside this hearing will not attract parliamentary privilege. It is an act of contempt of Parliament to provide false or misleading evidence to the inquiry, and the committee may ask witnesses to return at a later date to give further evidence if required. All evidence given today is being recorded, and you will be provided with a copy of the proofs once they are available to check for accuracy prior to the transcript being made public.

Mr Bourke, as I understand, you were the chief executive officer, CEO, of the CFA from September 2009 until February 2015. Is that correct?

Mr BOURKE — That is correct.

The CHAIR — In opening our line of questioning I just want to go to one issue, which is the subject around the questioning of the independence of the Joy report because of your previous roles within the Environment Protection Authority. I am just going to go through a few of those issues prior to getting onto the questions about the situation at Fiskville.

Mr BOURKE — Sure.

The CHAIR — First of all, as I said, you were CEO of the CFA from 2009 to 2015. Is it also correct that you were the chairman of the EPA between 2002 and 2007?

Mr BOURKE — Between 2002 and 2009.

The CHAIR — Then from the EPA you moved immediately across to the CFA.

Mr BOURKE — That is correct.

The CHAIR — When the issues about the contamination and the toxic chemical exposure of people at Fiskville came to the fore, you as the CEO appointed Professor Joy in 2012 to investigate Fiskville. He was limited in that investigation up until 1999. Why was that cut-off point of 1999 decided upon?

Mr BOURKE — In discussions with Professor Joy and with his knowledge that the hot PAD was being reformed during 1999 — or 1996 to 1999 — and that that would be a clean fuel setting then, it seemed appropriate that we end it at that period, which would be the area which was likely to be most subject to the discussions around the bringing in of contaminated products for burning on the old PAD.

The CHAIR — Okay, but I think the issue is around contamination. This committee has heard a lot of evidence about ongoing contamination well beyond 1999. Going back to the independence of the Joy investigation, could you see that it seems a convenient cut-off point when you started at the EPA in 2002 — so by finishing the investigation at Fiskville in 1999 there is no calling into question the role of the Environment Protection Authority while you were at the Environment Protection Authority?

Mr BOURKE — I might ask you if you can — —

The CHAIR — Sure. The committee has heard a lot of evidence about the conduct of the CFA and the relationship between the Environment Protection Authority and the CFA at Fiskville. The EPA has been involved at Fiskville for some time, over all of the contaminants and also the contamination of adjoining properties. The cut-off date for the Joy report is 1999. Do you think it could be seen as convenient that that was the date decided by yourself at the CFA, because it was a time just prior to you becoming the executive officer of the Environment Protection Authority?

Mr BOURKE — No, I do not see that there is any relevance there, unfortunately. I could not crystal ball what was happening. I certainly had no firsthand experience with CFA nor their training facilities in my time at EPA.

The CHAIR — Even though during that time there were continuing problems with contamination and pollution?

Mr BOURKE — In the EPA, regional structures are applied, and the Fiskville site would have been looked after probably from Ballarat or Geelong. Certainly there was nothing that I had any view of from my position.

The CHAIR — But can you see that it might be perceived that way?

Mr BOURKE — Certainly in terms of perception that is possible.

The CHAIR — Because again as the CEO of the CFA and trying to uncover the truth to find out what was really going on, I think people would want to see that it was a very independent and transparent inquiry. I just want to quote from the secretary of the firefighters union on this issue about the relationship between Robert Joy and yourself, the EPA and the CFA. He says:

Absolutely independent. It has to be an independent inquiry, it has to be with a person agreed to by the parties; there is a perceived conflict if there was an internal inquiry, and there are international experts that have looked at these type of incidents very closely ...

This is a quote, as I said, from the UFU. Do you think that the appointment of Professor Joy was the person to show that this would be an independent inquiry?

Mr BOURKE — We did many things, but the importance was that we moved very quickly. When the story broke in 2011 it was like a bombshell in CFA, and people initially did not seem to want to put up their hand and say that there were things that could have been wrong at Fiskville. My view was that we needed someone certainly from outside of CFA, but someone who is incorruptible, someone who has an immense knowledge of the environment and particularly of polluted sites and a person who has a carriage of himself to be able to interview people who might have been in delicate positions and delicate settings to be able to get the best information.

That is the promise we made to all CFA members: that we would go as far as we could go to understand, on their behalf, whether the effects of the activities that had been held at Fiskville would in fact leave them with legacies, bad legacies potentially, from those types of activities. That is what we were aiming for, and I think Professor Joy did a particularly good job in that respect.

The CHAIR — I will not labour the point any more and I will pass it over to other people with questions, but what I am trying to get at is that if you really are genuinely trying to investigate what happened and to show people that you are doing the best you can, it just seems odd that you would employ to do the main body of work a person you worked with at the Environment Protection Authority and had a close working relationship with rather than a person who was at arm's length and completely independent of any relationships within the CFA.

Mr BOURKE — Certainly it was not me alone. In terms of appointing Professor Joy those considerations arose, but he had the ideal capabilities and credentials. As well as that, we had PricewaterhouseCoopers audit the governance around that to ensure that it was independent, and they came back being able to attest to that.

At the same time we set up a board committee. The chair of the board set up a board committee that was dedicated to this particular issue. Professor Joy would meet with them from time to time, tell them how he was proceeding with his work, just not talking about the subject matter but how he was proceeding. My job was to ensure that he had the physical resources in terms of people and finances to do what the job was that he needed to do, so in that respect I believe it was an independent process.

The CHAIR — Thank you.

Mr McCURDY — Thanks for coming in, Mr Bourke. The submission from the CFA spoke to us about the standards for E. coli bacteria in water, and that up until 2008 the standard was 10 organisms per 100 millilitres. That was increased from 10 to 150 organisms per 100 in 2009 before it went back to 10 back in 2012, so there was a three-year period when that standard went from 10 organisms per 100 millilitres to 150 then back again. Can you explain why that was the case?

Mr BOURKE — No, Tim, I cannot explain why that is the case. It was generally given that we had a variety of field training grounds across the state, and there were water quality settings for each of those in the main. At Fiskville, I had seen some older reports that showed that they had this standard, then another standard, and each time that had been credentialed by some contributions to the national guidelines for water quality and in other ways fit-for-purpose water for firefighting training. Tim, I cannot explain how those things moved around, only that the requirement of business was to ensure that the quality of water was maintained within those parameters.

Mr McCURDY — So there would not have been any steps or measures put in place for protecting people's skin knowing that those levels had gone up from 10 to 150?

Mr BOURKE — Again, I am not qualified to be able to talk about what those differences are in E. coli. That alone is one parameter. The setting of those standards is really about ensuring that the parameters are all met to a major extent so as to ensure that in general the water supply that was being provided was safe.

Mr McCURDY — Furthermore, the committee has then had evidence that Central Highlands Water found levels of E. coli bacteria in water at Fiskville — this is 2011 — to 2400 organisms per 100 millilitres, so they were extremely high. That is when the standard had gone from 10 to 150, so we are now talking 16 times that level. Were you advised of these results at the time?

Mr BOURKE — I do not recall being advised, but in respect of water quality, our team at Fiskville, led by the operations manager and John Myers, who led the PAD operators, would have taken corrective action if they had have seen that, and I would have expected that to have been the case.

Mr McCURDY — Do you know what that corrective action was?

Mr BOURKE — In general, Tim, the corrective action would be to apply some disinfectant for capability.

Mr RICHARDSON — Thank you, Mr Bourke. The 2013–14 annual report of the health, safety and environment committee stated that:

CFA internal auditors, PWC, has characterised CFA's OH&S approach as having a strong compliance focus with the inference being that there is a need now to more comprehensively and successfully embed HS&E within the culture of CFA.

Can you provide the committee with some more detail about the nature of this review?

Mr BOURKE — Sorry; which review, Tim? I did not pick that up.

Mr RICHARDSON — It was the health, safety and environment committee's annual report of 2013–14. Are you familiar with that document, and in particular its reference to a need to embed health, safety and environmental practices?

Mr BOURKE — Yes. I can speak to that, Tim. I appreciate the question. The health safety and environment committee is actually one of those things that came out of the Fiskville inquiry, if I can call it that. It was a fairly critical issue, one where the board brought in a specialist OHS&E person to sit on the OHS&E committee so that we could have some more structure around the processes that are needed to embed safety and a high level of safety culture in the organisation.

Mr RICHARDSON — What were some of the actions that you took to try to embed that culture in the CFA? What processes?

Mr BOURKE — Certainly lead by example was a very clear one and one that the total executive team supported. The executive team met as an OH&S committee itself on a regular basis. The processes around auditing certain activities in the organisation for any incompleteness and bringing those into a better level of compliance. Certainly in terms of policy it was improved quite immensely. We provided over a period of time more people on the ground with health and safety experience and also a person with environmental capabilities.

Mr RICHARDSON — Going to a report that was put forward to the CFA board on 14 February 2012, the committee understands that your CEO report included an item titled 'Fiskville chemical use 1970s–1990s'. Can you provide an overview of what this chemical use report entailed?

Mr BOURKE — Sorry. What year is that?

Mr RICHARDSON — That is 2012, on 14 February. The committee understands that you as CEO reported on Fiskville chemical use from the 1970s through to the 1990s. Is that the case?

Mr BOURKE — I cannot recall the item, but it is very timely, given the information that came out through the press in early December in 2011. Then in 2012 we would have probably been bringing together at least the preliminary issues around those things, so we would have worked through that period of time, Tim, and we would have probably got a bit of a sketch from people we talked to or had talked to about what activities occurred and what they knew. That would have only given a bird's eye view of the issues around chemical usage at Fiskville. That would be my best guess. The document should be available that supports that.

Mr RICHARDSON — Are you familiar with the ALS report that was provided and particularly covered dam 1 and dam 2 at Fiskville, and that was in February 2012? It is timely because what is said to be a report that you tabled also correlates with an ALS report of February 2012. The reason I ask is that that report found water in dam 1, the test results suggest it showed arsenic, copper, lead, mercury, nickel, zinc, benzene and other chemicals that were above safe levels. If they are still present in dam 1 in 2012, it seems to be a worry that the Joy report only ran up to 1999 when there is a persistence of those chemicals at an unsafe level. So do you have any familiarity with the ALS report of 2012?

Mr BOURKE — Not to my recollection, but can I say a couple of things? Was that in January or February 2012 — —

Mr RICHARDSON — February 2012.

Mr BOURKE — And dam 1 — is that what it is?

Mr RICHARDSON — It says, 'Sludge in dam 1 is considered category A industrial waste'. It also states, 'Water in dam 2 is outside re-use guidelines', and then goes on to say that the levels 'were above safe exposure limits in dam 1' for those chemicals I mentioned.

Mr BOURKE — Sorry, Tim, I apologise for cutting in. Can I do two things here? One is: I am sitting up here as a CEO, directing the organisation and understanding where the needs are and trying to apply the resources and get the right systems in place, and in that process I try not to get into all the detail. But what we have is skilled people at the field training grounds who have the capability to understand what is happening with their water supplies and, if they have got issues, to raise that with their executive directors.

Mr RICHARDSON — To go to that point, we are of the understanding that people on site at Fiskville for many months were attempting to try to address the water quality issues and were pitching for upgrades on site to the water quality and were consistently knocked back from the CFA. That was said to be at the executive director level. Do you have any knowledge of any business cases or assessments coming forward to you as CEO, requesting for upgrades or improvements to the water quality that were going through the executive director? Was that ever something that came through to you?

Mr BOURKE — Only at some stage when there was a discussion around some investments, Tim. The investments I am talking about were those that were brought around tanked water — town water, if I can call it that, urban water — to bypass the existing dam-based approach. That was probably a bit later than 2012, I would have thought, or a bit later in 2012 than that.

Mr RICHARDSON — We heard just before from Jeff Green that he was not aware of that ALS report and the potential exposure. If it is found in 2012 and the assessments are being done from there, it could have been many years that its exposure was present there. Do you think that that should have been provided to the occupational health and safety manager at the CFA?

Mr BOURKE — Without a doubt.

Mr RICHARDSON — Why would that not have been the case?

Mr BOURKE — I cannot reason that; I do not know why that would not be the case. The general process, again, is that if the operations manager at the site had an issue, he would elevate that to the executive director.

The executive director should have then taken that to Jeff as the health and safety officer and worked through that way. That would be proper.

Mr RICHARDSON — Given the fact that this report found these chemicals in unsafe levels, do you think it was an error that the Joy report only ran to 1999 and that the assumption that practices were improved and that fuel then being burnt on the PAD was then acceptable was an error?

Mr BOURKE — If you think about dam 1, Tim, it is not used for firefighter training.

Mr RICHARDSON — It is still unsafe, but dam 2 is.

Mr BOURKE — I do not know what the issues are with dam 2, and I do not want to unpick them here necessarily, unless you would like me to. The general issue is, particularly if it is in January, that we do not train people in January on the hot PAD generally until the later part or into February, so the water in itself is not being used for that purpose at that period of time. That is one possible explanation.

The CHAIR — Why would you commission a report then?

Mr BOURKE — Pardon?

The CHAIR — Why would you commission the report then if the water was not being used? This is a report you commissioned, the CFA commissioned.

Mr BOURKE — The CFA commissioned it, yes, and it is not a report that I have seen.

Mr RICHARDSON — Going back to section 22 of the OHS act and the CFA complying with that act to maintain safe conditions for employees and notifying them of the risk, has the CFA acquitted its obligations under the OHS act, where that report was not made available to people, you were not aware of that report and the occupational health and safety manager was not aware of that report?

Mr BOURKE — Also it depends upon the risk assessments — if they were being done or were not being done at the same time. Again if it was not being escalated, Tim, that would be a concern. If it was not being escalated because people did not want to know about it, that would be a greater concern.

Mr RICHARDSON — Who is responsible for commissioning reports then?

Mr BOURKE — The reports could be commissioned, and often were, at the field training ground level.

Mr RICHARDSON — At the field training ground level?

Mr BOURKE — Yes.

Mr RICHARDSON — At the field training ground level. Because that conflicts with evidence we have received that it is not at that level that reports are commissioned and that that would be at a higher level from an executive director or potentially — —

Mr BOURKE — I suppose that is possible too, Tim, that the OM might want a certain report and might ask the ED. If that is okay, then they would go ahead and deliver it.

Mr RICHARDSON — Finally, on workplace and safety, in particular WorkSafe gave evidence to us that they would not have been on site and testing water had it not been for an approach by the UFU, which raised concerns about water safety. What has the CFA done post those kinds of issues and the fact that it was the UFU that had to bring that to the attention of WorkSafe? What had the CFA done in response to that to improve those practices and assess not only Fiskville but other training colleges around the state?

Mr BOURKE — Certainly at Fiskville the water supply for training is potable water.

Mr RICHARDSON — What other assessments, though, have been done at other training facilities? WorkSafe were not even testing water or were given assurances about water quality, but what other assessments were done at other training sites about safety, given that it was the UFU, not the CFA, who gave that information?

Mr BOURKE — I do not have an answer to that, Tim. That would be something the executive director would be responsible to bring to me or to bring to the business.

Mr RAMSAY — I would just like to ask a few questions around the Lloyd family, and specifically the request for the scientific test results from the tests carried out on their property. So on 5 December 2013 Slater and Gordon wrote to you requesting documents relating to contamination of the Lloyds' property. The Lloyds also lodged an FOI request on 20 January 2014 to gain, amongst other things, access to scientific testing conducted at their property and Fiskville. There were a number of letters where the CFA indicated they would provide the results, but there were ongoing delays. For example, on 17 December 2013 the results were promised by 27 December, and on 9 January 2014 it was claimed that the Christmas/New Year period had delayed the results. On 28 March 2014 Slater and Gordon noted the results had still not been received by the clients. So we started back on 17 December and there were a range of excuses up until 28 March, and I am wondering, Mick, if you can provide an explanation to the committee as to why there were such delays.

Mr BOURKE — In terms of that information, I do not know how long it took to bring together, Simon, or exactly what the legal processes were. What I do remember — sorry, can you give me the date again?

Mr RAMSAY — It was 5 December when there was correspondence from Slater and Gordon.

Mr BOURKE — What year, Simon?

Mr RAMSAY — That was 2013. So we have gone from 5 December, when Slater and Gordon wrote to you requesting documents, and then an FOI request from the lawyers themselves on 20 January.

Mr BOURKE — Yes.

Mr RAMSAY — On 17 December 2013 — this is post the Slater and Gordon request — the CFA promised those results by 27 December. Then we went into January, and then we went into March.

Mr BOURKE — I do not know why those results were delayed, if they were, Simon. I do not know the answer to that.

Ms WARD — They were delayed.

Mr McCURDY — He does not know why they were delayed.

Ms WARD — He said 'if' they were delayed.

Mr BOURKE — The Lloyds had engaged Slater and Gordon on their behalf. We had worked down a process for mediation, a date had been set for mediation, it came and went because Slater and Gordon did not bring themselves to the table on that. We allowed more opportunity for that to occur. To my memory, it did not occur.

Mr RAMSAY — I have just a couple more questions around this — and I do not want to drag it out too much because I understand the Lloyds are here today with us — but Dr Drew's final report was dated 15 May 2014 in relation to the toxicology testing. The question I will perhaps ask of you is: why was a copy of this report not provided to the Lloyds until 17 June 2014, which was about a month later, given obviously their concern around the tests themselves? It seems quite a long delay.

Mr BOURKE — I think a lot of this data gathering, Simon, was caught up in the environmental auditor's remit to bring together an assessment at Fiskville, and it is factual that we delivered that in one package at the end of the day — it was about yay high — when all of the information had come together. So that may be part of the answer, but I cannot give you any other reasoning than that.

Mr RAMSAY — The committee is aware that Dr Drew had told an interagency meeting on 15 November 2013 that there was no health or food safety risk and briefed the Victorian chief scientist, Dr Graham Mitchell, on 16 December 2013 about all the test results. So why did the CFA refuse to provide the Lloyds with the scientific testing results when they first requested them back in December 2013, given that Dr Drew had already had an interagency meeting and discussed the results on 15 November 2013 and given that the results had been provided to government departments at least as early as 15 November 2013?

Mr BOURKE — I have not got an answer to that, Simon.

Mr RAMSAY — All right. I might reserve the right, Chair, if I may, just to pose another question at the end of the session.

The CHAIR — Sure. I have just got a couple of quick questions about the issue around the Lloyd family. First of all, I guess in terms of mediation, it may well be that they could not proceed because they did not have the information. Would that be right?

Mr BOURKE — At that time I know they did have information.

The CHAIR — They did not have the information that Simon has just asked you about.

Mr BOURKE — I think it would be proper to just go back and check when that was provided, but it was provided.

The CHAIR — I think some of it has not been provided to this point, even now. So that could be a reason why mediation was not able to proceed, if that was the case. We have heard evidence about the stock contamination notice and the revocation of that notice on the Lloyd property. We heard that first from the Lloyds themselves, and we have also heard it from various other people. We understand that there were various meetings to discuss this, and those meetings involved Minister Peter Ryan and various government agencies, whether it was Department of Justice, the chief health officer or representatives of the CFA. Were you present at those meetings?

Mr BOURKE — No, I was not present at those meetings. I was away at the time of the stock issue, and Michael Wootten was acting in the chair for me at that time.

The CHAIR — Were you aware or in any way involved in the offer of compensation that was made to the Lloyds by the CFA?

Mr BOURKE — No, that was made by Michael while I was away.

The CHAIR — But you had no involvement in that or had any discussions about how much to offer, to actually make an offer? You were not part of the decision-making?

Mr BOURKE — No, Michael was acting as CEO, and I think the issue of compensation was a reasonable one. The Lloyds are very decent people. They are very good farmers, and they are very good neighbours.

The CHAIR — Yes. I am not implying that there was something wrong with offering.

Mr BOURKE — From a CFA perspective we would really like to have been able to bring about some compensation. There are reasons that I cannot talk about easily even here as to why that was. There are other parts of government that had to sanction or otherwise the provision of any compensation.

The CHAIR — That was my next question: why was the decision reversed? It seemed that a decision was made to offer compensation, and that offer was withdrawn. Is that right?

Mr BOURKE — That is right, and there was another process running in another part of government that we had to clear if we were to be able to make any other compensatory offerings. That is why we eventually ended up in some mediation. We hoped that that would be the ground for that, but it did not actually occur.

The CHAIR — So it was members of the government who said you should withdraw the offer of compensation?

Mr BOURKE — There are certain matters that, given parliamentary privilege, I cannot discuss.

The CHAIR — We have heard evidence today that you, not Michael Wootten, advised that the issue of compensation for the Lloyds was going to be dealt with in another manner. All other issues were being reported to the board subcommittee — the health and safety subcommittee — other than the issue of compensation to the Lloyds, and you were the one who was dealing with that and seeking further advice about it. Is that correct?

Mr BOURKE — That is right, and the board was informed if there were any changes in that setting from time to time.

The CHAIR — Sorry, can you repeat that?

Mr BOURKE — Sorry. The board was informed if that process had changed at any point in time.

The CHAIR — So you put the proposal of compensation to members of government at the time, and it was rejected. Is that correct?

Mr BOURKE — No. I cannot say that in toto. What I am saying is that the view of the government was to meet a reasonable compensation, but what a reasonable compensation was had not been determined.

The CHAIR — But it was not the offer that the CFA had made.

Mr BOURKE — Pardon?

The CHAIR — But the offer that the CFA had made was rejected by government.

Mr BOURKE — No. The view of the government in terms of what might be fair compensation was something that would be discussed in the mediation process, and we did not get into the mediation process.

The CHAIR — The dealings and the care with which the CFA treated the Lloyds seemed to be not very nice in that compensation was offered and compensation was withdrawn, and there seemed to be then no ongoing interaction with the Lloyds in a compassionate way. It was all then done through lawyers. What I am trying to understand is: was that a decision of the CFA, or was that a decision of the government?

Mr BOURKE — My memory is that the Lloyds talked about getting legal support, and they did, and I do not think that was inappropriate, but to get to a final package of some kind had not occurred elsewhere in government. I cannot talk about some of the matters in a past government. That is not proper for me to do.

The CHAIR — We will have the debate later about parliamentary privilege versus the other forms of privilege, but perhaps I will pass you on to Vicki for her questions.

Ms WARD — I was interested in you saying that the Brian Potter story, when it landed on the front page of the *Herald Sun* on 11 December 2011, was like a bombshell. I just want to read to you some of the words of Diane Potter when she gave evidence to this committee earlier this year. She talks about a time when Brian was in hospital and he mentioned to her that he would like to talk to someone at the CFA about his concerns. She said:

I then put a call in to a board member, and that started the ball rolling. Unfortunately, when an appointment was made to come and talk to Brian, they chose not to turn up.

...

We heard later the reason they did not turn up was that someone high up had said they were waiting for Brian to fall off the perch and they would not have to deal with it. Very distressing for us. They also denied that they knew anything about Brian's concerns until the story broke, but the meeting had been organised five months prior to the media release, so they did know.

Were you aware of any of the health issues that Brian Potter had voiced and tried to convey to the CFA prior to the story in the paper on 11 December 2011?

Mr BOURKE — I became aware of Brian's illnesses, but I am not sure at what date that was. I suspect in my mind that it came after the release in the *Herald Sun*.

Ms WARD — So you never became aware of the appointment that he tried to make with a board member of the CFA?

Mr BOURKE — I later became aware of that, yes.

Ms WARD — That was post-11 December 2011, when the story was in the *Herald Sun*.

Mr BOURKE — Yes, it was post that time, but I am aware that there had been a discussion between a couple of board members about Brian and about that setting.

Ms WARD — About Brian talking about his time at Fiskville contributing towards his cancers?

Mr BOURKE — No, my understanding was that he had talked to a board member about buried drums at Fiskville. That was the extent of that discussion that I am aware of.

Ms WARD — Was that a discussion that he had had quite some time ago? Because it would seem unusual that he would be so ill that he would put in a request to talk to a board member about his illness, only they did not turn up, and he talked to another board member about buried drums.

Mr BOURKE — No, there is only the one board member that he spoke with in my understanding. I do not have the full understanding, but in my understanding, it was one board member. My understanding was that he indicated that he would call Brian back and that he did so but Brian at that time was in hospital. Then, for whatever other reason, someone in the press then became part of that discussion with Brian, and it went to where it went to, as far as I know.

Ms WARD — From the Potters' perspective, the *Herald Sun* had the story because the CFA were not listening to them. I want to just quickly go back to the conversation that Bronwyn had with you regarding the Joy report and I also want to relay to you the comments that Brian Potter made about this appointment and I am interested in your views. Diane says in this same transcript:

I could see Brian was not very happy with this —

this is the appointment of Rob Joy —

and then he went on to tell Mick Bourke that he felt it was incestuous, as the CFA were doing an inquiry on themselves and he was also using an old work from EPA days.

I just quote something that is in Brian's own words, where he says:

It is some two years since I first tried to alert Country Fire Authority executive management of the link between the hazardous materials stored and burnt at Fiskville, the CFA training establishment, and the deaths and illnesses of those who worked, trained and lived there. My initial attempt to publicise the danger to other officers was unsuccessful. However, the *Herald Sun* took up the issue in December 2011 and the resultant publicity alerted serving and retired fire personnel throughout Australia of the potential danger from cancer to them.

If you would not mind first commenting on Brian's comments around your appointment of Rob Joy, and then also on his comments regarding how the CFA managed his own illness.

Mr BOURKE — Certainly. In respect of Brian, I only met him once. Sorry, that is wrong. I met him three times.

Ms WARD — You came and saw him the day after the *Herald Sun* story broke, I believe.

Mr BOURKE — Yes, along with chief officer Euan Ferguson. We went there because we felt that Brian deserved that sort of respect and we should have a discussion and understand where it was coming from. We had a good discussion, a polite discussion and a decent one with Brian. So we did that. In respect of Brian's views around the independence of Professor Joy, that is the first I have heard of those.

Ms WARD — So you not recall him saying that to you?

Mr BOURKE — Certainly not, no. But at the same time, he is a very skilled and learned man and I think that he contributed quite a bit in that period of time.

Ms WARD — I am sure he did, but I am just surprised that is Diane's recollection and that she is on transcript saying that he said that to you. You do not recall that occurring at all?

Mr BOURKE — On transcript to who?

Ms WARD — On transcript to this committee.

Mr BOURKE — First I have heard of it.

Ms WARD — Okay. I also want to turn your attention to the transcript of Mr Roughead, an employee at Fiskville, who made the following comment about his access to information about water quality. He said:

... at no time has anyone shared any information with us to say there was a problem with the water quality. As far as we were aware, the water was safe to use, and we were out there with it all the time.

...

... we question why when that knowledge became available it was not shared with us immediately. People have known about — — water contamination —

... for a period of time. Had they shared it with us, we might have helped mitigate the extent of the exposure and helped manage potential health risks that were associated with the exposure. We have had no opportunity to do that.

That was from 2011 onwards.

Mr BOURKE — I cannot answer that question. If there was information or concerns about water quality, it should have been elevated up through the process.

Ms WARD — We are aware that there were emails that were sent from I believe around late 2010 onwards, in response to the ALS report of 2010, which talks about deep concerns around the pollution within the sediment of dam 1 and there are constant requests to have that sediment remediated. I understand that that email was sent on to the head office of CFA, yet there was never any response to that and in fact it was decided to not put it on the agenda in terms of project 2016 to remediate that site but was dropped off and not actioned. Do you have any comment to make around the fact that there is this apparent lack of information at the very ground level at the CFA but there also appears to be inaction at the very top level of the CFA as well?

Mr BOURKE — Again, the process should have been that if there was an issue at a field training ground about almost anything of significance, it would go up to the executive director and, if so needed, over to the health and safety area, where there was more specialist capacity.

Ms WARD — So you do not recall receiving any information regarding the need to remediate the sediment at dam 1?

Mr BOURKE — I do not remember receiving any such advice, but if records show otherwise, I would be happy to rethink that through. I cannot remember every document at any point in time.

Ms WARD — No, of course not. Would you agree that remediating the sediment at dam 1 should have been a top priority at the time it was identified that there were heavy pollutants in that sediment?

Mr BOURKE — Again, I cannot say that for sure, in that what was being proposed was to ensure that there was a robust and secure system for water at Fiskville, which became the potable water supply. So do you spend your money this way or that way, would be one of those considerations.

Ms WARD — We are hearing testimony that the people at various times in charge at Fiskville, that your OHS manager, that people who have been in charge of the CFA, that people who have been on the CFA board, the chair of the CFA board — that there is a consistent narrative of not knowing, of not communicating, of it not being my job, it being somebody else's responsibility. We are regularly as a committee going around in an increasingly reduced circle but we are often going around in a circle to try and really work out who had responsibility for what and why certain things were not actioned. Some of the evidence that we heard from a previous chair of the CFA was that from 1996 onwards there was cultural change at the CFA, where it became a more professional outfit, if you like. I am paraphrasing. How can you account for the fact that we still get people saying, 'Nothing to see here; I didn't know', when there was apparently this effort put in over 15 years ago to improve management structures within the CFA?

Mr BOURKE — Well, there is a variety of issues that go with that. Let us think about CFA as a place that has at least 1300 workplaces, because that is what it has, 1300 of them — and the field training ground is a part of that. To a large extent a lot of the brigades act quite independently in maintaining their — —

Ms WARD — We are not talking about the brigades. We are talking about your — —

Mr BOURKE — No I just want — —

Ms WARD — Yes, I understand that, but we are also talking about your foremost training facility. It is not quite a brigade; it is a training facility.

Mr BOURKE — I will address it in respect of Fiskville —

Ms WARD — Thank you.

Mr BOURKE — which is part of what Rob Joy reported in his work. Part of what others may have told you is that often at that field training ground management took control and managed things at a local level without bringing as much forward as they possibly could have. That is my feeling for it.

Ms WARD — But we understand that there were attempts made to go up the chain, if you like, beyond Fiskville to get changes made at Fiskville that were not actioned.

Mr BOURKE — I am not aware of those at this point in time. I am happy to look at them if you have them.

Ms WARD — Thank you. I will.

We have got a report that was commissioned by the CFA in 2010 which was the *Perfluorochemicals in Firefighting Water at CFA Fiskville*, written by Wynsafe. The report concludes that:

... if current standard operating procedures (SOPs) are followed, and related personal protective equipment (PPE) is used, personnel will suffer no adverse health effects from exposure to PFOS and/or PFOA in the firefighting water.

I have two questions regarding this: were employees advised that the report had been obtained?

Mr BOURKE — I cannot say whether I know that or not. I do not know. Again it should have been but I cannot guarantee that. That is what I am saying.

Ms WARD — It seems that for many of these reports your OHS officer does not know either.

Given that the report was reassuring about health risks, do you think that employees might have been less shocked by the news about PFOS contamination if they had had a conversation around this chemical in 2010?

Mr BOURKE — I do not know that they would be less shocked but they might feel more informed.

Ms WARD — Do you think that Wynsafe's recommendations were followed through by the CFA?

Mr BOURKE — Sorry, which — —

Ms WARD — The recommendations from 2010, do you know if they have been followed through by the CFA to the letter?

Mr BOURKE — Sorry, which recommendations, if I may?

Ms WARD — The recommendations of the report I have just mentioned — by Wynsafe in 2010.

Mr BOURKE — Wynsafe? Yes, I do not know. There again those recommendations were at that regional setting.

Ms WARD — What is your understanding of the MFB's decision to stop training at Fiskville in 2012?

Mr BOURKE — Sorry Vicki, I am having trouble hearing.

Ms WARD — That is okay. I think sometimes my microphone plays up. That is okay. What is your understanding of the MFB's decision to stop training at Fiskville in 2012?

Mr BOURKE — I can remember talking to their CEO about it. He was concerned that there could be a lack of safety in respect to the water quality at Fiskville and therefore he felt it better that their people did not continue to train there. They trained at other CFA facilities. In respect of CFA, the assessments our people had

done and we had looked at in those committees indicated to us that the water was safe for that use, particularly as we were moving to potable, and we continued to train.

Ms WARD — The MFB wrote to you on 22 February 2012 to request some information, including environmental assessment reports. The MFB then wrote to you again on 18 May 2012 because they had not received the information that they requested. Can you tell me whether you responded to either the February or the May letter?

Mr BOURKE — No I cannot, not off the cuff.

Ms WARD — Do you know if the CFA ever provided the information requested to the MFB?

Mr BOURKE — I believe it got provided, yes.

Ms WARD — How do you know this?

Mr BOURKE — Because in a discussion with Nick Easy we had chatted again about those matters.

Ms WARD — And Nick Easy provided them with information. Do you know what that information was?

Mr BOURKE — I believe there are copies of the correspondence.

Ms WARD — Okay, great. Thank you.

Mr BOURKE — So we could provide those.

Ms WARD — Another thing that I have not been able to have answered is this confusion that exists around 2011 and 2012 around the quality of water at Fiskville, and it goes to the MFB trying to work out what was going on and we find out that throughout the year the MFB had come under the impression that mains water was solely at use in firefighting training at Fiskville in 2012, but we also understand from WorkSafe, and I will just quote to you:

I am saying that the day the article broke in the paper —

and this is the headline on the front page of the *Herald Sun* on 11 December 2011 —

we did send people on site, and at that time they collected a number of reports but also confirmed that they were not using the dam water, because at that time it was the dam water that was seen to be contaminated, and that we were satisfied that they had moved to mains water.

This is in December 2011, and Fiskville does not move solely to mains water until October 2012. So we have got WorkSafe believing that mains water was being used, not contaminated dam water. We also have the MFB and the UFU under the same impression throughout much of 2012, until October, that mains water was being used until we start to have this issue in June, and then we have the tanks starting to be installed because of the noise that the MFB and the UFU were making. Can you explain how we have this discrepancy in information between the CFA, the UFU, the MFB and WorkSafe?

Mr BOURKE — No, I cannot explain that because I do not think I have got access to all the documents you have got. It is a long time since I have been there.

Ms WARD — I understand.

Mr BOURKE — If you can provide me with the documents, I am more than happy to come back and give you information.

Ms WARD — We will be happy to provide you with the documents. I will also provide you with an email from a manager at Fiskville who emailed WorkSafe in March 2012 telling them that the CFA at Fiskville is using mains water. Is this acceptable practice to be not clear about the type of water that was being used at Fiskville, especially after the front page headline of the *Herald Sun* on 11 December 2011?

Mr BOURKE — What would be appropriate is to be very clear about when we brought potable water for firefighter training to Fiskville, which was June of 2010.

Ms WARD — Correct.

Mr BOURKE — I remember that decision because I was a party to that, because I felt that there was a lack of confidence in — —

Ms WARD — Correct, but what we have the incidents where we have a pit that is being used to store water because there is only one hydrant available on the PAD, and we have a pit that is being used to store water in it. The pit can only contain 240 000 litres and on busy times up to 600 000 litres can be used by fire trucks in fire training during any one day, so water from dam 2 has to come into the pit to also supplement water supplies. That is quite a lot of water from dam 2. So I think it is very clear that there is mains water being supplied to the Fiskville PAD in June 2012, but it is not exclusively used until October that year.

Mr BOURKE — Vicki, if I could give it to you clearly, I would.

Ms WARD — That would be great.

Mr BOURKE — If the executive director were here, they would be able to answer those questions; if the operations manager were here, they would be able to answer those questions. I cannot answer those things.

Ms WARD — This is the problem that we have, though, Mick — everybody tells us that they did not know. Everybody tells us that it was not their job. Everyone tells us that it was not their responsibility. When we do have questions like this, no-one can give a straight answer as to why that occurred. People say, 'I don't know. It wasn't me'.

Mr BOURKE — Yes, and I was not put there to run a field training ground; I was put there to run an enterprise that has 1300 — —

Ms WARD — I understand that, but I am sure you can appreciate our frustration too at not being able to get straight answers.

Mr BOURKE — But think about some of the governance that goes around this as well, if I may say that, because that governance is critical. There is the board standing committee on Fiskville. There is the expert OHS capability that came with the OHS committee. There is Professor Joy pouring over all the pre-1999 stuff and going through that in a great deal of detail. You have got other mechanisms in terms of the scientific studies and the like, so you have peer reviews and strong outcomes. That is the sort of stuff that I was involved in — making sure that we had the right structure and the right sort of approach to it. When we get down into the detail, it is much harder to give an answer that is very clear and very specific, because basically I did not run Fiskville as an entity.

Ms WARD — It is hard to find anyone who did run Fiskville; that is part of our challenge.

Mr BOURKE — It is a challenge, yes.

Ms WARD — In regard to project 2016, what are your views on the fact that \$6.8 million was being allocated towards modernising facilities at Fiskville, putting in new apartments and fixing up the cottages that were there, but no money was being spent on remediating areas of concern like dam 1?

Mr BOURKE — In a broad sense, the key direction after we went to tank water on the site was to ensure that any legacies of the site were reduced. As the program went forward a lot of the first tranche of the project was to ensure that any contamination left on-site would not get off-site and cause any more damage, harm or concern. So that was one of the key — —

Ms WARD — But this is two years after concerns were first raised with CFA head office around the sediment in dam 1.

Mr BOURKE — But again the direction was to move away from dam-based water.

Ms WARD — When project 2016 started it talked about new water systems being needed at Fiskville — new water supplies and sources needed.

Mr BOURKE — That was part of it, yes.

Ms WARD — I would be interested to see that because I have not seen it yet.

The CHAIR — Just to clarify one thing that you have answered. When do you say that potable water was used — roughly from what date?

Mr BOURKE — Look — —

The CHAIR — You do not know? That does not matter. We can find that information. You are aware that the UFU and the MFB were questioning the water quality?

Mr BOURKE — That is right.

The CHAIR — But you did not feel you needed to further investigate?

Mr BOURKE — Yes indeed. It was not stand and watch it. Those governance elements I talked about were very concerned and they were looking for the right answers for that, and we had a project team — project 2016 — to do that.

The CHAIR — It is just a little thing, but even if you did not know exactly what was happening in the day-to-day operation, that is understandable I guess, but when organisations that use the facility are questioning the quality of the water, as the CEO, if you were aware of that, would you not make it your business to find out if there were a problem?

Mr BOURKE — As I answered before though, CFA's assessments of the water quality and the management of that indicated to us that we could continue to train with the water system that was there and as it was improved it would even get better.

The CHAIR — But you thought it was potable water, yet the UFU and the MFB were telling you it was not obviously?

Ms WARD — It was not potable water.

Mr BOURKE — I do not know what they were talking about, but throughout that period of time CFA continued to operate and train in that setting.

Mr RAMSAY — Thank you, Mick. I have to say I do not share Ms Ward's and Ms Halfpenny's 'You had a great big conspiracy at Fiskville' — —

Ms WARD — It would be helpful if you did not put words into our mouths either, Simon.

Mr RAMSAY — and I suspect most politicians do not quite grasp the importance of firefighter training. I understand there were issues raised by UFU in relation to water quality. I understand there have been a number of testing regimes conducted on the basis of whether that water quality met certain standards. I also understand there have been certain testing in relation to PFOS and PFOA. As I understand it, from a health point of view there has been no indication to suggest that there is any unsafe water in relation to firefighter training and the standards required in relation to water quality.

Mr BOURKE — That is right.

Mr RAMSAY — I come to the point of asking on what basis then was Fiskville closed? I am getting to the question that given all that evidence, and given there was remedial work going on at Fiskville, is there anything else you can point to that would bring the government to a position of closing down the site?

Ms WARD — The board voted to close it down.

Mr BOURKE — I think the important thing there, Simon, is that government facilities are at the call and need of the government of the day and they will make decisions on the best information they have in respect of decisions like Fiskville being closed or reopened or otherwise. I do not think I can add much to that discussion here.

Mr RAMSAY — Could I then ask you your views in relation to the firefighter assessment panel, which was introduced by the previous government in relation to assessing claims through workers compensation, and also your view in relation to presumptive legislation for Victorian firefighters?

Mr BOURKE — Look, delicate areas again, Simon, so thanks for the question. I understand the presumptive legislation is still being worked through in the state with the government, and that is where it should be. What was the other component to that?

Mr RAMSAY — The firefighter assessment panel. Remember it was supposed to speed up — —

Mr BOURKE — Oh yes, the assessment panel. I thought it had merit in the usage that we had in a couple of years, but I think it in itself just depends on the building of a knowledge bank. Are there similar issues? Are there similar drivers et cetera? If we go further, then we get to: what about the people from 1971 to 1999? How do we assess if they were harmed, and, if so, what should be compensated? I think that is a real situation for a great many. I think that is going to be a hard one also, but that is also in the hands of a good committee like this and the government.

Mr RICHARDSON — Mr Bourke, just going to the Victorian Auditor-General's report of 2011, I believe, or 2010, *Managing Contaminated Sites*. Are you familiar with that report?

Mr BOURKE — What year?

Mr RICHARDSON — The Auditor-General's report into managing contaminated sites that reviewed the EPA. Are you familiar with that report?

Mr BOURKE — No.

Mr RICHARDSON — That report, which covered a significant part of your time at EPA as well as Professor Robert Joy's, concluded that the department of community development, the EPA and councils:

... are not effectively managing contaminated sites, and consequently cannot demonstrate that they are reducing potentially significant risks to human health and the environment to acceptable levels.

Given that report and given that it covered a significant part of your time at the EPA and also Robert Joy, do you believe, with hindsight now, that the review that Professor Joy undertook that you helped to put him in should have been done by someone completely independent of EPA and CFA?

Mr BOURKE — Tim, unless I read that document you have got I will not make a comment on that.

Mr RICHARDSON — I have got it on my laptop if you want to have a look.

Mr RAMSAY — It is about 70 pages.

Mr RICHARDSON — It is interesting that a review that covered a significant part of your time at EPA, *Managing Contaminated Sites*, by the Auditor-General, while you were CEO at CFA, that was tabled, that you are not aware of that document, given that it made some pretty damning findings and then goes on to say — which is particularly relevant to the Lloyds and particularly the culture at the EPA and maybe some of the culture going across to CFA — that:

In this audit we identified a range of cases that demonstrate the adverse consequences that flow from a lack of accountability and clarity, and gaps in the framework. Most notably we identify cases of inaction by responsible entities in dealing with contamination; this inaction being driven in part by an undue emphasis on avoiding legal and financial liability, rather than protecting human health and the environment.

Did that culture that was perpetuated at EPA flow across into CFA, and, under your time there at CFA, was it systemic of the dealings with the Lloyds and their circumstances regarding contamination and human health?

Mr BOURKE — Tim, I am not quite sure where you are pitching, but think about it this way: pollutions to the Fiskville site from 1971 to 1999 — —

Ms WARD — 2007.

Mr BOURKE — Sorry?

Ms WARD — 2007, with the PFOS and PFOA contamination.

Mr BOURKE — Okay, it can run right through, but in that period of time there is a lot of contamination that has occurred in a lot of places, and there are a lot of sites that have been remediated across Victoria, too. That is why I would need to read that document you have and put my mind to what it is really trying to say. Selective advice from it is not the most helpful thing for me.

Mr RICHARDSON — But you are not familiar with the report that covers contamination and the management of EPA that covered probably about 20 per cent of your time at EPA. You are not familiar with that report that evaluated your time along with Professor Robert Joy's time from 1989 through to 2013.

Mr BOURKE — I do not recall the document; happy to have a look at it.

Mr RICHARDSON — Following on from that and the fact that you are not aware of that document — —

Mr BOURKE — Just another thing if I can. I was the chairman and CEO of the EPA; I was not the scientist. Bear that in mind as you ask questions. I cannot go down to the technical with you on all things.

Mr RICHARDSON — But if there is an Auditor-General's report that is one of the chief oversights of the Victorian system and you are not aware of that report finding that EPA is absolutely wanting in their oversight of contaminated sites, is that not a worry in itself? And how then can the community have confidence that the findings of the Joy report, which covered those issues and some of the significant limitations of managing contaminated sites, were going to be solid?

Mr BOURKE — When I left another CEO came, Tim. That person would have picked up those recommendations and moved with them. You do not leave an Auditor-General's document doing nothing.

Mr RICHARDSON — Thank you.

The CHAIR — Just one quick other one in terms of the Lloyds and dealings with them, in terms of some of your responses to Simon Ramsay and to me, did you have telephone conversations with Matt and Beccara Lloyd or was it all done through Michael Wootten?

Mr BOURKE — Can you tell me that name again?

The CHAIR — Matthew and Beccara Lloyd, the Lloyds. Did you talk to them on the telephone?

Mr BOURKE — I do not believe so, no. I do not believe I have met him. Michael Wootten has met him; I know that.

The CHAIR — You have not spoken to them on the phone? You did not send information to tell them — —

Mr BOURKE — He sent a document under his signature.

Ms WARD — Michael Wootten or the Lloyds?

Mr BOURKE — No, the gentleman you just mentioned.

The CHAIR — Matthew Lloyd?

Mr BOURKE — The accountant, yes.

The CHAIR — Oh, the accountant, yes.

Mr BOURKE — Yes.

The CHAIR — So you saw the information. We have some evidence and unless there was a mix-up in the name, it says that:

... in the early days, Beccara and I would have phone meetings with —

Mick Bourke.

Mr BOURKE — In the early days that was not the case, but a little bit later on it was and — —

The CHAIR — So you did have telephone calls with the Lloyds?

Mr BOURKE — With Beccara only. I have never spoken to Mr Lloyd, but everything I hear about him is he is an exemplary citizen — and Mrs Lloyd also — and we had an arrangement where she would call from time to time or I would call her. Basically we were trying to get to a point where you could find a process to bring about a fair compensation. It was hard work.

The CHAIR — Did you send any texts to Matthew or Beccara Lloyd saying that you could not talk to them any more once they had Slater and Gordon as their lawyers?

Mr BOURKE — No, I do not recall sending a text at any time to them.

The CHAIR — Or any message to that effect by any means?

Mr BOURKE — No. I would not do that. I would not cut it off altogether. We might say, ‘Look, we have to come back through our legal peoples’, but, you know, there is no reason why we would not talk.

The CHAIR — Again, this was in the evidence that you said you sent a text message saying that you could no longer talk with the Lloyds because they had lawyers involved.

Mr BOURKE — Look, I do not recall that at all, but I do remember talking to Beccara a variety of times, yes.

Ms WARD — Did you talk to them after they did employ Slater and Gordon?

Mr BOURKE — Yes.

Ms WARD — Again about compensation?

Mr BOURKE — Generally.

The CHAIR — Just one more to try to clear up this issue about the stock. An offer was made to the Lloyds for compensation because of the contamination of their land. That offer was then withdrawn because you were advised by members of the government not to proceed. Is that correct?

Mr BOURKE — It was a CFA matter, and we had to take guidance from others in the government, and in that process — and, again, you understand government better than I do — certain discussions have to occur and certain permissions have to be provided, and they were not there.

The CHAIR — But you did not get the okay.

Mr BOURKE — That is right.

The CHAIR — Thank you. Any further questions?

Ms WARD — Can you just tell me who was on the committee that met with Robert Joy? Who were the members?

Mr BOURKE — Sorry?

Ms WARD — You mentioned a committee that met with Robert Joy.

Mr BOURKE — That is the board’s committee, the board of CFA.

Ms WARD — So it was the whole board that met with Robert Joy to go through — —

Mr BOURKE — No, it was a subcommittee.

Ms WARD — Who was on the subcommittee?

Mr BOURKE — The subcommittee was chaired by, I think, Peter Harmsworth. Also on it would have been a representative of the volunteer association. There was a chair there for the UFU, but it declined that, and that is not unreasonable. There were a couple of other board members on there. I would have to look them up as to who they were.

Ms WARD — Yes, if you could let us know, that would be helpful. Thank you.

Mr BOURKE — Sure.

The CHAIR — Thanks, Mr Bourke, for coming in today, and again apologies for the delay in us starting the hearing. There may be some follow-up information and we may contact you just to get some clarification as a result of the questioning today. I hope that is okay if we can contact you for some follow-up questions if necessary.

Mr BOURKE — Certainly.

The CHAIR — Great, thank you very much. This concludes the hearing for today. Originally we were to hear from representatives of the current CFA board, but due to the overrunning of the previous hearings we have had to reschedule as a number of committee members have to leave by 4.30 p.m. and we will not therefore have a quorum. Apologies to the public and also to Lucinda and Mr for being here today but agreeing to come back at another time. Thank you.

Committee adjourned.