

# TRANSCRIPT

## ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE

### Inquiry into the CFA training college at Fiskville

Melbourne — 15 June 2015

#### Members

Ms Bronwyn Halfpenny — Chair

Mr Tim McCurdy — Deputy Chair

Mr Simon Ramsay

Mr Tim Richardson

Mr Bill Tilley

Ms Vicki Ward

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Executive officer: Dr Greg Gardiner

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#### Witness

Mr Michael Whelan.

**Necessary corrections to be notified to  
executive officer of committee**

**The CHAIR** — Our next witness for today is Mr Michael Whelan. On behalf of the committee, I thank you for coming here today to provide evidence. Before we go into your presentation, I will just go through some of the formalities. The normal situation is that you have 5 to 10 minutes to provide some information and then we will follow that up with the questions.

All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and the provisions of the Parliamentary Committees Act 2003 and is protected from judicial review. Any comments made outside the precincts of the hearings are not protected by parliamentary privilege. All evidence given today is being recorded, and you will be given a proof version of the transcript.

Following your presentation the members of the committee will ask you questions. Perhaps you could start off with an introduction about yourself and then go on to your presentation.

**Mr WHELAN** — Michael Whelan. I worked for the CFA from about 1978. I left there in about 1994, although I was seconded out of there for a few years, so probably 1997 was the official time that I departed from there. The information I have is prior to that time. I would like to thank the Parliament for having this inquiry, and hopefully it will bring to an end a very sorry saga. I think it is a disgraceful one.

I will not go over the submission today, other than to apologise for the lousy editing job I did on it. I note, I think on page 3, a comment I was starting to make about the volunteer part of the CFA, in the third paragraph, ‘The CFA has always been an excellent organisation at volunteer level’, and then I went off into some other rambling, so apologies for that. Really what I was trying to say is that my comments do not in any way reflect what I think about the volunteer system. I think it is excellent. My scorn today is reserved for the CFA board.

I was involved in this issue up until about 1992. I was transferred or rather promoted out of the job I had in about 1993, and at that time I ceased my role with the firefighters union and really lost contact with this issue. It was not until I read about Brian Potter’s efforts in more recent years that I became aware of the magnitude of it. I pay respect to Brian and to the other people who have suffered. I consider myself very lucky because I have not got the sort of symptoms that we were talking about with the last presenter. I consider I have dodged a bullet there because I was keen to work at Fiskville and I would have then, like all the others, taken my family up there. It makes me shudder to think of the ramifications of that if it had occurred. Fortunately it did not.

The main thing I would like to do today is not go over in detail the submission I have put to you but rather to make a couple of points. I think what I have to offer today is a corroboration perhaps of some points of the jigsaw. I do not have any information about how the CFA came to be using materials there in their fire operations or how they came to have chemicals that were buried on site. But as the junior vice-president of the United Firefighters Union, I was approached by an officer — his name is in my report, but I notice it is redacted so I will not mention any names today — who was concerned about his health. The two things he told me were, firstly, that Fiskville was taking chemicals from industry and burning them there in the fire PAD and, secondly, that he been required to bury a couple of those drums on site that had been leaking. His health had been affected, and he was not getting the level of consideration by the CFA that he thought was appropriate. This would have been in the period of about 1991 to 1992, and at that stage I was undertaking a series of meetings with the then deputy chairman, the then chief officer and the industrial relations officer. I took that issue to them at that point. I represented it very strongly but to no avail.

I raise it now, and the reason it prompted me to make the submission is because I think it puts a point in time as to when, if the board were not aware of this issue, they should have been aware of it, because I certainly raised it, as I say, with the executive level of the authority — the deputy chairman and chief officer level. The information was not taken as seriously as it should have been. I look back now and, while I was forceful and made strong representations, it was to no avail. I know the officer concerned was not happy with the outcome and, I say to this day, would remain unhappy with the effort that was put in.

With what I know now, in terms of the amount of contamination and what has happened at Fiskville and also with the skills you pick up through going through a career, I think I probably would have handled it differently in hindsight. But, as I say, at the time I thought I had done everything I could. At no stage should sight be lost of the fact that it is the CFA board that has refused to do anything about this over that time. I consider their denials over two decades, denials of justice for people, to have been quite disgraceful. I think the comment that Trevor made before about his email having been written by a lawyer goes to the heart of the issue in that I think there has been — excuse the words — arse-covering over all that time.

When I started writing this submission I did not think I was angry about this issue, but when I started to write my submission — and it may explain the lousy editing job I did — I realised I was quite angry, because I have seen this sort of thing before, where organisations go into protection mode and do not address the issues they need to address. I have not always taken the view but I have learned over time that bad news does not get any better with age and you are better off to deal with it at the time. If they had done that, there would be a lot of families that would have had a far greater enjoyment of their loved ones instead of their lives ending tragically.

What did annoy me recently and probably helped lift my level of anger about the matter was a letter that we got earlier this year from the then CEO of the CFA, talking about support. There was support for staff. People who still worked for the CFA could use internal counselling mechanisms and the like. There was a dismissive line in that letter about how anyone else could basically go to the community facilities that existed — for example, Medicare or Beyondblue. Now that wound me up, I am afraid. That is disgraceful. As I say, fortunately I did not suffer this. I became aware of it only through someone bringing an issue to me that I then represented. I might say that having said that, I was classified as a medium risk, given the exposure I did have at Fiskville, but I do not, I am pleased to say, have the problems or the exposure that a number of people have had.

The point I would like to make here is that it goes to governance, and they have known about it now for over two decades. They have done nothing. They have been in damage control mode. The stock exchange would expect a higher level of disclosure from a public entity than what we have seen from the CFA. Here is a publicly owned body, a statutory authority, that has chosen to go into backside-protection mode rather than looking after the people who have worked for it over that time. I mentioned some issues in my submission where I am surprised I am in so much agreement with Trevor about the lack of appreciation of the time and I guess respect for junior officers that I experienced over my career as well?

So what would have constituted decent behaviour? I saw *Devil's Dust* only a few weeks ago, where the Bernie Banton character says that what really annoyed him was the fact that no-one had rung him up and apologised, not even publicly. I echo what Trevor said earlier: to not have done that is, I think, disgraceful and must be hurtful to those families who have lost people through this saga. They should have been giving every support to the families and to those who have suffered illnesses as a result of their exposure at Fiskville, and they have not done that. The only reason we are here today is because the government has chosen to do something about it. Thank you very much for doing that. It is well beyond the time when it should have been raised, but it is never too late, I guess, to right a wrong.

The CFA — I am becoming aware of what had happened, and they would have had a lot more information than what I had, it would seem — should have had the guts to close Fiskville, but I know that through the 90s, when I was working for the Department of Justice, they were running around trying to promote Fiskville as the pre-eminent training facility in the state, competing, outrageously, I believe, with the MFB. They were no better, I might add. But this competition went on for pre-eminence in training ground status, and this is the sort of thing that drove the CFA, I believe, rather than proper care and respect for the people that work for it.

What should come out of this, I would hope, is that you people will recommend corporate accountability. The board only exists for governance. What else is it there for? They have not performed well in that regard; in fact I believe they have failed miserably and they should suffer the consequences. It is my view that anyone who was on the board prior to November last year should be dismissed. I take it further than that. When I heard someone from the UFU — I remember I was coming back along the Hume; I do not remember his name — saying how the board should be sacked, I thought that was a bit over the top. But I have changed my view on that. I have given it a lot of thought, and I ask: 'Well, what are they there for?'. They have failed on their primary responsibility, which is governance, which is accountability. I think that ultimate step should be taken. I do not say that with any view that that should benefit the MFB, because I do not have a much better regard for the board in that regard either.

A couple of governments ago there was action taken to put in place a level of accountability and a level of supervision of the fire authority boards, being the fire services commissioner. Why did you do that? Ask yourself. You did it because those boards were not behaving appropriately and because we had competition in our fire services in Victoria. That is an absurd situation, and what I would like to see come out of this is that it become a commission and those boards be done away with. They have not worked. They are failures.

I also make a comment in my submission which is about the pre-eminence of the volunteer and paid staff of the CFA, how they should be given pre-eminence in consideration by the CFA and how they have not been. I have

given you examples of my view on that as well. I will not go into them now. But the CFA — or whoever should follow them, if my recommendations were followed — should have a requirement under its legislation to properly look after its volunteers and the people that work for it.

You asked a question before about culture. I remember a book; I lost my copy, but I gave a copy of the book *Groupthink*, by Janis, to the then chief officer. I was telling him that the CFA was suffering a serious dose of groupthink at that point in time, and from everything I have heard today and have probably thought about in subsequent years — I have to say I have not given a lot of thought to the CFA since I left in the late 90s until recently and until preparing this submission and preparing to come here today — groupthink, I think, really sums it up.

**The CHAIR** — Thank you. Is it okay to call you Michael?

**Mr WHELAN** — Yes, it is all right. That is my name.

**The CHAIR** — Thanks, Michael. I just have a question in terms of the board and the oversight. Reading between the lines in terms of the submissions and things that we have looked at, one presentation is that there was an ignorance, so there was a disconnect between the board and what was happening at Fiskville. Another argument is just a general ignorance about the effect of this really bad health and safety environment, the contaminated soil and water and the chemicals that were being used and how bad they were from a human perspective. We heard earlier today that there have been a number of reports that we think may have been commissioned by the CFA. There was a report in 1988, another one in 1996, a further one in 1996, another one in 1998 and another one in 1999. I am assuming they cost money. Would these reports have been authorised by the board or by those that manage the day-to-day operation of the CFA?

**Mr WHELAN** — The CFA is a very autocratic organisation. As I say, you have to take into account that my knowledge of the CFA is not of the current day. However, the current day board has responsibility for this as much as the board did then. The reason I raise in my submission when I spoke those officers — that was executive management — is that as far as I am concerned, the board has been aware of this issue since 1991 or 1992. That is a key point I want to make today. I was not aware of those other reports, but it is my view that they would have been known at that level. That is just how the organisation worked. It was, as I say, an autocratic organisation. It does not have — or did not have — the levels of delegation that you might look for in modern management.

**The CHAIR** — Would that mean, for example, that to accept donated fuel from the Altona strip or something like that would have had to be authorised by the board, in your opinion of the style of management at the time, in the past?

**Mr WHELAN** — I do not know. I do not know about how Fiskville was run. I fortunately did not work there, so I did not get that insider information. I cannot comment.

**Mr McCURDY** — You mentioned governance of the CFA and you also mentioned that the MFB were not much better. What was that relating to?

**Mr WHELAN** — They are both in my view very introspective organisations. Otherwise we would have had them coming together. There are a whole lot of arrangements around the borders that have been there since the 90s, and that really did bring them out of a very defensive position, so there has been mutual support as it used to be called. There may well still be support. Those sorts of things started to happen. But I know of instances where they have not supported officers. I know of an incident where they did not support an officer who was involved in a very traumatic situation as well. I do not have the level of understanding as I do of the CFA, but I would not think it would be a good idea to take one organisation and put it over the other. This requires a clean broom in my view. That is what I am saying.

**Mr McCURDY** — When you spoke about maybe the CFA board could get dismissed, what about for individuals? How can justice be served for individuals?

**Mr WHELAN** — It is a really sad situation that some of those individuals will never get justice because they are no longer with us. But an apology is the first thing, and it should have been made. That does not cost anyone anything. I think they should get compensation. It is not about compensation, but how else do you show

responsibility and show accountability? So I think there should be compensation, and I think there should be changes to the legislation.

Over the history of the CFA you have seen it. They lost the chief officer after the 2010 fires — every time you get a major incident. With the next one that comes along the CFA will do as well as it did for the 2010 fires because they are overwhelming events; that is the nature of those catastrophic fires. So why offer up an officer? Did the CFA defend him? They may have; I do not think they did. I am starting to lose the thread of where was going with that. But it is a question of accountability. How do you say to someone, ‘We did the wrong thing in the past’? I think the point of the question earlier, was it by some act of someone taking donated fuel? I do not know. But the point is they became aware of it back in 91, 92 and have obfuscated all that time. It is accountability and governance, and they have not done it.

**Mr RICHARDSON** — Michael, just taking you to term of reference 3 and your concern about the outcomes or investigations of management of the CFA, could you share a bit more of your thoughts in that regard?

**Mr WHELAN** — From my submission?

**Mr RICHARDSON** — Yes.

**Mr WHELAN** — Yes. I was a bit concerned that the term of reference appeared to be focusing on the management at Fiskville. While I appreciate you need to get to the bottom of how that occurred if you possibly can, what I was saying is that this is an accountability and governance issue. It is an organisation that lost its way in terms of governance. What I am saying is the focus should be at that level. It should not let the organisation look for another scapegoat, because the CFA has always been bailed out by scapegoats, and I think I heard Trevor say that earlier today.

**Mr YOUNG** — You spoke about compensation. I just want to go to recommendation 2 from your submission. When speaking of the CFA you said:

It should pay compensation to all of the people it has exposed to chemical contamination at the CFA training college at Fiskville.

I wonder if you can just expand on what you think fair compensation would be, given the fact that some people have been adversely affected far more than others would have been, and some people would not have been at all.

**Mr WHELAN** — This is one of those issues where we know some people have been very badly affected and they are no longer with us. That is the ultimate issue. Then there are people who have been exposed who may develop serious illness.

This is the problem with these sorts of things. You cannot say, ‘Yes, I’ve got a clean bill of health’. Otherwise why are we fronting up each year for annual medicals? I mean, I know why: it is to get statistics. But it is good thing from your own point of view, so I participate in it. I am not after compensation for me although I was exposed. But at the end of the day, for people who have clearly developed issues, I think the workers compensation provisions can start to deal with what they should get. I would just like the CFA to wear some pain in relation to the rest of it, and probably as much as anything I think an apology.

As I said, I am not personally after it. I am sure most people are not. But it is to get rid of this depersonalisation that they have made of the whole issue. This is a very personal issue, as I realised myself when I started to write this submission. So I do not know. I really cannot answer it in relation to people like myself. As I say, I really have no interest in anything from the CFA. But you can never say you have got a clean bill of health. That is the problem. I focus on those people who have manifested problems, I guess, and there are formulae for that through Workers Compensation I am not aware of but other people more skilled than me are.

**Mr RAMSAY** — Michael, I just want to raise a couple of points in relation to your recommendations. One is about the charter that places the welfare of staff and volunteers above all else, all other things. My understanding was we initiated a charter for volunteers maybe three or four years ago, and I guess this brings me back to the question. I am very protective of the CFA brand, but I have to agree with you about the transparency and accountability in relation to the board which you have referred to. It makes me wonder, where

were the shareholders? When a publicly listed company and its board behave badly, invariably, if it is not a regulator, it will be the shareholders who will demand change.

The UFU, to their credit, have been agitating in relation to the issues raised here — a bit quieter line to the MFB — and the CFA has its volunteer base, which we are going to hear from this afternoon at some point in time. I quite like your thoughts about a commission. It has been suggested to me in amalgamation that not an overlap but a new mechanism run both fire services. I just wanted to know if you would expand on that and also refer back to the charter and the board itself. Where was the agitation within the CFA for the accountability that you have talked about in your presentation? Why was it not there?

**Mr WHELAN** — The shareholders are really I guess the government, because the others are non-voting shares. We have the public's non-voting shares. They are the ones who pay the bill one way or another through their insurance levies or now through collection by municipalities.

**Mr RAMSAY** — I was talking about the volunteers themselves.

**Mr WHELAN** — Yes, and back in those days they had volunteer representatives on the board who, I can only assume, have performed equally badly, because the board as a whole, in my view, has failed in its governance. A charter is simply one of respect. I am not aware of there being a volunteer charter in the last few years, but it needs more than lip-service, and that tends to be what they have been good at — lip-service to a principle. That is why I say I think they should be required by virtue of their legislation to hold their people — let us use that term rather than the one I used before — in the highest regard and protect them to their utmost. They have not done that. I think it is clear that they have not done that. That is really where we need to go with that. I take your point about the CFA brand. I think it has been discoloured by this particular episode.

Let us talk about the volunteer brand, because everyone tries to ride on the back of that. It is the work of the volunteers that is eulogised and put up there as being the pre-eminent contribution to the community, as indeed it is. It is not the CFA. They ride on it too. I saw it shamefully exploited back in my day in the early 90s where you would be ringing up volunteers to try to get them out with almost no notice on what were just bold-faced public relations exercises. The organisation is an extraordinarily good one; it just has a rotten head. That is really how it needs to be addressed. I agree with you: preserve what is good about it and address what is not.

The reason I say a commission is that you see company boards and all that sort of thing but I would like to see something where the people — not as many — were chosen particularly for the skills they would bring to bear on the basis of what was required for governance at that level. You have still got your management. I do not want to get into whether there is room to integrate those particular functions and that sort of thing. That would distract us. I think the problem is that the volunteer issue can distract us. I think a statement upfront that says, 'That is pre-eminent; we need to defend that. We need to protect it, and we need to nurture it' is a worthwhile thing to do. But they have been badly served. They have been as badly served as the rest of us have. That is a simple statement of fact.

As for a commissioner, we have already got one. I do not know what he gets paid, but you are already paying for someone to sit up there and try to bring some sense into the management of the two organisations. I would have thought that is what the boards were there to do in the first place. We have got duplication whichever way you look at it.

**Ms WARD** — Hi, Michael. How are you going? You mentioned that you raised concerns regarding the use of the drums to executive level of the CFA. In what format did you do that, and what was the response?

**Mr WHELAN** — I was the junior vice-president of the United Firefighters Union. That was a voluntary position. I was elected to it. I was also the officer in charge of the CFA's research and development section. We are going back 23 years or thereabouts, so the sharpness of my memory is dulled.

I remember certain things, and I will not tell you anything I do not remember. It only occurred to me today that I think we were talking about a new structure for the operational side of the CFA, and that included uniforms and all these very important things. That is what we were talking about on an ongoing basis. There may have been some other issues. I took the opportunity to raise this issue in that forum, and as I said earlier did so strongly.

**Ms WARD** — So that was verbally?

**Mr WHELAN** — Yes. Did I do anything else or did the UFU? I do not know; I cannot remember. You go back in your life and some things stick with you. This was pretty bizarre in my view, which is probably why it stayed with me. I did not personally experience it. Sometimes that is a brand that makes you remember things. This was, I thought, fairly exceptional. I raised it, and the way the CFA operated in those meetings was always to put three people or more up against one person. I was the only one attending from the union. I was fairly aggressive because it was best to go in on the front foot in those situations. I put it there. I recall it being dismissed, and it was partly dismissed on the basis of the perceived credibility of the officer who had made the allegation to me and who had given me the information, which is a bit sad, but that is a fact of life as I recall it.

I went back to him. I do not think I conveyed that particular aspect, but I conveyed how I had gone, and he was very disappointed, obviously. He did not think I had done enough for him, as you would expect when he was suffering illness.

That is how it went about. We sat across the table from each other. We had a number of meetings; I recall that. How many I do not recall, and I do not have notes.

**Ms WARD** — Were those meetings minuted, do you know? And were the minutes distributed?

**Mr WHELAN** — Again, I do not know. I certainly do not have them.

**Ms WARD** — Did other people raise with you safety concerns throughout your time there?

**Mr WHELAN** — No, that was the only time it got raised with me. As I say, what I have told you here is what I was told at the time. There has been a whole lot of other material, including the water contamination and all those sorts of things, that has subsequently become known. I was not aware of any of that at the time.

**The CHAIR** — Thank you, Michael, for talking to us today. It was very good. The idea of the recommendations is something for us to consider, so thank you.

**Mr WHELAN** — No worries. Thank you.

**Witness withdrew.**