



PARLIAMENT OF VICTORIA
Environment, Natural Resources and
Regional Development Committee

Inquiry into the CFA Training College at Fiskville

Special report on
production of documents

November 2015

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Environment, Natural Resources and Regional
Development Committee

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Committee membership



Ms Bronwyn Halfpenny MP
Chair
Member for Thomastown



Mr Tim McCurdy MP
Deputy Chair
Member for Ovens Valley



Mr Simon Ramsay MLC
Member for Western Victoria



Mr Tim Richardson MP
Member for Mordialloc



Mr Bill Tilley MP
Member for Benambra



Ms Vicki Ward MP
Member for Eltham



Mr Daniel Young MLC
Member for Northern Victoria

Committee secretariat

Staff

Dr Janine Bush, Executive Officer
Mr Patrick O'Brien, Research Officer
Dr Anita Mackay, Legal Researcher
Ms Emily Collins, Administrative Officer
Mr Peter Rozen, Senior Legal Counsel

Committee contact details

Address Environment, Natural Resources and Regional Development Committee
Parliament of Victoria, Spring Street
EAST MELBOURNE, VIC 3002

Phone 61 3 8682 2803

Email enrrdc@parliament.vic.gov.au

Web www.parliament.vic.gov.au/enrrdc

This report is also available online at the Committee's website.

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Terms of reference

58th Parliament

Received from the Legislative Assembly on 23 December 2014

Inquiry into the CFA Training College at Fiskville

That, under s 33 of the *Parliamentary Committees Act 2003*, an Inquiry into the CFA training college at Fiskville be referred to the Environment and Natural Resources Committee for consideration, Inquiry and completion of an interim report no later than 30 June 2015 and a final report no later than 1 December 2015* and, in particular, the Inquiry will include, but not be limited to the following —

- (1) a comprehensive historical study of pollution, contamination and unsafe activities at Fiskville between 1970 and the present day;
- (2) a study of the health impacts on employees, residents and visitors between 1970 and the present day;
- (3) a study of the role of past and present executive management at Fiskville;
- (4) an assessment of the feasibility of decontamination/rectification of the training site; and
- (5) recommendations as necessary to mitigate ongoing harm and to provide justice to victims and their families.

* On 17 September 2015 the reporting date was extended to 31 March 2016.

Chair's foreword

The Country Fire Authority is made up of hundreds of thousands of people that have selflessly given their time, and in some tragic cases their lives and their livelihoods to keep us safe.

On behalf of the Committee I pay tribute to all those men and women who make up the CFA today and in the past. You are part of a proud and courageous collective who work hard to protect us from fire, provide rescue services at road accidents and work on the front line in many emergencies and disasters. The CFA is well respected and admired by Victorians

For these reasons it is disheartening for this Committee to have to table this special report. Decision makers within the CFA have done a disservice to the CFA legacy and CFA firefighters twice over. First the tragedy of Fiskville itself and now the refusal to provide vital information to this inquiry.

Every member of the Committee conducting the inquiry into Fiskville is committed to seeking out the truth. The Government referred this important matter to this Committee because in the words of the Premier of Victoria, the Hon. Daniel Andrews: 'We need a full and frank inquiry to answer every question honour every worker and reassure every family'.

In my foreword to the Interim Report, I highlighted the evidence we have received about many people having difficulties accessing information from the CFA. I emphasised that the Committee believes people have the right to access information and that we are committed to finding a way to provide both answers and justice. We are seeking to unravel the history and to find out the truth.

The community has confidence in the CFA and it could be assumed that the CFA would have an interest in knowing what happened at Fiskville to inform how it moves into the future. A history commissioned by the CFA demonstrates its awareness of the value in understanding the past. This point is made well by the Governor of Victoria in his foreword to the CFA history:

History is important. If you do not know where you have come from, you do not know where you are going.¹

The CFA administration has issued many assurances to the Committee that it wants to cooperate with the Fiskville Inquiry. In spite of this the Committee had to issue summonses in order to access critical information. We are now forced to table this report to Parliament due to documents not being produced under the terms of the summons relating to CFA Board papers.

¹ Robert Murray & Kate White (1995), *State of Fire: A history of volunteer fire fighting and the Country Fire Authority in Victoria*, Hargreen, p.vii.

This special report details the extensive withholding of information that is crucial to the Committee's understanding about what happened at Fiskville from 1970 to the present.

These documents and information being withheld go to the very heart of the terms of reference we are required by Parliament to investigate. For example, we know that requests for information regarding chemicals used at Fiskville were made to the board in 1987. Yet as the report demonstrates, the CFA has not provided any of the minutes from the 22 meetings held that year.

The Committee has substantial powers and privileges as a joint house committee of the Parliament of Victoria. These powers and privileges are necessary to ensure transparency and accountability in a democratic society.

The Committee is disappointed that it must table this special report.

A handwritten signature in blue ink that reads "Bronwyn Halfpenny". The signature is written in a cursive, flowing style.

Bronwyn Halfpenny MP
Chair

1 Report

1.1 Introduction

The purpose of this report is to notify the Parliament of Victoria that the Environment, Natural Resources and Regional Development Committee (the Committee) is experiencing obstacles in its efforts to conduct a transparent inquiry into the Country Fire Authority (CFA) training college at Fiskville (the inquiry).

The central obstacle causing difficulties for the Committee's inquiry relates to the non-disclosure of documents requested from the CFA by summons under the *Parliamentary Committees Act 2003* (Vic).

The Committee has promised to undertake a transparent inquiry. In view of its commitment to transparency, on 5 November 2015 the Committee unanimously determined a need to inform the Parliament of Victoria that the non-disclosure of CFA Board papers has implications for the Committee's capacity to adequately and transparently inquire into key aspects of the terms of reference for the inquiry.

1.2 Request for production of documents

On 23 December 2014, the Legislative Assembly of the Parliament of Victoria passed a motion requiring the Committee to undertake an inquiry into a range of aspects relating to the Fiskville training college from the time it opened in 1971 through until the present day.

Included in its terms of reference is the requirement for the Committee to undertake 'a study of the role of past and present executive management at Fiskville' (TOR 3).

In order to undertake this analysis, the CFA Board papers are essential to the inquiry. These papers include agendas, minutes and documents tabled at Board meetings. Also relevant to this term of reference, the Committee requested additional information relating to the CFA Board and the executive management at Fiskville.

The Committee Chair has been corresponding with the CFA with requests for information and documents since March 2015. On behalf of the Committee, the Chair, Ms Bronwyn Halfpenny, MP issued the first summons for documents on 26 June 2015 under Section 28 of the *Parliamentary Committees Act 2003* (Vic). The documents summonsed related to matters concerning other terms of reference for the Inquiry.

Since that date, the Committee Chair issued summonses to the Acting Chief Executive Officer of the CFA, Mr Michael Wootten, and the Victorian Government Solicitor's Office (VGSO)² relating to documents and information it requires under TOR 3 on the following dates:

- 8 September 2015—all CFA Board papers from 1971 to December 2014.
- 25 September 2015—documents regarding meetings by management about Fiskville.
- 27 October 2015—financial information.

1.3 Production of documents

On 5 November 2015 when the Committee resolved to report to the Parliament of Victoria the frustrations it was experiencing in undertaking its inquiry, it had received minutes for a total of 51 board meetings.³ There are a further 37 board meetings for which the Committee received other papers (such as agendas and reports), but no minutes.

The table below outlines the minutes received as at 5 November 2015.

Table 1 Number of minutes received by the Committee

Year	No. of meetings held	No. of minutes received as at 5 November 2015
1971	19	1
1972	21	None
1973	23	1
1974	20	1
1975	23	2
1976	24	2
1977	22	3
1978	21	None
1979	24	3
1980	26	None
1981	22	None
1982	24	None
1983	26	2
1984	23	2
1985	23	1

² The Victorian Government Solicitor's Office (VGSO) is representing the CFA and the Victorian Government on this matter.

³ These relate to the following Board meeting numbers: 443, 479, 510, 527, 534, 559, 562, 567, 568, 585, 614, 623, 632, 666, 673, 707, 714, 735, 752, 781, 863, 874, 877, 886, 944, 100, 1004, 1005, 1114, 1122, 1125, 1126, 1130, 1132, 1133, 1135, 1136, 1137, 1139, 1141, 1142, 1144, 1145, 1146, 1147, 1148, 1150, 1151, 1153, 1157.

Year	No. of meetings held	No. of minutes received as at 5 November 2015
1986	22	1
1987	22	None
1988	22	None
1989	20	None
1990	12	1
1991	15	2
1992	12	None
1993	12	None
1994	12	None
1995	12	None
1996	14	1
1997	12	None
1998	12	None
1999	13	None
2000	15	None
2001	12	1
2002	12	None
2003	12	None
2004	12	None
2005	11	None
2006	12	None
2007	14	None
2008	12	None
2009	14	None
2010	12	1
2011	12	4
2012	11	5
2013	11	9
2014	14	2

Source: Environment, Natural Resources and Regional Development Committee.

Prior to the Committee making the resolution to report the non-disclosure of documents, the Committee Chair engaged in lengthy correspondence with the VGSO seeking the production of documents requested, seeking clarification of claims of privilege, and making specific requests for the documents to be produced in line with the summons on 8 September 2015.

The full list of correspondence between the Committee Chair and the VGSO is summarised in Appendix 1.

In mid-October 2015, the VGSO advised the Committee that it had complied with the 8 September 2015 summons relating to the production of CFA board papers. Specifically, on 16 October 2015, the VGSO wrote to the Committee Chair and advised that ‘All minutes of the Board relevant to the terms of the summons have now been provided’.⁴ On the same date, the VGSO provided a further tranche of documents relevant to the summons. On 23 October 2015, the VGSO again wrote to the Committee Chair and advised that:

... while it is the case that not all CFA Board meeting papers, minutes and agendas have been provided, we believe that, as sought by your letter dated 22 September 2015, all such papers containing material relevant to the Committee’s terms of reference have been produced under the summons.⁵

On 27 October 2015, the Committee Chair wrote to the VGSO referencing large periods of time (and a number of consecutive years) for which no CFA board minutes had been provided, stating that the Committee:

- [has] not been provided with the minutes of any Board meetings for the period of 1992 to 1995 (a 4 year period during which there were 48 CFA Board meetings);
- has been provided with one set of minutes for 1996 (for the meeting held on 17 June 1996) (a year in which there were 13 other CFA board meetings);
- has not been provided with any further minutes until 2001 (that is, no minutes for the period of 1997 to 2000 – a 4 year period during which there were 52 CFA Board meetings);
- has received one set of minutes from a meeting in 2001 (on 28 May) (a year in which there were 11 other CFA Board meetings); and
- has not received any minutes for Board meetings between 2002 to 2009 (an 8 year period during which there were 99 CFA Board meetings).

In sum, the Committee has been provided with minutes for two CFA Board meetings for the years from 1992 to 2009, during which time there were 225 CFA Board meetings.⁶

By way of example, the Chair identified four specific years in which other evidence before the Committee demonstrates that significant events occurred that related to Fiskville and listed those events seeking confirmation that the CFA Board did not discuss any of those events. In addition, the Chair explained that the Committee had received minutes from only one Board meeting in 1971, yet was aware that there were additional minutes that made reference to Fiskville.

4 Correspondence from VGSO to Committee Chair, 16 October 2015.

5 Correspondence from VGSO to Committee Chair, 23 October 2015.

6 Correspondence from Committee Chair to VGSO, 27 October 2015.

On 4 November 2015, the VGSO replied stating that it could ‘confirm that the events are not discussed in any CFA Board minutes’.⁷ In addition, the VGSO stated that:

It is likely that your letter is based on the assumption that significant events concerning Fiskville were discussed at CFA Board meetings and recorded in minutes. From our thorough review of all minutes, we confirm that this is not the case.⁸

In this correspondence, the VGSO provided a copy of the minutes for the Board meeting in 1971 that the Committee Chair had referred to in correspondence dated 27 October 2015. The secretariat reviewed the minutes provided and determined that they had relevance to the Committee’s inquiry.

At 5.04pm on 6 November 2015, the Committee secretariat received a phone call from the VGSO stating that it would be producing a further tranche of documents. The documents were provided at around 5.20pm. On reviewing the documents produced, the secretariat identified that the VGSO provided additional minutes for 49 meetings. These years were the four years the Committee Chair referred to in correspondence dated 27 October 2015. Of the 49 minutes of meetings, eight contained redactions. In addition, minutes of five meetings from the specific years referenced were not produced.

Along with the documents produced prior to 6 November 2015, those produced on 6 November 2015 also contained a number of issues that have implications for the Committee to effectively and transparently conduct its inquiry.

The Committee notes that many of the CFA documents it is requesting were made available to the Independent Fiskville Inquiry conducted by Professor Robert Joy in 2012.

1.4 Issues with documents produced

Of the minutes for the 100 board meetings received at the time this report was adopted, the Committee has identified substantial issues with the documents produced and with the process followed for their production. These include:

- slow production of documents
- ad hoc production of documents
- the use of a filtering system for determining information to be produced
- duplication of documents
- claims that existing documents no longer exist
- extensive redaction of material due to potential claims of executive privilege.

The remainder of the report outlines these issues.

⁷ Correspondence from VGSO to Committee Chair, 4 November 2015.

⁸ Correspondence from VGSO to Committee Chair, 4 November 2015.

1.4.1 Process for production of documents

The Committee has a number of concerns regarding the process that has been adopted for the production of documents:

- slow production of documents
- ad hoc production of documents
- the use of a filtering system for determining information to be produced.

Slow production of documents

As outlined in section 1.3, the CFA has only produced the minutes from 100 Board meetings during a period in which there were 739 meetings. Of these 49 were provided on 6 November 2015. The summons issued by the Committee Chair on 8 September 2015 required the documents to be produced by 15 September 2015.

In correspondence to the Committee Chair the VGSO explained that the review of the documents for production ‘necessarily takes some time’.⁹

The slow production of documents is related to potential claims of executive privilege by the Victorian Government which are outlined in section 1.4.4.

Ad hoc production of documents

In addition to the slow production of documents, the meeting papers have been produced in an ad hoc manner by the VGSO. The Committee Chair summarised the production of documents in a letter to the VGSO dated 20 October 2015:

- On 25 September 2015 the Committee received documents relating to two timeframes (1971 to 1986 and 2002 to 2012).
- On 1 October 2015 the Committee received documents relating to two timeframes (1971 to 2000 and 2000 to 2014).
- On 9 October 2015 the Committee received documents relating to the timeframe of 1996 to 2014.
- On 16 October 2015 the Committee received documents relating to three timeframes (1971 to 1996, from 2012 to 2014 and 2008 to 2014).¹⁰

Since that letter was written, documents have been produced for three timeframes (1996 to 1997, 2007 and 2009) (in correspondence dated 6 November 2015).¹¹

9 Correspondence from VGSO to Committee Chair, 4 November 2015.

10 Correspondence from Committee Chair to VGSO, 20 October 2015.

11 Correspondence from VGSO to Committee Chair, 6 November 2015.

At the request of the VGSO, the Committee Chair agreed to the documents being provided in tranches, rather than all at one time. A more useful and logical way to receive the documents would have been for the tranches of documents to be organised chronologically: for example, all papers from 2004–2014, all papers from 1993–2003, all papers from 1982–1992 and so on.

In explaining its approach to producing tranches of documents, the VGSO stated in correspondence to the Committee Chair that:

In relation to the suggestion that documents have been provided on an ad hoc basis, we had understood from discussion with the Committee secretariat that documents should be produced as they were able to be produced, to avoid unnecessary delay. That has been done.¹²

This approach to producing documents has created additional challenges for the review of the documents.

The use of a filtering system

Rather than provide the Committee with all CFA Board papers as required by the summons, on 23 September 2015, the VGSO advised the Committee Chair that it was reviewing the documents using a filtering system based on the following:

... material issues that fall within the Committee's terms of reference and inquiry:

1. Contamination at the Fiskville site in any form;
2. Development or re-development of the PAD;
3. Development or re-development of water treatment facilities;
4. Use of PFOS in firefighting foam at the site;
5. Burying of drums of hazardous material on site or removal from the site of drums;
6. Use of hazardous materials on the PAD and on the site generally; and
7. Health effects on staff, volunteers and neighbouring properties to the Fiskville site.

We confirm that we are taking the broadest possible view of relevance in relation to the above categories when reviewing documents in order to ensure the Committee receives all relevant documents for the purpose of its inquiry.¹³

The Committee Chair responded to this correspondence on 20 October 2015 stating that:

The Board papers are to be provided in compliance with the first part of the summons issued on 8 September 2015 without filtering the papers according to this list.¹⁴

¹² Correspondence from VGSO to Committee Chair, 23 September 2015.

¹³ Correspondence from VGSO to Committee Chair, 23 September 2015.

¹⁴ Correspondence from Committee Chair to VGSO, 20 October 2015.

In addition, on 27 October 2015 the Committee Chair clarified that ‘I further note that the inquiry includes the topics listed in Paragraphs (1) to (5) in the terms of reference, but is not limited to these matters.’¹⁵ It is the Committee’s responsibility to determine what it considers relevant for the purposes of its inquiry.

1.4.2 Duplication of documents produced

At the time the Committee resolved to report issues relating to the production of documents, of the 374 documents that had been produced by the VGSO on behalf of the CFA in response to the two September 2015 summonses, approximately 62 documents were duplicates of those already received.

In correspondence to the VGSO on 20 October 2015, the Committee Chair outlined a number of concerns about the documents produced, including duplication of documents.

In response to the concerns raised by the Committee Chair about duplication of documents on 20 October 2015, the VGSO replied:

While we note your concerns about the production of duplicate pages, this is due to the way in which documents have been saved into the database and coded. Where a document contains multiple pages, some of which are duplicated in another document, unless two separate documents in the database are identical, we have assessed each document as a single document as we do not consider them to be duplicates.¹⁶

It is an unproductive use of the Committee’s time to have to catalogue documents and determine whether or not they have been previously been reviewed. This is especially the case given the length of some of the documents and the need to check whether previous versions had material redacted that was later made available.

1.4.3 Claims that meeting papers do not exist

The Committee has two examples of circumstance where the VGSO has stated that meeting papers ‘no longer exist’ or where ‘no final minutes appear to be available’.

Meeting papers no longer exist

On 11 September 2015, the VGSO wrote to the Committee stating:

The CFA wishes to advise the Committee that: searching to date indicates that meeting papers prior to 1996 no longer exist.¹⁷

15 Correspondence from Committee Chair to VGSO, 27 October 2015.

16 Correspondence from VGSO to Committee Chair, 23 September 2015.

17 Correspondence from VGSO to Committee Chair, 11 September 2015.

The Chair of the Committee responded on 21 September 2015 and requested:

An explanation regarding why the Board meeting papers prior to 1996 no longer exist, and what happened to these meeting papers.¹⁸

On 25 September 2015 the VGSO replied to the Committee Chair and stated that:

As indicated in our letter dated 11 September 2015, document searches as at the time of sending our letter, indicated that no Board meeting papers for the period prior to 1996 had been located by the CFA. Accordingly, it was concluded that it was most likely that they no longer exist. The search however was continuing and the CFA have advised that they have now located an archived cache of microfiche material potentially containing meeting papers for the Board. We are currently retrieving this material for review in respect of both the current summonses.¹⁹

The Committee is concerned by the claim that Board papers prior to 1996 no longer exist. It is a claim that may not have been retracted had the Committee not requested further explanation.

Furthermore, on 4 November 2015 the VGSO wrote to the Committee citing the report of Professor Robert Joy's Independent Fiskville Investigation stating:

The Investigation could not find evidence, including through extensive searches of the CFA minutes, that the Board considered issues around the management of Fiskville other than day to day operational issues (p124).²⁰

Given that the Independent Fiskville Investigation terms of reference were confined to the timeframe of 1971 to 1999, Professor Joy presumably had access to Board meeting papers prior to 1996. If not, the extensive search of minutes would have only been conducted for three years of Board meetings.

The Committee is of the view that these should have been readily accessible by the CFA because Professor Joy had accessed them recently (in 2012).

Furthermore, the Committee is not content to rely on Professor Joy's assessment about the content of the Board papers and considers it has a responsibility to independently review the Board papers.

Final minutes not available

On 6 November 2015 the VGSO produced further documents on behalf of the CFA. In the list of minutes of Board meetings provided, the minutes for one Board meeting are provided in draft. The list states that:

No final minutes appear to be available – VGSO to confirm.²¹

18 Correspondence from Committee Chair to VGSO, 21 September 2015.

19 Correspondence from VGSO to Committee Chair, 25 September 2015.

20 Correspondence from VGSO to Committee Chair, 4 November 2015.

21 Correspondence from VGSO to Committee Chair, 6 November 2015.

While confirmation has not yet been provided that there are no final minutes, the Committee is concerned with this assumption given the minutes from the Board meeting in question were amended and confirmed at the following meeting. In addition, the draft version of the minutes appears to be incomplete. It is not possible for the Committee to determine this given corresponding agendas have generally not been provided with the minutes.

1.4.4 Extensive redaction of material due to potential claims of executive privilege

Many of the documents that have been produced to date in response to the summons on 8 September 2015 have been extensively redacted. That is, in some instances parts of the documents have been redacted (and for some documents the redactions are extensive, including multiple pages) and in other instances the documents have been redacted in their entirety.

On multiple occasions, the VGSO has advised the Committee Chair that the reason for redactions to documents and for the non-production of documents is that the Victorian Government could potentially claim executive privilege over them. The VGSO also advised that the process to determine whether such a claim will be made is time consuming.

In response to queries about potential claims of executive privilege, on 19 September 2015 the VGSO advised the Committee Chair that ‘a whole of Victorian Government process is required to be undertaken in order to finalise a claim of executive privilege’.²²

It is apparent that the delay in the production of documents by the CFA relates to an understanding of executive privilege which differs from the Committee’s position which is well established within the Parliament.

On 20 October 2015 the Committee Chair outlined to the VGSO advice the Committee had received on the relationship between Parliamentary and executive privilege.²³ Advice to the Committee stipulated that there is no statutory provision in Victoria for a claim of executive privilege to override the powers of Parliament and its committees. The only exceptions are:

1. A statutory secrecy provision which expressly overrides parliamentary privilege. Hardly any statutory secrecy provisions expressly override and override cannot be implied—it must be expressly stated.
2. The convention, generally observed by most parliaments, that a document that is solely for or predominantly and directly connected with the deliberations of Cabinet will not be disclosed.²⁴

22 Correspondence from VGSO to Committee Chair, 19 September 2015.

23 Correspondence from Committee Chair to VGSO, 20 October 2015.

24 Correspondence from Clerk, Legislative Council to Committee Chair, 15 October 2015.

The Committee has been advised that:

The most appropriate course of action for a person or organisation called to produce documents is to produce the documents to the committee with accompanying claims of public interest immunity. Many such claims will not fall into one of the two categories described above and it should be left to the Committee to determine any such claims by the Executive.²⁵

Despite requests for information about the specific nature of executive privilege the state may claim over the CFA Board papers, no advice has been forthcoming from the VGSO.

In view of the lack of forthcoming information about the specific nature of executive privilege that might apply, the Committee Chair suggested the following to the CFA through correspondence to the VGSO:

Given the advice the Committee has received, the most appropriate course of action is for the documents to be produced with details about the type of executive privilege the State may claim. In particular, specifying whether the documents fall within either of the above-mentioned exceptions. The Committee will then determine if and how the documents should be used in light of the claims.²⁶

In response to the Committee Chair's correspondence, the VGSO outlined its current directions on the circumstances in which executive privilege might broadly apply.²⁷ These directions extend to circumstances beyond requests for the production of documents by a parliamentary committee. The VGSO also stated that to date it had not had any alternative directions from the Victorian Government regarding the basis for claims of executive privilege. The circumstances outlined by the VGSO do not make reference to requests for the production of documents by Joint Investigatory Committees in the Parliament of Victoria.²⁸

Based on the correspondence between the VGSO and the Committee Chair, it appears that the directions the VGSO is currently complying with do not accord with the Committee's understanding about circumstances in which claims of executive privilege may apply when requests for documents are made by Joint Investigatory Committees in the Victorian Parliament.

Regardless of this, the Committee notes that it has not been given a timeframe for the production of documents subject to any claims of executive privilege. The delay in the provision of these documents has consequences for the Committee undertaking a thorough and transparent inquiry.

25 Correspondence from Clerk, Legislative Council to Committee Chair, 15 October 2015.

26 Correspondence from Committee Chair to the VGSO, 20 October 2015.

27 Correspondence from VGSO to Committee Chair, 23 October 2015.

28 Correspondence from VGSO to Committee Chair, 25 September 2015 and 23 October 2015.

1.5 Conclusion

At the Committee's request, the VGSO sent the Committee a complete list of CFA board meetings between 18 January 1971 and 15 December 2014 in correspondence dated 25 September 2015. This list indicates that there were 739 meetings held during in this time period.

In correspondence dated 23 October 2015 the VGSO indicated that they had provided the Committee with all CFA Board meeting papers, minutes and agendas concerning Fiskville.

Focusing solely on the minutes of Board meetings (that is, putting aside the Committee's request for other types of Board papers that are also of relevance to the inquiry) at that date (23 October 2015) the Committee had received minutes for a total of 51 board meetings. That is, the Committee had received only 7 per cent of CFA Board meeting minutes.

In its analysis of the number of meetings held per year for every year between 1971 and December 2014 compared with the number of meeting minutes it had been provided with, the Committee identified major gaps in the provision of minutes.

The Committee has identified examples where Fiskville matters were raised at the Board level that the Committee is unable to follow-up on because of the significant gaps in the minutes it has been provided with. This includes instances in which CFA officers have been requested to secure additional information and report back to the Board. Without minutes from subsequent meetings, the Committee cannot confirm if CFA officers in these circumstances provided follow-up reports to the Board.

In the Committee's interim report in June 2015, the Committee noted that evidence received in the first half of 2015 suggested:

... significant criticism and mistrust about the role of CFA management especially from the late 1980s to the present, and views [were] expressed that the CFA were more concerned with protecting its own reputation.²⁹

The Committee considers that conducting an independent assessment of the CFA Board meeting papers is an important additional source of information that may either verify or refute this evidence.

The Committee is aware that there were matters of relevance to the inquiry discussed during CFA Board meetings for which it has been refused access. The Committee has obtained minutes of meetings held in other years in which there is discussion by the Board about Fiskville that are relevant to the Committee's inquiry, and specifically the term of reference requesting it to undertake a 'study of the role of past and present executive management at Fiskville'.³⁰

29 Inquiry into the CFA Training College at Fiskville Interim Report (2015, p. xii).

30 See terms of reference, p. v.

Given correspondence from the VGSO dated 16 and 23 October 2015 indicating that all documents had been provided under the summons, the Committee had not anticipated that on behalf of the CFA the VGSO would provide a further 49 Board meeting minutes on 6 November 2015. The correspondence from the VGSO on that date stated that:

We enclose a CD containing 49 CFA Board minutes for the years 1996, 1997, 2007 and 2009. You identified these years as being significant in relation to the Fiskville site. Accordingly, we have prioritised our review to ensure minutes from these years are provided to the Committee as soon as possible.³¹

The late production of documents by the CFA does not alter the reality of the challenges the Committee is experiencing in undertaking a transparent and thorough inquiry into the events that occurred relating to the Fiskville training college.

In view of this, the Committee is reporting to the Parliament its concerns about the challenges it is experiencing in undertaking its inquiry.

The Committee has not been provided with documents it summonsed on 8 September 2015. In summary, including the most recent production of documents on 6 November 2015 over a two month period the Committee has been provided with 13.5 percent of the minutes of CFA board meetings—that is, minutes of 100 out of a total of 739 meetings.

The Committee is not satisfied with the VGSO's assurance that there was no discussion of matters relevant to the inquiry recorded in CFA Board minutes and would prefer that it be provided with the minutes for every Board meeting so that an independent assessment may be carried out. This is the Committee's view of what the terms of reference require.

The Committee is committed to conducting a thorough and transparent inquiry into the role of past and present executive management at the CFA training college at Fiskville, as well as the other aspects of the terms of reference with which it has been issued.

³¹ Correspondence from VGSO to Committee Chair, 6 November 2015.

Appendix 1

Index of correspondence between the Committee and the CFA/VGSO relating to CFA Board meeting papers

Date	From	To	Subject
08.09.15	Committee	CFA CEO	Summons of all CFA Board papers from 1971 to December 2015
11.09.15	VGSO	Committee	Seeking clarification of documents relevant to summons and confirming minutes will be provided by 15.09.15
16.09.15	VGSO	Committee	First tranche of documents provided.
18.09.15	VGSO	Committee	Committee asked to destroy copies of documents provided on 16.09.15 due to a potential claim of executive privilege
18.09.15	VGSO	Committee	Redacted tranche of documents provided to replace original tranche.
21.09.15	Committee	VGSO	Request for an index of all CFA meetings from 1971 to December 2014 and clarification sought about a number of points (including reference to potential executive privilege claim and claim that minutes prior to 1996 do not exist)
23.09.15	VGSO	Committee	Progress report, indication that a list of material issues had been identified that the VGSO were using to review documents and advise that meetings of the CFA management and staff may be of relevance but would need to be summonsed separately by the Committee.
25.09.15	Committee	CFA CEO	Summons of papers regarding executive management meetings.
25.09.15	VGSO	Committee	Provided an index of CFA Board meetings and responses to questions raised by the Committee in correspondence dated 21.09.15. Includes an explanation of the VGSO's understanding about the basis for claims of executive privilege.
25.09.15	VGSO	Committee	Tranche 2 of documents in response to 8.09.15 summons. One CD of documents relating to 25.09.15 summons.
01.10.15	VGSO	Committee	Tranche 3 of documents in response to 8.09.15 summons. One of many letters outlining that there may be executive privilege claims made about the content of some documents.
09.10.15	VGSO	Committee	Tranche 4 of documents in response to 8.09.15 summons.
16.10.15	VGSO	Committee	Tranches 5, 6 and 7 of documents in response to 8.09.15 summons.
20.10.15	Committee	VGSO	Outline of the Committee's concerns about the production of documents, including the time taken to provide documents, the ad hoc provision of material, filtering of documents and the Committee's understanding about the process to be followed when claims of executive privilege are made.
23.10.15	VGSO	Committee	Responds to Committee's letter of 20.10.15 and encloses a list of documents produced to date in chronological order. States that all minutes relevant to the 08.09.15 summons have now been produced.
27.10.15	Committee	CFA CEO	Summons of financial information.

Appendix 1

Date	From	To	Subject
27.10.15	Committee	VGSO	Outlines the significant gaps in CFA Board minutes that the Committee has been provided with, and events that occurred relating to Fiskville during these periods. Sought confirmation that Fiskville was not discussed at Board meetings for which the Committee has not been provided with minutes.
04.11.15	VGSO	Committee	Response to letter dated 27.10.15. Confirms that there was no discussion concerning Fiskville recorded in minutes during timeframes for which the Committee has not been provided with minutes. Attaches a copy of minutes of a meeting held on 29 March 1971.
06.11.15	VGSO	Committee	Provided copies of 49 CFA Board minutes from the years 1996, 1997, 2007 and 2009 (the years where the Committee identified relevant events occurred in relation to Fiskville). Included redactions of some material due to potential executive privilege claims.

Environment, Natural Resources and Regional Development Committee

Parliament House
Spring Street
EAST MELBOURNE VIC 3002

61 3 8682 2803
enrrdc@parliament.vic.gov.au
www.parliament.vic.gov.au/enrrdc