



VICTORIAN GOVERNMENT  
SOLICITOR'S OFFICE

Your reference:

Our reference: 1403971

Contact details: Andrew Suddick  
(03) 8684 0458 (direct line)  
andrew.suddick@vgso.vic.gov.au

All correspondence to:  
PO Box 4356  
Melbourne 3001 Australia  
DX 300077 Melbourne

29 May 2014

Ms Justine Stansen  
Principal Legal Advisor  
Hazelwood Mine Fire Inquiry  
1 Spring Street  
MELBOURNE VIC 3000

***By Email***

Dear Ms Stansen

**Independent Inquiry into Hazelwood Mine Fire - Matters Raised in Evidence of Fire Services Commissioner on 26 May 2014**

We refer to the our previous communications. The Fire Services Commissioner (**Commissioner**), Craig Lapsley, gave evidence at a hearing of the Board on 26 May 2014. In the course of giving evidence, the Commissioner was requested and/or agreed to provide further particulars in relation to the following matters. The Commissioner's instructions and response is set out under each issue.

**The total number of fires burning in East Gippsland in the 24-hour period from 8 to 9 February 2014 (transcript page 133, lines 6-9).<sup>1</sup>**

1. The terms '8 to 9 February 2014' and '24-hour period' are both units of time which, if used together, unintentionally import a degree of imprecision. This is because the reference to two dates is actually a reference to a 48-hour period but this is qualified by a stated 24-hours period. Much of the significant fire activity occurred on 9 February 2014 alone.
2. We are instructed that the Commissioner has caused inquiries to be made. In relation to the number of fires burning in Gippsland on 8 and 9 February 2014, based on data supplied to him by the State Control Centre, he has instructed us, as follows:
  - 2.1 Country Fire Authority (CFA) and Department of Environment and Primary Industries assets attended 100 incidents (being fires and non-fires) in Gippsland between 17:00 on 8 February and 17:00 on 9 February 2014. Gippsland, in this case, is defined as CFA Regions 9, 10 and 11. For the sake of completeness, the Commissioner is not aware of any fires that were

<sup>1</sup> There is reference in those lines to the term 'same period'. The period referred to is discuss on the previous page (see page 132, lines 27-31). being 'in the 24-hour period from 8 February to 9 February'.

burning in this region that were not attended by personnel of the fire services agencies.

2.2 The fires can be particularised in the following way:

- (a) 62 grass or bushfires;
- (b) 1 structure fire; and
- (c) 5 non-structure fires (ie non-grass, non-bushfire and non-structure fires and would include car fires).

Of these 62 fires, 24 were ongoing events in East Gippsland, the earliest of which had started on 20 December 2013.

2.3 In addition there were 19 false alarms, 9 incidents (eg vehicle accident, gas leak), 2 undefined incidents and 1 call to assist another agency. These have been referred to here because they potentially involve utilisation of the resources of fires services agencies.

**Aircraft availability on the afternoon of 8 February 2014 and the morning of 9 February 2014 (transcript pages 38-41).**

- 3. This request asked the Commissioner to provide information regarding aircraft availability in circumstances where he and other personnel had allocated resources based on the strategic priorities across the State and in the Gippsland region, including the preservation of life.
- 4. In view of the fact that this allocation (and the relevant aircraft locations) reflects strategic decisions on deployment, it does not record 'availability' in the sense that aircraft were 'free' and/or not specifically deployed.
- 5. To assist the Board, we have attached the following documents on aircraft deployment/locations:
  - 5.1 A map setting out the deployment/location of all aircraft in Victoria (and some aircraft sourced from interstate) on 8 February 2014 (**Attachment 1**); and
  - 5.2 A spreadsheet setting out, under separate tabs, the deployment/location of all aircraft in Victoria (and some aircraft sourced from interstate) on 8 February 2014 and 9 February 2014 (**Attachment 2**).

**Whether any calls were made to '000' by GDF Suez on 9 February 2014 (transcript page 49, lines 9-13).**

- 6. The Commissioner has caused inquiries to be made of the Emergency Services Telecommunications Authority (ESTA) in relation to this. ESTA operates the 000 call service to which Telstra directs 000 calls made in Victoria. Calls to 000 record the number from which a call is made and, sometimes, information regarding the caller such as their name and address. The logs are grouped as according to the relevant incident. We understand that the relevant incidents for the purposes of the Mine fire are the Hernes Oak log and the Miners Way log. These ESTA logs do not record any call being made from numbers used by GDF Suez on 9 February 2014.

For completeness, nor do the logs refer to a call being received from some other number by a person stating that he/she is within the Mine, nor do the logs record any calls from persons identifying themselves to be Mine employees. Attached are pdf copies of the Hernes Oak and Miners Way logs, being, respectively, [FSC.0014.001.0001] (Attachment 3)<sup>2</sup> and [FSC.0014.001.0107] (Attachment 4). Despite having Ringtail numbers, these documents are yet to be formally produced to the Board.

7. In the course of giving evidence on 27 May 2014, Mr Shanahan, a GDF Suez employee, referred to a call been logged as being made by Diamond Protection (the firm we understand provides security services for GDF Suez) to 000 at 13:40 on 9 February 2014 (see transcript, page 274).
8. On 28 May 2014, we wrote to the solicitors acting for GDF Suez, King & Wood Mallesons (**Mallesons**), asking them to urgently provide us with the number from which that call at 13:40 on 9 February 2014 was allegedly made (or numbers from which the call could have been made) (**Letter**). The Letter was sent by email to Mallesons at 12:52 on 28 May 2014 and, given the urgency of the matter, requested a response by close of business on 28 May 2014. Attached are pdf copies of the Letter (**Attachment 5**) and the email that the Letter was attached to (**Attachment 6**).
9. The purpose of requesting the information sought in the Letter is to allow the Commissioner to make a request to ESTA for searches to be made of its logs for any number(s) provided by Mallesons. To date, we have received no response to the Letter from Mallesons regarding the number(s) allegedly utilised by staff of Diamond Protection to make a call to 000 on 9 February 2014. In view of this, no further request has been made to ESTA in this regard. We note that there is *no reference* in the ESTA logs to a call being made to 000 at 13:40 on 9 February 2014.<sup>3</sup>

Please feel free to contact the writer if you have any queries in relation to this matter.

Yours faithfully  
Victorian Government Solicitor's Office



Andrew Suddick  
General Counsel (Litigation)

per Andrew Suddick

**cc** **Chris Fox, King & Wood Mallesons**  
**Emily Heffernan, King & Wood Mallesons**

*Attachments*

1. Map setting out aircraft deployment/location on 8 February 2014
2. Spreadsheet setting out aircraft deployment/location on 8 February 2014 and 9 February 2014
3. Copy of ESTA logs for Hernes Oak fire
4. Copy of ESTA logs for Miners Way fire
5. Copy of letter to Mallesons dated 28 May 2014
6. Email to which letter to Mallesons dated 28 May 2014 was attached

<sup>2</sup> Because this log relates to the Hernes Oak fire, the entries commence prior to 9 February 2014. The entries for 9 February 2014 can be found at the bottom of page 56 ([FSC.0014.001.00056]).

<sup>3</sup> For the entries at or around 13:40 on 9 February 2014, see page 65 ([FSC.0014.001.00065]) (in respect of the Hernes Oak fire. The Miners Way log only commenced in the final hours of 9 February 2014 so could not record any such call.