

DEFENCE (INQUIRY) REGULATIONS 1985

COMMISSION OF INQUIRY

TERMS OF REFERENCE

On 26 October 2013, I, Air Marshal M.D. Binskin, AO, Acting Chief of the Defence Force, appointed a Commission of Inquiry for the purpose of inquiring into a matter concerning the Defence Force, being the circumstances of a fire at the Marrangaroo Training Area on 16 October 2013 (the fire), in accordance with terms of reference to be issued separately.

I now issue the following terms of reference.

Background

1. It has been reported to me that on 16 October 2013 at Marrangaroo Training Area near Lithgow, a fire was noticed following an explosive disposal serial conducted by the Defence Explosive Ordnance Training School. Efforts to extinguish the fire were unsuccessful and it spread rapidly. Detonations of unknown items (which may have been unexploded ordnance) in the vicinity occurred at this time and impeded fire-fighting efforts.
2. The Commission is to seek evidence and report on the following matters:

General

- a. The purpose of the disposal serial.
- b. The chronological sequence of the circumstances of the disposal serial, including all steps taken in the planning, risk assessment, approval and execution of the disposal serial.
- c. The chronological sequence of the circumstances of the fire including efforts to extinguish or control it.
- d. The details relating to notification of the disposal activity and the subsequent fire to fire fighting agencies.
- e. The primary and contributory causal factors of the fire and, in particular, any link or causal connection between the disposal serial and the fire.

Defence activities

- f. The adequacy of orders, instructions and procedures for relevant Defence activities at Marrangaroo Training Area on 16 October 2013.
- g. The extent to which Defence activities at Marrangaroo Training Area on 16 October 2013, so far as they are relevant to the fire, complied with relevant orders, instructions and procedures.
- h. The extent to which fire suppression efforts at Marrangaroo Training Area on 16 October 2013 were effective and adequate.

- i. Given the condition of the Marrangaroo Training Area on 16 October 2013, whether the means and methods for fire suppression available to Defence staff on the day were adequate.
- j. The judgement exercised by participants in the activity, taking into account prevailing conditions.

Personnel and property

- k. Whether the fire caused injury to any person at Marrangaroo Training Area on 16 October 2013.
- l. Whether the fire caused damage to any property at Marrangaroo Training Area on 16 October 2013.
- m. The qualifications (including their currency) and experience of the persons directly involved in Defence activities relevant to the fire.
- n. Whether relevant actions of Defence personnel were affected to any extent by the use of drugs or alcohol.

Prevailing Conditions and Appropriateness of training area

- o. The prevailing condition and appropriateness of the Marrangaroo Training Area for relevant Defence activities on 16 October 2013.
- p. The prevailing environmental conditions and declared fire danger.

Temporal and geographical scope

3. It is important that Defence is provided with a detailed understanding of the events of 16 October 2013 at Marrangaroo Training Area and its immediate surrounds and decisions concerning conduct of explosive disposal serials on that day. To that end, the Commission is asked to provide a focussed, in-depth analysis of this particular event. If, in the course of its inquiries, the Commission finds evidence of systemic issues relating to range management and controls it should record those views to allow judgements to be made on whether further inquiries are necessary.

4. If the Commission is unable to obtain any relevant evidence, it shall report the nature of that evidence and the reason for its unavailability.

Criminal or disciplinary matters

5. The Commission is not to conduct a criminal or disciplinary investigation or to conclude that an offence has or has not been committed by any person.

Communications

6. All communications between the Commission and the Appointing Authority are to be in writing and are to be attached as documents to the Commission's report.

Recommendations

7. The Commission is to make recommendations arising from its findings, including:
 - a. Whether the conduct of any person or the occurrence of any event under inquiry warrants further investigation by Service or civilian police or any other authority.
 - b. Whether any action is required to prevent the occurrence of a similar fire at Marrangaroo.
 - c. Actions which should be taken to eliminate or mitigate the inadequacies of any equipment, orders, instructions or procedures, as they relate to this incident.

Documentation

8. The following documents are to be attached to your report:
 - a. A copy of the Instruments of Appointment.
 - b. A copy of these Terms of Reference.
 - c. A list of witnesses who testified before the Commission.
 - d. A list of all exhibits before the Commission.

Legal advice

9. Any legal advice obtained in the course of the inquiry is not to be incorporated in the Commission's report. Every such advice is to be handled in the manner described in Defence Legal Practice Note 3/2010 – *Interim Arrangements – Quick Assessment and Administrative Inquiries*, paragraphs 8-9, making due allowance for differences between a Commission of Inquiry and an Inquiry Officer Inquiry.

Reports

10. You are to submit your report by 31 January 2014 or, if submission is delayed, you are to advise me within seven days before that date, at which time you are to submit to me a progress report on that date. If submission is further delayed you are to provide monthly reports until the report is completed.

/ **M.D. BINSKIN, AO**
Air Marshal
Acting Chief of the Defence Force

Appointing Authority

8 November 2013