



SUBMISSION TO THE ECONOMICS AND INDUSTRY STANDING COMMITTEE

INQUIRY INTO THE

2011 KIMBERLEY ULTRAMARATHON BUSHFIRE INCIDENT

1. Personal Details

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2. Reason For Making a Submission

I am Kate Sanderson's brother. Although I had no direct involvement in the Kimberley Ultramarathon, since November 2011 I have been heavily involved in petitioning the WA Government for an inquiry into this event, as it appeared to me that a number of issues needed to be investigated and the lessons learnt to ensure the risk of a recurrence could be minimised.

Furthermore, it was very clear to me that my sister and the other casualties were bewildered by the apparent lack of interest being shown by anyone in a position of responsibility towards their plight.

My personal involvement in the efforts to gain an inquiry started on Friday 18th November 2011 – the day I first called the office of Dr Hames to request a meeting with him to discuss our request for an inquiry.

3. Personal Background.

I believe it may be helpful if the Inquiry has an awareness of my own background and experience.

I arrived in Perth on 12th October 2011 to take up my new role in a non-academic capacity at Murdoch University. However, my wish to make a submission to this inquiry is purely personal, and has no connection to my employment in any way.

Before coming to WA, I spent 6 ½ years (2005-2011) working in the IT function of a NATO agency based in Luxembourg. During this period I was heavily involved in designing & delivering IT services to support the NATO/ISAF mission in Afghanistan, most notably in Kandahar. In this role, I gained an understanding of the challenges of providing reliable IT services, especially communications, in an undeveloped, remote and environmentally challenging region.

Prior to that I worked for over 7 years (1997-2004) in an investment bank, filling various IT "troubleshooter" roles in both London and Luxembourg. A key element of my role in both locations was crisis management and disaster recovery.

My first career was in the British Army (1975-1997). During my military career I served in numerous places including UK, Germany, Northern Ireland, Cyprus, the Falkland Isles, Hong Kong & Kuwait.

I have outlined my career because I believe this may be helpful to the Inquiry – I am familiar with some of the challenges of planning and running training events under challenging conditions, and of trying to communicate successfully in remote, potentially hostile, environments. I am also aware of

the necessity of excellent contingency plans, clear lines of authority and decision-making, and the absolute need to ensure measures are put in place to deal with any emergency that may arise. It was a key facet of my whole time in the military that you did not cut corners or take un-necessary and avoidable risks with the lives of your people – either during training or on operations.

That said, however, I have no first-hand experience of the Kimberley region. Neither have I ever planned organised or participated in an Ultramarathon-type event, whether organised by Racing The Planet or any other similar entity.

4. Outline Sequence of Events

The following outlines some of the key events marking my involvement in the campaign to seek an inquiry. I have amassed a substantial dossier of supporting emails, which of course I will make available to the Inquiry if required.

At the time of the incident, I was still employed by NATO in Luxembourg, but coming to the end of my notice period (ending on 30 Sep 2011). I had already attended a first interview for the Murdoch University position in Jun 2011, but was yet to be called for final interview (this subsequently took place in England on 20 Sep 2011).

- a. **2 Sep 2011** - The Kimberley Ultramarathon is stopped as 5 entrants are caught and burnt in a bushfire.
- b. **4 Sep 2011** – News first reached me (and the rest of Kate’s family in Europe) of her serious injury in the bushfire. (Until then we were unaware of the event she was participating in).
- c. **6-10 Sep 2011** – I attempted to make contact with Racing The Planet. Eventually I heard from Dr Brandee Waite, via phone calls and emails. In one of these emails dated 9 Sep 2011 she stated:

“I was not involved in the original permits outside of getting approval from the Medical Board of Western Australia for our medical team. However, I do know that the management company worked directly with the tourism board in WA to obtain all proper permits and that the hospital and local agencies were all aware of our plan to hold the race (I met directly with hospital personnel prior to the start of the race), and the course of the race was cleared with all the local land owners/shire, etc, who had to give permission for the race to traverse their land. I also know that helicopter fly-overs of the area before the race began on Saturday morning reported that our course was clear of any threatening fires.

I do not want to speak out of turn about any of these details since I was not involved in these meetings. Nor do I want to engage in finger-pointing at the agencies who were involved in the planning of the event, and the initial responses to our requests for emergency assistance once the fire came across our competitors. I am hopeful that when the official statements from RTP and all of the other agencies come out, that it will be clear that RTP had the proper permits and counsel prior to the event, and responded as quickly as possible to crisis.”

- d. **12 Oct 2011** – I arrived in Perth to take up my new post at Murdoch University.

- e. **2 Nov 2011** – I received first contact from the media (ANC News, Broome) which indicated to me there was much more interest in this catastrophic event than I had anticipated.
- f. **11 Nov 2011** – I was able to fly to Melbourne, and saw Kate in the Alfred Hospital Burns Unit for the first time since the incident. I was appalled at the horrific state she was in – it was so much worse than I had expected. I also met Andrew Baker, a friend of Kate, and an eye-witness. He provided me with his formal police statement as well as other useful supporting documents.
- g. **18 Nov 2011** – On my return to Perth from a conference in QLD, I called Dr Hames' office. Ian Johnson called me back later that same day to propose a meeting on 22 Nov.
- h. **22 Nov 2011** – Meeting with Dr Hames, Ian Johnson and Melinda Hayes in Dr Hames' office. I asked for a formal inquiry, and presented 3 possible avenues. During our discussion, Dr Hames tried to equate the risks taken by the Ultramarathon runners to those taken by sailors competing in the Perth-Bali Yacht Race – another event sponsored by WA Tourism. I was extremely upset by this suggestion which I felt was wholly inappropriate – it also gave me serious misgivings about the true level of concern being expressed by Dr Hames. He asked for 2 weeks in which to consider the options, to which I reluctantly agreed, as we had hoped for greater urgency. Even then I gained the impression that there was real reluctance to actually convene an inquiry. His parting advice to me was that, if we wanted to get compensation, we should “sue Racing The Planet”. I recall my response was to point out that it was impossible to do so, if that was the advised course of action, since we didn't even know what jurisdiction they were covered by. I also stressed that we were not looking to sue anyone, that we simply wished to ensure that the facts were discovered and verified, and that the lessons could be learnt to help prevent a recurrence.
- i. **25 Nov 2011** – I received a call from Ian Johnson, advising me (inter alia) that Dr Hames' office had been contacted by Blake Dawson, a Sydney-based law firm. Ian Johnson advised me that they were requesting a transcript of my meeting with Dr Hames (which would not be provided). He also said that Blake Dawson had reminded Dr Hames' office that the contractual arrangement between WA Tourism and RTP was confidential and not for public disclosure. He further advised me that since I was not a witness and had not been present at the Ultramarathon, I should be very cautious as if I said anything detrimental about RTP in public, then I risked being pursued for defamation. During our discussion, I also drew Ian Johnson's attention to the alacrity with which the Premier had announced an inquiry into the Margaret River bushfires, and contrasted the government's reaction when property was burnt with their reaction when people were burnt in a government-supported event.
- j. **2 Dec 2012** – I met with Superintendent Mick Sutherland in the Police HQ in Perth, we discussed the Ultramarathon bushfire incident, and he advised me that he had gathered some 40 statements from witnesses in the immediate aftermath, and before RTP staff left the country. It was evident that at the time, the expectation was that at least one of the 2 most seriously injured casualties (Kate Sanderson or Turia Pitt) may not have survived their burns, and therefore there was a likelihood of a coroner's inquiry.

- k. **7 Dec 2011** – Ian Johnson emails to request 2-3 more days in which to prepare a response to our request for an inquiry.
- l. **9 Dec 2011** – A negative reply to our request for an inquiry was received by email, in the form of a letter signed by Dr Hames. (A copy will be provided to the Inquiry if this has not already been made available by Dr Hames' office)
- m. **5 Jan 2012** – I met with Mary Gadams in Hong Kong Airport. Our meeting lasted more than 2 hours – the atmosphere was, at best, cordial and polite. Mary Gadams preferred not to answer approximately 75% of the questions I posed. A short synopsis of our meeting follows:
- i. RTP Investigation – Mary Gadams was quick to advise that their own internal investigation had uncovered nothing significant – she stressed that they wouldn't change anything if it happened again.
 - ii. Medical staff – she stressed that RTP had brought their own doctors (volunteers) because they couldn't find any in Australia. No mention was made as to whether or not they were accredited to act as medical professionals in WA, neither did I ask at that time.
 - iii. Sponsorship - she confirmed that it was RTP who had initiated the approach to request financial support, but didn't say when, and with whom the request had been discussed. She wouldn't be drawn further on the agreement between RTP and WA Tourism, other than to insist that any cent received from WA Tourism had been returned. Later she contradicted herself by suggesting that money received either had been or was going to be donated to charity.
 - iv. She did confirm that the media helicopter (and possibly the film crew) was financed by Tourism WA and not by RTP. She indicated that this helicopter was also designated First Responder in the event of an emergency.
 - v. She refused to confirm or deny the existence of any insurance held by RTP
 - vi. She stated that there was no formal agreement in place between RTP and El Questro
 - vii. She confirmed that she had appointed the law firm Blake Dawson to represent RTP based on a pre-existing family connection, but wasn't more specific than that. (It is now speculated that the "family connection" might be via her husband, Alasdair Morrison, who was listed as being a member of the RTP Staff and whose role was as a Course Marker for the Kimberley Ultramarathon).
 - viii. She was not prepared to answer any questions about what local expertise she had consulted or utilised, or even what arrangements for their employment, remuneration or insurance might have been
 - ix. Regarding why all mention of this event appeared to have been expunged from the RTP website some weeks later, she said this was their normal practice to remove the history of past events every time they refreshed their website.
 - x. Regarding the waiver, she stated that they use the jurisdiction of the British Virgin Isles because they are a global organisation, they need to have standard terms

etc based somewhere. She would not make any comment on whether she was concerned in case the waiver was challenged and possibly set aside.

xi. Regarding her own involvement in the event, she would not reply to questions about whether she had either signed a waiver or had paid to enter. Neither would she say who funded her own medical treatment in the aftermath.

xii. She declined to answer any questions about her relationship and dialogue with the WA Government. However, in a letter Dr Hames wrote to Kate in late December (it never arrived, we had to ask for it again) it is apparent they met sometime before Christmas, presumably in Perth.

xiii. When asked if she was interested in discussing this incident with the media (she was already concerned that reporting had been very unbalanced and critical of RTP) she said she preferred not to.

xiv. She would not comment on any speculation regarding a public inquiry, or her possible willingness to be involved. As far as she was concerned, they were still waiting on the FESA report.

xv. She did insist that any reports that the communications didn't work during the event were completely wrong. As far as she is concerned, they had sufficient and reliable communication systems. We did discuss types of satellite phones used by RTP (Iridium and BGAN), and the fact that they have acted in the past as a test bed for entities such as Intel. (Interestingly enough, a report about their more recent event in Nepal did highlight the fact that they have significantly enhanced their radio network with repeater stations). Every eye-witness I have met, however, has been insistent that poor communications was evident and a contributing factor.

- n. **13 Jan 2012** – I emailed Ian Johnson, inquiring whether the government's position vis-a-vis our request for an inquiry may have changed. I received the following reply:

"I can confirm that the WA Government has not found a way to conduct a formal inquiry into the matter.

I can also confirm that should you wish to pursue the matter further, it would be best to do so outside the scope of Government intervention."

- o. **13 Jan 20102 onwards** – As per the advice of Ian Johnson, we turned our attention to alternative avenues of approach. This included directly approaching Michelle Roberts for help, back-briefing the media in WA, VIC and NSW, and making further investigations on my own initiative.

5. Key Contacts

During the period from mid-November to the present date, I made strenuous efforts to contact and speak to as many of those involved in the Ultramarathon and the follow-up as I possibly could. The following I would submit are key witnesses or subject matter experts whose contributions to the Inquiry would be highly desirable in establishing the facts or providing background knowledge:

- a. Mary GADAMS (Founder and Owner, Racing The Planet, Hong Kong)
- b. Alasdair MORRISON (RTP Course Marker, also husband of Mary Gadams & Senior Advisor for Citigroup etc, Hong Kong)

- c. Brandee WAITE (Doctor, Racing The Planet, USA)
- d. Andrew BAKER (Civil Engineer, Friend of Kate Sanderson, Volunteer Assistant to Racing The Planet, VIC)
- e. Hal BENSON (Ultramarathon Competitor and Friend of Kate Sanderson, NSW)
- f. Michael HULL (Ultramarathon Competitor and Bushfire Victim, NSW)
- g. Nathan DYER (Photographer who covered the event for The West)
- h. Scott CONNELL (Volunteer Assistant to Racing The Planet, Kununurra)
- i. Lon CROOT ((Volunteer Assistant to Racing The Planet, Kununurra)
- j. Sarel de KOKER (Paramedic, St Johns Ambulance, Kununurra)
- k. Ian JOHNSON (Policy Adviser – Tourism, Office of the Hon Dr Kim Hames MLA, Perth)
- l. Bradley BULL (Newcrest Mining, WA)
- m. Trent BREEN (Newcrest Mining, WA)
- n. Wade DIXON (Newcrest Mining, WA)
- o. Will BURRELL (Founder El Questro Wilderness Resort, VIC)
- p. Louise FOULKES (Geocentric Pty Ltd, organisers of similar extreme events in Australia, QLD)
- q. Tom LANDON-SMITH (AROC Sport, organisers of similar extreme events in Australia, ACT)
- r. Nicole COX (Journalist, Sunday Times newspaper, Perth)

6. Specific Responses to the Inquiry Terms of Reference (TOR)

- a. “whether RTP took all reasonable steps to identify and reduce risks and maintain the safety of competitors, employees, contractors, spectators and volunteers in the preparation for and the running of the event and in responding to the fire and the injuries, including access to medical support and evacuations”
 - i. During my meeting in Hong Kong with Mary Gadams on 5 Jan 2012, she stated that RTP had conducted their own internal investigation into this event, and had concluded that “they would do nothing differently if it happened again”. I was astonished by this conclusion, and requested a copy of their investigation – this was turned down.
 - ii. Statements made to me by eye-witnesses and anecdotal evidence indicates that RTP took a number of key decisions to reduce the costs of running this event, some of which were to have a direct impact on their ability to react when faced with the emergency that unfolded. It was even suggested that a prior booking for a dedicated First Responder helicopter was cancelled just days before the event, and the media helicopter was dual-roled instead.

- iii. It seems that of the 41 entrants, several were invited as guest runners by RTP, and did not have to pay the entry fee. Therefore the actual income generated by participants was probably less than \$60,000. It is suspected as very likely this event was going to make a substantial loss, possibly even when the WA Tourism sponsorship was taken into account. It is also possible to speculate that the reliance on the sponsorship from WA Tourism may have “skewed” the judgement of those who responsible for running the event, and who knew there were bushfires in the area before the race started, but appear to have decided to continue with the race in any case.
- iv. During my meeting with Mary Gadams on 5th January 2012, she was very clear and specific in assuring me that RTPs event communications were based on Iridium satellite phones and BGAN terminals. She further insisted that there were no problems with communications at any time during the event. At the time, I was reassured by her statements, as I am familiar with satellite-based voice and data communications from my time with NATO, and am aware of the quality, reliability and coverage of the Iridium system. However, eye-witness reports state that RTP used and relied on Thuraya satellite phones during this event. This is an inconsistency that needs to be clarified. From personal experience, Thuraya is not comparable to Iridium, as the technology used (geostationary satellite vs. a constellation of low-earth orbit satellites) is very different. The main advantage of Thuraya is lower cost of handsets and call charges. (I am familiar with both, having considered them for use in Afghanistan – Iridium was preferred as safety and reliability were higher priorities than cost).
- v. However, satellite phones are still basically point-to-point systems. In my experience, an all-informed radio network (VHF or HF) would be mandatory for an event like this, covering a large distance where conventional communications (e.g. mobile phones) are known not to work.
- vi. It is difficult to understand why all competitors are not provided with emergency Personal Locator Beacons (PLBs), which would allow a casualty to be able to call for help. These devices may cost a few hundred dollars each, but would provide all participants with a guaranteed means of calling for help that would be independent of any RTP communications. The Safety Instructions provided to all competitors (on the Course Notes/Sketch Map) included the following superficial advice, with no suggestion as to HOW the organisers were to be contacted, or what to do if it isn't possible to contact the organization:

“If you see people in need of help, try to contact the organization and report their bib number, time and approximate position”
- vii. From the eye-witness accounts that I have heard or received, it seems that the casualties didn't receive basic pain relief from the RTP doctor who arrived on the scene, as they didn't have any with them. If so, then it would seem that the casualties were forced to endure hours of excruciating pain that could have been avoided if the RTP medical staff had been better equipped.

- viii. It seems that most of the crucial life-preserving measures were taken not by the RTP doctor, but by other competitors who arrived first on the scene (most notably the emergency services officers from Newcrest Mining) and then by the St John's paramedic Sarel de Koker when he arrived on foot.
 - ix. It seems possible that RTP may not have fully appreciated the dangers of the area they were operating in. While this was the second event they had organised in this area; the previous year's event took place in April – when conditions (and bushfire risks) were likely to have been very different to September.
 - x. Mary Gadams advised me in Hong Kong that on a scale of difficulty from 1 to 10 (one being the easiest), she considered the terrain of the course of the Kimberley Ultramarathon as being a 2-3. She stressed that this was NOT a very demanding course, especially compared to other RTP events, but she had decided to hold this event as she loved the area.
 - xi. It seems that RTP relied on their own medical staff (who, according to Mary Gadams and Brandee Waite, were given special dispensation to act as medical professionals for this event – it is assumed that this claim will be verified by the Inquiry). According to a conversation I had with Sarel de Koker, the lead St John's Ambulance paramedic in Kununurra, and the first properly-equipped medical professional to arrive on-site, there was no record of any request from RTP to the local medical services. He stressed that, had they been aware, they would have been stood by, and may even have had staff pre-positioned on-site, as opposed to losing time mustering the volunteer paramedics once the alarm was raised. However, I was assured by Mary Gadams in January that TRP were obliged to bring their own medical staff as there were unable to find any suitably-qualified local volunteers.
 - xii. The various statements I have received from non-RTP eye-witnesses have been consistent in indicating an event organisation that appeared to have an optimistic approach to the running of the event, but were ill-prepared to deal with an emergency as happened during this event. Their communications appear to have been poor and unreliable and they did not appear to have a well-tested emergency plan to activate when required. It is also difficult to work out who actually had the authority to take the necessary decisions, to include the curtailment of the event, and the dissemination of this decision to ALL those involved. It seems more by luck than planning that there were no fatalities, or there were no more than a small number of casualties who were caught in the bushfire. Apparently, it could have been much worse.
- b. “the extent to which the terms and conditions applied by an event organiser to employees, volunteers and competitors and any associated sponsorship agreement with WA Tourism should reasonably protect the safety and interests of competitors, employees, contractors, volunteers and spectators”
- i. I have no knowledge of any agreements, terms or conditions that may have existed between RTP and the local volunteers. Mary Gadams declined to discuss this when I asked her in Jan 2012.

- ii. At my meeting with Dr Hames on 22nd November 2011, I expressed my deep personal misgivings regarding the waiver that all entrants were expected to sign before taking part in the event. I provided Dr Hames with a copy of the waiver (as provided to me by RTP) during that meeting. I expected him to treat this matter most seriously - as a layman, I just couldn't understand how a government-supported event could apparently be allowed to be run under an offshore jurisdiction.
- c. "insurance and civil liabilities matters and the appropriateness of the Civil Liability Act 2002 (Western Australia) provisions regarding liability of operators and organisation of recreational activities particularly of a high risk nature"
 - i. I have asked RTP and their lawyers (Blake Dawkins) to provide information regarding their liability insurance. On each occasion I was given the same basic answer – that they would neither confirm nor deny the existence of any insurance. This is despite the fact that I am led to understand that appropriate insurance cover is a mandatory requirement for any event that is open to the public that is held in WA. And in particular, when such an event is actually supported by a government body such as WA Tourism, and publicly endorsed by 3 government ministers.
 - ii. The first confirmation we received that any such insurance even existed was when Dr Hames named a firm of insurance brokers in the Assembly on 22nd February 2012.
 - iii. Dr Hames has repeatedly insisted and is on record as stating that this was a private event run on private land. However, it is understood that at least a part of the course of the race was planned to take part on public land, and appropriate approvals and clearances had been sought by RTP.
- d. "the extent to which WA Tourism adequately assessed the qualifications, capability, experience, and capacity of RTP to organise, promote and run the event safely and with appropriate protections to competitors, employees, contractors, volunteers and spectators and the extent to which these should be assessed for future events"
 - i. I did try to contact a representative from WA Tourism, but my call was never returned. Therefore I cannot comment specifically.
 - ii. However, it was reported in the media some weeks after the event that WA Tourism had reviewed and significantly enhanced its internal processes and the obligations to be placed on the organisers of events in future – implying that there were indeed existing weaknesses in the WA Tourism procedures (or implementation of those procedures) and their approach to third party event organisers. It would be hoped that WA Tourism does conduct full and independent due diligence on the companies they consider supporting, to ensure they have an acceptable track record, proper risk assessment and management in place, adequate financial backing and levels of insurance, and full compliance with relevant State and Federal laws.

e. "the role and actions of WA government departments and agencies, including WA Tourism, DEC, FESA, Police and Health departments and local governments in respect of the event and the protection and rescue of competitors, employees, contractors, volunteers and spectators"

- i. I first made contact with the office of Dr Hames on Friday 18th November 2011, requesting a meeting to petition him for a formal inquiry into the Ultramarathon bushfire incident. Late that same day I received a call back from Ian Johnson, whom I later discovered is the Policy Advisor – Tourism. Dr Hames had offered to meet me the following Tuesday at 08.30 – which I was pleased to accept.
- ii. I met Dr Hames in his offices on 22nd November 2011. Also present were Ian Johnson and Melinda Hayes (Principal Policy Advisor). Considering Dr Hames' own background, I honestly believed that the Minister would treat my approach seriously. I felt confident that as soon as he was made aware of the information that I already had at my disposal then he would understand the seriousness of the matter and the inevitability of a formal investigation or inquiry.
- iii. I was deeply disappointed by the response at the meeting – I gained the impression that Dr Hames was either not very well briefed (despite having previously answered questions in parliament on this matter) or that he didn't take the matter very seriously, despite bland assurances to the contrary. However, a commitment was made to consider the information I had provided (which also included a copy of the eye-witness statement of Andrew Baker), explore the possible options, and provide a reply within 2 weeks. As it happened, after 2 weeks I received an email from Ian Johnson advising that there would be a delay of a further 2 or 3 days (which coincidentally meant that the reply finally arrived after parliament had risen for the summer recess).
- iv. When the reply from Dr Hames was issued on 9th December 2011, it stressed that:

"every possible option" had been explored, but that there was "no capacity for me as a Minister, or the State Government, to investigate the matter in a manner that would provide the answers sought by Kate, Ms Pitt, their families and friends".

(A copy of this letter can be provided to the Inquiry, if it has not already been provided by Dr Hames' office).

f. "whether there are measures that should be taken by government to ensure that the risks including bush fires in remote areas in the context of extreme sporting events are adequately identified and addressed"

- i. This is not a matter I can make any comment on.

