

TRANSCRIPT

ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE

Inquiry into the CFA training college at Fiskville

Melbourne — 19 November 2015

Members

Ms Bronwyn Halfpenny — Chair

Mr Tim McCurdy — Deputy Chair

Mr Simon Ramsay

Mr Tim Richardson

Mr Bill Tilley

Ms Vicki Ward

Mr Daniel Young

Staff

Executive officer: Dr Janine Bush

Research officer: Mr Patrick O'Brien

Witness

Mr Rob Croxford, chief executive officer, Moorabool Shire Council.

The CHAIR — Welcome, and thank you for attending, Mr Rob Croxford, CEO of Moorabool shire, which the town of Ballan and the Fiskville training college is within. I will just go through a few of the formalities, and then we will begin by asking you some questions around the Fiskville training college.

First, again welcome and thank you for appearing today. As outlined in the guide provided to you by the secretariat, all evidence in this hearing is taken by the committee under the provisions of the Parliamentary Committees Act 2003 and other relevant legislation and attracts parliamentary privilege. Any comments you make outside the hearing will not be afforded parliamentary privilege. It is an act of contempt of Parliament to provide false or misleading evidence to the inquiry. All evidence given today will be recorded, and you will be provided with a proof of the transcript to check for inaccuracies.

Perhaps we will begin by starting with asking you a few questions about what sort of happened in terms of the Moorabool shire's responsibilities regarding the Fiskville training site. Now, first of all, Mr Croxford, as I understand it there are a number of pieces of legislation that the councils are required to enforce, or have at their disposal, in terms of the environment. As I understand, there is the Public Health and Wellbeing Act, and it talks about:

... creating an environment which supports the health of members of the local community and strengthens the capacity of the community and individuals to achieve better health —

and there are various reasons and ways of doing that. There is also the Local Government Act that talks about responsibilities for managing and controlling public sewers and drains in the area. There is also the Planning and Environment Act that talks about the duties and powers of planning authorities such as the Moorabool Shire Council.

With all of these pieces of legislation at your disposal and from what we know of what happened at the Fiskville training facility, both in the past in terms of the burning and use of various chemicals and also the more recent events in terms of PFOS and PFOA, what sort of happened? Do you think there is a problem with the regulatory system that meant that the council or the shire was not able to enforce proper standards? Or do you think it was the actual council itself that was missing in action in this space?

Mr CROXFORD — Thank you, Madam Chair. Look, certainly under the Public Health and Wellbeing Act, yes, the council has certain responsibilities. When a matter of nuisance is brought to the council's attention, then we go through a process which is fairly well-defined in the act. We also have internal processes on how we manage that as well, and I am happy to make those available to the committee.

Certainly in terms of the Public Health and Wellbeing Act, in relation to the complaints we did receive, the matter was investigated. I have checked back in two thousand and eleven.

The CHAIR — So do you just wait until a complaint comes about? You are not active in any way in ensuring or trying to make sure that people are safe?

Mr CROXFORD — Look, generally not. Particularly in relation to Fiskville that commenced in 1972 and has had existing use rights for many, many years, so in relation to the use of that facility, then there is certainly not a question from council's perspective. That is an ongoing use that has been there for many decades. So for us to — —

The CHAIR — I understand the previous rights of use or whatever. Is there a process — once certain other zoning or planning requirements came into force, how were you able to determine or ensure that there were existing right usage provisions? Did there have to be an application? Or was something supposed to have happened to confirm that right? Or, again, you just leave it and let it all happen, and what happens, happens?

Mr CROXFORD — No. So you are right; under the Planning and Environment Act we do have planning permit applications for use of land. So a particular neighbour has applied for, and did apply for — back in 1983, I think, from memory; sorry, 2003 — but certainly that was for the construction of a dwelling on that site. So the council granted a permit at that time.

The CHAIR — So we are talking about the Fiskville training college, are we?

Mr CROXFORD — No, I am talking about one of the neighbours. So in relation to the Fiskville training college, that pre-existing use right has been in place for many, many years. If there is 15 years continuous usage, then it is deemed to be existing use. So since 1972 — we are talking 1986, 87 is when you would deem that to be pre-existing. But it also — —

The CHAIR — And there is no formal process to confirm that once the legislation changes?

Mr CROXFORD — I guess when subsequent applications come before us — and there were other applications, and we have provided a list of those applications — they are essentially in relation to that use, so I guess at that point the planners have confirmed that that is the use of the site ongoing, and the planning permits that were granted post that date have been around extensions to buildings et cetera, and one for a diversion of water from the lake. So they really are just, I guess, continuing to recognise the use of that site as a fire training facility.

The CHAIR — In terms of that section 97N, did the CFA apply for a certificate of compliance so that existing use rights were then complying in terms of the planning legislation? Did they ever apply under that provision?

Mr CROXFORD — Not that I am aware of. From the records that we have reviewed since being asked to appear, we cannot find that there is anything other than an assumed pre-existing use right for that facility.

The CHAIR — When did the council first become aware that there was the burning of all sorts of various chemicals? I am assuming there would be big plumes of smoke that floated across the sky. How long was the council aware of what was going on at the training site?

Mr CROXFORD — It has essentially come to us from one of the neighbours to the site. Am I allowed to mention that person's name?

The CHAIR — This is the first time there was ever anything raised about any concerns about the environmental impacts of what was going on at Fiskville?

Mr CROXFORD — It appears to be since the person involved started to construct a dwelling on that site.

The CHAIR — But before that no-one thought there was any environmental concerns at Fiskville? Had you ever been there prior to the complaints? Have you ever been to Fiskville?

Mr CROXFORD — Not personally. I have been inside the front gates for various things. Certainly from the community's perspective, there are two properties within proximity of the Fiskville site, and one in particular has raised issues since 2011. Prior to that, it is really a facility that is very well buffered by a significant portion of land between Ballan and — you have to go a long way between it before we start to get to other townships and dwellings. So it is very much in the middle of nowhere historically.

Since 2011 one property has been constructed and there is another family that lives in the area as well, to the south-west, that has another dwelling there. From those applications, that is when the matter started to be raised, and of course like everyone else since 2011 and the various reports that have been produced, the council, as other people, have become aware that there could be issues with it. But we have received complaints from the person involved that I have mentioned, about smoke drift and fumes and the like, and we have been through a process with that in 2013, and I believe during 2013 we provided some mitigation for that, some assistance to the person involved. But I guess that is now an ongoing matter with the inquiry and other reviews.

The CHAIR — Would you understand that people could be worried about the fact that all these activities were going on at Fiskville, with the things being flushed into probably sewers and drains and creeks and whatever, as well as the actual impact on people that were at the place? Do you think that people could start wondering, 'Who is protecting us'? The council seemed to allow all this to happen. What else is going on in the shire that is not good for people, not good for the environment or affecting people's livelihoods in terms of their stock or farming? Nothing is being done about it. There is no proactive prevention or attempt to try to protect people, even though there is a whole lot of legislation that the council or the shire is bound by. I think there is also a provision that requires you to appoint environmental officers or authorised officers. What do they do?

Mr CROXFORD — Just in response to that, we need to be aware, under those acts, what the council's responsibilities are. If it goes to pollution or the broader impact on the environment, then the EPA is the eminent authority on that. So the EPA would take a role in that in terms of downstream of the site

The CHAIR — As I understand in the correspondence, they referred it back to you or the CFA.

Mr CROXFORD — I guess they are saying, 'Manage it as a nuisance, manage it as an impact between two bodies, two people, and find a way forward'. Under the health and wellbeing act, as you have mentioned, there is a process there that says, 'How can you get something to be mitigated by the person that is causing the nuisance to the other and come to an arrangement that can work into the future?'. Given that the Fiskville training facility has a use right as a CFA training facility, during 2013 I think we were successful in achieving that.

Mr TILLEY — G'day Rob, how are you going?

Mr CROXFORD — Good. Yourself?

Mr TILLEY — Nice and warm outside, isn't it?

Mr CROXFORD — Indeed.

Mr TILLEY — Just following on from my colleague previously. You are in the area and plumes of smoke are coming out of the place, is it fair to say that as a firefighting training facility you would anticipate that there would be plumes of smoke anyway? Is that a fair comment.

Mr CROXFORD — I am aware that there is training there and at times there are plumes of smoke, absolutely.

Mr TILLEY — Let me go back a little way first, so you have been the chief executive officer since — —

Mr CROXFORD — For five years — 2010.

Mr TILLEY — For five years. With long service in the local government sector?

Mr CROXFORD — That is correct.

Mr TILLEY — Had you served or worked at Moorabool prior to you taking up the position of chief executive officer?

Mr CROXFORD — No, I had not.

Mr TILLEY — That is the first time pretty well in the area?

Mr CROXFORD — Yes.

Mr TILLEY — Okay. Can you expand roughly with the local government sector what parts of Victoria you have been working?

Mr CROXFORD — In the north-east, the Mornington Peninsula, central Melbourne — I am getting on a bit!

Mr TILLEY — What I am doing is trying to establish your local knowledge, so pretty well it has been over the last five years as the CEO?

Mr CROXFORD — That is correct.

Mr TILLEY — No worries. Going on to the plumes of smoke, when you have been conducting business around the shire, when you have managed to be able to get out of your busy office, have you sensed anything yourself from Fiskville? What I am saying is sight, smell — any of those sensory perceptions — that you have picked up personally?

Mr CROXFORD — Not personally, no.

Mr TILLEY — You mentioned to the Chair that Moorabool Shire put in some mitigation. Exactly what was that mitigation that the shire put in?

Mr CROXFORD — Under the Public Health and Wellbeing Act one of the courses of action was to try to get an agreement between the two parties. What happened there was a protocol was developed for smoke drift, fume drift. During 2013 our environmental health officer met with the neighbour and with senior people at Fiskville to talk about how we were going to mitigate the impact of this smoke drift. As a consequence I believe there was then a protocol developed which meant that the CFA would notify neighbours when training was going to be commenced. They would also change their processes in some way. During 2013, from the file notes that I have been able to review, it appears that there was some improvement. Prior to 2011, as I say, there are not complaints on file around that particular issue, although the person who has complained says it has happened for many years before that. I guess that is a question that needs to go to that gentleman.

Mr TILLEY — To assist this inquiry, would Moorabool shire be prepared to provide any further documents, including records of interview, emails, those type of documents, to the committee?

Mr CROXFORD — Absolutely.

Mr TILLEY — Would it be an exhaustive search for the shire to go through? Would your knowledge be at this stage a significant amount of documents there dealing with the CFA and the shire?

Mr CROXFORD — Since being asked to appear and in more recent times, we have put resources into collecting all the documents that we believe are there, so we will provide that. I guess in more recent times, when I have been reviewing the issues in preparation for today, I have asked some further questions of our environmental health team, and they have set out the processes in quite some detail in file notes. I am not sure, Chair, whether they have been passed through, but certainly I would make them available.

Mr TILLEY — Thank you for your cooperation with that. Leading on, annually local government does a satisfaction survey. In your satisfaction surveys historically, do they include any of these surveys or is it information on the satisfaction with the CFA's relationship, with the training facility at Fiskville, and how it sits within the shire boundaries?

Mr CROXFORD — Those issues have not come through in that satisfaction survey. That is a standard survey run by the state government. I do not think it goes to that level of detail.

Mr TILLEY — Fair enough. With the number of issues that have been raised by ratepayers of the shire, is there a significant amount of issues being raised by ratepayers in the area with the shire?

Mr CROXFORD — Certainly since the announcement of the closure there have been. On the impacts on the Ballan community, there have been quite significant conversations in the community and quite a lot of angst.

Mr TILLEY — So, a bit of jungle drums going on there.

Mr CROXFORD — I would say more than jungle drums — direct impact on the local economy and direct impact on people that are our residents.

Mr TILLEY — Sure. Historically before that what sort of information was being shared with the shire and the CFA at that stage?

Mr CROXFORD — Very little. The CFA training facility ran its own operations. The CFA is a very big organisation. We do not go in there looking for difficulties or conversations with the CFA or other large organisations that operate in our area. We are a small organisation that operates over 2000 square kilometres, so there is plenty to do.

Mr TILLEY — So it is difficult to say. You have come on board only since 2010, but anecdotally or historically are you able to comment on the relationship between the shire and the CFA training centre at Fiskville?

Mr CROXFORD — I would say it was a positive one but certainly very limited interaction.

Mr TILLEY — One of the councillors that sits there — and he is a former mayor, Mr Michael Tudwell, is it?

Mr CROXFORD — Tudball.

Mr TILLEY — The relationship between yourselves, the councillors and yourself, in any meetings have you had any conversations, discussions between one another in relation to Fiskville itself?

Mr CROXFORD — Mr Tudball went out of office in 2010 at the election, so I have had very limited conversations with him on Fiskville

Mr TILLEY — So by the time you have come on.

Mr CROXFORD — Sorry, not 2010 — two years ago — so 2014 at the election cycle he did not re-stand as a councillor in the area. The local councillor obviously fields questions from the local community. That is Cr Tatchell, whose riding or ward sits in that area. He has had a lot of conversations with the community and certainly passes on those sorts of information to me in conversation, but nothing with Mr Tudball.

Mr TILLEY — Was he mayor at any stage during his tenure? I have just got to check the dates if I can. He was mayor prior to you taking up — —

Mr CROXFORD — He may have been mayor at 2010. No, that would have been Cr Toohey. That might have been 2009, 2008, when Mr Tudball was mayor.

Mr TILLEY — So a professional relationship, and nothing raised specifically in relation to Fiskville with you?

Mr CROXFORD — No.

Mr YOUNG — I actually had a couple of questions that were a little bit similar to that. I guess the other thing I am interested in is the council reactions and what they perceived would be problems after the closure of Fiskville.

Mr CROXFORD — Yes. Certainly our attention went to the wellbeing of the community. Obviously 60 to 70 people were employed at Fiskville and most of them live locally, whether in Ballan or Mount Egerton or other towns around the district, so we certainly moved fairly rapidly to try to hold some debriefing, community information sessions, in the time after the announcement of the closure. That would have been June of this year. So we did do that. They were not very well attended, but we were able to talk to a few people in the community.

We also talked to the business community of Ballan. They are directly impacted by the low expenditure now because of the closure. We estimate that the order of the cumulative effect and the compounding effect of those purchases throughout the shire could be in the order of \$8 million per annum, so quite significant — as is the potential. In recent times there have been 20 people made redundant, services people from the CFA facility. That has obviously started to wash through the community as well, so that happened in September, I think, this year. That is our concern — for the community, for the businesses and ultimately for the rebuilding of a facility in the shire, and we have had many conversations with state government around that as to when and where an alternative training facility may be built.

Mr YOUNG — That sort of loss is obviously an ongoing concern.

Mr CROXFORD — Absolutely. To retain that locally and retain that in the Ballan district, I think, is particularly important, and that has been our advocacy and our energies since the announcement.

Mr YOUNG — What is the council worried about as far as potential recommendations that might come out of this committee? Are you starting to get an idea of where it is going? Are there things you are thinking of that you might want to bring up in the future to help us, to guide what we might do at the end of this inquiry?

Mr CROXFORD — I am eagerly waiting for what sorts of findings you will come up with. I guess we will react to that when we see them, but certainly there is a much higher level of alertness in the organisation since

the announcement of the closure as to what may come next. We have done our homework and we believe historically we have done all that we possibly can.

Mr TILLEY — A quick one on the way through just on the last point. Has the Moorabool shire at any stage, prior to your tenure or that you are aware of, done any independent testing or anything around the Fiskville area itself?

Mr CROXFORD — No, generally, as a broad principle, we do not test water tanks and private properties. As you can imagine, there are 11 000 properties in the shire; we do not get into that space. We were asked by VicHealth close to or around that closure — it might have been on the suspension of the site — to assist in the carrying out of some water testing. I think we just provided one of our officers to be some hands to do that. That was done separately by VicHealth.

Mr TILLEY — With the water testing, when you say ‘helping’, was it labour? When I say ‘labour’, I am talking not about the political party; I am talking about labour assisting with taking the samples, or was it actually doing some samples themselves?

Mr CROXFORD — I think we worked with VicHealth and with the City of Ballarat at the time. Some samples came back and were forwarded on to VicHealth. I do have some details here. On 5 March we got requested, and one of our officers attended with the Ballarat EHO, to carry out water sampling from four sites at Fiskville. Those results were then forwarded to VicHealth.

Mr TILLEY — That was on the Fiskville site itself?

Mr CROXFORD — At four locations within the site.

Ms WARD — Thanks for coming to see us today; I appreciate it. In your discussion with Bronwyn there was talk about the compliance certificates. If there is not a certificate of compliance for Fiskville, on what basis was the facility operating?

Mr CROXFORD — On the basis it had been established for over 15 years. It then becomes an existing-use right for that site. You can take many examples in the state where something has been going for a significant period of time. Did it have permits back in 1972? It is very difficult to go back that far and get the records.

Ms WARD — Is it difficult or impossible?

Mr CROXFORD — I have been told that they are unable to determine whether a planning permit was applied for at that time.

Ms WARD — Who gave you that advice?

Mr CROXFORD — Our planners. But regardless, after 15 years — 1986–87 — it has been deemed to be a CFA training site.

Ms WARD — You have spoken about the environmental health officers going out to the Fiskville site in 2013. Was that the first time that any of your environmental health officers had visited the site?

Mr CROXFORD — No, there has been some correspondence since 2011 with the neighbour involved.

Ms WARD — So environmental officers had visited Fiskville prior to that.

Mr CROXFORD — It seems to be in August 2011 was the first time we had contact with the neighbour, but in 2013 it then became the process of being affected by smoke drift. That is when we went through a Public Health and Wellbeing Act process.

Ms WARD — Is 2013 the first time that your environmental health officer visited the site at Fiskville?

Mr CROXFORD — It appears to be from what I can see.

Ms WARD — I think you said earlier that there was a complaint many years before that — I think they were your words. What was that complaint?

Mr CROXFORD — The person that made the complaint has suggested that the smoke drift had been occurring for many years before that time. It had not been — through our records — engaged.

Ms WARD — Obviously you were quoting what the neighbour had told you, not what is in your own records. So that is the first complaint that has ever been held since 1972 about Fiskville.

Mr CROXFORD — It appears to be.

Ms WARD — Okay. Over the years has there been any discussion of the use of Fiskville by council officers and/or councillors?

Mr CROXFORD — Not formal discussions, no.

Ms WARD — What were the informal discussions?

Mr CROXFORD — I am not aware. As I say, my history goes back to 2010.

Ms WARD — There is no minuting or anything like that.

Mr CROXFORD — No.

Ms WARD — VicHealth asked you to help with some water testing, and Fiskville, I think we can all recognise, is quite a unique situation. It is not quite comparable to the 11 000 other properties that you have got in the shire. Did you as a shire want to have any of your own testing done or take any kind of leadership role in terms of knowing what pollution was on the site and how it could affect your broader community?

Mr CROXFORD — No, as I earlier said, the pre-eminent authority on that is the EPA. In terms of pollution and impact on the broader environment, that is certainly a role for the EPA, not for council.

Ms WARD — No, I understand that. What I am asking about is your own role. I understand that the EPA has their own role, but I am also asking about the shire's role in terms of knowing for themselves what is the pollution that is happening within their shire. Did you think or was it canvassed to get someone to do testing for you to inform you? The CFA has asked for their own testing. Various other agencies have asked for their own testing to learn about what is at the site. Has the shire considered this as well for themselves to know, to have their own direct involvement in understanding the pollution that is there?

Mr CROXFORD — No. We have not, and we believe that is for other agencies to do.

Ms WARD — For other agencies to conduct the testing, but is it a role for the shire to know for themselves what the pollution is?

Mr CROXFORD — No.

The CHAIR — What is the point of an environmental officer if there is no responsibility to the environment or to know what is going on?

Mr CROXFORD — Their responsibility is under the Public Health and Wellbeing Act, which says if there is a nuisance, they need to investigate. They have got a range of other responsibilities that go to food premises, to septic tanks, to a whole range of things. As I said, there is a small team of two qualified environmental health officers that cover 2000 square kilometres. We really do focus on the energies that we are responsible for rather than broadening it and getting involved in things that others are best suited to investigate.

Ms WARD — How many nuisance complaints in general are made to your council each year?

Mr CROXFORD — I would have to get advice on that, but it would be in the dozens, no doubt.

Ms WARD — And are many of them found to be genuine nuisance complaints, or upheld?

Mr CROXFORD — Generally they are worked through or action is taken to mitigate it if the person causing the nuisance is not amenable to doing something about it, so there is a separate stream to follow in that regard, and that can result in action and notices et cetera.

Ms WARD — And is it usually council's view that matters are best resolved privately, without intervention from council or leadership played by council?

Mr CROXFORD — That is the first port of call, yes.

Ms WARD — Have any local residents objected to development plans at Fiskville over the years?

Mr CROXFORD — We have had an objection, when we granted a permit for the diversion of water from Lake Fiskville, from one of the neighbours — not from the gentleman I was talking about, but from another neighbour — so they did put an objection to that planning application.

Ms WARD — When was that?

Mr CROXFORD — It would have been 2013, I think. I would have to double-check.

Ms WARD — And what happened to that objection?

Mr CROXFORD — That was taken into account when the council decided to grant a permit for that water diversion, and that was on the request of the CFA, I guess, to either divert stormwater and to divert the creek from flowing through Lake Fiskville.

Ms WARD — How were that resident's concerns met or mitigated or worked through?

Mr CROXFORD — That is taken into account in the granting of a permit. It is also, as part of the planning and environment process, referred to other bodies.

Ms WARD — I understand that it is taken into account, but that does not really answer my question, which is: how were their concerns resolved? I understand that you have said, 'We heard them'. What I am asking you is: how did you resolve it, or how did you manage it or deal with it? Other than just hearing it, what happened next to help that person address their concerns?

Mr CROXFORD — Well, it is an objection to the planning permit application for the use of the land for that purpose, so given that the council is taking on board that objection and given other inputs into that, they make a balanced decision and say yes or no to a planning permit.

Ms WARD — Was there any conversation with that person around their concerns?

Mr CROXFORD — The detail of that I do not know.

The CHAIR — Who had the conversation in terms of the detail? If we need to follow up further on that, is there anybody we could talk to; could you find out for us?

Mr CROXFORD — I think if we went back to that planning permit application and then looked at the objection, then I guess we would look at trying to get the officers involved at that time, assuming they are still with us, or we can get them to come in, then you can have that further conversation with them.

Ms WARD — If you have records around conversations with that person and what that entailed, if you could supply that to us, that would be very helpful.

Mr CROXFORD — Okay. Yes.

The CHAIR — We are going to hear from the EPA and the various regulatory bodies, but one is the local municipality and who runs that. I think you were saying other organisations are responsible for pollution and for whatever. Are you saying the Moorabool shire has no responsibility for environmental pollutants or any sort of contamination, has no role in any of the sorts of regulatory schemes at all?

Mr CROXFORD — There is a point where if it is a nuisance, then, as I said, we set out those processes. If it is about gross pollution of a site or an impact on the environment that is much broader than just that nuisance complaint, then we would ask the EPA to investigate that.

The CHAIR — But our understanding is that this was a broader thing than one complaint. That is what I was trying to ask you before, if you are proactive in any way, and you were saying, ‘No, no, we just wait for someone to make a complaint’. But now you are saying if it has broader implications, you do notify the EPA. I am just trying to understand. In terms of policy, we are looking at where there have been failings, should things be done in better ways, should there be different demarcations between the various responsible bodies. As I asked you earlier, do you think the outcome here is as a result of failings within the regulatory bodies and various organisations having overlapping responsibilities? Is that what you think has happened here, that there has been a failing within the regulatory system?

Mr CROXFORD — Look, the regulatory system is complex, absolutely.

We have got water authorities, the EPA, catchment management authorities, council and the department of health, the CFA, all involved, so yes, it is complex. As to how you work that through, how you can improve that, I am certainly happy to take recommendations on how that might occur. But from the council’s perspective, yes, we try to work within that framework. That is the world in which we work.

The CHAIR — But would you say in hindsight that you did everything possible? We are all concerned that Fiskville closed. We know from evidence that there has been a lack of training facilities because of the closure, as well as the connection between firefighters and that facility. I guess the concern is that perhaps if the job had been done in terms of regulation in the past, maybe it would still be open, that we would not have the extent of contamination that has been uncovered in recent times. Would you do the same thing again? As the CEO of the Moorabool shire, would you take the same actions as you have taken now, in hindsight, looking at what happened at Fiskville and the fact that it could perhaps still be open if somebody had stepped in earlier to control the situation?

Mr CROXFORD — I guess my comments would be that in hindsight perhaps you would do things differently, but certainly since 2011 there was a heightened awareness, and when the decision was made to close, obviously other things came to light as well. So in terms of looking back into history and saying, ‘Did we act appropriately back in the 1980s and 1990s and early 2000s?’, then we acted on the knowledge that we had; that is what we knew. As to digging deeper, there was apparently no cause to dig deeper. That has now become slightly different.

The CHAIR — But even — I think this is what Vicki was saying — in the last few years, when we are talking about, say, the Neville Callow complaints, from the documentation it seems that nothing really progressed in actually looking at the situation. Yes, there might have been a bit of protocol and yes, there might have been advice provided to neighbours when the big burns were going to happen, but I think it is more about the overall environmental impacts of the Fiskville site. We are talking a few years ago. If you started in 2010, there have been a whole lot of issues after 2010.

Mr CROXFORD — Would we have done things differently with the knowledge we have now? Certainly I think we would have been more proactive in trying to get other agencies involved to investigate further those issues, but as I say, for the resources and expertise the council has, to go into Fiskville and determine there is or is not a problem is nigh on impossible. We did not know there was an issue until more recent times. Then do we have the skills, do we have the ability? No, that is where the EPA comes in with their resources and their expertise. It appears they have been involved for some time.

The CHAIR — In terms of the legislation that the council is connected to or responsible for, you do not think it has the ability to carry out those responsibilities and functions as per the legislation?

Mr CROXFORD — I believe we have carried out our responsibilities in accordance with the legislation over the period that we are talking — absolutely.

The CHAIR — In terms of the legislation around sewers and drains, with Fiskville do you know if any contamination has gone into the drains or sewers?

Mr CROXFORD — Not that we have measured, but as I said, from the planning environment application for diversion of the water around Lake Fiskville, that then started to raise questions that containing contaminants within the lake was the best way to move forwards. That came, I assume, after the reports of 2011 and the CFA,

with their expertise, had suggested there is a better way to manage wastewater on site, then we have provided a permit for that land use or the change of land use.

Ms WARD — Do you know if sewers and drains have been measured — have been tested?

Mr CROXFORD — Not by the council, no.

Ms WARD — Do you know if anybody else has tested them?

Mr CROXFORD — When we talk sewers and drains, we are talking about open farmland. There are watercourses of course, but there are not sewers and drains per se.

Ms WARD — Okay, watercourses, then.

Mr CROXFORD — The council has not tested those watercourses. That would go again to the EPA and probably the catchment management authorities further downstream.

The CHAIR — The wastewater at Fiskville, where does that go?

Mr CROXFORD — I assume that is contained on site, but obviously we are now learning that there is some leakage into surrounding streams and the like through watercourses. But again, did we know that before 2011 and 2013 — those sorts of time frames? That is not something that we turned our mind to.

Ms WARD — What action have you taken or what concerns do have around the fact that there is pollution that has gone through waterways? We know, for example, that a chemical like PFOS or PFOA has been found 18.5 kilometres downstream. What is council's role in mitigating that or in working through that or seeing whether there is any further damage to the environmental properties around that, that are ratepayers to you?

Mr CROXFORD — My understanding is the EPA have issued notices for clean-up and rehabilitation of the site, so we are relying on their expertise to say this is what needs to happen at the site to it get back to a standard where it can potentially be used again or used for another purpose.

Ms WARD — That is the site; I am talking about off the property. I am talking about the pollution that is happening off the property that continues to happen as more pollutants are carried by water off site. What role does council have to protect the interests of their ratepayers, who are being affected by this pollution?

Mr CROXFORD — In terms of responding to ratepayers complaints and concerns, that is what we have done.

Ms WARD — That is not what I asked you.

Mr CROXFORD — But we do not have a role in the monitoring of streams downstream from Fiskville. That is not council's responsibility.

Ms WARD — Do you have any concerns?

Mr CROXFORD — Obviously concerns have come to light in more recent times, but it is not the role of —

Ms WARD — Do you as CEO have concerns?

Mr CROXFORD — I am not able to offer you an opinion on that, because obviously I do not know what that impact is, other than that it appears to be a problem, and that is why we now have the EPA and catchment management authorities looking at that in some detail. It is not for council to sort that through.

Ms WARD — No, but is it a role for council to be informed?

Mr CROXFORD — I do not know what we would then do with that information. As I say, there are others better suited to carrying out those tests and those processes than council is. You are talking two environmental health officers for 2000 square kilometres.

Ms WARD — I understand that, but you have got quite significant pollution occurring in one site within your council, which I would have thought you would have a very active interest in.

Mr CROXFORD — Our interest is turned to assisting the community and the broader business community, because we see that as the role. We see the EPA's role and other agencies in terms of demonstrating there is a problem there and what they are going to do to clean it up. That is obviously a process that has been in train for several years now.

The CHAIR — What are the responsibilities of the shire under the Planning and Environment Act?

Mr CROXFORD — Under that act it is for the use of land, and essentially that turns to planning permit applications for particular uses. We have spoken about Fiskville's operation and the pre-existing use right. Subsequent applications — —

The CHAIR — To issue a permit — is that all? The only responsibility that the shire has under that act is to issue a permit or to determine whether it will issue a permit or not; that is it?

Mr CROXFORD — And to enforce the conditions that might come with that permit as well.

The CHAIR — Such as pollution or contamination or noise?

Mr CROXFORD — No, it generally goes to hours of use, noise, activity, those sorts of things, yes.

The CHAIR — What about then under the Local Government Act, what are your responsibilities in terms of the environment and the actions of one ratepayer or one place impacting on another? What are the responsibilities of the shire under that act?

Mr CROXFORD — There are general principles about good economy and wellbeing and all those sorts of things under the Local Government Act, but I guess the principal acts are the Public Health and Wellbeing Act and the Planning and Environment Act in this instance.

The CHAIR — Health and wellbeing and environment, they are the responsibilities that the shire has around those areas?

Mr CROXFORD — For this particular site, yes, we certainly have. We deliver over 100 different services across the shire, but not in those particular areas.

The CHAIR — What particular areas?

Mr CROXFORD — Around the Fiskville site, what other services do we provide? It is limited to the ones we have already covered so far.

The CHAIR — I am not talking about the service provisions for the community. It is more in terms of responsibilities around the environment, things such as sanitation and litter. Do you have any responsibilities around those things?

Mr CROXFORD — We do, certainly in relation to sanitation, septic tanks and those sorts of processes within that area.

The CHAIR — As in checking them, making sure they are okay?

Mr CROXFORD — That is correct.

The CHAIR — Is that under the drains and sewers act?

Mr CROXFORD — No, I assume that is under the environmental health act.

The CHAIR — When we asked the question about pipes and wastewater, you said there was not anything there that you would be responsible for. But you are responsible for the holding tanks?

Mr CROXFORD — I mentioned earlier for the septic tanks, yes.

Ms WARD — We know that there are amounts of polluted landfill in Fiskville. There are mounds that have got all sorts of chemical residue in them. How does this polluted landfill fit in with the shire's land management plans?

Mr CROXFORD — Again, we would be relying on the EPA and CFA's processes. At what point did we become aware that there were contaminated land mounds or dumps, I do not know the answer to that. If it was impacting on residents and they complained, then we would certainly get involved in that. But within the operation of Fiskville itself, then again we go back to the CFA and others to say, 'Manage that site for the purpose for which it is used'.

Ms WARD — Do you trust that process?

Mr CROXFORD — I think it has come to pass that there are certain things there that are not desirable and need attention, absolutely.

Ms WARD — If you feel that there has been a process that has not been desirable and needs further attention, do you think that there is a stronger role for Moorabool shire to play?

Mr CROXFORD — As I said, we have concentrated our efforts on the local economy and local residents, not so much on —

Ms WARD — Their health?

Mr CROXFORD — the environment. That is the responsibility of the EPA.

Ms WARD — But the health of your local residents would be of concern to you. That is also an economic concern, too.

Mr CROXFORD — And we have addressed that through the complaints that we have received.

Ms WARD — Did Fiskville have to apply to Moorabool shire council for a permit to burn?

Mr CROXFORD — No.

Ms WARD — Why not?

Mr CROXFORD — Because it is a fire training facility. It is not the burning of materials. I am struggling to remember the name of the act, but if you want to burn off prior to a fire season, through the CFA's declared fire season, then you do need to get a permit to do that. That is about burning piles of vegetation, not fire training.

The CHAIR — I cannot see it in my notes or documents, but you were saying that the environment and the protection of the land are the responsibility of the EPA. How does that work? Do they just come along and have a look at something, or have you referred anything to the EPA? When you were getting the complaints from neighbours and when you were hearing that there were issues of concern, what was the process to have the EPA become involved? Did you write them a letter? Did you ring them up? What happens?

Mr CROXFORD — Both of those things would occur. From the file notes, it has occurred and that suggests to manage it under the health and wellbeing act there is an issue between two parties and that is what we continue to do. Yes, we made them aware of it. The extent to which we continue to make them aware of it, it is obvious in the last couple of years that they have had a heightened responsibility and role in Fiskville. We will wait for the outcomes of that.

The CHAIR — Do you write to them and say this is what has happened, or do you refer a complaint on to them? Could you say for the record how it works?

Mr CROXFORD — A complaint will come in and the environmental health officer will then write to the EPA and write to other agencies. If it was a planning and environment issue, then we have a standard referral process where other responsible authorities will give their blessing or provide permanent conditions for the use of the land for a particular purpose.

The CHAIR — In the case of the Fiskville complaints, how did it work? Mr Callow made a complaint to the council; then what happened from there?

Mr CROXFORD — We have worked with Mr Callow to understand that better. We then tried the process of working with the CFA, so the agreement-type process where they have smoke mitigation protocols and there are burning times et cetera. Can they change their practices to reduce the impact on their neighbours is generally the principle. They were amenable to that, they made changes to that and as a consequence I believe Mr Callow's complaints during 2013 stopped at that point. They reignited again during 2014–15. I am assuming there was some sort of improvement for Mr Callow at that time, but that is an assumption.

The CHAIR — Then separate from the complaints, when you were aware there were issues at Fiskville about contamination and whatever, did you alert the EPA? If it is not the responsibility of the shire, how does it become the responsibility of the Environment Protection Authority or another agency?

Mr CROXFORD — From the file notes, there was correspondence to the EPA saying this is potentially an issue here that they should get involved in.

The CHAIR — And that is the end of the matter

Mr CROXFORD — I guess there is a conversation backwards and forwards about how that is progressing, but it appears that it has been passed back to the shire to manage it under the health and wellbeing act.

The CHAIR — It was passed back. Sorry, what was that?

Mr CROXFORD — It appears that it has been passed back from the EPA to the shire to say the best way forward is to manage it under the health and wellbeing act, and I think we have provided those notes to you.

The CHAIR — Okay. But it does not make sense. You were just saying that it was the EPA's responsibility. Now you are saying that the EPA has passed it back to the shire.

Mr CROXFORD — For that particular complaint, yes. I am saying on a broader pollution basis are there stockpiles of noxious materials or are there practices that need to be changed within the CFA training site? That, I believe, is the role of the EPA.

The CHAIR — At any time during investigating a complaint or whatever, was the stockpile of chemicals or what was being verbalised ever raised by council officers?

Mr CROXFORD — I do not believe they have looked into the detail of what was being burnt, but certainly to change those practices. That is what was done.

The CHAIR — Then they would have reported it to the EPA?

Mr CROXFORD — The EPA were involved in that process.

The CHAIR — At the time.

Mr CROXFORD — Yes, I do not believe we have reported back to the EPA. But certainly from Mr Callow's perspective, he applied for a planning permit to build a house. Quite a few years after these sorts of issues were not so much coming to light, but 2004 was when he applied to build a residence and he is still in the process of building that residence. I do not believe he actually resides on that site.

Ms WARD — Has council monitored whether or not or how the water diversion permit has been adhered to?

Mr CROXFORD — I would have to take that on notice.

Ms WARD — Okay. If you could get back to us on that process and how that has worked, that would be great.

Mr YOUNG — Would you agree that, given that there is the existence of an EPA and it is their role to manage and regulate that kind of thing, the council taking a more active role in management and monitoring of environmental aspects would be counterproductive and double handling?

Mr CROXFORD — I think it goes more to the fact do we have the skill sets and the resources to do that as well. Ultimately, yes, I believe there is another agency better suited to taking on those issues.

Mr YOUNG — If you were to obtain those skill sets and take on that kind of work, I daresay that would be quite a significant financial burden on the council?

Mr CROXFORD — Yes. We are a small organisation with a large area to look after.

Mr YOUNG — Given that currently councils, especially regional councils, are struggling and staring down the barrel of rate capping that will further inhibit their financial situation, that would be a real problem, would it not?

Mr CROXFORD — Financial viability in small shires is a real issue.

The CHAIR — Thank you for your time. There may be some issues that we would like to follow up with you, if that is okay. Also I think there were a few references to documents or whatever that you were going to provide.

Mr CROXFORD — I am happy to provide that.

The CHAIR — Thank you very much for your time today.

Witness withdrew.

