

# TRANSCRIPT

## LEGISLATIVE COUNCIL ENVIRONMENT AND PLANNING COMMITTEE

### **Inquiry into recycling and waste management**

Melbourne—Tuesday, 25 June 2019

#### **MEMBERS**

Mr Cesar Melhem—Chair

Mr Clifford Hayes—Deputy Chair

Mr Bruce Atkinson

Ms Melina Bath

Mr Jeff Bourman

Mr David Limbrick

Mr Andy Meddick

Dr Samantha Ratnam

Ms Nina Taylor

Ms Sonja Terpstra

#### **PARTICIPATING MEMBERS**

Ms Georgie Crozier

Mr David Davis

Mr Tim Quilty

Dr Catherine Cumming

**WITNESSES**

Mr Peter Marshall, Secretary, United Firefighters Union;

Mr Frank Howell, Member, United Firefighters Union;

Mr Stephen Munro, Member, United Firefighters Union;

Mr Damon Coonan, Member, United Firefighters Union;

Mr Peter Stafford, Member, United Firefighters Union; and

Mr Michael Sayers, Slater and Gordon.

**The CHAIR:** I will go through the formalities. I welcome Mr Marshall, Mr Sayers and the rest of the group from the United Firefighters Union to give evidence today. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Therefore the information you give today is protected by law. However, any comment repeated outside this hearing may not be protected. Any deliberately false or misleading evidence given to the committee may be considered a contempt of Parliament. All evidence is being recorded, and you will be provided with a proof version of the transcript in the next few days.

Because we initially have three witnesses, I take it that there will be a key person giving the initial 5 minutes or so and then there will be various questions or supplementaries. So when individuals are answering questions or supplementing what Mr Marshall has said, can you please for the purposes of Hansard state your name before you speak, so that way we have got everything recorded correctly.

Mr Marshall, you may kick off. Thank you.

**Mr MARSHALL:** Thank you, Chair. My name is Peter Marshall. I am secretary of the United Firefighters Union. I have been a firefighter for 34 years and secretary for around 26. We welcome this opportunity, but if I could bring to your attention that the union put in a primary submission on 24 June. You should have a copy. If you have not, we can provide that. Then we put in a supplementary submission on 2 May. I have Mr Sayers here from Slater and Gordon, who has had a look at the legislative structure. On my far left I have Peter Stafford. On my immediate left I have Station Officer Damon Coonan. It is so important that in our respectful submission you hear from these people, because they are the ones that actually go out and see what enforcement is necessary. They inspect these premises and also in relation to wastage and dangerous goods. What you will hear from them is probably something you will not hear from any other submission in this committee, and that is the significant problems with enforceability and follow-up. Unfortunately that story is not being told, so we welcome the opportunity.

Station Officer Damon Coonan actually works in the specialist task force for recycling assessment and in the dangerous goods department. Acting Station Officer Steve Munro is in the fire safety, dangerous goods and building inspection and compliance department. Then we have got Peter Stafford, who is in fire safety, dedicated to decreasing fires and to the recycling waste industry.

Essentially our submissions go around the regulations. I will not say much more than this, but I think you will find through this inquiry there is very much a disconnect from the legislation that is in place. For example, recycling waste reports to the EPA with its varying legislative structure and its enforceability. Dangerous goods reports to WorkSafe. The Building Act reports to the VBA and councils. There have been multiple times when there has been an investigation and recommendation and enforcement notices have been issued in relation to places such as SKM, but essentially they just ride out the passage of time and nothing happens, and there have been multiple fires.

If I can just get Mr Munro to talk about some of his experiences, because these are the operational people who are actually charged with investigating these premises and seeing whether they actually comply and, if they do not comply, following through with a remediation notice. But unfortunately the legislation is deficient in not

enabling a conclusion. In other words, unscrupulous operators ride out the passage of time. I will hand over to Steve Munro briefly, and then we will get Mick to talk about the legal stuff.

**Mr MUNRO:** Thanks, Peter. I have been a firefighter for 30 years—

**The CHAIR:** Just for the record again—I am sorry to be a pain—state your name to assist Hansard.

**Mr MUNRO:** Acting Station Officer Stephen Munro from the building inspection and compliance department of the Metropolitan Fire Brigade. I have been a fire safety inspector for the last six years of my 30 years in the MFB, and my role is to carry out inspections on behalf of the MFB on buildings—not confined to but notably—used in the recycling and waste management area. I have had a lot of involvement in these sites over the years. As a result of numerous inspections of waste and recycling plants, whether they be legally operated or illegally operated, 99.9 per cent of these buildings are operating in non-compliant buildings under the Building Act, ranging from critical defects to multiple minor and medium-range defects. I say 99.9 per cent, but I could just about guarantee that every site we visit is non-compliant to some extent.

The process under the Building Act that the MFB follows is to report to local council. Our reports to local council unfortunately add to a list of others, and we all know about the cladding issue that places a heavy workload on the councils. In the case of one of the sites Peter mentioned, numerous times we have inspected the building, numerous reports had gone in, to no avail. They have had numerous fires, placing my colleagues in the fire crews attending at serious risk. It is very frustrating and stressful to us that the Building Act does not have the enforcement powers required to actually make these people comply in a timely manner and provide the safe workplace we would require.

Just a quick definition of essential safety measures: essential safety measures are the conditions imposed on a building by the occupancy permit and the Building Act and codes to provide a measure of safety for the persons operating on that site, the community surrounding that site and any emergency service crews attending. I will give you a brief example: fire safety sprinklers, fire hydrants, foam and water supplies, non-combustible building materials, clear exits and access and emergency information for crews attending. In most cases these sites have no regard for these essential safety measures and unfortunately there is no action that compels them to do it in a timely manner.

Councils' options in this are to issue orders and notices. If those orders and notices are not complied with—and in our opinion this is way too long that these orders and notices are acted upon—when they do expire council will attend again. One of their options is prosecution. That then is considered by the CEO and council, and in most cases they choose not to take up the prosecution avenue, and they then go back out and extend the orders and notices to give these sites more time to comply. In the case of SKM, in that period of time where those orders and notices were in place they had at least three fires that I am aware of—three major fires. Therefore any orders and notices have no effect.

**Mr MARSHALL:** I could probably be a little bit more blunt. Essentially the fire brigade goes out and investigates, reports their channel of actions to the council and the council will issue a compliance notice which could be up to 12 months. If that is not complied with, there is very little deterrent for an operator because it is up to the CEO of the council to make an economic decision, or alternatively a legal decision, to prosecute. You are hearing firsthand that that very rarely happens. What actually happens is the council will go out there and extend the clean-up notice. You have heard from firsthand experience of one location where you have had three fires at the same location that has had multiple extensions. There is no incentive for these people to actually act upon it because with the councils there seems to be a stoppage, if you like, when it gets to the CEO to say, 'Well, yes, I'm going to use council money to now go and prosecute these people'. That is why I was suggesting there is a disconnect between the various acts in relation to enforcement. It is all right to issue an enforcement notice, but then to enforce the notice is up to the CEO of the council under the Building Act to actually take that necessary action. That is a major deficiency in our system.

**The CHAIR:** Mr Marshall, if I could interrupt you there, in your supplementary submission you actually talk about that point and you are referring to MFB should regain the power to issue building infringement notices. Could you expand on that a bit while we are talking about this subject and why you are seeking that and what the benefit is in getting that back?

**Mr MARSHALL:** With respect, Chair, I would actually defer to the people who actually live this and do this for a living and their frustrations being experienced. I can say from a union point of view, they would be able to say from an operational expert firefighter point of view.

**Mr MUNRO:** Under Victorian Building Act legislation the MFB are not able to issue infringement notices. We did so under a memorandum of understanding with the Victorian Building Authority, which has since expired. There has been discussion and investigation of whether that would be renewed, but my understanding is that the VBA are unwilling to give us that authority under their act or under their legislation. I know the MFB are looking at our own act to see whether we can do it.

**Mr MARSHALL:** The long and the short of it is there is no-one taking the hard decision to prosecute and to enforce the enforcement notice. I am very blunt and the officer is a bit more diplomatic, but that is what they are saying. Could I just actually hand over to Station Officer Damon Coonan, who will tell you about similar experiences in the waste management area, as he is charged with that task force within the MFB, if that is okay with the committee.

**Mr COONAN:** Damon Coonan. I guess I will go straight to my experiences. For the past 18 months approximately myself and my colleague Peter have travelled the metropolitan fire district and inspected waste sites. Waste sites, as defined in the waste management policy, are sites carrying on business in waste as defined in the policy. Primarily we work under the EPA and we report to the EPA as well as reporting to the site operator, but there is significant overlap with the issues raised by Mr Munro in terms of essential safety measures, deficiencies and building use, whether that is compliant with council and the building regulations. If I can give one example, there is a site in the western suburbs which we inspected approximately one year ago and we identified a number of deficiencies—well, what we saw as deficiencies—in the building use and the—

**Mr DAVIS:** What is the location of that site, so we understand?

**Dr CUMMING:** Just the suburb.

**Mr COONAN:** This would be Marr Road in Laverton. The exact number I cannot recall at the moment, but we can get that to you if you would like.

When we inspected the site we were very, very concerned about the safety of that site generally and perhaps more importantly if our first responders had to go to a fire there or some sort of incident. There was a significant fuel load. Essential safety measures appeared to be deficient. What I really want to bring to your attention is we did report to the EPA on what we saw and we actually had the council in attendance with us on if not the first inspection, the second inspection, because we do go back from time to time.

**Mr DAVIS:** Which council?

**Dr CUMMING:** It would be Hobsons Bay or Wyndham.

**Mr COONAN:** Again, it has been some time. I would have to check on that and get back to you. In any case, I know the council had some involvement with that site and did take some actions against that site.

What I want to bring to your attention is as part of our process we also advise our local responding crews or the nearest stations that may have to turn out to that site of what we have seen, and as part of their due diligence they will often do a bit of a reconnaissance mission—look for water, look for access—so they are a little bit pre-armed if they should have to respond. I received an email back about this site from a local station officer, who also sent through pictures, and the site was largely unchanged. This is a period of time of approximately one year from the time we first inspected to there being some council involvement and then to see that the site was largely unchanged with the fuel load and the essential safety measures deficiencies. I would say I do not think that is for want of trying from all the agencies. I have met a lot of very passionate people in the councils. Everyone I have dealt with is hugely passionate about improving the site's safety. At my level I just question whether the legislation is robust enough or perhaps even the resourcing and enforcement of that legislation.

**Mr MARSHALL:** If I could, Chair, Mr Stafford is also a specialist in this area, an operational firefighter with numerous experience. We are not blaming other workers here. What we are saying is with the structure of

the legislation there is a disconnect. There is an enforcement order, the enforcement order is not complied with in the time period and then there is another enforcement order, and during that time you have fires that have actually literally happened rather than a prosecution to rectify the situation. So we are submitting that respectfully to say with the legislation there is a major disconnect between the two, and you are hearing it from the end users, the people who go into these places. I will just hand over to Mr Stafford.

**Mr STAFFORD:** Peter Stafford, MFB 33-odd years, working with Damon Coonan now for the last year and a half in the recycle assessment task force. It is a privilege to be able to have the opportunity to talk to you guys today.

It is almost laughable, if it was not so serious, the year and a half that I have experienced out on the ground. I am just going to give a broad overview of my experiences and note that there are rogue operators out there—I think you are all aware of that—and they are using a system that is sometimes referred to as a phoenix system of acquiring a block of land cheaply, often a building in disrepair as Steve talked about, and stockpiling recyclable materials, whether it is batteries, CRWM or, as you would probably be more aware of it, co-mingled recycled stuff, chemicals, tires, construction and demolition material. It does not matter what industry and what material you look at, they use the same process: stockpiling lots of stuff, making lots of money and then just leaving it for us to clean up. As I said, it is laughable.

So you have got the rogue operators and then you have got people that operate under a more legal business model. We will go out, inspect those premises. They will wax lyrical about doing something about their shortcomings and then ignore us. We are talking about—and I am allowed to mention operators—SKM, 50 per cent of the recycling in Melbourne. It was extremely frustrating to say the least going out there on multiple occasions and just seeing shortcomings that could have very, very easily been fixed and not being done.

I think basically this committee will already have in their minds that you need greater intelligence on the ground, reporting back, finding these rogue operators and obviously stiffer penalties when they are found as well as people that are ostensibly complying with legislation but not doing so.

**Mr MARSHALL:** Chair, I just want to summarise these points and then I will hand over to Mr Sayers, because we do have a vested interest. We actually have about 30 very sick firefighters because of these rogue operators; some of these people's lives have changed forever whereas they should not have. I just want to summarise this point. In relation to recycling reporting mechanisms to EPA, you have heard someone from the task force and the MFB about being involved with that. In relation to dangerous goods, you have got WorkSafe—different legislation. And in your Building Act, in relation to leasing out buildings that are empty, there is an onus on the owner of that building to make sure it is compliant to protect what is in there in storage. They turn a blind eye, so there is a deficiency in that act. The reporting lines are then into the VBA and the councils. Then if you actually get to the final point where there is a notice being issued, it is usually a 12-month notice or around that period—clean up. They do not do it, but then it is up to a CEO of a council who has got all sorts of other pressures to try and make a decision as to whether they will spend money prosecuting. You will have heard—not from me; you have heard from the practitioners—that what happens is rather than prosecute they will go back and extend the notice. Unfortunately during one particular place that we have spoken about, three extensions, and during that period there have been fires. Had there been a mechanism to prosecute in court to stop that straightaway, that fire would not have happened. So we do not make a criticism of anyone, we are saying there is a major disconnect and there is major frustration from the operators on the ground trying to enforce what essentially can be enforced but there is no mechanism to prosecute those involved.

If I can just hand it over to Mr Sayers now in relation to some of the health effects, which is primarily what the union's concern is. We want to see this whole industry cleaned up, not just in relation to dangerous goods but indeed recycling. We understand that is a problem, but it is really hard talking to the family of firefighters when they have actually had their lives changed when it should not have happened. So I will just hand over to Mr Sayers, but I will make that point about the disconnect and the lack of enabling mechanism to prosecute, to make that clean-up happen rather than extend. It is just like getting, 'Look, I'm going to give you another bad report'. I mean, there is nothing; it means nothing.

**Mr SAYERS:** Michael Sayers from Slater and Gordon on behalf of the UFU and its members, and thanks for the opportunity. Just to summarise and talk briefly to the two sets of submissions that were filed on 2 May

and yesterday respectively—I will not go into a lot of the details; most of it has been covered—in relation to the first set of submissions we note that some of what we have requested there has to some extent been addressed in the interim. We note and welcome the announcement by the Minister for Workplace Safety, the Honourable Jill Hennessy, about the proposed introduction of tougher laws under the Dangerous Goods Act, and we will watch that with interest. We understand a draft bill has not been aired as yet, but we will watch that process with interest.

Also in relation to one of the fires that we are particularly concerned about, the Tottenham fire, we note that that is still before the coroner and that is likely to take some time to play out. So we will learn a bit more, but it would appear from what we know to date the position is pretty simple: we have got rogue operators who appear to be able to operate with a view to profiting and having a deliberate and callous disregard for laws, deliberately contravening and circumventing laws, placing firefighters and the broader community at great risk to their safety and also exposing the environment to significant deleterious impact. We have seen that, for example, at Stony Creek and the impacts that they have had there.

In terms of the firefighters, what we are really concerned about is not the fact of being called out to a fire. Firefighters know that it is an inherently dangerous occupation, and it is their pleasure and honour and privilege to serve the community in that regard. But we are saying that with proper enforcement of laws and introduction of tougher laws, the need for them to unnecessarily attend fires or attend fires that did not have to happen if there was proper monitoring and regulation and enforcement in place would decrease, and we would say it would decrease the risk of these fires occurring and limit the amount of exposure. It would also be a significant saving to the public purse if resources were not required to be called out to these events if proper monitoring was effective and prevented these fires from occurring.

As I say, the kinds of impacts, we touched on them on the fourth page, and this is just some of them we have noted amongst the members to date at the fourth page of the first submission—and these are reported amongst not only the firefighting cohort but also the broader community: nosebleeds, headaches, flu-like symptoms, coughing, lung irritation, memory loss, fatigue et cetera, and not to mention the risk of longer term potential for cancers. We know based on scientific data that firefighters are more likely to contract certain types of cancers, and that is of great concern and again all the more reason that the exposure to these chemicals is limited and that every deterrent is put in place to ensure that rogue operators are not able to profit, are not encouraged to act in this way or are not able to act in this way with confidence in the sense of assuming that no-one is going to bother or even if people do inspect that nothing is going to happen, there are not going to be any consequences.

The current version of the Dangerous Goods Act does provide for some potential imprisonment but only in the event of serious injury or fatalities. We say that is not sufficient, that the new legislation as we understand it will be able to be used in a way that if people operate in a way that exposes or potentially exposes people to risk of serious injury or death that should be sufficient. Fortunately there were not any fatalities as yet arising from the two fires we referred to in the submissions, Tottenham and Campbellfield respectively, but we did see firefighters exposed, for example, to exploding 44-gallon drums effectively being shot through the air as if out of a cannon, and that of itself is extremely dangerous, not to mention the broader chemical exposure. So in short, we will be monitoring the passage of the legislation through Parliament and we call for the strongest possible laws to act as a deterrent and also the strongest possible protections for the firefighting community and the broader community.

**Mr MARSHALL:** Thank you. Chair, I know you are going to wind us up, so can I just respectfully say this: never give a union official a microphone.

**The CHAIR:** That is all. We are taking it off you.

**Mr MARSHALL:** The second thing is, most importantly, we actually extend an invitation for the committee, if it is within their jurisdiction, to actually do an inspection and speak to the dangerous goods department, the task force of the dangerous goods department, and the recycling task force, because the fire services being a legislative or statutory body is somewhat inhibited in being able to say what we have said today, and that is, through no fault of anyone, there is a total disconnect, if you like, between the various pieces of legislation. I will just go over it again: recycling, EPA; dangerous goods, WorkSafe; Building Act, VBA and council. All of them operate in a certain way, but you have seen the clever operators, the unscrupulous ones,

slide through the middle where they get a clean-up notice, ride out the period of time, and it comes down to a council CEO to say, 'Enough's enough, I'm going to prosecute', and it does not happen. So I just want to reinforce that point time and time again, but I do extend the invitation—I am sure the fire brigade will facilitate it—because you are only hearing half the story of what we would like to tell.

**The CHAIR:** Yes, on that, I think we might take you up on that offer. Can I just kick off the questions. First of all, I just want to acknowledge the great work and sacrifice your members do on behalf of our community. The work you do is tremendously appreciated and the sacrifices—you put yourself at risk everyday. It is sad to hear that 30 firefighters could be risking contracting some diseases from these horrible fires. Most of us do not think about that from time to time, we just look at the headlines, but we just want you to know that we appreciate the work you do and value it.

The question I want to ask is, and I think, Peter, you mentioned in your last comment, that you have got the recyclable materials stockpile, that is one, and then you have got the hazardous waste processing and storage. Two different industries but they present similar challenges, probably one worse than the other. For example, the hazardous material, if you are going to fight a fire at the chemical plant or an oil refinery, you know what to expect, you are prepared and you know what you are dealing with, but sometimes you are going to the Bradburys of the world, for example, and you are basically going in blind. With the SKMs of the world you are expecting a similar issue but probably to a lesser degree. I am just interested in your view on what changes you would like to see in regulations or legislation to address that. For example, do you think that the hazardous waste should be classed similarly to a hazardous industry or a major hazard facility? With that type of regulation to deal with that, therefore you would be able to cut a lot of the rogue operators, the backyarders. Where I am coming from is how we can protect your members who are actually protecting us.

**Mr MUNRO:** I think the first step is that we allow a lot of this industry to operate in buildings that are not fit for purpose. So I think the first step as a Building Act practitioner is that the building must be certified as safe to be used at all times and there is a requirement actually to provide an annual report stating that. The compliance rate of providing that document is extremely low, and when it is provided, that annual report—it is like a roadworthy certificate if you like—there are serious deficiencies in those reports. So at least ensure that the building stock is fit for purpose and that we then adhere to all the requirements under the Dangerous Goods Act and the Building Act so that we know that we are going into an environment that is at least better than it used to be. Placarding, essential safety measures and all the information we need when we get there should be in place, and these sites should be the ones that are actually scrutinised the most I think.

**The CHAIR:** Just on that point then, do you agree that when the EPA does an inspection that they should not give three days notice, or should they maybe go in plain cars without any notice? Is that something we should change? Without given them notice that we are coming to inspect you, is that something that we should change?

**Mr MUNRO:** We have tried both approaches. In these sites, with three days notice there is no way they clean up because they are so bad. There is no way they will reach compliance in three days. So we have a different view of giving people notice that we were coming along: at least they would start the process and we would give them all information they needed to understand what the obligations were. But there are so many facets to this and there are so many non-compliances that it needs to be a uniform approach and everyone needs to be on board I think.

**Mr MARSHALL:** One of the things we would like to see is certainly the decision to prosecute being taken away from a CEO of a council. We just do not see how that is appropriate given all the pressures councils have. What I mean is that is under the Building Act, and you just heard about building compliance. What flows from that is the Dangerous Goods Act. When there are dangerous goods put in there, then there really needs to be a prosecuting methodology that makes those compliance notices and clean-up notices enforceable in court, not reissued.

**The CHAIR:** Can I just maybe flag to members that we might extend to about 12.30 p.m. so we can give all members the chance to ask questions. My last question is: would you then recommend looking at a one-stop shop, one agency, to enforce all that? Because you did talk about multiple players shifting responsibility from A to B. Is that something that should be considered?

**Mr MARSHALL:** I am not sure whether it is shifting responsibility, I think it is a disconnect, like when you go into a different place for one component. For example, for building compliance you go to the VBA and the council, but if there are dangerous goods in there, then you really should be involving WorkSafe and the VBA. So a one-stop shop is probably a good way of putting it. But if I can be very frank, up until the early 1990s the MFB used to have the ability to enforce and prosecute, and it was taken away for commercial reasons. What I am saying to you is that there is no vested interest from the fire brigade. The fire brigade is about safety, end of story. I am not suggesting anybody else is not, but there is no pressure other than to ensure people do not die and are not exposed. So maybe the prosecution should be left with the fire brigade or alternatively some department, but I just think it is totally inappropriate for a CEO of a council.

**Dr RATNAM:** I echo the sentiments of the Chair: thank you very much for your service and for your really insightful submission, both your written submissions and your testimony today. Just taking up a couple of points that you have raised. Obviously the fires last year, the Tottenham fire and then the ensuring fires this year, have really put this issue in the spotlight—too late in so many ways; we needed to act on this previously. However, at the start of this inquiry we focused on some of the toxic fires and stockpiling, and that was one of the most immediate concerns for the inquiry. What we heard from the EPA and the department was that subsequent to those fires there have been improvements made with a task force put together where the MFB, the EPA and the department are working more closely together to do more proactive enforcement. Has that been working? Have you felt like that has been an improvement? Are there any ongoing concerns about the process that has been put together?

**Mr MUNRO:** We have made a greater commitment through the MFB, and that has been requested by the relevant authorities. So we have actually instigated the waste and recycling task force, the cladding task force and a few other things to offer expert advice towards enforcing this legislation, but that is where it seems to stop. The reports are provided—lots of hard work by passionate people. The documentation is forwarded to the relevant authorities, to the owners of the legislation, and that is where we see the problem—the capacity with all of the other obligations, the capacity to take it further or the resources to take it further. I cannot speak on behalf of the EPA and the councils and the VBA, but I know in 1993 when the building industry was deregulated and councils were reduced in their building surveying departments and private surveyors were doing the permit process, the resources were taken away because they did not see the need for them, the building industry got out of control and the council municipal building surveyors officers were meant to administer it from then on and provide the oversight. They could not do it, and now they are struggling under the weight. So the system is not working as far as that is concerned. The issue is getting bigger daily and no-one is coping. What I would like to see is that all of our information is actually acted upon and is able to be acted upon. So our resources, I think we are committing to it, but beyond that I cannot say.

**Mr MARSHALL:** So in short, the groundwork has been done, the paperwork is put in, but it does not go anywhere.

**Dr RATNAM:** The next step is to actually act on that and then prevent it in the future.

**Mr MUNRO:** Yes, and that is why we welcome this opportunity to get this message out to say that we are doing everything we possibly can.

**Mr MARSHALL:** If I can say, with respect, that is why these committees are so important. You cannot say these things outside of parliamentary privilege. These people have not got the forum to be able to speak about it, but you are actually hearing from the very people who are totally frustrated, who are doing all the work but it is not going anywhere to the point where there is remedial action through prosecution to stop it.

**Dr RATNAM:** The other question I had—and this was a question we asked at the start of the inquiry when we were looking more closely at the toxic fires—is that we have a number of sets of eyes and ears on the problem, but I would say your members would be at the forefront of actually seeing what is actually happening and the nature of the problem. So in these fires that you are going to fight, what are you seeing in those sites? We have heard it is about building these facilities, just stockpiling is not going anywhere. We have heard about the rogue operators, and one of the issues is that there are rogue operators—illegal operators—who are making money from the collection fees and then not doing anything with all the stockpiled materials. Some are not



clearing the stockpiles—they are legitimate but not clearing it fast enough. Has the nature of the problem changed from what you are seeing when you are going into these places?

**Mr MUNRO:** Dramatically.

**Dr RATNAM:** In what way?

**Mr MUNRO:** I actually wished I had have bought along some photographs to show you from—

**Dr CUMMING:** I have got some.

**Mr MUNRO:** De-identified photographs that I could provide.

**Mr MARSHALL:** We can provide them if the committee wants them.

**Dr CUMMING:** I have got plenty in my phone.

**The CHAIR:** You can send them to the secretariat and we can deal with them.

**Mr MUNRO:** They actually identify. And the risk is growing daily. For example, in 1990 we had Coode Island, which has actually severely affected a significant amount of firefighters of my era. And then after that we tightened up dangerous goods legislation. There was information provided so that when we rolled up to a fire in what we presumed would be a toxic chemical facility there was information waiting at the gate, and we would even stay at a distance to make sure that we were prepared to proceed. In this circumstance we had no warning. In the case of the West Footscray-Tottenham fire we just rolled up like it was any other building fire and proceeded to do what we do without the protection provided with the distance that we would normally provide. So we just do not know what is around the corner now because this is out of control.

**Mr MARSHALL:** In short, the reality is because these are illegal premises and are not fit for purpose, there is no placarding to say to the firefighters what it is.

**Dr CUMMING:** That is right. It is illegal. It is illegal, rogue people. It's just me, Peter, sorry.

**Mr MARSHALL:** I thought I was hearing voices. I do sometimes.

**Dr CUMMING:** The voice of reason, Peter. The voice of reason.

**Mr MARSHALL:** So normally there is placarding where it is a registered site that says 'XY'. It tells the officer what firefighting methodology to employ, what type of attack. And then there is a specialist box of a manifest as to what is in. Rogue premises do not have that. They just shut the door, and you have got no idea.

**Mr MUNRO:** So uncertainty is what has happened. That is the change.

**Ms TAYLOR:** I was thinking obviously there are the known operators, but identifying the hidden operators must be pretty difficult. So I was wondering: how do you locate these people who are probably not wanting to be identified? Do you think—and I am drawing a long bow here—you were talking about the fitness for purpose with buildings et cetera, would that would be a way of narrowing that space, or not really?

**Mr MUNRO:** Yes, definitely.

**Ms TAYLOR:** Okay.

**Mr MUNRO:** I can speak about Tottenham-West Footscray. We carried out an inspection on that building—my department. And we have all had involvement with it; all of the MFB's compliance departments had involvement with West Footscray. My involvement was we carried out an inspection where we identified that not one of the essential safety measures provided in that building to protect the occupants, the community and attending firefighters was compliant. They were all in a terrible state of disrepair. The sprinkler was pouring water out outside the building through holes in the pipes, which meant that it was never, ever going to address the fire. So with that building, it was not fit for any purpose, but the council's only way of addressing it

was to issue an order to reinstate all the safety measures and to make the building fit for purpose again. The owner of that building had no intention of ever doing that.

What then happens is: who is going to occupy that building? No legitimate business is going to move into that building, so it left itself open for illegitimate business to take advantage, where they said, 'We'll give you X amount of cash to rent your building', and the owner turns a blind eye and chooses not to know what is going on, possibly. What should have actually happened is that the council had the power to say, 'This is not fit for any purpose; we're going to actually lock every single door on the premises and make sure that you cannot use it until you reinstate the safety measures or bring it up to a level of compliance that is acceptable for any purpose'.

**Mr MARSHALL:** That was 12 months before, wasn't it?

**Mr MUNRO:** That was 12 months before.

**Mr MARSHALL:** That was 12 months before, that fire, and that building was empty. So that fire could have been prevented.

**Mr SAYERS:** If I can just add on that, that is talking about the storage point. We have also got concerns about the implementation of the cradle-to-grave concept. I am happy to defer to Pete and Damon for more detail about this. But the idea that you might have a perfectly legitimate operator as a first point of contact with a chemical or dangerous good—it is then how they then offload it. Who do they offload it to, how is it transported, where does it go? So how is all of that being monitored? Maybe if chemicals are being sold off to a Graham Leslie White, for example, that can be identified at that point of sale and intercepted then rather than perhaps not finding out about it until months down the track.

**The CHAIR:** Just on that, have you got any comments to add to the electronic tagging the state government is looking at implementing by 1 July? Have you got any more comments on that? Would that system work? What are the deficiencies?

**Mr MARSHALL:** Sorry, we will take that on board, Chair. I will ask the experts, but I think it is probably a great idea. I just want to emphasise: we are talking about buildings and fires and dangerous goods. It is actually the transportation as well. A vehicle that is actually transporting toxic waste should be placarded. They are not, because they are illegal. So you imagine what will happen is if there is an accident—drums going everywhere, the firefighters rock up, no placarding, got no idea what is there, what is leaking or what is exposed. So it is not just the buildings; it is the transportation as well. So they are doing it on the cheap because it costs money to transport. It costs money for storage. So they will say, 'We'll get rid of this stuff. We'll transport it and get rid of it for you'. The only trouble is we are rolling the dice. One day that is going to happen. We have had the fires. One day we are going to have a semi-trailer or a vehicle with these dangerous goods crash on a roadway and there will be no warning as to what is in there or the ability for the firefighters to employ a tactic based on knowledge. Now, that is how dangerous this is.

**Mr MEDDICK:** Thank you, Chair. I want to thank you all as well, both individually and collectively, for your many years of dedicated service to the community. I note that that is what is uppermost in your mind and the reason you are here today. I also note that your testimony here today will probably raise a lot more questions than we can get answered in the time we have available, so I ask both through the chair and through the secretary that if there are questions that we do not cover at this point in time, that we can provide those to you as questions on notice and that those answers can also be protected under parliamentary privilege so that you can give a full answer in the knowledge that you are not going to open yourselves up for external prosecution. On that, I think I might be pre-empting something that Mr Davis was trying to get to before when he was jumping out of his skin I think there. Are you able to provide us with a current full list of sites of your concern at this point in time to the committee?

**Mr MARSHALL:** Not me personally.

**Mr HOWELL:** Look, what I am not sure on that is what obligations the MFB place—or what restrictions.

**Mr MARSHALL:** Sorry, can I just rephrase our answer? I am sure the agencies have that list, and if you ask for it via this committee I am sure it will be provided.

**Mr MEDDICK:** Wonderful.

**The CHAIR:** What we might do is write to the agency to formally ask, and then we take responsibility from individual witnesses, so we will do that.

**Mr MARSHALL:** I am not sure if parliamentary privilege extends to documents.

**Mr DAVIS:** Just on that exact point, I think what would be very important is for any referral or any issue that has been raised in the last three years, say, to be provided to the committee—the list of the places and the circumstance from those two task forces that have been mentioned. If we have some difficulty with the MFB, we will have it from the three of you under privilege, and I am thankful for this being brought forward. But I think what we need to see to help us understand this is what has been reported, what has been followed up and indeed what has not been followed up.

**Mr MEDDICK:** I find it quite alarming that you had a relationship and an understanding with the VBA and that they have discontinued that relationship. Have they reported to you the reasons why they are, in your words, ‘unwilling’ to do this? Have they given you any reasons behind this?

**Mr MUNRO:** It is above my pay scale I think.

**Mr MARSHALL:** Well, I can answer that because I am not going back operational so it does not matter. You now see there are competing interests, and I will say it quite frankly and bluntly: the VBA had lots of stakeholders, not necessarily just the fire brigade. There are lots of pressures—lots of development going around Melbourne. My point of view: those pressures sometimes get in the way of the decision-making about what is safe.

**Mr MEDDICK:** Thank you. This is a question that I have been raising—it is really two questions in one—with other testimony that has been given at the very start of this inquiry. And I am talking wholly and solely about the sites that you are aware of here that are supposedly conforming with the legislation. In your opinion, would an interagency database of chemicals, waste or materials on any given site—so prior to you rolling up and then you have got to go to the gate and then you open up and you find out what chemicals are written down and stored there—that you can access before the service is scrambled to attend the fire be of use? I run that in tandem with inspection regimes. I am curious as to why the different agencies do not attend necessarily at any given site at the same time and the differences in time frames when they choose to do inspections. The EPA, for instance, might do one inspection in January and not come back again until the following January. Do we need to bring a tighter inspection time in and make sure that all agencies are present and then that information is then fed back into the database? Is that something that would be of benefit in these situations?

**Mr COONAN:** So on the point about an electronic sort of database or manifest, it would be very beneficial but in reality the only way it would work is if we listed maximum quantities on a site, because it would be quite unrealistic for the site possibly to update that every day and for that to feed into our technology. But it could be beneficial—absolutely—to have that. The dangerous goods legislation in any case considers a vessel to be full. It is considered to be at capacity. That is how that could work, possibly.

**Ms TERPSTRA:** Thank you for coming to the hearing here today and for giving evidence, and also thank you for your submissions in regard to this matter. We appreciate the protection you provide to the broader community. My question is around personal protective equipment. Of course, hearing some of the stories you have been telling today, I do not know that any personal protective equipment could necessarily protect someone from an exploding 44-gallon drum. And it seems like also, with the advent of e-waste, what we are seeing is sometimes things that are exploding can behave in very unpredictable ways. But just a question around whether you feel that there is adequate personal protective equipment for you at the moment or whether it is something that needs to change as a result of some of the chemical fires and some of the explosions: are you able to comment and tease that out a bit?

**Mr MARSHALL:** So the fire services have probably got state-of-the-art equipment. What you see on a normal news clip is what we call their firefighting ensemble. That is made out of material called PBI Gold. That will protect a firefighter if they enter a burning building, and engulfed in flame they can walk out of that building without any burns. It is a very high-tech type of material. The problem is that that material—not only does it protect firefighters from radiated heat, it must release their metabolic heat build-up, so it breathes. Firefighters do not get sick from inhalation, because they have got breathing apparatus most of the time. It is the breathing, you are working hard, your pores are open, and whatever atmosphere you go into reaches into the skin. That is why it is an unavoidable risk.

In relation to chemical incidents, as opposed to fires, there are fully encapsulated suits, including your own artificial environment where the oxygen is pumped in. That is fine as long as there is no fire involved, whereas if there is fire involved, the firefighters have to put themselves at risk as much as possible. And then it comes down to the tactic of the officer in charge if he has knowledge based on the placarding and the manifest. So we do have good equipment. I work on a global board of unions—firefighting unions. There is no firefighting uniform on the market at the moment that can actually be deployed in that situation. It is just not there because it has to breathe. They have not got around that fundamental problem. No fire: fully encapsulated suits—and you have seen them, they look like space people. They go in, no problem; they have got their own environment. But when there is fire involved it is a different story.

**Mr DAVIS:** I just want to reinforce that this committee would appreciate that list, perhaps for the last three years. It would give us a very good understanding of the sites and the reports that have been made by the MFB or indeed by the three individual practising officers here, and we will then understand where those reports have been made and what the follow-through has been or, in many cases, not been. So that is the thing that I want to emphasise. We need to stocktake what has happened so that we understand the way forward. And I want to note that of course your members have got a very legitimate right in protecting firefighters going to these sites and scenes, terrible in many cases, and this is of course important for community safety in addition.

**Mr MARSHALL:** Thanks, Mr Davis. The bipartisan attitude towards this is just so important. Can I say this: as I said, I am a union official. I am also a firefighter, but you are hearing from the people that go out there. You would not get this information unless we were able to give this submission. That is why this committee is so important, because they are protected by parliamentary privilege. A fire brigade, being a statutory authority, can only say certain things to a certain limit.

**Mr DAVIS:** Well, we will ask them, and they can come back with the list. We will then ask them to follow through on each item.

**Dr CUMMING:** Peter, I am just so angry about this topic, and I have brought it up in Parliament, seeing that I have a very deep understanding of the problem. One of the issues that I raised in Parliament was around the task force. The task force has got this *Management and storage of combustible recyclable and waste materials—guideline*, and these guidelines were published in October last year, 2018. On the first page of this document, it actually states:

This guideline is designed to help:

...

- any business wishing—

wishing!—

to implement best practice in the management of ...

combustible recyclable and waste materials. ‘Wishing’—this document says that it is ‘wishing’ for people to do the right thing. So I share your frustrations. I know that the Parliament needs to actually put in legislation to support the firefighters but also greatly to make the community safe.

One point that I must make: I am not here to listen to council-bashing. Respectfully, the points that you have raised about the CEO—councils are working with one arm tied behind their back. And when it comes to West Footscray and the Tottenham fire, I know that the council went in there numerous times with the firefighters,

and we know that you can go into a rogue operation like that and you can put in saying, ‘You need to do this’ and ‘You need to do that’. The very next day they will comply, and the very next day after that they change things around. Especially with the West Footscray and Tottenham fires—now, they had an illegal operation in the middle. Is that the police’s responsibility?

**Mr MARSHALL:** So—

**Dr CUMMING:** Now, I just want to finish with this. Seeing that I know that councils have issued notices to comply to an owner, and the Kinnears fire was a great example of a building that was derelict, we knew people were in there living rough, and we told those owners—the council told those owners—to actually make that building safe, and then we had loss of life. I guess you can hear, Peter, that I am not here to listen to council-bashing because I totally believe that it is something that we all have to work together on to look after the safety of the community. But I do hear that this state government needs to do something about this immediately.

**The CHAIR:** Dr Cumming, is that a question?

**Mr MARSHALL:** Can I just respond to that, Chair? Dr Cumming, I was not council-bashing at all. I was just pointing out the fact that with the current structure as it is it puts an unrealistic burden on the council to say, ‘Look, they haven’t complied. We’ve done everything’. Now the CEO has to decide whether they are going to go and take them to court and I—

**Dr CUMMING:** And, Peter, the CEO would get legal advice.

**The CHAIR:** Dr Cumming, can you ask your questions through the Chair, please.

**Mr MARSHALL:** I am so sorry. I apologise.

**The CHAIR:** Mr Marshall, are you finished?

**Mr MARSHALL:** Oh, sorry. So I was not council-bashing. I love councils.

**Dr CUMMING:** Thank you, Peter.

**Mr MARSHALL:** They are great people. I just think it is unrealistic to leave the final call with the CEO to say.

**Dr CUMMING:** And I must agree with that, because it would seem that there are absolute gaps—total gaps—and the community is left unsafe, and I am glad you are here today to raise this important issue.

**Mr MARSHALL:** Thank you.

**Dr RATNAM:** In terms of what you are saying, we are seeing some of the risks and where the fires occur in certain geographic areas, so I was wondering whether you have a reflection or opinion or view in terms of is it just that in some areas we have got more industrial sites so therefore it is just a product of more of these sites in these areas? I am just thinking also about where we focus our energies in terms of rectifying some of the enforcement issues. Is it because the rules are applied differently in different jurisdictions?

**Dr CUMMING:** Or industrial zones compared to waste zones?

**Mr MARSHALL:** I think geographically they are out of sight, out of mind, these locations, but also the fact is that they have been hard to lease, they have been vacant for a while, they are cheap.

**Mr MUNRO:** I think that is what we have found so far.

**Dr CUMMING:** Industrial zones—industrial zoning compared to a zoning around a waste facility.

**The CHAIR:** Dr Cumming, please, through the Chair.

**Dr RATNAM:** A product of those areas?

**Mr MUNRO:** In the example of West Footscray—and I am just using it as an example and it could have been anywhere in the metropolitan area or in Victoria—it was a site that was a major industrial complex with one operator at one stage. That business vacated and it was subdivided. Subdivided it was probably not fit for purpose anymore. The fire services that were meant for the whole complex were split up. It became problematic for everybody to manage. Then the added problem of it being probably 60 per cent asbestos construction made it just a prime target for this sort of thing. I guess you can identify that area with others through the metropolitan area, let us say, like Campbellfield.

**Dr CUMMING:** Braybrook.

**Mr MUNRO:** I am not too familiar with the other side of town, but the western suburbs and the north seem to be where these—

**Mr MARSHALL:** These places are out of sight. There are other industries there. You will note that even when the exposure happened the next-door neighbour did not even know what was in there.

**Dr RATNAM:** Even for the neighbouring areas. Just a final question: in terms of these buildings being fit for purpose—and I can hear that we have got to do a lot more to ensure that they are actually fit for purpose to prevent these issues from exacerbating—are you involved in the sign-off when they are deemed fit for purpose or not fit for purpose? Do you think there is an area for more people to have an assessment role in there, or is it something like they fear the fire services or something else, or is it just that the quality has to improve in the sign-offs?

**Mr MUNRO:** Well, they are meant to be fit for purpose 100 per cent of the time regardless of their use, regardless of their occupation. They can be vacant. Under the current legislation they must be safe and all of the essential safety measures maintained and operational. And there is a requirement to have someone acting on behalf of the owner compile an annual report which states the condition of the building and that those measures are maintained during that year. Because it is not lodged with anyone, it is only to be accessible on 24 hours notice.

**Mr MARSHALL:** If it exists.

**Mr MUNRO:** If it exists.

**Dr CUMMING:** We have derelict buildings.

**Mr MUNRO:** I could not even speak to the number of what is available. It is very low and the ones that are there are inaccurate, but that is the first step, we believe, to have a central registry. This is being approached by local councils—

**Dr CUMMING:** Land banking.

**Mr MUNRO:** by the VBA, to have that document compulsorily lodged with, let us say, rates each year and lodged in a central registry. So therefore when we have an issue with a building such as this our first course of research would be to look at that database to see whether there is a pattern of compliance. Also, if that does not come in with their rates notice or with their rates lodgement each year, then there would be an investigation into why and we would identify these buildings before they become a risk, hopefully.

**The CHAIR:** Just on that point, if an owner of a building failed to comply with that—and as you said, at the moment you do not have to lodge it and I think you are making some suggestions here about the ability to have significant penalties against companies, their directors and persons associated with a company engaged in illegal activities, including basically going to jail—what sort of specific changes would you like to see made to the various legislation to address that problem? Mandatory have to register every year?

**Mr MARSHALL:** Well, the suggestion there that has come from the operational firefighters—to be submitted at the same time as the rates as a matter of compulsion—that is a great idea. Non-compliance, there should be an opportunity to remediate—no remediation, there should not be another notice; there should be

prosecution. I mean, it is as simple as that. That is why these people are doing that: there is absolutely no deterrent, no deterrent.

**Dr CUMMING:** But councils cannot afford it.

**The CHAIR:** On that note, thank you very much. Thank you for your time. It is appreciated. Just a reminder that a letter will be sent from the committee in relation to the issues that Mr Davis and other members have raised in relation to information. We will draft that and send it to you, Mr Marshall, and to the MFB; that way everything is covered. There may be some other questions that the committee members might decide to include.

**Mr MARSHALL:** Chair, with respect, just in relation to the inspection, I think the committee would benefit enormously from inspecting these task forces because you will be able to speak to more than one practitioner. You will be speaking to all of them and you will be able to see how they operate and what they are dealing with.

**The CHAIR:** That was the second point. I think that is something we will take up seriously. We will take up the offer and then we will be in touch to actually arrange a time between now and October. Again, thank you for your time and, particularly the firefighters, for giving evidence today. We really appreciate it. Thank you for your time and have a lovely day.

**Mr MARSHALL:** Thanks for the opportunity.

**Witnesses withdrew.**