

# **LEGISLATIVE COUNCIL ENVIRONMENT AND PLANNING COMMITTEE**

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

Melbourne—Tuesday, 6 August 2019

### **MEMBERS**

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### **PARTICIPATING MEMBERS**

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Dr Catherine Cumming

**WITNESSES**

Mr Darren Bennetts, Friends of Stony Creek

Mr Steven Wilson, Friends of Stony Creek, and

Ms Clare Sheppard, Friends of Stony Creek.

**The CHAIR:** I welcome Mr Bennett, Mr Wilson and Ms Sheppard from Friends of Stony Creek. Thank you for making yourself available and waiting as well, because we are running behind schedule, so we appreciate your patience.

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 comments repeated outside this hearing may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. All evidence is being recorded. You will be provided with a proof version of the transcript in the next few days. Now, as we heard from other witnesses this morning in relation to the same issues affecting Stony Creek, I ask you to be brief, but we need to make sure you put your points across as well, so please feel that you can do that as well. We will start off with Mr Wilson.

**Visual presentation.**

**Mr WILSON:** Yes, sure. I guess the main thing about Friends of Stony Creek is that we have been active in the area for about 30 years now. We were incorporated in 1993. As a group we have worked constantly along Stony Creek trying to improve the area—the environment of the creek. The creek originally actually ran across a basalt plane with grasslands. Now, fortunately or unfortunately it runs through the residential areas and industrial estates of Ballarat Road, Tottenham and some of Geelong Road and the residential areas of Yarraville. So all the run-off that goes into Stony Creek comes from those areas, and that is where we have the problems. We have had a lot of pollution events over the years, and this is the worst I have ever seen down there.

The group has been actively planting along the creek. We do walks and talks. We do research into the creek. We have been doing water testing, so we know the quality of the creek has not been great. It has been at a medium level for a number of years as far as oxygen levels and phosphate and all those types of things go, but it is actually dead at the moment.

The group has actually done a lot of planting. The general public has come to understand and appreciate Stony Creek. Cruickshank Park has been a great success. The Hyde Street area, which we are planting at the moment, is becoming another park that people like. People value what they have down there. But since the fire people have not been able to go down there. They understand the consequences of what has happened down there. So as a group we would like to feed back about what has happened down at the creek so you appreciate the effects of the fire and what we are going to do in the future down there. I think I will perhaps let Darren go into the effects of the fire.

**Mr BENNETTS:** Thank you for having us today and giving us the opportunity to contribute. By way of introduction, I am the secretary of Friends of Stony Creek. I am an environmental scientist by profession, and I have a PhD in hydrogeology and geochemistry. I am an EPA-appointed environmental auditor working in the contaminated land management space professionally. I live in Yarraville, about 230 metres from Stony Creek, so my local park is Cruickshank Park. My daughter goes to school at Kingsville Primary School, which backs onto the creek.

As Steve mentioned, countless hours have been put into restoring the creek. It has really been years—and with Friends of Stony Creek it has been 26 years of history and then prior to that informally—of restoring the values of that creek. It has been community driven, and so that has resulted in a very immense community bond with the creek. It makes it quite unique in that area, and it really is a place that the community gets drawn to. I have been drawn to that area with my family as well over the years. We both have experienced that attachment.

But it has been a tumultuous history that the creek has experienced over the years. Some examples I will quickly present for you. This was a spill that went through the creek and killed fish and eels. This was in 2002. The EPA successfully prosecuted a \$48 000 fine. Another example: in 2010 there was a nearly \$6000 fine due to oil release. In 2013 in this instance here foam went all the way down the creek. This is the top end in West Footscray. It went all the way through Cruickshank Park, past the school, past the childcare centre, all the way down essentially into the Yarra River. There was no source identified and no penalty issued.

Another example—this was in January 2014—is transmission oil. This one here I pursued. There was no action that resulted.

**Mr HAYES:** No source identified?

**Mr BENNETTS:** No source identified. At the time I traced it through stormwater drains. You could go up to the drains and you could smell the transmission oil coming out of the drains. I was able to track it a few kilometres away, I think, to—

**Mr HAYES:** This would be illegal dumping.

**Mr BENNETTS:** Yes, someone had discharged something down a drain. At the time there was no effect. This is some of the wildlife that was killed at the time. EPA investigated. They sent down an officer who went to the wrong location a week later and consequently did not find any evidence; it had washed away in the preceding rains.

Jump forward two years to January 2015. This looked like coolant. Again, no action, no penalty, despite it being reported. Here is another one. That is sludge cement. This is in West Footscray near Cala Street. That is it going down the creek there as well. As far as we are aware there was no investigation and no penalty.

But despite all of that—and we have periodic spills through the creek system—the creek was actually in the best condition it had been in prior to the fire over all the years. It is amazing how resilient that ecosystem had been. There were frogs, fish, eels and yabbies. This is a native fish that one of our members caught there in 2017. I think we have got some audio of frogs as well. I am not sure if this will play. It does not look like it. We have got a very healthy frog population, and the video shows the pobblebunks in full song in springtime. It is a delightful sight, and you can go down there and do frog-watching in summer.

This was an ecosystem that was stressed but still surviving and on the up, so there was a real sense of positivity in the community that all of our efforts over the years were coming to fruition. We had really created a nice sanctuary to enjoy with our families and for exercise. Our dogs would go swimming in the creek, it was a routine activity, and the families would mill around while their dogs played in the creek. That has been taken away from us for—

**Mr HAYES:** Could you tell me where that is?

**Mr BENNETTS:** That is in Cruickshank Park, the photo on the right. The picture on the left is in West Footscray at a place called Cala Street, which I will show you some photos of shortly.

**Mr WILSON:** Just down from the fire site, basically.

**Mr BENNETTS:** I might pass over to you, Clare.

**Ms SHEPPARD:** On the morning of 30 August 2018 I was woken by multiple fire engines using the nearby streets. I got up around 6.00 am. My husband was looking up Facebook, which is always the first source of information but not always the most reliable. He said there was a large fire nearby. My sister, who lives in Somerville Road, Yarraville, sent a text message to the same effect. We live in Clarendon Parade, about 800 metres from the fire site. As the sun rose and we were able to see more, a wide black plume became visible over the houses to the south. It seemed very close and very low. I waited, I watched, I kept looking for information. I kept the doors and windows closed but had the gas heater on.

The local Catholic schools had announced they would be closed that day. We had heard that on Facebook. West Footscray Primary, over 1 kilometre away upwind, was closed. We heard nothing from my children's school, Kingsville Primary School. It seemed that the school was right in the path of the plume. I was slightly upwind from the plume. I decided to keep my children away from school and we went to my parents' house in Glen Iris. As we drove east the enormous black plume dominated the sky. My sister was also at my parents' house with her children. Her children normally attend Clare Court children's centre on the creek.

Information came in slowly. I kept a close eye on Facebook and the VicEmergency app. It was on the Friends of Stony Creek Facebook page that I first learned that the fire water and all it carried had flowed all the way down Stony Creek. Steve had been contacted and had gone in and taken some photos. The water was aqua and opaque. You can see in the picture.

My husband arrived home from work about 3.00 pm. Despite all the windows and doors being closed our house reeked of smoke. The children and I stayed at my parents' house until after dinner. Driving home we crossed Stony Creek at Roberts Street. The odour coming off the creek was astounding. It smelt like a container of paint thinner, and I felt like I had just inhaled a lungful. All I did was drive over the road—over the bridge—over the creek. The children asked what the smell was, and I could not tell them the answer until a few minutes later when I realised it must have been coming out of the creek, because it had gone by the time we drove up the hill.

**Mr BENNETTS:** In the days that followed we learned that 5 kilometres of creek, from the fire site in Tottenham downstream to the Yarra River, had literally been sterilised. All life below the watermark had been killed due to the toxicity of the chemicals that had flowed down the creek. It was just pure, acute toxicity. Everything had died. I mean literally—E. coli was zero in the creek. Chemicals like hydrocarbons, solvents, PFAS and herbicides we later learned were in the cocktail of chemicals that went down the creek. They left contaminated sediment in the base of the creek, which still persists to this day.

The odour that we experienced in the creek persisted for about four months. It was really around about Christmas time when we stopped being able to smell the odour on a regular basis. There were 2300 fish and eels that the EPA reported had been killed. There were certainly dead birds encountered, distressed birds. This is a picture of a black swan which was clearly in a state of distress for a couple of days before Melbourne Zoo came and collected it to take it away for care. And it was not constrained to Stony Creek as well, so there were impacts. The plume actually flowed out into Port Phillip Bay and ended up migrating all the way to Brighton on the other side of the bay, so dead fish were being washed up in Williamstown and Newport along the coast there.

There were also tree deaths. This is an example of a tree in Cruickshank Park. You can just make out in the base of it that there is a sewer drain there. The response from Melbourne Water at the time was to pump the water from the creek into the sewer. The sewer leaks, and it has killed the tree with the tree's roots around it. The reports we have from Maribyrnong City Council are that approximately 50 per cent of the vegetation in the upper part has died as a result of that—so that is the community plantings. And they continue to die to this day. So every time we go back we notice more mortality in the trees, just reminding us of that time.

This is a photo near the fire site in October 2018. This is about six weeks after the event. This gives you some context for this photo. On 7 October 2018 I walked along the creek and, following ever-increasing evidence of contamination, found myself near the fire site. The creek was completely black in parts and vivid white in others. It had a very strong chemical odour and there was a rainbow sheen on the water, as you can see there. The vegetation in the creek had clearly been on fire. It literally looked like the creek had been napalmed. I felt sick and dismayed that this could occur in Australia in our creek, and I work in contaminated land management remediation and had seen nothing like this at all. This is six weeks after the fire. There were only hay bales—there were three hay bales stopping this going downstream in the creek. I felt hopeless, isolated and angry, and I could not sleep after seeing that this was sitting within our community. It was just wrong.

So Friends of Stony Creek started to increase our communication with the authorities, raising concerns about the condition of the creek and the risk if there was a flood. And prior to this the relationship with the various authorities was very positive. We felt confident that what was a terrible situation was being handled well, and this suggested otherwise. We questioned why there was apparent inaction. Was it a case of, in this instance, out

of sight, out of mind? Did they not understand the risks to the environment? Melbourne Water staff, after several meetings at that time, conceded—this was 18 October—that if a major rainfall event did occur, there would be significant consequences downstream. And unfortunately we realised that on Cup Day. That was 6 November 2018. There was heavy rainfall and the contamination had been mobilised downstream, impacting areas that had not been previously contaminated. So during the flood the creek breached the banks and the contamination from upstream spilled out onto the pathway. So that is the contaminated sediment there, sitting on the pathway. It contaminated grass areas in Cruickshank Park and again here in West Footscray and outside people's homes.

That is one of the grassed areas next to the creek in West Footscray. It is a place called Park Avenue. That is two months after the fire. That gives you a perspective from the other side of the creek. Those houses front directly onto that grassed area there. That area was planned for a Christmas party. The Christmas party had to be cancelled. The area has still only been partially cleaned up, so that contamination still sits there to this day. This is in Cruickshank Park. This is the main path there. So you can see—this is that afternoon after the flood—the amount of contact that that material has had with people.

This is near the backwash, so this is the saltmarsh that has been covered in this material as well. This is my daughter's scooter. My daughter rode through this muck ahead of me while we went on our evening walk and I first identified this, and that photo was taken after I had spent about 20 minutes trying to wash the scooter. I washed it off her shoes, and I washed it off the scooter and could not get rid of the black staining. I touched it with my hands, and my hands burnt. In the days after the skin on my hands peeled.

So that moment was really a tipping point. We raised the concerns with the authorities, and they listened. We had to fight really, really hard—really, really hard. It was incredibly stressful, and we had to push hard, but they did listen, to their credit. Since that time the communication has improved vastly, as did the activities in the creek. A stakeholder advisory group was formed where meaningful, open, transparent communication occurred. It was not always easy communication, but they were difficult conversations that had to be had, and it was genuine community consultation. We were not a problem that was to be managed; people genuinely listened to the community, and we felt we had something to contribute and added to that. After going through that sort of issue it was comforting to note that someone was actually listening and empathising and was willing to fight with us as well, to fight with the community for what was clearly something that was wrong that has been thrust upon all of us.

So since that time remedial works have been undertaken within a 700-metre section of the creek, which has been excavated out and the material remediated. Some grass has started to grow again in the creek line, and there have been sightings of some fish, albeit introduced, but still a sign of life. Glassworts have re-established at the backwash, and although the year's mangrove seedlings perished, the mature trees fruited and produced seed. The odours occasionally return, but it is very, very occasional. So things are positive. Contaminated sediments, though, remain downstream, and it is still unsafe to come in contact with the creek. Trees are continuing to die and constantly reminding us about the impact of the event. So whilst there is positivity, we still have this ominous sense, though, that it could happen again. And the problem is that it gets affirmed when you have these concerns. You talk about anxiety, and then things happen to either affirm it all or potentially not.

In this case here, here is an example of a spill that occurred on 12 April this year. This is some sort of oil, a transmission oil, shall we say, that has been discharged down the creek and investigated by EPA. No source has been identified, no penalty. There have been four incidents like that that have occurred since the fire, this one being the transmission oil. There was a foam incident on the creek, there was a grout discharge into the creek and there was illegal dumping of cooking oil into the creek as well. So this reinforces that this is not an isolated event. As we saw before the fire, with the fire itself and even post that, there are systemic infrastructure, regulatory and cultural issues in the way we treat the environment and how we manage waste, and those issues continue to have a profound impact on the community and the environment. That is the reason we are here today, to do something important.

**Mr HAYES:** I just want to ask you about that. The pollution there—what sort of quantities are we talking about? Are we talking about an individual getting rid of his car oil, or are we talking about commercial quantities of oil being dumped into the creek?

**Mr WILSON:** I think we are talking about both, actually.

**Mr HAYES:** Talking about both—okay.

**Mr BENNETTS:** Yes, it varies.

**Mr HAYES:** Right. But sometimes quite large amounts of pollutants?

**Mr WILSON:** Yes, because of the way the catchment works and the way the pipes run down, it is very difficult to trace any one back to the source. There needs to be some kind of system put in place actually to track that type of pollution event, especially the larger ones.

**Ms SHEPPARD:** In the weeks following the fire I spent time documenting the conditions and damage along the creek via photographs and descriptions on the Friends of Stony Creek Facebook page. I felt it was important. I felt it was my responsibility to inform our members of what was there on the ground. So many of our members were seeking information, and it was not available. I spent a number of half-hour sessions each weekend for three consecutive weeks walking along the creek and photographing the effects on the vegetation, the creek banks, the rocks and the wildlife. Each time after my exposure I noticed I was short of breath for a few hours after being at the creek. After the second and third times I noticed that my nose was bleeding, and this would go on for a couple of days. I stayed away for two weeks, and it seemed to improve. After the next visit the symptoms returned. I made the decision to avoid the creek and did not go again for a number of weeks except to cross to get to and from school.

I think the point is that people really felt they wanted to know what was happening, and the information was not there, and the photographs are such a powerful way to inform people that this is what has happened at this site on this day—this is what it looks like now. The area of the saltmarsh is I believe of state significance as to the environment that occurs there, the types of vegetation. There is no plan to remove any of that contaminated sediment because the damage to the plants would render it pointless, so that sediment is going to stay there now forever. The plants will just live in it. The mangroves—Parks Victoria brought in a mangroves expert, who was the one who identified that that year's seedlings had perished but that the trees were fruiting. So Parks Victoria had a response plan, they prepared that information and they invited us to come down, I think—or did we invite ourselves? They met with us and took us on a tour. But really the members of Friends of Stony Creek and the members of the community in Yarraville and West Footscray really did not have the information that they wanted about what had happened, what the plans were and what the plans are for repairing that damage.

**Mr WILSON:** Yes, even in the initial six months the authority seemed to be not sure what to do. They used an old plan which was not really suited to the occasion. So it has taken about six to nine months just to work out how to approach this and actually how to coordinate the departments. They have learned a lot, so I think there are a lot of lessons to come out of it, and the rehabilitation plan looks like the best thing we have got so far. I think the committee should be happy about that.

**Mr BENNETTS:** I will summarise in a few slides here just to wrap up. We have had a long history of neglect and often inaction unfortunately, and in this instance our worst fears were realised. Our experience has been that we have had to fight really, really hard to be heard by the authorities. The creek literally died, but the community suffered as well. Not only has it taken away our place of refuge, that enjoyment, but to see it suffering and continuing to suffer for so many months afterwards—it will be our 12-month anniversary at the end of the month. Issues like anxiety, stress, helplessness, fear of inaction, being abandoned—these are all genuine feelings that I felt. The amount of pouring into the Friends of Stony Creek, whether by email or Facebook pages or coming to our meetings, was a consistent theme amongst the community members. We are concerned about the regulatory regime that led to this toxic waste being illegally stockpiled in the manner that it was allowed to occur. We now find that there is 17 million litres of this stuff stored around the state, and we are only just one of the communities that was impacted by this.

We are concerned by the culture of local industry in this instance and local business. That culture is one of neglect and apparent disregard for the environment. This happens in 2019 when we should have the peak environmental awareness, really. We are concerned that the authorities are not appropriately resourced to do the job that they need to do, and we learned that in the early days. Having a creek that was decimated, they

removed grass from the banks in Cruickshank Park and scratched their heads for eight weeks until the Cup Day flood occurred trying to figure out what they were doing. It was not indeed until the start of this year that they actually started to remove that black mess that I showed in that photo from the environment.

We fear being abandoned. So far the government has only officially committed \$1 million to the clean-up. We are concerned about the government getting behind it. Who is paying for this? It would be tens of thousands going everyday into that pursuit or that remediation so far. Seven-hundred metres of creek line has been removed, thousands of cubic metres of material, and we are concerned about who is paying for that and what prevention strategies are going to come behind that to prevent it from happening again.

**Ms BATH:** I am just going to jump in with a quick question.

**Mr BENNETTS:** Sure.

**Ms BATH:** As an expert in the field, what do you feel would be an appropriate funding amount?

**Mr BENNETTS:** I could not comment. The scale of these sorts of remediation jobs is in the tens of millions.

**Ms BATH:** So what would \$1 million get us, do you think?

**Ms SHEPPARD:** One million was spent before they even finished pumping out from the creek and into the sewer.

**Dr CUMMING:** I guess just to add onto that, with the federal election I heard that the ALP had promised money, and obviously they had not got in. Did the opposition actually match that funding?

**Mr WILSON:** No.

**Mr BENNETTS:** It was only the federal government, and I felt at the time that—

**Dr CUMMING:** And it was the federal ALP at the time, wasn't it, from what I can understand from the stories?

**Mr WILSON:** That was to be spread amongst not just our creek but right around the whole—

**Dr CUMMING:** Right around? So it was not just that amount for Stony Creek, as reported.

**Mr WILSON:** No.

**Ms SHEPPARD:** Three million was for Stony Creek. Thirty million was for the urban rivers of Australia.

**Mr WILSON:** Yarra, Maribyrnong.

**Dr CUMMING:** Have you seen that federally at all?

**Ms SHEPPARD:** No, because the Labor Party did not get elected.

**Dr CUMMING:** No, as in the opposition did not do it.

**Ms SHEPPARD:** No.

**Dr CUMMING:** They did not match it.

**Mr WILSON:** No.

**Mr BENNETTS:** So far since the election there has been no mention or pledges of financial aid to support the clean-up effort. As we understand it, Melbourne Water are paying for it out of their own coffers. But when it starts getting into—I would speculate—many tens of millions of dollars worth of remediation that are required, I am not sure who is paying for that. Anyway, as a community we are concerned that the government

is not getting behind that and understanding what those numbers are and appropriately supporting it, notwithstanding the fact that there need to be, obviously, major contributions to prevention, because we can spend all these tens of million dollars cleaning up this particularly sick creek and because of the inadequacies we have got in terms of planning and culture, these things are going to continue to occur again. So there needs to be systematic, wholesale change here in the way we manage waste to stop this sort of thing from happening again. And it needs to be generational change that occurs here. Clearly this is a systematic issue that we have got.

To that end, strong leadership is necessary and longer term commitments really need to be made here—rehabilitation; prevention in the way these sites are sighted, the way they are planned and the way they are managed; education, for the community, business and industry; and appropriate compliance and enforcement. I would have liked to have thought that the environmental laws we had in Victoria were some of the best around, but the compliance and enforcement really need to match those laws. There need to be the appropriate resources. Things like waste tracking and auditing are obviously critical to that. How can 70 million litres of waste chemical go missing under our noses? We have to be able to track that sort of thing, because that is a pretty scary number. And the community, I think, lastly, want to work with the government to bring about this change. We want to contribute and work with the government to find them the best solution for this sort of issue because we have a right to have an environment and our local creek where we can take refuge, take our kids and enjoy our private time with our friends and family.

**Dr CUMMING:** Could I just ask a question around the response of the fire brigade or emergency services at that time. What I understood at the time was that they felt that they made an error in the way of having the waste—rather than going into the sewerage system it went into our drainage system and that is how it got straight into the creek. I know you raised earlier that even our sewerage system has faults and leaks. Would you like to expand on that, or a suggestion around how that process may be better?

**Ms SHEPPARD:** My understanding was that Melbourne Water were pumping out the maximum amount they could pump from the creek that the sewer could take, so the capacity of the sewer pipe in the area would have been exceeded. They were pumping out at at least two places in Cruickshank Park and another one I think upstream at Cala Street. So they were disposing of all of the water that the sewer was comfortably able to take. The site was not designed to store hazardous waste. It was an illegal activity. There would be no facility on a site like that to capture any run-off from rainwater, from fire water, from anything, and no facilities to treat it or dispose of it appropriately, and I do not think it is the fault of the fire brigade that an illegal storage facility caught fire and they were responsible for putting it out.

**Mr WILSON:** They pumped so much water onto that site to put the fire out—

**Dr CUMMING:** The foams they used at the time—

**Mr WILSON:** that they just could not control it at all. They pumped so much water to put their fire out that there was no buffer zone to save it, so it went into the creek, and as Clare said, they pumped it downstream into the sewerage system.

**Dr CUMMING:** Thank you, Clare, for giving me that insight. I needed that.

**Mr LIMBRICK:** Mr Bennetts, thank you for your presentation. It is a pretty sad story that you are telling, and I do share your concerns about prevention. One thing that was apparent in your presentation was the number of these incidents that happened where there was no source identified. Do you think that the EPA has sufficient forensic investigative powers to be able to find these sources, and is that something that is lacking?

**Mr BENNETTS:** I think there is a distinction between powers. I believe they do have the powers to do it. I think it is the resourcing and the expertise to do it. It seems like either they cannot get the people mobilised onto the ground to go and remove lids from drains and—

**Mr LIMBRICK:** Because they have to do this quickly, right, to find the source—

**Mr WILSON:** Yes, especially on the day, when it happens.



**Mr LIMBRICK:** because if they come a couple of days later, they cannot find it.

**Mr BENNETTS:** Yes, that is right. So it has got to be done pretty quickly, and if you do it within the first three days, then there is a good chance you can trace it right back to its source, but you need to be able to mobilise skilled, experienced people who can do that. There are standard EPA publications about how you do this sort of thing. It is a relatively routine exercise to actually do it. You pick up a drain. When you look inside and see whether there is contamination there and you see the oil, you go to the next drain lid and you just work your way back up until you end up on someone's front door. But it takes effort and energy, and I think they lack the resourcing to do that effectively.

**Ms SHEPPARD:** I believe Brimbank council recently was involved in a trial where they had what they call an OPLE officer, which is an officer of the EPA embedded in the council. They work between council and EPA, and they are in the right location to respond quickly when there is a report of something. The EPA will often not respond to a report unless there are two or more reports of a particular concern, just because they do not have the resources, and they prioritise which things they are going to respond to. They might only allocate resources to the top-priority items, and some things will just never get investigated.

**Mr HAYES:** I just wanted to ask particularly you, Mr Bennetts, with your EPA experience: you talk about good laws in place but a lack of effort, energy and resources to follow it up; why do you think this is so? What is the obstacle in having the political will to follow this up?

**Mr BENNETTS:** I think the obstacle historically has been funding into EPA. So without having been in EPA myself, my understanding is that funding over the years has been progressively withdrawn. I work as an environmental consultant, and there were a lot of talented staff who left the EPA, certainly in the past decade, because they were not being funded appropriately. They were frustrated, so they went out into private enterprise. That pattern has reversed, though, recently, so funding is going back into EPA.

**Mr HAYES:** Because of this?

**Mr BENNETTS:** No, so more recently—so coming out of the Auditor-General's review and the reform process in the EPA. So I believe they have increased their staffing by another 30 per cent. Money is starting to go in there. The community has not realised the benefit of that because, in resourcing up an organisation that large, to then be able to make material impacts on the ground will take some time training up and implementing programs. But the seeds are there, so that is positive.

**Dr RATNAM:** I would also like to echo the thanks for your presentation and for caring so much about the local environment and all the investment you will have put in over the years. You will have touched on this, but I want to get a bit of a picture of the systems response to the issue, because there is prevention and then there is the response side of it as well, and they are both kind of big areas. But what I have heard from you is that there has been some response in terms of remediation but it has kind of stalled. Is that an accurate description? What has been your reflection on the systemic response to both environmental degradation damage and then, I guess, the social damage as well, because you are talking about the impact it has had on the community.

**Ms SHEPPARD:** I think you should categorise it in three stages. There is the immediate response, the emergency type stuff, then there has been an ongoing recovery stage and then there is the future rehabilitation, so bringing things back to where they were.

I think for the initial emergency stuff we had to push quite hard at some stages in that process to be included and to be involved—to participate. The recovery stage is being led by Maribyrnong council, and they have invited people to be part of a panel. We were offered two seats on that panel. Then the rehabilitation has taken the form of surveys online, and I think there were letterbox drops and a workshop that ran for two full days, which you had to apply to be selected for. I am not aware that they rejected anyone who applied, though. Then there was a report out of that with the community's feedback and direction for how the rehabilitation for the creek would look. Melbourne Water talks about 50 years as being the time frame for some of these activities—not to say that the rehabilitation would take 50 years, but things like acquiring land along the creek corridor and constructing paths for bikes and accessibility all along the creek. The section of the creek where the photos

from the fire site were taken is completely inaccessible unless you wade through knee-high grass and weeds. There is no access through there.

Parts of the creek are privately owned, so the types of activities and how the community is involved in the rehabilitation process—what was your question about the immediate response?

**Dr RATNAM:** And where it is up to at the moment. It sounds like there are some activities that have started, some consultation that has occurred as well and that kind of immediate activity was done, some of the recovery was done. Do you feel like it is progressing okay or do you think it has stalled in some way? I guess we are looking at what things, for example, the committee could recommend in terms of accelerating some of the remediation and restoration as well.

**Mr BENNETTS:** Yes. It is quite a pivotal moment right now, because they have completed the remediation from the fire site, so that section of the creek that was napalmed. They have completed the remediation of that area; that is 700 metres. There will be testing and a bit of dotting the I's and crossing the T's on that. But that is something that they clearly had in their sights after Cup Day to get that done, so that is a major milestone. Now after that there is another 4.3 kilometres of creek line that still needs to be dealt with in terms of there are pools where there is sediment deposition, where the sediment in those pools is highly contaminated, and that includes a number of ponds where dogs would routinely bathe themselves, particularly in summer. There has not been any strategy released on how they are to deal with those sorts of areas, so that is what we are really waiting for at the moment: what is the plan for the next stage to complete the remediation.

**Dr RATNAM:** And the agencies are Melbourne Water, the council—and the EPA is still involved?

**Mr BENNETTS:** And the EPA. Yes.

**Dr RATNAM:** They are the three—the triad of agencies? Okay.

**Mr BENNETTS:** Yes.

**Ms SHEPPARD:** And Parks Victoria at the back wash, right at the mouth of the Yarra.

**Dr RATNAM:** Okay.

**Mr BENNETTS:** I think that is an important point to make just about the parties that we observed. There are obviously clear powers under the emergency response act.

**Dr RATNAM:** Yes, that is right.

**Mr BENNETTS:** Under that act everyone is quite clear what their responsibilities are, but in terms of implementing their responsibilities under the act, we found that that was not efficient. Melbourne Water thought EPA were doing something and EPA were doing something a little bit different. Maribyrnong City Council have a huge amount of power in that but did not quite understand how they implement it, so I do not think anybody sort of drills for this sort of stuff and they do not understand how they are going to work it out.

**Dr RATNAM:** A bit of a refresh and reset might be in order.

**Mr BENNETTS:** Yes. When it is such a complicated impact, in this instance it is something that is unprecedented, it is very hard, I think, to be fair for those organisations, to be able to plan for it so there needs to be a bit of a reflection on how they can do that a little bit better, because it was challenging to get the parties to actually be talking the same language together and communicating efficiently. Once they did that, they have got the ability to do it. But it was very difficult.

**Mr WILSON:** Basically—

**The CHAIR:** Sorry to interrupt, two more questions because I need to wrap it up. We are running behind time.

**Dr CUMMING:** Thank you all for your comprehensive submission. Darren, with your EPA hat on, what I found in the past when I was on Maribyrnong council, and Steve might understand, even going through the legal process the penalties were so light. Spending all that time and effort as such and then they get slapped with, as you showed earlier, a \$5000 to \$6000 fine. With your EPA hat on, would you know how high these penalties are, even for the EPA or the council or others to recoup their costs?

**Mr BENNETTS:** Oh, well, there are penalties—

**Mr WILSON:** Yes. It is such a huge amount. The initial spend was like a million dollars in the first couple of weeks. They have probably spent three to four times that much since then.

**Mr BENNETTS:** I have no doubt that there be certainly tens of millions that have been spent.

**Dr CUMMING:** But the little fines that are currently available—

**Mr BENNETTS:** The fines are not commensurate with the impact or what is required to clean up. They are vastly inadequate to deal with that.

**Mr WILSON:** That is right.

**Mr MEDDICK:** First of all, I want to thank you for your dedication to not just your environment but to your local community, it is admirable—and your diligence over a long period of time in recording all of these instances and the effects. What I really want to ask a question about is where these further incidents have happened and they have not resulted in prosecutions et cetera. In those where somewhere the source was unidentified, where there would perhaps have been somewhere they were able to identify the source, was any explanation given to you by the EPA as to why there was no penalty, because clearly you have gone to the trouble of making a complaint so they would have been a number lodged with that complaint so you will be able to follow that up? Did they ever come back to you to explain why they never gave a penalty or prosecution?

**Mr WILSON:** No.

**Mr BENNETTS:** In several of those instances that I was involved with they either did not investigate or did not follow-up. So in one instance where the eels and the fish had died, they did not investigate. They attempted to investigate and were not able to find the impact in the creek because they attended a week after and went to the wrong location and it basically ended there. There was no evidence so they did not pursue it any further. But often these events happen and you lodge a call and they ask you whether you would like a call back to be notified and you do not get called back. It is only since the fire that people will actually call me directly now when there has been a spill and they tell us that there has been a spill, but prior to that you would not get it.

**Mr WILSON:** That has been my experience as well. You put a complaint in, they call you back or sometimes they call us and say something has happened, but there is no follow-up on it to say, 'Well, we've investigated it' or, 'We haven't investigated it and this is why we did it or why we didn't do it'. This is the result anyway.

**Mr MEDDICK:** The reason I raise it is because you clearly are a very prominent player in their eyes. You have a lot of contact with them. I would have thought that there would be a lot more contact coming back toward you from them.

**Mr BENNETTS:** Certainly since the fire there has been, so Melbourne Water and EPA will call us directly and speak to us if there have been issues. But in that instance of that last one there, it was reported, they sent someone out and they spent a few hours working on it apparently for the day and said they were unable to pursue it any further and that is where it ended.

**Mr WILSON:** The only real feedback we have now is with the rehabilitation stakeholder group, so we started to get a bit through that. But that is it so far.

**The CHAIR:** A last question from Ms Taylor.

**Ms TAYLOR:** Thank you also for your very detailed and diligent attention to local community fauna and flora. My question is kind of a lateral one; it might be a little idealistic. We obviously have accumulated toxic chemicals and the management of them needs to be different into the future and hence this is part of the inquiry anyway. I just wonder why we continue to accumulate and use so many toxic chemicals in the first place. I am just putting it out there as a devil's advocate. Like why we feel the need to have so many products et cetera that are so toxic to the environment. That is a very big and open-ended question, but I just wonder if, as a longer term proposal, not in the acute situation with things that need to be managed right here and now, we could not streamline what it is we are producing that is so damaging to our environment.

**Mr BENNETTS:** I think certainly the broader sustainability of our society is a big question, and that comes into both hard and recycled plastics and these sorts of things, and how we approach these sorts of things, just like the way we should be more sustainable with our water use even if we have got a desal plant—so be sort of more environmentally in tune. In terms of chemicals, unfortunately our modern way of life requires a lot of complex products, requires a lot of chemicals. A lot of those chemicals—a portion—are well regulated and understood, and a large proportion are not. Unfortunately that is the reality of the society we live in. So those sorts of massive changes, as you say, are different, but I believe we can coexist with heavy industry and with chemicals and those sorts of things. That is the point of environmental science—to make sure we can live with these sorts of things. But we need to be better about the way we manage them. There are management systems and processes, and we have quite a strong understanding of these things, the way to manage it. Our execution is inconsistent and often poor, the way we do that, so that is where the regulatory regime has a place to really drive that side of things. That is where the leadership is clearly necessary, because you see it is just systemic with the way we impact the environment and the community because we are not managing these things as well as we should be doing.

**Ms SHEPPARD:** I am a process engineer by trade. I studied chemical engineering at university. I think if you are concerned about what types of chemicals we are stockpiling, you need to look at what industries are producing them and where they are coming from. So it might be lubricating oil from a compressor. It has got a small amount of contaminants in it, a small amount of solids. It is no longer suitable to use in that piece of equipment because it has very small tolerances in the rotating parts. They remove it and they replace it with fresh. That oil is then sent for reprocessing, whatever that means—it goes somewhere. Those solids can be filtered out and the oil can be re-used, but that is expensive, so there is the potential for that just to become a waste product because it is not valued as a thing. The materials we saw that went into Stony Creek included acetone, which is used in oxyacetylene cylinders you use for welding. We need welding. That is a by-product of what we are doing in our industry.

We have herbicides; we are using them all the time in our gardens and in our public spaces and in agriculture. If you want to identify what the toxic materials are that we are producing, you need to examine what we are using in terms of where the sources are.

**The CHAIR:** Thank you. On that note, it is excellent. I just want to thank you for all of the great work you do on behalf of our community. I know it is all voluntary work and you do some tremendous work, and we appreciate your submission and evidence. Again, thank you very much for your evidence. A copy of the transcript will be emailed to you, so if any corrections need to be made please do so and return it and we can publish that. Also if you feel there is any further information you need to supply to us, please forward that to the secretariat. Thank you very much. The hearing is adjourned.

**Committee adjourned.**