

# **LEGISLATIVE COUNCIL ENVIRONMENT AND PLANNING COMMITTEE**

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

Melbourne—Tuesday, 6 August 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 John Rutherford and

Mrs Sonya Rutherford.

**The CHAIR:** I welcome Mr and Mrs Rutherford. Thank you very much for making yourselves available. I have just to go through some formalities that you would have heard me saying before every witness giving evidence.

All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and is 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, and you will be provided with a proof version of the transcript in the next few days.

Because we are running out of time, I am going to ask you please, if you are able, to keep it short, so if we allow 5 to 10 minutes or perhaps 15 minutes all up for the whole of your evidence. So 5 minutes to tell us a bit about what you want to share with us. Mrs Rutherford, do you want to go first?

**Mrs RUTHERFORD:** Yes.

**The CHAIR:** Before you start, please repeat your full name, just for Hansard's purposes.

**Mrs RUTHERFORD:** Sonya Rutherford. These documents we have put together are to expedite things. They do need to be looked at, because I refer to them in order.

**The CHAIR:** Just for that, what we will do is actually table all the documents. They will form part of the evidence as well, so you do not have to go through all in great detail. They will all be tabled and they will all be recorded as part of the proceedings. Please go ahead.

**Mrs RUTHERFORD:** I am a member of the Broadmeadows Progress Association, an inaugural member. That was set up in 1971. In March 1980, which is 39 years ago, I and my husband were with a group of 750 Broadmeadows residents outside Government House demonstrating against the government's proposal to allow a liquid waste dump in Camp Road, Broadmeadows. And here we are today, inside Parliament, discussing the same issue and the same problem.

It is interesting to read *Hansard* at this particular time, of which we have got copies for you there. On 1 April 1980 there was much discussion about the question of what to do with what they then called trade waste and its disposal. There was much talk about the 1972 government decision to introduce incinerators regionally and within the city. There was much talk about using a ship, a floating incinerator—called the *Vulcanus*, I think—as a means of solving their problem. There was a speaker, a Mr Walker, who made an interesting comment. This is in 1980:

As I have said on many occasions, very dangerous material is stored in drums around the city. I have made it clear that if those drums were to be mishandled or corrode and the material were to escape, the result might not only be serious pollution, it might mean death to some people. It is my view that the Minister is so stubborn that he will not act until a death occurs.

This was 1980 and here we are today. If they had started then—they knew the problem; they were talking about incinerators—to develop a proper control program to deal with waste, then we would not be here today. There are some other interesting items you might like to look at in that *Hansard* excerpt.

We have written a presentation putting together our role in the past with health and pollution issues and some other documents. One is to do with VOCAR, which is of interest and perhaps you might be able to read at your leisure. That is referred to in our written presentation. I have also got here a little map so as I speak you might know where I am speaking of.

We have given observations in our written presentation and opinions which we hope will be considered by the panel. They are based on our experiences with recycling fires in our area and, in addition to what has already been raised by the toxic alliance, which we are a member of, our involvement as community representatives at the Hume council's fire recovery meetings. It also comes from local activities which made us aware of issues not just local, though we learned them at a local level, but which we feel relate to the broader state matters. I am going to explain them in a moment. In summary, from these experiences we became aware of the isolation of Hume council departments from each other and the lack of coordinated communication between them, the extraordinary reliance on self-regulation in the matter of permits, the absolute lack of policing of permit regulations, the need for more designated and trained staff to police regulations in these matters we are considering today and council's limited access to data when deciding on bona fides of permit applicants.

The matter that I wish to raise is this one here, to illustrate what we are speaking of. In this one here we have a park which borders on the back of a series of business concerns. The ones we are talking about are recycling. The park itself—we are dog walkers and we walk through this and we speak to each other. It was noted that there were piles of rubbish appearing above the fences that we were walking past. We noted that there was rubbish appearing on the parkland itself and there were broken fences around the business operations. One of the dog walkers in actual fact observed the drainage coming from underneath these establishments down into the creek. He wrote a letter around about July 2018 asking for someone to look into it. It was acknowledged, but no further action. Subsequently we found that that letter never got to the department that in actual fact was responsible, and when we finally found that department there were two people that had to administer the matters raised for the whole of Hume. We became very concerned as residents about the issue. We contacted our councillors and nothing occurred. We eventually contacted a local paper and then things did start to change, but in the process we came across on the internet—bless its little heart—a little bit more about the facility that we had seen was causing problems. This is the front. It is a major barracks near the old army camp and its back fence is onto our park—very nice, very clean.

In October 2018 you see the opening. And here we have our mayor, a councillor from Hume and a councillor from the neighbouring Moreland. Here they are congratulating, shaking hands and opening it. On that same day, for months before and months after, this was what the back of eco 1 was. We have got many others. I will just pick a few to illustrate. The rubbish there is not being recycled. If you look at the content, which I have got clearer pictures of, you can see that it is just chucked there in a mixed approach. The back fence itself was bulging underneath. I did not include many photos not to confuse today's issue—I have them all here. But in one part the rubbish came from under the fence and spread out, I would say, for an area—a semi-circle of about 3 to 4 metres.

So finally it was addressed, only because the residents raised it as a public issue. This one here is referring to another matter that came to our notice as residents in January this year. This in actual fact is the first page of an application which we now know was Bradbury applying for a permit to have a warehouse here, which is just next door to Ferny Crofts, to which they wanted to have five or six trucks a day. The purpose was to distil large barrels of liquid waste into smaller containers. That is what they said. The whole operation was by two people at the centre. If you look at the stamps at the top, our council in actual fact had no reason to refuse. They had ticked the boxes, put their hand on their heart—'We will do the right thing and we have two people or three that might go out and check it at a later date'. It was put to advertising. They applied in May 2018. It was put to advertising in November 2018, and it was then that we noticed it. We were not made aware of it. It was withdrawn when Bradbury got into trouble one month before their fire. So it was not able to be refused, which raises some of the measures.

The other point we just wish to raise is the problems—social problems—that arrive from these matters and the general ongoing pollution. We have drainage problems from a whole lot of factories along the way that come into Merlynston and create problems, but after the SKM fire we have—

Perhaps I should explain. We have the Merlynston Creek, which you cannot really see, but on the other side here we have a big lake called Jack Roper lake, on which people have much recreational use. One of them is a Sailability program run by an older person. He has written a letter which he wanted me to forward to you, and he is pointing out how valuable this was. That lake was closed for a year after SKM, and no sailing program could be taken. They were one of the people that applied with the Maddens class action for the cost of their

insurance, which they have to pay for a non-functional program. And as you can see, there is a bit of history up the top here from when it was closed for the year and then it was open. It was closed again in Easter, and it is still closed and there is no possibility for that program to proceed.

In summary, in conjunction with what has already been raised by the alliance, we have listed a few of the points that we wish to be considered along with other suggestions—just briefly. I was going to say—

**The CHAIR:** I know. You started at the right dot point.

**Mrs RUTHERFORD:** Yes; that is correct. I was going to say here: what we felt about this particular page was that Eco1 was making a mockery of our council, our councillors were making a mockery of us and Eco1's self-regulation made a mockery of all of us. So that is the reason we raise that one of the key things is that self-regulation of waste management does not work in the community's interest.

We also raise that the storage and processing of toxic hazard be away from the residential areas; that latest technology, not the one developed in 1972 incinerators perhaps, be developed and adopted for recycling; that cooperation and joint actions between relevant government authorities be encouraged and resourced—and we have noticed from participation in the recovery meetings that when they started, the SKM fires, all the authorities were very clearly not talking, and that has improved, we have noticed, but it needs to be financed and encouraged and developed further; that municipal councils granting permits for these types of operation should be in consultation with other authorities, not left to make their own judgements within their own boundaries; that there be a central database on the behaviour of operators that can be, and in fact is required to be, accessed by all councils and relevant authorities; that municipal councils be required to employ increased numbers of suitable trained staff in areas of waste management; that there be frequent and unannounced checks on permits compliance; that there be a simple and direct process for community and authorities to address issues when they arise and have them acted upon; that the community be recognised and encouraged to participate in reporting rogue operators and be fully informed of the resolution, as we do not know what happened here; that the producers of waste be made responsible for its safe disposal at their beginning level and a system be developed to ensure that this occurs; and also, we note, that the manufacturing of long-lasting and repairable commodities should also enter into the debate. So I leave it at that.

**The CHAIR:** Thank you very much for your excellent work in putting the whole package together. In particular I was interested in the *Hansard* back to 1980.

**Mrs RUTHERFORD:** Yes, I thought you might—

**Dr CUMMING:** It is wonderful—absolutely wonderful.

**Mr MEDDICK:** What you are describing here particularly with the Eco1 site is not dissimilar to one which occurred recently out in Lara, where an individual operator has a licence to do something and then proceeds to do whatever they want. What stage, can you tell me, is Eco1 at now, and if complaints were made to council and the EPA, what was the response?

**Mrs RUTHERFORD:** Nothing. That is what we are raising. We know because the fence has still got big things ripped off, and of course we would not, but we might have walked in and seen what they are doing. That is the only way we know what is happening. They do seem to be reducing, but at the other end the other recyclers do not stop, and we cannot get in and have a look. As a community we should have the right to find out what is happening. We should have the right to go along—well, with our council officers—and visit and be reassured about something that we in fact initiated and which was swept under the carpet. Absolutely an outrageous situation relating to Eco1. So the answer, we feel, is: we do not know.

**Mr RUTHERFORD:** It also goes to the question of personnel, because we did initiate some discussions and on-site visits from the park looking into the recycling plant. Hume City Council has two officers for the whole City of Hume, and obviously they cannot handle the question, so hopefully one of the recommendations from your committee, with the question of additional resources or different employment opportunities, is to have sufficient policing to ensure that regulations are enforced.

**Dr CUMMING:** I must thank you for your submission. It is extremely detailed, and your *Hansard* submission is very—

**Mrs RUTHERFORD:** Interesting, isn't it?

**Dr CUMMING:** It is absolutely just delightful to see that in 1980, as it says here:

He has refused to take any advice except the opinion of his predecessor, who has said in the public that he is in favour of government-funded incineration.

That it is in 1980. And then to see how the Broadmeadows city council at that time was requesting an environment effects statement—

**Mrs RUTHERFORD:** Yes, that is right—and they were refusing it.

**Dr CUMMING:** and then here we are in 2019 and to think that Government after Government has not acted upon waste in a manner that is statewide and is extremely comprehensive. I am hoping from this committee that this Government looks at it very thoroughly, and seeing that there is money sitting in our Sustainability Victoria Fund that we do have some solutions. I think you make some wonderful points on the hypocrisy of how, yes, people do cut ribbons but then right out the back you have a filthy, disgusting facility that the community wishes not to see—the stockpiling of rubbish—any more. I can only thank you for your submission and request that I could meet with you at another time to actually see this firsthand.

**Mrs RUTHERFORD:** Yes, excellent. You would set an example to our councillors.

**Ms BATH:** What a comprehensive analysis. I really appreciate all the work that has gone into it because it does paint a very clear picture. Just a couple of things that I would like to understand. One is: to my mind if I am a community living there, and you have lived there for decades, and the anti-toxic alliance too—people, families live there, the community has an expectation that there will be a time line of cleaning this up—that the waterways and bodies of water will be able to be re-used. It is a very important example, Sailability, and I am aware we have had one in the Latrobe Valley and it has done tremendous work for people with disabilities. So am I right in saying there has really been no evidence to time line presented to you about how these waterways will be cleared or cleaned? Is that something that you have seen or that you would like or does it exist? Could you elaborate on that?

**Mrs RUTHERFORD:** The Hume council—there are very good workers in the staff of Hume council and they have involved representation on their committees, the recovery committees and their other general ones which I cannot think of the precise names of. So in that sense we are kept up-to-date. But when we are there, there is no time line for us to have referred to us. There is a certain improving, but a disorganisation, I feel, within the whole of all of the authorities. When we ask the EPA, 'Why is the Jack Roper Reserve still closed?', they say, 'Oh, there's E. coli now'. And we say, 'Well where did it come from? What about these drains?'. 'Well, we have other things that we deal with'. They look at it and they say, 'Oh, it should be open soon'. The answer to you is no, and the reason for it I think has several aspects. One is, I think, that the various authorities are not really coordinating. I feel that they do not understand that a fire is a big thing and everyone is in the poo for that. But when we have got things for, like, Sailability, 'It's important; we'll deal with it later', and so it slips from under. I do not know if that answers your question.

**Ms BATH:** No, it does. I guess it goes to the point about restoration of community assets, and it feels to me like there has not been an ongoing commentary and demonstrated outcomes to meet that clearance and clean up.

**Mr RUTHERFORD:** I think the other thing, too, is how it is seen as a priority, because when the issues are taken up with Government departments, some of the representatives are very enthusiastic and they are very committed public servants. There is no doubt about that. But they deal with it in isolation. If it is an E. coli issue, it is a pollution problem. But so far as the community is concerned, the dog walkers want to be able to walk their dogs, the Sailability people want to take the disabled kids out onto Roper reserve. So, one, it is been dealt with in a certain academic science sense, but on the other hand the community want it resolved. It is their

park; it is their community. So it is that contradiction that hopefully you people will come up with recommendations to deal with.

**Mr HAYES:** Thank you very much, Mr and Mrs Rutherford, for a very comprehensive and timely reflection on the history of the whole situation. That is what I wanted to ask you about, because you have obviously had a hell of a lot of experience dealing with the problems in this area and yet it has been raised over and over again—the community has raised it, you have raised it to the right authorities, it has even got into the houses of Parliament—and still nothing has been done really effectively to address this whole problem of the waste that was building up there. Can you outline to us why you think nothing really happens, that it gets swept under the carpet and there is no action taken, or very limited action starts and then peters out? What is our problem in addressing this issue? Why has there been such a lack of action?

**Mrs RUTHERFORD:** That is quite a leading question. You or me?

**Mr RUTHERFORD:** Well, I could make perhaps one observation. One is the commercial aspect. There is always a tremendous pressure on Government through the lobbying process as to what certain outcomes will be. Some of the people that we as a community and you as Government have to deal with have quite a powerful voice. How that is dealt with by Government and the community depends on the pressure that is exerted, and I think what is starting to swing the tide to Government and the community is the impact of no action resulting in the chemical hazard waste fires. What I am getting, which I have experienced more in recent years than perhaps by way of depth in the past, is people are angry. They are resentful. They want something done and they want it done now.

So in our meetings at the progress association, and I think reflected through the alliance, I mean, it is an extraordinary situation that 34 groups can come together, as reflected by Sue. It is real and genuine. That does not happen because we are nice people. It comes because they are concerned and we are reflecting the community interest. What we are trying to get across is that is the new aspect that perhaps was not so deeply manifest in the 1980s. I think there is more awareness of the environment, people are more conscious and they want things done.

**Mr HAYES:** Well, let's hope so. It sounds like what you are really pointing a finger at is that industry resistance has really been a huge problem.

**Mr RUTHERFORD:** That is exactly right.

**Mr HAYES:** And leading to this idea that—well, one of the symptoms is self-regulation, saying 'We can handle it ourselves', and nothing really effectively gets handled. So that is what we are up against.

**Mrs RUTHERFORD:** It is.

**Dr CUMMING:** Not enough legal work.

**Mr RUTHERFORD:** Self-regulation does not work.

**Mr HAYES:** No, we see that in many areas now. Thank you.

**Dr RATNAM:** I echo my fellow members of the committee in thanking you very much for your submission and your presentation, and for all the work you do on the association as well. You have been doing it for years, so thank you very much for that. I am interested in kind of the whole-scale response, and you have touched on the response of the council. I assume that you have been following quite closely, either through the council chambers or external to that, how the council has responded to the number of fires that have developed within that municipality. We had Hume council here quite early on during the inquiry. I wondered whether you could communicate to us what you have made of that response. I understand too that council has one role amongst a number of other agencies, and that has been the subject of this committee—to understand whose role is what and how that can be strengthened and how that coordination and collaboration can be supported and improved. But what is your reflection on following it through council in terms of what they are saying in terms of what they could and could not have done, what they should and should not do in future? Have you been able to follow that closely to date?

**Mrs RUTHERFORD:** You mean the relationship and interaction between residents and the council?

**Dr RATNAM:** Yes. Have you been able to ask questions of the council? What have the responses been to date in terms of the adequacy of the response? Have you all been happy with the council's response? How have they responded to any feedback you have given to them?

**Mrs RUTHERFORD:** We are finding that, more and more, community is becoming distant from councils. Councils have changed their roles over our period of time where they are now corporate bodies, and our council laws are well and truly restricted by a whole lot of rules and regulations, one of which is that they will not come and call down to, say, a resident's—especially our progress—activity, because they will be seen as being biased. When they came down to a meeting on site with a subcommittee regarding a local issue, which I will not bring into the account, they were very hesitant to come. It seems to me that they feel that—well, no, let's start again. Councillors are being isolated from the community and the community from our councillors. The administration of council is the key body that makes the decisions. We do not have access to the administration. With the workers, the staff that we do come across, we have excellent cooperation. But there is a great dislocation. Not only that, there is disrespect.

**Dr RATNAM:** Do you mind if I ask, in relation to what has happened more recently, in the last couple of years, with the number of fires and the community safety and environmental risks around that, has it been your reflection that that relationship—what has the adequacy of the relationship been like over the last little while?

**Mrs RUTHERFORD:** At the staff level, with the people who were involved with the recovery meetings et cetera, we found excellent cooperation—excellent. But as you could have a look in our local paper today, the mayor just makes a very bland statement and says, 'Now, everyone go and tell the government your opinions'. They never put forward their own program that we, a community, could support. They have never said, 'Come to us and let's develop a program and solutions'. That has never occurred.

**Mr RUTHERFORD:** Probably there are two aspects to it. The first aspect, and I am paraphrasing what Sonja said, is that in the recovery meetings following the Thornycroft fire, the chemical fire, the meetings were chaired by Hume City Council. Cecilia Brady did a good job, and some of the Hume City Council staff early had the initiative in talking to the different departments to pull it all together, and we sensed a good working relationship, which has markedly improved from three years ago. But that is at that level, post-fire, following through and being worried and concerned. But the last point that Sonja made is how you give leadership, really. In Hume city we have got a situation where the Hume council has raised a number of questions, but I think they are tending to hide behind the responsibilities that should be the EPA's or some other government department, and I feel in these situations that you have to have courage. You have to have determination. And if you know something is wrong, you have to do something about it. I must confess I was pretty disturbed when I saw the Hume *Leader* article today where it was a good general statement by our council, but it really did not put their position as to what is going to assist.

**Mrs RUTHERFORD:** Or give leadership.

**Mr RUTHERFORD:** And that is something that we are going to have to put a bit of pressure on.

**Mr LIMBRICK:** Thank you for your evidence, Mr and Mrs Rutherford. It was very detailed. I had a question regarding these photos and the mention of the pollution. Was it clearly indicated or clearly described to you what the nature of this pollution was, the possible risks and the ways that those risks might be mitigated? I know you mentioned before something more recent with E. coli, but I assume earlier on around the time of the fires that it was a different type of pollution. Was it communicated to you? Do you understand what those materials are in the lake?

**Mrs RUTHERFORD:** Oh, in this one, Jack Roper?

**Mr LIMBRICK:** This photo with the pollution leaking out and also around the lake, where it is unable to sail there now, yes.

**Mrs RUTHERFORD:** This is Merlynston Creek—yes. Initially it was retardant—that is retardant—and that was why there was a big pump. The whole of the Merlynston Creek went down the pump and into the

normal waterways. So initially it was retardant, and then they discovered—because for the first time they are now testing the waters, whereas before they were not—that there was a level of E. coli which they said, according to the only reference they had, was something that happens in the beach where you swim and that you would not swim in it at that level. Now, there was no knowledge as to whether or not that was a continuous process that has come. We have a whole lot of factory productions where their drains—as is illustrated, this little one—go into the Merlynston Creek, and they all flow into the Jack Roper Reserve.

I do not know what they are saying the recent cause is, but the initial one was it came from the glassworks next to SKM. What happens, as we understand, is if you get any sort of rubbish there are living creatures in it, there is food for them, there is tucker, and so they flourish and in the process produce chemicals that are not useful for us as humans. With the water and the rain they go down into the normal drainage process, of which our creeks are some. Our understanding is—initially, from when it was discussed with us—it is coming from up further, from somewhere they are not quite sure of, and perhaps it is not high on the—

They have got a lot to do, I presume.

**Mr HAYES:** Just one question. You are talking about political will to tackle this problem, and you say that talking to the council, the council sounds very responsive and ready to take action and things like that and is responding correctly to the community concerns. Do you feel as if the council has no effective power over what needs to be done? Do you think that that is the problem, that they have got to rely on the state government for the legislation and the ability to take action in addressing these businesses?

**Mrs RUTHERFORD:** Yes, I do, but for them to take it in isolation is quite another matter. To illustrate it, after the SKM fire we had a meeting with the relevant officers and we said, ‘What has happened? Is the SKM going to reopen or whatever?’. They said they do not know because the procedures do not allow them to go on site and inspect. Then the EPA just recently stood outside of one of Bradbury’s concoctions—because there was a lock—jumping from one foot to the other and saying, ‘Well, you have to open the lock. We can’t go in’. So in that aspect of it there needs to be more power, but no power given without control.

**Dr CUMMING:** Just one question. What I just heard, you are wanting to know which industries in that area are putting things into this creek and the lake in the immediate area?

**Mrs RUTHERFORD:** Yes.

**Dr CUMMING:** And you believe that the community should have that information. Is that correct?

**Mrs RUTHERFORD:** Yes, we do.

**Dr CUMMING:** Because from what I understand in Stony Creek we have that to an extent. But you are feeling that the whole of the community in some way, shape or form should know if there are any industries pumping things into your immediate creeks and rivers?

**Mrs RUTHERFORD:** Yes, we do. We were told of the glass people, the glass disposal recycle place. The last one they claim is a bit of a mystery, but yes.

**Dr CUMMING:** And the EPA should know that.

**Ms TAYLOR:** Thank you for your testimony today and your passion for the environment. Thank goodness there are people in the community such as yourselves who have that passion and that dedication, otherwise things would not happen at times. Really I want to qualify two things, which I am trying to draw out. There are obviously a lot of clear points that you have put forward, so I do not want to diminish them in any, but the two things I was hearing about council were: one, wanting to have a better sort of nexus with the councillors themselves to be able to impart your information—

**Mrs RUTHERFORD:** Yes.

**Ms TAYLOR:** That was one, but probably in a neutral space that allows it to be equitable and fair; and the other was resourcing in terms of the officers and deployment over such a large area. They were the two.



**Mrs RUTHERFORD:** Yes, that is correct.

**Ms TAYLOR:** Good; thank you.

**The CHAIR:** On that note, John and Sonja, thank you very much for your contribution; we really appreciate it.

**Mrs RUTHERFORD:** And I hope you enjoy reading *Hansard*, because we are going back and researching it even more.

**The CHAIR:** Thank you.

**Witnesses withdrew.**