

TRANSCRIPT

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Inquiry into fire season preparedness

Melbourne — 25 January 2017

Members

Mr David Davis — Chair

Ms Harriet Shing — Deputy Chair

Ms Melina Bath

Mr Richard Dalla-Riva

Ms Samantha Dunn

Mr Khalil Eideh

Mr Cesar Melhem

Mr Daniel Young

Participating Members

Mr Greg Barber

Mr Jeff Bourman

Ms Colleen Hartland

Mr James Purcell

Mr Simon Ramsay

Witnesses

Mr Damian Crock (sworn),

Mr Max Parsons (affirmed),

Ms Narelle Campbell (sworn),

Dr Salli Bache (affirmed), and

Mr Neil Marshall (sworn), Nillumbik Pro Active Landowners (PALS).

The CHAIR — I reopen the inquiry into bushfire season preparedness and welcome witnesses from the Nillumbik PALs, who I note have provided a submission to the committee — submission 59. I indicate that we have Damian Crock, Max Parsons, Neil Marshall, Narelle Campbell and Dr Salli Bache. I indicate that the evidence given here is protected by parliamentary privilege and is therefore not reviewable judicially, but that does not apply if you speak outside this venue.

I indicate that we have in front of us your submission, which is from July 2016. I can indicate also that there has been some change in a number of the planning amendments that were dealt with in your submission. I think principally, as I read the submission, there are two — C101 and C81 — and there has been some change in the status of C101. You might, in presenting briefly to us, update us on those matters.

Mr CROCK — Indeed. Firstly, thank you very much for inviting us in today. My name is Damian Crock. I will just give you a quick introduction in relation to who the Nillumbik PALs are and also the five of us here today. The Nillumbik PALs is a community group; PALs stands for Pro Active Landowners. We describe ourselves as an apolitical group of like-minded landowners — apolitical in that we come from every colour of the rainbow, politically speaking. We were formed in early 2016 in response, as the Chair was mentioning, to two sets of proposed planning amendments in Nillumbik shire, C81 and C101. C81 deals with significant landscape overlays, and C101 was to deal with environmental significance overlays.

The update we would like to give you in relation to C101 is that effectively the committee can disregard anything and everything written in relation to C101 in that it no longer exists at all. In early April — 13 April — the Nillumbik Shire Council voted 5-2 to abandon C101 in its entirety. The shire then failed to comply with section 28 of the Planning and Environment Act in that the Minister for Planning was not informed of the abandonment, and one of our group — Maxwell Parsons, to my left — took action at VCAT to seek declaration that in fact the 5-2 vote on 13 April was valid and that planning amendment C101 had been abandoned at that time. The VCAT decision in that regard was handed down on 11 November, and effectively from that time forward our submission materials need to be amended in that there is no effect whatsoever in relation to that amendment.

Having cleared that up, I would just like to briefly position Nillumbik — —

The CHAIR — Just to be quite clear: the council voted against C101 and sought for the minister to be informed; the council officials did not undertake that. As I understand it, there was a subsequent vote which was disregarded by VCAT. Is that correct?

Mr PARSONS — Yes. The decision was taken by council officers to seek a legal opinion, and that legal opinion came back and directed the council that that decision of 13 April had to be ratified by a full council meeting. So the VCAT decision, because it upheld that the original decision was the lawful decision, was that any subsequent decision was unlawful and therefore did not carry any weight.

The CHAIR — Had no effect.

Mr PARSONS — Yes.

Mr CROCK — And the declaration was that Nillumbik Shire Council failed to comply with section 28 of the Planning and Environment Act. That is now a settled position, which is terrific.

We were formed around about March or April of 2016 as a group of landowners who were desperately concerned about these two sets of proposed planning amendments. In relation to some background information on the Shire of Nillumbik, we are a shire that occupies around about 450 square kilometres to the north-east of Melbourne, roughly 20 kilometres from the CBD. We are bounded to our west by the Plenty River; effectively to the south by the Yarra, around the Warrandyte area; to the east by the Yarra Escarpment and Christmas Hills; and to the north, Kinglake National Park. That roughly gives you an idea of our footprint. It is home to about 67 000 residents.

It is recognised and understood as being one of our most — if not the world's most — fire-prone and heavily wooded highly populated areas. It is really as a result of that characterisation that we are both extremely grateful to be here and able to give evidence but also extremely concerned about the prospective impact on all of the

people not only in Nillumbik but in the peri-Nillumbik areas. So all of the adjoining shires, really, are potentially impacted in the event of any major or catastrophic bushfire in our zone.

You would be well aware that on Black Saturday in 2009 there were 173 people killed in the state of Victoria, not counting, I believe, those killed on the roads; I understand that those people are excluded from that count. But approximately 125 of those deaths occurred in the Shire of Nillumbik. We are aware that in modelling bushfire activity and behaviour in our area the projections for a catastrophic fire coming either from our north, particularly, or north-west perhaps and travelling through the Shire of Nillumbik and into areas to our south, the projections for the fatalities are well over 4000. That gives you an idea of the potential scale of disaster that could occur either at the instigation of a fire or if a fire passes through our shire.

We have also recently been troubled by an update that we have only just received. We understand that the bushfire management overlays are to be extended. It is a state government initiative, we understand. They will apply to an additional 3800 properties in our shire. There are around about 6000 properties all up in Nillumbik, so it is a very significant increase in the BMOs, but we are not yet aware of any, or of any proper, consultation in relation to the extension of those overlays.

I thought what I would do, having given you that background on our shire, is basically introduce our team to give you an idea of what we have been up to since we were formed and also to give you an idea of what each of us may briefly present on. I am a resident of Kangaroo Ground and have been for about seven years. I have a family of four children and a wife. We live on 16½ acres over multiple titles. One of the highly relevant issues in our shire is that there are many properties that are under the prescribed minimum lot size, which is 20 acres, or 8 hectares, and the potential impact for people on those lots is that, if their houses are burnt down, there is no guarantee whatsoever that the properties can be rebuilt or the houses reinstated, and that is a major concern for us. And my family is in that position.

To my left is Max Parsons. As you have heard, Max was the litigant in the C101 matter. We are very pleased that our activities over the last year have led to the eradication of C101. C81 is still sitting on the desk of the planning minister, Richard Wynne, for consideration. We had a change of council at the recent council elections. The elections were basically fought on an anti-C81, anti-C101 platform, and not only did the new council move immediately after the VCAT decision was handed down, but it also sought to conduct an investigation — which has been conducted and was just completed by Christopher Wren, QC — into what led to the council failing to comply with the Planning and Environment Act. That report is due in the coming weeks, so that might be something that may be of interest to the committee going forward. As I said, Max Parsons was the litigant. Max is a land surveyor; he has been a resident of Kangaroo Ground for at least 16 years. Max will be briefly presenting on issues in relation to the Country Fire Authority and also to roadside management responsibility.

To Max's left is Neil Marshall. Neil is a former deputy chair of the Country Fire Authority. He was responsible for the Kangaroo Ground fire lookout tower for 16 years. He is a former chief executive of the City of South Melbourne. He was a chief executive of the CFA itself for a period. He held these positions in the late 1980s, early 1990s — between 1986 and 1991. Neil will be available for any questions, but he will also be talking about the interplay between the CFA and rural landowners.

To my right, directly, is Narelle Campbell. Narelle is a resident of Christmas Hills. She has been in the shire for over a dozen years. She is one of the more active local residents in relation to surveillance of how the Nillumbik shire conducts its affairs and the impact of the conduct of its affairs on the local community. So she is going to be presenting on Victorian planning provisions and escalation of risk into neighbouring communities, which I touched on earlier.

To Narelle's right is Dr Salli Bache, PhD. Salli is an expert in the field of environmental planning, and public policy and planning particularly. A more recent resident of our shire, she lives in the town, or hamlet, of St Andrews. Salli will be talking about the interplay between biodiversity — the challenge of regulating for biodiversity outcomes — and fire prevention. She will be talking from a policy perspective and will be available to answer any questions.

I will just briefly touch on C81. C81, as I mentioned before, is intended to effectively preserve and maintain significant landscapes, so it is basically driven by views and vistas of particular benefit to people who pass through our shire. This is something we find quite curious because the potential impact of the proposed

provisions of C81 on the residents and landowners is enormous in terms of their use and enjoyment of their land, and there is potential for introduction of highly prescriptive and what we call draconian planning overlays.

Requiring planning permits to be applied for and potentially granted for things as simple as the removal of some native vegetation might sound like a simple matter, but the reality is that in the context of fire prevention, which is an obsession for all responsible landowners in our shire, the notion of having to apply, with up to 12 separate reports, to get a planning permit is not only extremely onerous and complicated but also costly.

We have significant concerns about how C81 managed to make it to the desk of the planning minister. When we started our community group, it was started with the specific aim of making sure that C81 was never brought into law. We embarked very early on — in May or June of last year — on a number of information sessions, because the rural landowners appeared to simply not know or understand that there was such a thing as proposed planning amendment C81 or what it meant in terms of their use and enjoyment of their land but also, as I mentioned before, in terms of issues such as the ability to rebuild in the event of a catastrophic loss of their property.

We think the sorts of human outcomes there could be as a result of those sorts of considerations are in particular a greater occurrence of people staying and defending rather than complying with what seems to be the preferred policy, 'Leave and leave early'. We think that is an extremely serious prospective outcome.

We conducted these information sessions, and we found to our dismay that under 10 per cent of people who attended those sessions — and in total there were 600 or 700 people who attended over two days — had ever heard the number C81. That was quite apart from understanding what it may mean. We thought that was quite troubling. When the C101 situation developed and was ultimately resolved in November, we thought that, given there were demonstrable problems with the passage of C101, possibly there were similar issues with C81.

Since the election the new mayor, Peter Clarke, and deputy mayor, Karen Egan, have formally written to Richard Wynne, the planning minister, and advised him of the change in the political landscape in our shire and have encouraged him very strongly to not approve the — —

The CHAIR — Is that a public letter?

Mr CROCK — It is on the shire's letterhead, and it has been sent to the minister. It has been widely publicised, and it has been widely distributed. In terms of being a public document, I would presume so, Chair.

With that short introduction to some of the issues in relation to C81, I will hand over to Max Parsons, who will give you a brief summation of CFA considerations and in particular roadside management responsibilities.

The CHAIR — Can I just indicate that we need to be reasonably swift with each of these sections; we are on time limit.

Mr PARSONS — Thanks, Damian. Thank you, Chair. I am a resident of 34 years of Kangaroo Ground. I came through North Warrandyte, Hurstbridge and Kangaroo Ground. I have a fairly good appreciation of the fire risks involved. I am not a member of the CFA, but I have a reasonably good understanding.

I want to focus down through our submission on two matters that will not take long. The first matter is in relation to burgan, and we have referred to burgan in our submission. Locally we call it petrol bush for the obvious reason of its flammable nature. As a result of the Black Saturday royal commission the ability to remove burgan from your property without a permit was put into the planning scheme. Unfortunately the name that was quoted in the planning scheme is incorrect. It is actually a New Zealand burgan that does not occur here in Australia at all. There are local types of burgan that do exist here. We see it as a matter of concern that the error in the planning scheme needs to be corrected to refer to burgan as a general species instead of specifying it down to individual species.

Ms BATH — So, Max, technically, if I am a resident of Nillumbik and I remove burgan and it is not the New Zealand type, I require a permit at this point.

Mr PARSONS — You do not require a permit to remove burgan. The current status within the council is that planning officers are quite concerned when people remove burgan without applying for a permit. They use the excuse that you are removing native vegetation. So they try and enforce the requirement for a planning

permit onto people who are actually only removing burgan, which is interesting because the council staff themselves remove burgan on their own reserves, with no permit, obviously.

What we see as the problem of what is happening at council planning level is that the council planners are attempting to change that decision of the royal commission and hedge into the planning schemes and require burgan to need a permit for its removal. They are using that on the basis that it is actually a native burgan, so it should be treated as a native species like any other native species and therefore require a permit. We are strongly against that because of the obvious nature of the beast, the way it burns, the way the royal commission has reacted to it and the effect it had through the Black Saturday fires.

So what we are asking or what we are trying to highlight is the fact that the error in the planning schemes ought to be corrected to correct the name or generalise the name and then further enshrine into the planning schemes the importance that it will not ever require a permit to remove it. That will take the efforts of the planning staff away from being able to try and enforce these and needlessly hold up or try and prosecute people that are removing burgan, which we find is totally unacceptable.

Ms BATH — Max, it is never going to be a threatened species, this plant, is it?

Mr PARSONS — No. You are absolutely right. The nature of the plant itself is that there are two types. One will spread really seriously up cross slopes and gully lines; the other one is a gully dweller and does not really proliferate that much. So we believe there should not be any differentiation between any types of burgan; it all should be able to be removed purely from a fire perspective. The danger of fire and the ramifications of what burgan can do when it is alight are just scary to the nth degree, so we just see that as a general thing.

The other matter that I wanted to talk about just briefly is the matter of roadside maintenance. The proper and appropriate maintenance of roadsides we feel is incredibly important for the fire minimisation and reduction process and to allow optimum access and permeability by firefighters. So to have roadsides in a safe state we believe is of paramount importance. Within the Nillumbik Shire Council there is a requirement for the CFA to first obtain a planning permit where they designate, plan or even intend to undertake any roadside maintenance works which involves clearing of any vegetation, mowing or any other work within that road reserve. This applies to any public road.

VicRoads currently pushing ahead is another matter that we believe is an absolutely insane program of installing guard barriers along VicRoads-designated roads throughout the shire. We see that as very troubling, which I will just elaborate on in a minute. The council planning officers deliberately complicate, restrict and in most cases refuse to issue permits to the CFA to undertake those works. That is the current status. It is very rare for the CFA to be able to obtain a planning permit to do any roadside maintenance whatsoever.

The complication with the VicRoads barriers, of course, is that by placing a barrier on the verge of the road it severely restricts available access between that barrier and any fence line. So on those strips of land either side of the pavement to the fence lines, the barriers make it extremely difficult to get proper and appropriate access in there for vehicles and machinery of any sort or even, in some cases, personnel.

The environmental officers also add a complication to this permit process which we believe is totally inappropriate. They arbitrarily move along the roads within the shire and put up signs, and those signs say: this section of the roadside is of environmental significance. Because they designate it arbitrarily as environmentally significant, it is therefore untouchable in their view and the CFA have got no hope of getting a planning permit to do any sort of roadside maintenance.

The effect of all of this is that there are many road reserves right throughout the shire that have not been maintained or cleared for well in excess of 20 years. It is an awful long time to allow undergrowth and rubbish to grow, deadwood to collect and all the other sorts of things that can happen along roadsides. This has the result and impact that CFA currently will not access many of these roads. They just will not travel down the roads, and it is totally understandable, because in their view it represents an unacceptable potential to be trapped in a fire where the growth from the understorey is leaning over the roads and just about envelops the whole area.

So local fire brigades — CFA brigades — have for the most part given up even trying to obtain permits from the shire council, because they are systematically refused. This clearly impacts the CFA's ability to access and fight fires, it impacts the landowner's ability to access and escape fire threats and it impacts on providing any

meaningful opportunity to actually restrict the passage of fires. By having roadsides that are trimmed to the ground with trees — we are not talking about removal of trees; we are talking about removal of undergrowth and understorey — if that is there, it provides a real opportunity to decrease the acceleration of a fire and give fire people an opportunity to get into these areas properly.

At the moment the Nillumbik Shire Council currently imposes significant fines on landowners who do not keep the grassed areas that abut roadsides cut and trimmed to, I believe, 100 millimetres in height, so it is incumbent on every landowner throughout the shire. Where they have grass fronting up to their boundaries along a roadside they have to trim the grass to that height, but the council do not want to apply that same principle to their own road reserves. They are happy to let their road reserves go berserk, totally unattended, totally unmaintained — just let it rip — but they will fine an owner who refuses to or does not cut his grass to the required height to the required strip width of about 20 metres into their property.

So if an adjoining owner has a bush block and lives next door to a farmer that has an open paddock that is used for grazing or cropping and that adjoining owner has vegetation right up to the road reserve, he can quite legally carry in excess of 20 tonnes per hectare of ground fuel on that property, without any impact at all. In fact, what he gets is a brownie badge from the council because he is being environmentally aware.

Mr PARSONS — So he, that landowner — I say he; he or she — is allowed to let that land go without any maintenance or works, without any penalty at all from the council. It seems to be a totally inconsistent approach from the council to try and force graziers and landowners who own farmland to do a certain action but they do not require the same of themselves, and they do not require the same of people who own bush blocks.

The CHAIR — Max, we are going to have to wind up because we are on a time line.

Mr PARSONS — All right. Can I just run through? It will take 2 minutes.

The CHAIR — Yes, very quickly.

Mr PARSONS — So we believe it is of paramount importance that the CFA should be given total control with regard to roadside maintenance. There should be no requirement for the CFA to obtain any planning permits or permissions from any council or authority to undertake appropriate roadside maintenance. They should have the ability to do that themselves. The CFA should be given appropriate authority to undertake any works, and they should be given the authority to require other bodies to undertake those works, which includes councils and includes landowners. They should be given the power to enforce that.

We believe that there is the potential for what I have called a fire minimisation band of a 20-metre strip inside properties, which is the current requirement of council for cutting and grazing land and grass. We believe that that band should apply both sides of the road reserve, plus the road reserve, which gives you potentially about a 60-metre band that should be kept to trees only, no understorey. And that provides the safety avenue and ability for fire access and resident escape, if you like.

The CHAIR — Thank you. Neil, I am sorry, we are just on a time line.

Mr MARSHALL — Yes. I will summarise. In relation to what Mr Parsons has just told you, I am in fact a 56-year veteran of Panton Hill fire brigade. I learned to firefight on the roadsides. Every year, pre-summer, all the brigades in the area would get together and organise to help each other to burn off the roadside so we did not have this problem. A big issue in the Shire of Nillumbik at the moment is that the roadside fire management guidelines are directly in contradiction to the local planning scheme. That is the main issue.

The undergrowth is so bad at the moment that I can tell you that the Panton Hill fire brigade, we were recently trying to do our fire management plan for this fire season and we decided that there was nowhere within our brigade area that we could make a stand in the case of a major fire. That is how bad it is at the moment. Roadsides are full of burgan and dogwood and boneseed and pittosporum. They are all weeds, and most of those are very inflammable.

Ms BATH — Neil, when did you stop that practice? So when you were younger, you — —

Mr MARSHALL — Back in probably the mid to late 80s we suddenly found that we were being threatened by environmentalists that if we burnt the roadsides, we would be sued. And then the council unfortunately

started to back the environmentalists by changing the wording of the local planning scheme so we could no longer get permits to burn off.

Dr BACHE — A lot of the issues that we are concerned about relate to looking at fire events, preparing for them, versus protecting biodiversity. I think too much of the vernacular, certainly in Nillumbik shire, pits these two things against each other where really they are not actually opposed to each other in any way whatsoever.

A lot of what Neil has said in regard to the role of the CFA is a reflection of that. The CFA have largely become subordinate to the planning process in the council because it is viewed that the environmental or biodiversity element is being threatened by the CFA maintaining the roadside areas. There is a huge area for strategic review that needs to be looked at, about these fields and about the policy and the approach we take to them. By trying to brush one aside and not actually looking at what approach we want to take we are not really making a policy choice and a decision. We are simply pushing one to the side and adopting policies for the other, and we have not looked at it as a state at the level that it needs to be considered.

The CHAIR — Narelle, did you want to make a statement? You wanted to also declare that you are a public sector employee.

Ms CAMPBELL — I am. I am employed by the state government. I have taken leave this morning, so I am currently on leave, and anything I say today bears absolutely no relation to government or departmental policy at all. I am here as a private citizen.

Two things. The first thing is that the Victorian planning provisions talk a lot now about protecting and prioritising human life and strengthening community resilience, and that is totally appropriate. What I do not know that the provisions look at at a practical level — and if I look at the planning for bushfire provision 52.47, it is a really good example — is the extent to which development and habitation of land is very much a by-product of ongoing management and maintenance of land.

I was driving through the area this morning and it occurred to me that locally, for the first time in years, most private properties you are driving past are beautifully presented for the bushfire prep season. Mowing has been done, baling has been done, clearing on fence lines has been done. The area is actually looking really, really good on private land holdings, and 65 per cent of rural Nillumbik is owned privately, which is unusual for a green wedge; most green wedges have much higher percentages of public land holdings. The public land holdings in rural Nillumbik this year are not well presented and prepared for bushfires, and they have not been for some years. When Neil talks about making a stand in the face of a major fire, once upon a time — and I remember, I have lived in bushfire areas all my life — Kangaroo Ground used to be the standing zone, and it was Kangaroo Ground that stood between the massive raging fire and the townships of Warrandyte and Eltham and Whittlesea. And I am not clear that that standing ground exists at the moment, and that concerns me. I think it is a massive risk, particularly since there are 384 000 people who are our direct neighbours. That includes Greensborough, it includes Eltham, it includes South Morang, it includes North Warrandyte and Warrandyte township. So I think that whilst the planning provisions, with the best intent in the world, are saying the right words, when it comes to the burden of responsibility for ongoing management and maintenance I am not clear that that is actually being done.

The other thing I would say as a resident is that in trying to maintain properties for bushfire readiness and creating defensible space around buildings the Country Fire Authority has always been our reference point, and yet the planning provision requirements for very, very onerous, very, very expensive permits are increasing year on year and the current biodiversity and native vegetation overlays review is seeking to increase that burden yet again, which is not helpful for properties that live within bushfire management overlay zones.

I have no issue living within a bushfire management overlay zone; I have lived in one all my life, but I am finding that trying to maintain the balance between creating defensible space around our home and shed and the expense that government is seriously expecting me to invest to beg permission to do so is really burdensome.

Mr CROCK — So, Mr Chair, at that point we are available for any questions that the committee may have.

The CHAIR — Thank you. My question is a number of those controls on roadside vegetation — do these apply in other municipalities as well or is this specific to Nillumbik? Is Nillumbik an outlier, as it were, on this or is this — —

Mr PARSONS — My understanding is, Mr Chair, that it does apply across quite a lot of councils, probably — obviously — leaning more towards rural councils or fringe councils. But the difference I think between some of the other councils and Nillumbik is the thing called planners. The planners insert themselves into this process in a very deliberative way in Nillumbik because they wish to follow a certain agenda that places vegetation ahead of human life.

The CHAIR — So you think this is an ideological agenda as much as anything?

Mr PARSONS — Yes, I believe so. Yes, it is. Very much so.

Dr BACHE — Yes, it is an ethical judgement call that planners within each shire have to make on how they are going to apply what exists. If you look at the number of burn-offs generally that have been done in neighbouring shires compared to Nillumbik, it is 10-fold or more in this last season, so that really is a very quantitative indication of where our shire sets.

Ms CAMPBELL — And if you look at Yarra Ranges next door, I think they have got scheduled 27 burns this season. Nillumbik has got scheduled three or four. In Manningham roadsides through Wonga Park are maintained by Manningham City Council. Nillumbik, not so much.

Mr CROCK — And while roadsides are an incredibly important part of our presentation, the 2009 bushfires royal commission talked about the importance of private landowners maintaining their properties as a significant part of bushfire prevention and bushfire management.

The CHAIR — That has largely happened in your area, from what you are telling us.

Mr CROCK — We are pleased, given the season that we have had — it has been an extremely long and wet spring, so we have had monumental growth in the shire and I think that is what has led the local landowners to really get in and get it cleaned up. But the concern that we have is the incompatibility between the prioritisation of human life and the potential imposition of something like C81, which is a significant landscape overlay. We understand they exist, but we think it is entirely inappropriate in our shire given the risks that we run, both for ourselves and our neighbours. But also the way it has been done is not supported by the community of landowners certainly, and that has been borne out in the election we have just had.

The CHAIR — And that sits now on the minister's desk, having initially been supported by council but now not being supported by council. Am I correct in that?

Mr CROCK — That is absolutely correct, Mr Chair, absolutely correct. And, as we said, we sought to establish the communication process that the council went through in developing C81 and we found it to be extremely flawed, so in our submission you will find reference to the fact that essential parts of the planning process were either ignored or simply not done, and they include things as important as a social, economic and environmental impact assessment.

The CHAIR — Do you think that is a shoddiness or just a poor process, or do you think that that is some attempt to circumvent proper community consultation?

Mr CROCK — We are confident that the processes were followed to the minimum requirement but without effective community consultation, and that was borne out in our own research effectively.

The CHAIR — But through inadvertence or through a deliberate attempt to engineer an outcome?

Mr CROCK — Absolutely and utterly deliberate, no question about it whatsoever, and the current new elected council are moving as strongly as they can to not only deal with the issues of the past from a process and personnel perspective but also to encourage as strongly as possible the Minister for Planning to simply not approve C81.

Mr MELHEM — Just on that follow-up, Chair, so if the new council is not supportive, would they not pass a resolution to amend that and then the application before the minister becomes irrelevant? Is that — —

Mr PARSONS — No, it is out of the council's hands; it is with the minister. So the council have no direct power to amend it.

The CHAIR — But they have written?

Mr CROCK — Yes, they have.

The CHAIR — They have made their view clear.

Mr CROCK — Extremely.

Mr MELHEM — The part I am trying to understand is because I am not too familiar with the process. So it is initiated initially by the former council. Is that correct?

Mr CROCK — Yes, and passed.

Mr MELHEM — And passed. And then it went to the minister for approval?

Mr CROCK — Yes.

Mr MELHEM — So the new council have got a different view. Would it not be the logical approach to actually put an amended C81 law in and then advise the minister so that the previous one becomes redundant? Is that not how the system works? Was there a process — —

Mr CROCK — We do not understand that to be the process. We understand that the process is at an end in terms of the council, but in terms of clearly communicating to the minister that there has been a total and comprehensive change of — —

The CHAIR — Community position.

Mr CROCK — Community position reflected through the election very strongly. So five of the new seven councillors were elected on this platform.

Mr MELHEM — I think the Chair might have the answer to that. He is the shadow Minister for Planning.

The CHAIR — I can just indicate that to prepare a planning scheme amendment the minister must approve of the process in the beginning.

Mr MELHEM — Yes, that is correct.

The CHAIR — So he would need to approve a new planning scheme amendment, but at the moment, as I understand it, it sits on his desk with subsequent council information to say that it is not supported by council.

Mr CROCK — That is absolutely correct.

The CHAIR — But he could still sign it, or he could reject it, or he could amend it.

Mr MELHEM — Yes.

Mr CROCK — If he was to sign it, we, together with the new council, would do absolutely everything in our power to make sure that as rapidly as possible potentially a new planning scheme amendment could be started, but that is expensive, it is time-consuming, it is onerous and it is extremely taxing on the community of landowners who absolutely cannot and will not abide C81.

The CHAIR — I have read it and I think it is a dangerous amendment, but that is my personal opinion.

Mr DALLA-RIVA — Thank you — —

Mr CROCK — Just call us PALs if you like.

Mr DALLA-RIVA — PALs. My PALs.

The CHAIR — The Nillumbik PALs.

Mr DALLA-RIVA — The Nillumbik PALs. In your presentation you made mention of, which concerned me — and which I will find; I wrote it down — your concerns that 4000, you said, lives are at risk potentially.

Mr CROCK — Potentially. Projected fatalities.

Mr DALLA-RIVA — What is that?

Mr CROCK — Projected fatalities.

Mr DALLA-RIVA — Yes. So how is that sort of ascertained?

Mr CROCK — Via modelling. Neil, you might be able to give us a bit more information, given your background.

Mr MARSHALL — The CFA has done modelling as regards to the fire risk and where the population lives within the shire and so on. Look, I was in the incident control centre at Kangaroo Ground on Black Saturday, and I was doing predictions actually. Myself and another guy, we were predicting where the fire was going to go, and we were petrified because at that stage we were told that the north-west wind was going to continue until about 8.30 at night. In fact it came early. The wind change came early, and that saved a lot of the shire, but we were predicting it was going to go right through virtually the whole of the shire and right down into Warrandyte and across the river and onto the other side and through Greensborough and Eltham and so on. That is just how bad it was, and there was just no way the fire services could have stopped that fire because of the amount of vegetation. We had to include the fact of the vegetation and so on into our predictions. Dr Tolhurst, who was in the state control centre on the day of Black Saturday — you will probably recall from the royal commission evidence — came up with a very similar prediction to what we did. We were virtually spot-on actually and agreeing with him.

Mr CROCK — Mr Dalla-Riva, also to indicate the potential risk, the township and peri-Warrandyte areas have not had a significant fire since the late 1960s. It is an enormously populated area. My family property sits on the northern edge of the North Warrandyte forest, and in early 2013 there was a fire deliberately lit on a hot day with a northerly wind running. We had been told the previous day by our Melton area 14 fire preparedness agent that if we thought that we would have a fire engine in our backyard or front yard protecting our properties, given where we live, we were kidding ourselves.

At 6 o'clock the following night — we had taken refuge in Camberwell because our family policy is to leave and to leave early — I received a phone call from one of our neighbours, who told me that Whittlesea 1 was in my driveway. Now because we live on the northern edge of the North Warrandyte forest, there were 47 units that day — 11 January 2013. Neil was the incident controller. There were six helicopters. There were over 350 people on the property adjoining ours. The property effectively was on the northern edge, as I said, of the forest, and they were petrified that that fire would go into Warrandyte, where there are some 8000 homes, I believe. There was a wind change, quite extraordinary, around about 6.30 at night I think it was, and these 350 fantastic people went from protecting up to 8000 homes to protecting three — my house and our two neighbours. The head of the Kangaroo Ground CFA, Glenn Law, told me post facto that had both Elvies not been available on that day, our place would have been gone. I had in fact said to my wife, 'There goes that house'. We at the time did not know that we would not have been able to rebuild our property, but I have since found out that —

Ms BATH — That is interesting, is it not?

Mr CROCK — that would be the case under the proposed planning scheme amendment. Neil, I do not know whether you want to give any further information on that particular occasion, but that gives you an idea of the potential risk to our south.

Mr PARSONS — Can I just chip in there. In relation to the 4000 lives that you mentioned, the potential in North Warrandyte, if you have fire sweeping from north to south heading towards North Warrandyte, the major issue there is there is one escape point over the river at North Warrandyte. There is one single lane — two lanes

on an in-and-out bridge. That is the only available exit route for all of the residents that live through that North Warrandyte area all the way out to Kangaroo Ground and beyond. So anybody that does not leave early in the morning or the previous day or whatever and decides to make a late decision, or that is forced through proximity to the fire to make a late decision to exit, is going to stack up in a very long and nasty and potentially disastrous queue at that bridge because it will not be passable.

Mr CROCK — Which did occur in 2015, I believe.

Mr MARSHALL — In 1991 there was a fire. It started on Pound Bend in Warrandyte, if you know that area, and it had a south-westerly wind behind it. It burnt across to the Yarra and it jumped the Yarra and came up the escarpment up towards the Research-Warrandyte Road. It was right at the time when the mothers were picking up their children from school and there were school buses coming in as well, bringing kids home from school. We had to make a decision. In those days I was part of a Lower Yarra group of fire brigades, and we made a decision from our group headquarters to ask the police to close the Warrandyte bridge. We had to because we just had too many people coming into the area at risk. We suddenly found we had cars banking up, going down the hill from Kangaroo Ground and trying to get across the river into Warrandyte and away, but we also had traffic coming from the other direction to the extent that traffic was banked up all the way from Warrandyte back to Ringwood on one side and back from Warrandyte to Templestowe on the other side.

Mr PARSONS — Kilometres of cars.

Mr MARSHALL — If you ever look at the area of North Warrandyte, it is just petrifying. I am a Fire Ready presenter and a community fireguard facilitator, and I can tell you I have done a lot of presentations in North Warrandyte, and every time I do that I get really worried about the health of the citizens of that area.

Mr DALLA-RIVA — Can I just finish up with one final question? It is probably more to Salli. Is this probably the first turning point that we are seeing where environmentalism has become extremism at the expense of commonsense and we are seeing the start of a backlash by people saying, 'Enough. We do not want to protect a New Zealand — what was it?'

Mr CROCK — Burgan.

Mr MARSHALL — Ericoides.

Mr DALLA-RIVA — You made mention of the environment, so I just want to know what your take is in the area and how that informs us in our committee's role for recommendations on fire preparedness, if not this season, certainly in subsequent seasons.

Dr BACHE — Let me first let you know that I have a science degree and practised environmental impact assessments and had a background as a scientist before I swung across to public policy. That might sort of help inform.

I think the environmental approach is not all environmentalists. I think in Nillumbik we have quite a unique situation. We have a couple of very small environmental groups. They are not linked in with any of the major environmental groups in any formal way. They might have friends and they may communicate across those borders, but none of the main environmental groups take quite the same approach. Most of them, because it is such a complex issue, choose to stay quiet.

There is not a lot of research on the impact of catastrophic fire events on biodiversity, so the assumption is that we have a fire-prone landscape and we have flora and fauna that are used to coping with that, but we do not have the sort of fire-prone landscape that is used to the events of 2009. There has not been a lot of work, even modelling work, done on it. The bushfire CRC down at RMIT have done a lot of very good work on predictive stuff with climate change and what is likely to happen in periods as short as the next five years if we continue on the path they believe we are on, and it is definitely worth looking at. In terms of whether this is the only conflict, there have been quite a lot of conflicts over time between certain viewpoints.

One of the ones I worked very heavily with was linked with marine endangered species protection and Indigenous harvesting. So you are looking at cultural preservation and species preservation. Again, they are areas that are complex, there are ethical decisions involved, and this is one of those areas. I think the problem at the moment is that a lot of the ethical decisions that are involved are being left to individual planners within

individual councils rather than being overarched by an actual policy framework that has been decided on by elected and representative policymakers and experts — true experts — within the environmental policy and planning framework, as opposed to an only-planning framework, as well as the CFA.

The CFA needs to be a lot more heavily and formally involved so councils cannot choose to leave them out, like Nillumbik chooses to do. If we had a formal structure where CFA are consulted on certain things, have decision-making abilities for certain things — within a structure of course — then a lot of these issues would not be coming up.

I guess there is a responsibility to take this on as an issue at this stage with the increase in peri-urban spread and the increase in planning regulation. It cannot just be looked at as in the too-hard box, the too-complex area anymore. It really needs to be tackled.

Ms BATH — I have got a couple of quick ones, so I will see if you can move through them reasonably quickly, because I know we are pressed for time. How many CFA brigades are in Nillumbik, at a guess? Neil?

Mr MARSHALL — In the whole Shire of Nillumbik?

Ms BATH — Yes.

Mr MARSHALL — About 12 or 13.

Ms BATH — What proportion of those — —

Mr MARSHALL — There are nine in the Nillumbik group area and there are four brigades in the Whittlesea/Diamond Valley group area, which are all within it, so there are 13.

Ms BATH — Thank you. How many of those would be integrated?

Mr MARSHALL — One, at the moment.

Ms BATH — Okay, thank you. I think this might be commiserations, but in Bairnsdale we heard very similar comments from CFA volunteers who were talking about roadside maintenance and the lack thereof and the fact that they are creating wicks and that there can be one road in, one road out, and it is of great concern. This was in East Gippsland, so it is similar but different. Certainly we heard that the permit process was very restrictive. I guess that is commiserations, but it has been told to us before here.

The other question I have is there is a gentleman called Brett Ellis. Brett Ellis works for Yarra Ranges in the emergency management department. He has commented in a hearing about Indigenous fire techniques and traditional burns and how they could potentially be worked into and incorporated into, along with planning and CFA, a different way of burns. You are all nodding. Would anyone like to make comment, because I think there are some valid points?

Mr PARSONS — I would love to make a comment on that.

Ms CAMPBELL — That was how Kangaroo Ground was originally settled. When white settlers came to the Kangaroo Ground area they were looking at areas of pasture land because traditional historic Indigenous burns had been the way that the land had been managed there.

Mr PARSONS — There has been some pilot work done, I believe, in Queensland —

Ms BATH — Yes.

Mr PARSONS — that are doing exactly that, and it has proven to be incredibly successful. Our problem here is that I think as landowners we would look at that and say that is a fabulous idea to be able to do that across all the land within the shire — not just the public land but also the private land. The problem we have got are the planners. The planners will not allow us to do that. They will not allow any system to be set up to methodically cool burn areas across the shire, and we find that disgraceful.

Mr CROCK — The effective intent of C81 is to end up with a map of Nillumbik which we think is akin to the Alpine National Park or the Western Port area down near Wilsons Promontory. With a population of

67 000, it is simply unsafe. It is simply incompatible with human life to a great degree. I understand we are short of time.

Ms BATH — That is all right.

Mr CROCK — In our submission, on pages 7 and 8, we have headed a part of the submission what might this inquiry be able to do to assist us? We would like to encourage you to really have a good look at that, because there are a number of recommendations we think would be ideal to come out of this. You can absolutely wholly forget about C101 references, as we said earlier, but in relation to the C81 question, that is — excuse the pun — a burning obsession of ours.

Ms BATH — Thank you. On that, Damian, could you ascertain for me, or us: there was a comment about the removal of static water in dams — you made commentary about that — that was in C101? Or is that still a vision of the shire?

Ms CAMPBELL — That is part of the strategic intent of the *Nillumbik Green Wedge Management Plan* implementation plan, which is not current — or new council — policy, but it is the existing policy that we live within.

Mr CROCK — We would be optimistic that that will change, but, yes, that is something we cannot abide.

Mr PARSONS — There is a desire in relation to dams within waterways within the context of the council trails program. The push to put council trails right across the shire was to utilise existing waterways, change them into areas that could not be accessed except by a trail, and part of the process of that was to remove dams and static water supplies from waterways.

Ms BATH — To my mind it is counterintuitive to remove dams when we are on a dry and arid continent on our best day.

Mr PARSONS — Absolutely.

Ms CAMPBELL — We agree with you.

Mr PARSONS — We have got dams on our place and the yabbies, the tortoises, the ducks, the herons, the wedge-tailed eagles, all of those would not be too happy to see them go. So from an environmental point of view I just think it is incredible.

Ms BATH — Max, or all of you PALs, we are about to hear from people who are looking at helicopters and light new helicopters that can dig down and pick up water very quickly. Would that not be an access point for your dams or is that potential?

Ms CAMPBELL — We are down the road from Sugarloaf Dam. That is one of Melbourne's catchments, so it is probably the easiest pick-up point locally, but traditionally the mapping in the area did use a number of dams in the local area as pick-up points.

Ms BATH — Thank you very much.

Mr CROCK — In all of your deliberations and potential recommendations we would be encouraging this committee to pick up on the statement of the Honourable Bernard Teague, AO, when he presented the 2009 royal commission report and emphasise at all times giving priority to protecting human life in relation to any and all recommendations and outcomes, because for a population of landowners that live in — as I said earlier — the world's most heavily wooded, highly populated fire-prone area that for us is the key consideration.

Mr MELHEM — Just one last question. We have had submissions from other groups about the impact of planned burning on environments, biodiversity et cetera, but what I take from what you are saying is that we can actually look after both the human lives and the environment, so what is your view on that? Are there methods by which we can do both, and what is the best way to do it? For example, what sort of work have you done, or have you done any work with the CFA or the department of environment in relation to achieving that outcome?

Mr MARSHALL — There is work going on. I would prefer not to speak on behalf of the CFA. I am here on behalf of PALs today, but I am sure if you talk to the CFA as such, CFA headquarters, they can give you some information on that. I would just say that when you talk to the Wurundjeri elders, who are the original landowners in the Nillumbik area, they say that the original land in that area was undulating hills with native grasses interspersed by large gum trees. That is their description that has been handed down from generation to generation. They also argue that a great number of Australian native plants are designed so that fire is the way that they germinate, so that is a pretty important issue that burning off — —

Mr PARSONS — It is not only trees; it is the understorey as well. The understorey actually benefits from bushfire, so the principle of the cool burn — —

The CHAIR — But modest, not catastrophic bushfires.

Mr PARSONS — Not catastrophic bushfires, from cool burns — —

Ms CAMPBELL — Which would wipe out everything in the region.

Mr PARSONS — The important word is ‘cool’.

Ms BATH — And that helps with your biodiversity, doesn’t it?

Mr PARSONS — Correct, yes.

The CHAIR — I thank all five of you for the evidence you have given, and I thank PALs for the submission. The secretariat may be in contact about some details and follow-up information, but thank you very much.

Mr PARSONS — Thanks for the opportunity.

Witnesses withdrew.