

# TRANSCRIPT

## STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

### Inquiry into fire season preparedness

Melbourne — 28 February 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

Ms Jaclyn Symes

#### Witnesses

Cr Peter Clarke (sworn), Mayor,

Cr Karen Egan (sworn), Deputy Mayor,

Mr Mark Stoermer (sworn), Acting Chief Executive Officer, and

Mr Justin Murray (sworn), Executive Officer, Emergency Management, Nillumbik Shire Council.

**The CHAIR** — I declare open the hearing of the environment and planning committee with respect to its inquiry into bushfire preparedness, and I welcome members from the Shire of Nillumbik. The evidence you give here is protected by privilege, but outside it is not. I ask you to make a very short opening statement with respect to the terms of reference. Obviously some submissions to the inquiry have directly touched Nillumbik shire, and you may certainly have views on those matters.

**Cr CLARKE** — Chair, with your indulgence, it was the intention that I lead off the batting as the mayor. The deputy mayor, I will explain, will have some comments, as will our acting CEO. Mr Murray is here in his role as executive officer of emergency management of the Shire of Nillumbik to provide any other technical advice or answers to questions the committee may well have for him. If you like, I will lead off.

**The CHAIR** — Yes.

**Cr CLARKE** — Thank you to the committee for allowing us to appear. As a council, six out of seven councillors are new councillors — not from the previous council. We were elected in November of last year, so we have only been in these seats for approximately four months or more. I should say, as the elected mayor, I will talk about the broad parameters. Cr Egan, our deputy mayor, represents certainly a substantial portion of the northern section of our shire, which basically picks up all of those areas which most people would see as more obvious bushfire-prone areas, and in fact she was elected on a mandate associated around this to do with planning scheme amendments impacting on this through a group I understand you have already had submissions from called Nillumbik PALs. Karen will outline that shortly.

Can I say at the outset that we are very conscious as a shire following on from the terrible and horrific outcomes of Black Saturday in February 2009. We are eight years on, which in some ways is a substantial period of time but in other ways is not — it is very, very clear and vivid in the memories of those who are residents of the shire. We have also just come through a period of dealing with some planning scheme amendments, most notably one called C101 and another one called C81. C81 is one which has just concluded.

I will touch on that in a moment, but can I just say that as one who has come to this chair of mayor of the Shire of Nillumbik, I was probably a tad bemused that given the nature of a shire that has had such devastating outcomes, nobody in government sought to talk to me as mayor about our fire preparedness. No-one, leading up to the fire season, said, ‘Mr Mayor, is your shire as prepared as it can possibly be to lead into the coming bushfire season?’ — which we understood had some difficulty associated with it.

Clearly with the knowledge I have — given I have lived in the area for 30-odd years — I was very conscious of our responsibilities in that area, so one of our first acts was to call together all of the CFA volunteers and all of the chairs of the various fire authorities in our region. That was interesting in the first instance because people had not done that before. I would have thought that that was the most obvious thing one should do, but it had not happened before. Indeed we have had a series of meetings with them, and we are going to have a series of meetings post-fire season to look at our preparedness prior to and our preparedness thereafter. Not having a technical knowledge in this space, I simply asked the question of those fire captains: ‘Are we as prepared as we can be as a shire leading into this fire season?’. I do not want to stand before a bushfires royal commission in 2017, having gone through this season, in which someone says, ‘You could have done more’, and we were not prepared.

What I learned from that experience is that there is clearly a circumstance where a lot of this happens by happenstance in the sense that there is not a coordinated strategy going on from the bushfires royal commission that occurred. It happens more by good luck and good fortune, with the very substantial support broadly in our shire of a volunteer group, who worked very hard at it — but it does work in that context.

The other thing I learned out of those meetings is those fire captains had the view, for whatever reason under planning rules, that the City of Whittlesea dealt with these matters better than the Shire of Nillumbik did. It was easier to deal with getting burning permits and other things. So there were processes in place which were different from one shire to another. You have got to ask the question: why would that be?

I guess in a broad context it would be of a concern to me ongoing that there is nobody frankly checking up on how well prepared the Shire of Nillumbik is. The Shire of Nillumbik, no doubt due to its economic base, has not got quite the resources that the City of Whittlesea does given its much broader and more expensive economic base. The Shire of Nillumbik has about 62 500 to 63 000 residents — a fairly stable population. But there are far

more extensive resources available in the City of Whittlesea, which infers that our preparedness might not be as good as it is. That is not to say that those CFA groups do not work their very best to achieve and prepare us in the best way we can.

Having had four months in the chair, we are sort of getting through the fire season. We will be sitting down to have a more detailed response thereafter and see what else we have learned out of this season and what we are going to do going forward.

Before I turn to other members of our group, can I just talk to C101 and C81 and other regulatory frameworks. With your indulgence, Chair, we will make a formal written submission to you prior to your closure. I think it is 8 March that you require this, or is it even sooner?

**The CHAIR** — As soon as possible.

**Ms SHING** — We have reporting requirements that obviously necessitate any submissions urgently.

**Cr CLARKE** — We will get a response to you before the end of this week. We have got a report in part going to our council tonight with respect to some of these planning amendments. Subject to its conclusion tonight at our council meeting, we will forward that to you immediately thereafter.

The significant issue at the moment that we are dealing with is native vegetation regulations, where there are new native vegetation clearing regulations which the government is looking to bring in, and equally we are looking to deal with the bushfire management overlay issues. That is on top of what we have already dealt with in C101, where the amendment was abandoned due to some good work out of the PALs group and representations from them, and indeed the work and the representations made by our own council with respect to C81, which was essentially dealing with significant landscape overlays.

What should be learned out of that, at the very least, is if you regulate and you put restrictions upon the way landowners can utilise their land, you set up a framework which makes it more difficult to manage. There is a principal difficulty in terms of C81, and let me quote from Minister Wynne's letter back to me of 12 February this year, after our representations to him about those matters:

After careful consideration, I have decided to refuse to approve amendment C81. The special application and content of the schedules to the significant landscape overlay are an inadequate application of the Victorian planning provisions with respect to purpose, geographic application and form and content. Overall, I am not satisfied that the amendment would result in a good planning outcome because the amendment includes duplications, contradictions and inconsistencies with a number of existing provisions within the Nillumbik planning scheme.

He goes on to suggest that we look further into protecting landscape and other character issues.

**The CHAIR** — Could you make a copy of that letter available to the committee?

**Cr CLARKE** — Yes, we can. Can I say the reason I quoted that and we get to this point is we have gone through a full public process. This was the minister that in February of 2015, under delegated authorities, set up the process. A full panel was undertaken in that process, and the result of all of that was it was the community that told governments and ministers, through that in part inadequate process but certainly through their expression, that the system was flawed and the system would fail.

So as we get to the point of commentary — and this is why I raised it under the review of the native vegetation clearing regulations — we are about to have bushfire management overlays. We have now got to revisit the issues around C81. The failure to coordinate that in an ordered manner leaves total confusion in the community about how they manage their own land and leaves a massive vacuum in the sense of what they should do, which goes to the point of fire preparedness confusion.

**The CHAIR** — I am conscious of our time period. We have got half an hour, and we are 15 minutes into it.

**Cr CLARKE** — And I am about to stop. Suffice to say, what we do need and what our real concern is with respect to the current matters which we are dealing with is bushfire management and review of native vegetation clearing. A lot of our submission will be about coordinating this work — broader public communication — because there is not public communication adequate that is sitting around that. So that is the work that needs to be done, and we will explain further.

**The CHAIR** — I am going to cut to the chase here. So C101 is gone, C81 is gone. But you still have an issue with the native vegetation clearing regulation?

**Cr EGAN** — Correct.

**The CHAIR** — And can you explain that?

**Cr CLARKE** — And bushfire management overlay, and we have got to revisit the issues that are already gone, none of which talks to each other, all of which creates confusion.

**The CHAIR** — Can we get some sense of the clearing regulation and the bushfire management overlays?

**Cr EGAN** — Just in the submission is probably the better idea.

**Cr CLARKE** — We are reporting tonight, and we will get that to you tomorrow. I might just briefly call on deputy mayor Karen Egan — she might make some comments — and our acting CEO.

**Ms SHING** — We also have got questions within the time allotted for everybody here to ask you.

**Cr CLARKE** — Yes. We will confine that. I have probably gone longer than I should have.

**Cr EGAN** — I will not take very long. First of all, I would like to thank you for the opportunity of talking. As Peter Clarke, the mayor, has already stated, I was elected on a mandate of fire mitigation and associated issues within the shire — namely, C101 and C81 and all the ramifications of those. I was actually instrumental in starting the group PALs, and since being elected obviously I have had to resign from that. But they are still fighting the same issues that started with C101 and C81.

This is also very personal to me as I lost my own home only three years ago to fire, so I know only too well the ramifications and the effect that this has on family both mentally and economically. I do not want to ever see others go through this in my lifetime, although realistically I know this is impossible. In the Shire of Nillumbik there is not one person who was not touched or affected by the 2009 fires. According to local medical personnel I have spoken to recently, the number of men, women and children seeking help with stress-related issues triples at the beginning of summer. The impacts of PTSD in children in Nillumbik are long term and have ramifications reaching far into adulthood.

What is possible is to make change to CFA permitting requirements for controlled burns, planning scheme amendments et cetera to prepare for bushfires to the best of our ability, and at the moment this is not being done, as the mayor has already touched on.

I find it very ironic that at the moment we are doing all sorts of reports and having committee meetings on building resilient communities within our shire which are based on the premise that we are going to have another disaster. My preference and focus is to prevent fires in the first place, and this is not being done. We are actually lacking statewide processes and guidance in assessing the effectiveness of the smaller roadside burns issue and also in dealing with the shire-owned and public spaces in the shire.

It is very difficult to ask residents and also the CFA to clean up and clear, if in our own backyard we are not doing that, and again that comes down to resources.

**Ms SHING** — Can I just ask a question in the time that we have available. I am getting competing information from you as deputy mayor and Mr Clarke as mayor. On the one hand you say that the new council came in and no-one had ever had conversations with them. On the other hand, Ms Egan, I have just heard evidence from you to indicate that all of these community forums and discussions are going on but they are not having an impact. Then we have got Mr Murray, who I imagine would be charged with in fact looking at the very issues that you have raised as being concerns from within the council about how to ensure that the we-work-as-one philosophy actually does reach into local government.

**The CHAIR** — Why do we not let her finish first?

**Cr EGAN** — The biggest issue that came out of our meetings with the CFA captains, and that was 14-odd ones, was the lack of controlled burns and the fact that they have virtually given up on applying for them; the

permitting is so onerous and so regimented and involves so much tape. It is also competing with the regional stations and head office, and there is definitely a conflict there.

**Ms SHING** — A mismatch.

**Cr EGAN** — Yes, a total mismatch, to the point where they have given up. As the mayor has stated, Whittlesea has a much higher success rate and number of controlled burns in that space.

**Cr CLARKE** — We are at one on this —

**Cr EGAN** — Totally.

**Cr CLARKE** — because what we are really saying is we have got a lot to fix up, and the irony is no-one actually asked us, ‘Is there a problem?’. You would have thought someone at a state level would have said, ‘Are all these councils which have gone through the issues surrounding the royal commission as prepared as they need to be every year?’, that someone would have written to us and said, ‘What else do you need us to do?’. No-one has — —

**Ms SHING** — Did the council ever write to anyone in relation to due diligence internally?

**Cr CLARKE** — That is exactly what we have done by bringing all the fire captains to the table.

**Ms SHING** — No, but previously; you said no-one had ever had the conversations.

**Cr EGAN** — We do not know because we were not — —

**Cr CLARKE** — To the best of our knowledge the answer is no.

**Cr EGAN** — That is basically all I had to say. I was speaking from a personal point of view.

**The CHAIR** — Can I just thank you for your evidence, both of you, and the officers. I will just cut to a couple of clear questions. Tell me if I am misinterpreting this, but there is a coordination problem within the municipality but also between the municipality and the state agencies.

**Cr EGAN** — Correct.

**The CHAIR** — Is that what you are saying in essence?

**Cr CLARKE** — Yes.

**Cr EGAN** — There is obviously no overarching guidance that covers off all of these things. Everybody is doing their own thing.

**The CHAIR** — And you will say more about that in your submission?

**Cr EGAN** — Correct.

**The CHAIR** — The second thing is I want to understand the native vegetation clearing regulations. I do not understand what these are and what they seek to do.

**Cr CLARKE** — I might just ask our acting CEO to respond to that.

**Mr STOERMER** — Very briefly, on the issue with the native vegetation rules, there are a number of issues within that, but the overall issue is the fact that when you combine some of the rules in the native vegetation overlay with the bushfire management overlay what it can possibly mean is that there will be a number of properties unable to take action. It is actually the combination of the two — and we can detail this in our submission — that makes it particularly difficult. For our community as well, there is really no reference to human life in those regulations. So in our submission we have suggested that that needs to be referenced. But the overarching issue is this fact that there is not the integrated, holistic approach to looking at the entire suite of regulations.

**Cr EGAN** — I might just add there is actually no mention whatsoever of fire mitigation in that proposed bill. The 2009 — —

**The CHAIR** — In the proposed regulations.

**Cr EGAN** — The royal commission's overriding theme at the end was to prioritise human life above all in all of these planning schemes, and that has just been totally ignored.

**Ms SHING** — Mr Murray, can you just give the committee a very brief outline of the work that you do in relation to emergency management and the way in which that addresses, or does not, some of the gaps and concerns not just about Nillumbik and Whittlesea on the one hand as neighbouring LGAs, but more broadly within the area, as far as the group work at a regional level and discussions with the CFA are concerned?

**Mr MURRAY** — Yes. Going back a couple of years, we undertook a pretty thorough review of how we had managed roadsides for fire management purposes. We did that through our fire management planning committee and with local CFA members. We looked at how we interpret — that there are some guiding documents like the CFA guidelines for roadside maintenance, but we found there was not a lot of clarity of how one should implement that in a setting such as Nillumbik with the challenges that exist there. We use that to try to develop better methodology around where we target works. We did that and implemented it over the following years, and we have been constantly reviewing that.

One of the things we are finding is that we need to couple consideration of the state government policy around safer and more resilient communities, which ties in with the *National Strategy for Disaster Resilience*; how we manage to deal with the actual physical works on the ground as well as resourcing more of a community engagement strategy around this; and where we would make the distinction as to where to invest our limited resources.

That is placing a big impost upon us, because from the work we have done we acknowledge that it is very effective in getting to the crux of that key message around understanding the risk. I think we would benefit from some more guidance on, if we are undertaking works on roadsides such as burns, what the long-term evaluation is with regard to the cost-effectiveness of that, bearing in mind it is not only an impost on council resources; we are heavily reliant on a significant time investment from CFA members, who are great in Nillumbik but we need to balance that. Increasingly volunteers are under pressure to manage their lives, as well as their volunteer duties, and we are conscious about pushing more duties and pressures upon CFA volunteers, such as undertaking community engagement work and so on. So we are trying to manage that tension between more involvement, without transferring the risk that we have responsibility for.

**Mr DALLA-RIVA** — Just a quick question. I just caught the end of the mayor and the deputy mayor. I can understand Nillumbik, having lived around the corner. I have always been a northern suburbs boy at heart.

**Ms SHING** — You said you were from Gippsland last time.

**Mr DALLA-RIVA** — Where have I heard that quote before? Anyway. Are there any other shires or councils where you have got a similar concern, where you have got one access road in and out? That is what I am trying to get at.

**Cr EGAN** — I do not think so. I think we are unique in that aspect. Yarra Ranges has similar issues, but obviously they have more than one exit. We have got the Warrandyte Bridge there, that issue — —

**Mr DALLA-RIVA** — You are really stuck in terms of the access and egress.

**Cr CLARKE** — We have very limited egress opportunities. That is absolutely right, and that is a broad concern to our shire, no doubt.

**Ms BATH** — Can you tell us what your Aboriginal culture is, the tribes that live in your area? So in my area we have Gunaikurnai and Bunurong; what would be your Indigenous — —

**Cr CLARKE** — We have Wurundjeri-willam.

**Ms BATH** — And have you heard — talking about the Yarra Ranges Shire Council — of Brett Ellis and Victor Steffensen and cool burns? Have you come across those so far?

**Cr CLARKE** — No.

**Mr MURRAY** — Can I answer that? Yes, we work closely with our colleagues across the border in Yarra Ranges, and I have seen the work that has been done there. We are very keen to find out what the outcomes of that project are. This arose in one of our community meetings a few weeks ago up at St Andrews when we started to talk about, ‘Here’s what we’ve been doing up to now. What can we do differently?’. It seems that perhaps one of those solutions might lie in the past, so we are very keen to look at what Yarra Ranges are doing and learn from that and how we might be able to apply that in the Nillumbik context.

**Ms BATH** — I am interested to hear you say that. Thank you, Mr Murray.

**Mr RAMSAY** — A quick question. I am very familiar with the native vegetation act, the guidelines and the current review that is taking place, and I appreciate that councils have always been restricted in fire reduction activity due to the many, many overlays from biodiversity to water to soil — a whole lot of overlays you are having to deal with. If I had the opportunity, I would scrap the lot for local government, because it is a real hindrance. My question is regarding a lot of criticism about standing grass along road reserves. I am familiar with private land native vegetation problems but perhaps not so much public land, and I appreciate that is probably more your concern. So why are you not able to cut long grass along roadside reserves? Why aren’t you allowed to do some fuel mitigation works? Why is there long standing grass right around the countryside on local government-controlled reserves? What is the problem associated with overlays?

**The CHAIR** — They can only answer for Nillumbik.

**Mr RAMSAY** — Yes, they can. That is all I am asking for them to do.

**Cr EGAN** — One of the issues is that we have areas that are defined as high significance habitat and high significance vegetation, when in fact a lot of it is just regrowth. That is part of the culture that we have inherited within Nillumbik. We also have the same issue with our own personal roadsides. Personally I have 800 metres, and I cannot touch it. All my paddocks are clear.

**Mr RAMSAY** — Is that because of the native vegetation act itself?

**Cr EGAN** — Justin might correct me on this, but I think it is our Nillumbik local planning laws on top.

**Cr CLARKE** — I think Mr Murray is happy to comment on that briefly too.

**Mr MURRAY** — With regard to that, and as I said before, we cannot apply the same level of treatment across all the roads in Nillumbik with the resources we have. That is why we went through the process of identifying where the roads are where we best need to target this work. What we have identified is primary and secondary roads, and we have used that terminology to try to be consistent with what is in local brigade local response plans to target those areas which, if they fail, are going to cause the biggest issues for the community in terms of egress and also access for emergency services. So along those roads we will slash grass where possible. That is not always possible in some areas, and in those areas we will try to use burning or another technique if it is possible and the situation is favourable. On our primary roads we have targeted that work for there, but we cannot apply the same level of treatment across every road within the Shire of Nillumbik.

**Mr RAMSAY** — A point if I may, Chair, just to get to the nuts of that: is that a funding issue or is that because of the biodiversity regulations that are currently in place for local government or in Nillumbik’s case?

**Cr EGAN** — It is both.

**Mr MURRAY** — With long grass it tends to be more that — —

**Mr RAMSAY** — Well, fuel reduction, fuel mitigation works: are the barriers for you to be able to do that, as suggested by the mayor, because of different government acts in relation to biodiversity, or is it a funding issue?

**Mr MURRAY** — It is a combination and it is also trying to, as I think the deputy mayor may have been saying, get that message to landowners on what can or cannot be done within that, which, as the CEO also mentioned, causes confusion amongst our residents.

**Cr CLARKE** — Mr Ramsay, just in 30 seconds can I touch on public land, because as much as we notice road reserves — and I was at a session on Sunday about the Yarra and the government setting up organisations along there — the Yarra through our section is broadly in public control, managed by either DELWP or Melbourne Water. One of the concerns that I have had and one of the issues we are going to raise to a higher level is the failure of governments to manage that precinct — to be able to get a fire that basically runs straight down through the Yarra on the massive amounts of effectively poorly maintained land. Thirty per cent of our shire is public land in that same space, so it is not all about the private land, yet all of the regulations and all of the commentary is all about the private land, and the public land can often go under the radar as a failure to be maintained. We are more than happy to take members of the committee to see areas of the Shire of Nillumbik, which is within 30 minutes of Melbourne, and where that circumstance absolutely prevails.

**Mr MELHEM** — Mayor and Deputy Mayor, you have been in the job for about four or five months.

**Cr EGAN** — Yes.

**Cr CLARKE** — Yes.

**Mr MELHEM** — Are you in dial-up with the various agencies or departments you just mentioned a minute ago about your concern about going forward? It seems to me — it is my understanding — it is a new regime in the shire, and we are going to hear from landowners later on. I understand there are different policies and so forth, and that is great — you have got your own ideas about how you want to go forward, and that is why you have been elected — but are you being proactive in sitting down with various authorities to address that?

**Cr EGAN** — Yes, we are.

**Cr CLARKE** — Yes, absolutely, every one. We have the — —

**Mr MELHEM** — I have not finished yet. Can you just take me through what your plan is to sit down and talk through these matters and find a solution instead of throwing rocks?

**Cr CLARKE** — Also to just get a sense of the time frame here, we were elected in November, and the fire — —

**The CHAIR** — We are over time too.

**Cr EGAN** — Christmas.

**Cr CLARKE** — Christmas and the whole thing is happening. Pre Christmas, you have got to be prepared, so we have got a matter of weeks. So we had our emergency planning committee, for which we have a formal structure of all of the other government agencies involved. We had at least two meetings of them in that particular period with all of the agencies involved, and we have brought in all of the fire captains, and I have had private meetings with all of the fire captains leading up to and through the particular process. So we have engaged with anybody that is available to talk, but I guess my commentary was more that no-one actually decided to ask us either how we were going. So we have certainly spoken to every agency which is available, obviously including the CFA, DELWP and all of the others. They all sit on our emergency management committee, and we have raised those concerns, and we will take that agenda forward.

**The CHAIR** — Can I thank you for giving evidence today, and I look forward to that larger submission. Can I just indicate that I think Nillumbik is a very important area in this respect and the work that you are doing is extremely important statewide. If we can get better management regimes in Nillumbik, we can adapt some of that elsewhere.

**Cr CLARKE** — Thank you, committee.

**Witnesses withdrew.**