



NILLUMBIK  
**PALS**  
PROACTIVE  
LANDOWNERS

**Nillumbik Pro Active Landowners (PALS)**

SUBMISSION TO  
DRAFT BUSHFIRE MITIGATION STRATEGY  
2019-2023 ("DBMS")

**Nillumbik Shire Council**

28 May, 2019

## NILLUMBIK SHIRE COUNCIL ("NSC") DRAFT BUSHFIRE MITIGATION STRATEGY 2019-2023 ("DBMS") 28 May 2019

### INTRODUCTION

**Nillumbik Pro Active Landowners ("PALs")** is a group of approximately 2,000 landowners, residents and ratepayers, the majority of which live in the peri urban and rural parts of the Nillumbik Shire. It was formed in early 2016 in response to unpopular proposed local planning scheme amendments C81 (Significant Landscape Overlays) and C101 (Environmental Significance Overlays). As a result of PALS legal (and electoral) actions, (which influenced eventual composition of the current NSC Councillor corps), the amendments did not make it into law. The group has since been tasked with representing its constituents on a range of issues considered of vital importance to their lives, families, properties and interests.

This responsibility drives the reason that this introduction includes a restatement of a substantial section of the introduction to the submission made by PALS in response to the 2018 NSC DBMS dated 12 September 2018.

Given the landscape and environment character of Nillumbik includes the most heavily populated, highly vegetated, fire prone zones on Earth, the latest NSC **DBMS** which has now been released in early 2019 is considered by PALS to be one of the most critical undertakings by NSC for current and future generations. The very fact that the 2018 draft has been closely followed by the draft which is the subject of this submission, recognises the appreciation by the current NSC of this characterisation and its prioritisation of this undertaking.

Properties in Nillumbik include a rich combination of existing farms and open landscapes, lifestyle properties, bushland and interface hobby farms on the fringe of suburban Melbourne and all contained within a unique rural landscape. The Green Wedge covers 91% of the Nillumbik Shire and in excess of 79% of the land within the Green Wedge is privately owned. This positions landowners at the forefront of any strategy that directly impacts their landscape, safety, property rights and infrastructure.

PALS have actively contributed to the focus on the vital issue of bushfire risk by making significant contributions to local and State Government initiatives including valuable input into the **Fire Season Preparedness Inquiry 2017** which resulted in the report which is to be found here:

[https://www.parliament.vic.gov.au/images/stories/committees/SCEP/Fire\\_Season\\_Preparedness/Report/EPC\\_58-11\\_Text\\_WEB.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCEP/Fire_Season_Preparedness/Report/EPC_58-11_Text_WEB.pdf)

In particular attention should be drawn to section **4.2.3 at page 84ff** which specifically references Nillumbik and PALS contributions and position, together with the Committee's appraisal of PALS information.

PALS asserts that our rural and peri urban landowners having proprietorship and custodianship of land approximating 90% of the footprint of the Shire, with extensive landowner experience in and exposure to bushfire risk and reality, are ideally positioned to provide NSC with its counsel and input in relation to this subject. PALS input and views are essential to ensure that an appropriate strategy is developed and adopted by the Nillumbik Shire Council.

## EXECUTIVE SUMMARY

PALs support the DBMS as a well formulated document that addresses matters crucial to a comprehensive fire mitigation strategy. The 2019 DBMS greatly improves on the 2018 draft. This DBMS bears the clear hallmarks of the involvement and vast experience provided by Craig Lapsley into this vital strategy, for whose engagement NSC is congratulated and thanked.

Subject to PALs submission input detailed below, the DBMS provides a strong strategic direction for a robust bushfire mitigation strategy.

Any strategy is only as good as its implementation. Unless the final Bushfire Mitigation Strategy (BMS) ensures and guarantees successful, targeted and reportable implementation, it will fail the task of delivering genuine and lasting improvement in land management and community safety.

Any implementation of the BMS must be appropriately designed and controlled by a properly resourced and well constituted Implementation Committee. The composition of this Committee is critical to both its short term goals and long term achievements.

NSC must confirm and fully support the proposition that fire mitigation, together with all of the associated and related tasks, is a primarily a **fire, community safety and welfare issue, not a planning issue nor an environmental issue**. This properly calls for the Implementation Committee to be comprised of experts in the field of fire mitigation, suppression and related administrative considerations, not planners nor environmental officers.

**Fire is the single most important natural and human impacting event Shire-wide and fire mitigation demands the highest priority of attention by our local government in a legitimate and collaborative partnership with local landowners and residents.**

## DETAILED ASSESSMENT

The DBMS appropriately recognises that responsibilities should be broadly shared across all relevant Agencies, NSC and, most importantly (given the percentage of private land within the Green Wedge), Landowners.

The DBMS also highlights the importance of a solid and productive partnership *“as it is imperative that Council and agencies work collaboratively with landowners to reduce fire risk.”*

***“Liveability within a bushfire-prone landscape can only be achieved by acknowledging and managing the risk and impacts. Bushfire mitigation is a shared responsibility and will only work if all stakeholders foster strong partnerships with all involved. A community-centric model is needed, which relies on a connected community characterised by mutually respectful relationships, active partnerships, strong leadership and knowledge that guides improved decision-making.”***

Given the historical erosion of landowner/NSC trust and collaboration, one of the foundation aims of PALS was to facilitate and negotiate a transformation in those relationships. It is an essential validation of PALS presence and advocacy to witness NSC acknowledge the importance of strong, mutually respectful, partnerships.

Key components of these critical partnerships, which are a prerequisite for effective fire sensitive land management in Nillumbik include:

- a community wide psychological and cultural rejection of and move away from the “dob in your neighbour” attitude which has persisted in Nillumbik as a defacto landowner control by environmental and council operatives. No effective and enduring partnership can tolerate or thrive in that atmosphere of inherent mistrust.
- removal of the spectre of sanction for responsible land management activities, which has been characterised by enforcement and harassment by previous councils

This will require a fundamental change of attitudes and behaviours (which have been prevalent for generations in Nillumbik) by:

- Council Officers and Administration – throughout the council but particularly in the departments of planning, environment and finance
- Landowners – who are in the process of establishing real trust in council which can only take root as the above factors are genuinely addressed.

The DBMS provides statistics in relation to satisfaction with and importance of fire mitigation and emergency services within the Shire. It is somewhat misleading or unhelpful to rely on use of these figures as they were Shire-wide. The fact that 87% of the population live within the Urban Growth Boundary and are so are not part of the Green Wedge was not appropriately considered. The effect on the survey results would be to slant responses to the suburban majority. If an exclusively rural survey was undertaken PALS is highly confident

that a very significant majority would not yet be satisfied with the council's current mitigation measures, while appreciative of the headway made to date. It would no doubt identify fire related issues as the number 1 priority across the Green Wedge.

This explains how welcome the current review and adoption of a revised *Bushfire Mitigation Strategy* is across the rural and semi-rural communities which comprise PALs wide constituency.

### **ROLE OF NILLUMBIK SHIRE COUNCIL**

The DBMS identifies a number of NSC's legislated obligations "*to help mitigate the social, economic and environmental impacts of bushfire in Nillumbik*".

PALs insists a key imperative is that the final BMS also fulfil its further obligations to landowners by establishing the statutory, moral and supportive operational framework to empower landowners to work both independently and confidently with relevant agencies (or with their considered direction and support) to foster and deliver an environment and landscape that minimises the risk of major fire events traversing it (and possibly reaching into the south east and southern suburbs of the greater metropolitan areas of Melbourne) without restrictive controls and requirements for planning or environmental permits.

The macro detail of the above could be established within the implementation framework but these principles must be unambiguously established in the final DBMS and BMS documents.

### **CHALLENGES IN NILLUMBIK**

Under the heading "*The Community*" PALs suggests further detail should be provided as follows:

#### **THE COMMUNITY**

##### **Landowner considerations**

Current planning controls provide no "as of right" provisions to rebuild following loss of buildings and/or infrastructure. This directly influences and impacts landowners' decision-making election of "leave early" or "stay and defend" options if fire events threaten their property.

Given the inherent uncertainty about the ability to rebuild, landowners are more likely to stay and defend irrespective of fire plans or direct fire threat. This disconnected and often perilous decision may cause loss of life which is attributable to arbitrary planning scheme restrictions.

Landowners and even emergency services (CFA) have long been and are still subject to penalty via enforcement action by council, (or, compelled into lengthy, expensive, bureaucratic controls via planning permit process) for fire mitigation works not directly affecting buildings and/or infrastructure.

Landowners openly acknowledge their responsibilities to “*minimise risk to their own property and surrounding properties*”, however a full 3 years post the despatch of proposed NSC planning scheme amendments C81 and C101, they remain hamstrung by planning permit controls that force planning permit applications across any part of their property outside the current 10-30/50 exemptions applicable to dwellings and the immediate areas around dwellings.

PALs restates its advocacy for the fundamental review of the 10-30/50 provisions which are entirely inadequate for effective and safe fire mitigation works in Nillumbik’s unique situation.

### Planning Implications

Currently any fire mitigation works on private property (or roadside maintenance/mitigation works) require a planning permit from council. This requirement triggers a lengthy and very expensive process with, historically, little prospect of success. In previous seasons during which scores of roadside work programs (including cool burns) were planned, any effectiveness was thwarted by failure of permit delivery.

Fire mitigation consideration has historically appeared to sit uncomfortably below planning permit and environmental considerations, entirely inappropriate and unacceptable prioritisation for the Nillumbik region which is recognised as “*the most heavily populated, highly vegetated, fire prone area in the World*”.<sup>1</sup>

Fire mitigation should be the highest priority in relation to the accepted Victorian Government position of the primacy of human life (per the 2009 Bushfire Royal Commission) followed by preservation of the landscape.

PALs submit that the final BMS should trigger planning scheme amendments to:

1. **Remove the need to obtain a planning permit to undertake ground fuel reduction works on private property with advice of local CFA brigades and/or other fire agencies.**
2. **Require owners (public or private) to reduce ground fuel levels to a specified level expressed in tons/hectare as determined by suitably qualified fire experts, or to obtain a specific exemption for areas of special significance.**

1 [https://www.parliament.vic.gov.au/images/S1426-Nillumbik\\_Pro-Active\\_Landowners\\_PALs.pdf](https://www.parliament.vic.gov.au/images/S1426-Nillumbik_Pro-Active_Landowners_PALs.pdf)  
PALs submission to the Victorian Legislative Council Select Committee Inquiry into the restructuring of Victoria’s fire services as contemplated by the Firefighters’ Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Bill 2017 – p6

## **STRATEGIC PRIORITIES**

PALs support the four strategic priorities set out in the DBMS. These are all important goals.

PALs advocate for three additional priorities to be added to this list.

- **Establish and maintain a viable and productive Implementation Group to actively monitor, adjust and action the Implementation Plan with reportable target assessments.**
- **Establish relevant planning and statutory frameworks to remove planning permit requirements, penalty regimes and enforcement actions against landowners undertaking genuine fire mitigation works consistent with the BMS.**
- **Implement a work program to create meaningful and practical buffer zones along the interface between existing public land, including Reserves and State Parks, and adjoining private property.**

## **OPERATING PRINCIPLES**

PALs support the principles and strategic priorities as set out in the DBMS.

Whilst the *"holistic approach"* is indeed required, supporting the underlying principle of working from the whole to the part, it is equally important that a unique and very specific approach be initiated between council and private landowners. This is justified by the high percentage of private land ownership within the green wedge and rural lands generally. Nillumbik is a special and particular Shire – and this should be urgently recognised before another major bushfire event threatens it and the immediate environs.

Without the support and compliance of landowners, no fire mitigation strategy will work. Landowners should be considered and engaged as genuine principal partners in this critical strategy (not misleadingly labelled "developers", a mischievous tag of the few vocal but unrepresentative environmentalists – from Nillumbik and suburban Melbourne), given the serious responsibility and demonstrable land management credentials of Nillumbik landowners.

Priority should be placed on fire mitigation and reduction of ground fuel loads with the appropriate support through the planning scheme well beyond the current BMO requirements and deep within the basic current zoning of the RCZ. Currently there is no specific sections within the Nillumbik Planning Scheme that deal with appropriate ground fuel loads across the broader RCZ lands and any maximum limits that should be specified on both private and public land.

A robust and meaningful BMS must address these responsibilities and empower landowners to undertake works relevant to fire and fuel reduction across their landscape holdings.



## OBJECTIVES

PALs strongly support the objectives and strategic priorities in relation to the *Bushfire Mitigation Implementation Plan*.

### 1. Reduce the number and impact of bushfire incidents

PALs suggest an additional item:

- 1.12** Conduct an ongoing ground fuel reduction program on all roadsides within the rural, semi-rural and peri-urban areas of Nillumbik for the express purpose of facilitating safe ingress and egress, as approved by the relevant local CFA brigade.
- # There are many local roads that the CFA **will not** access during a fire event due to overgrowth and overhanging vegetation. This unacceptable situation compromises both the safety and efficiency of CFA brigades as well as the ability of residents to evacuate if required.
  - ## **Local CFA brigades have abandoned applying for planning permits from council as they have been continually refused on the spurious grounds of “potential adverse environmental impact”. This is not acceptable.**

### 2. Creating a community focussed approach to bushfire

- 2.2** includes references to “*Establish an annual local bushfire mitigation program to reduce vegetation on private property*”.... “*and promotion of the 10/30 and 10/50 provisions*”...

PALs submit that whilst this is a very important component of a successful and robust Implementation Plan, reference should be made to the broader landscape on private property which lies outside the exemptions for 10-30-50 rules in relation to dwelling protection. PALs advocates for the fundamental review given the unsuitability of 10-30/50 in many Nillumbik semi rural, rural and peri-urban areas.

It is imperative to instigate, update and continually monitor a more general ground fuel reduction program working in conjunction with landowners.

PALs also suggest:

- 2.10** Engage suitably qualified consultants to calculate ground fuel loads across private and public lands for assessment and comparison to preferred or acceptable ground fuel levels. Provide framework for Implementation Group to make direct contact with relevant landowners to assist and encourage appropriate ground fuel reduction works.



## EMERGENCY MANAGEMENT – Future Directions Plan (FDP)

PALs strongly support all of the **Future Directions Plan** as an important generalised document to inform and provide input to the **Bushfire Mitigation Strategy** and the revised **Green Wedge Management Plan**.

PALs strongly support all eleven recommendations within the FDP. Particularly recommendations 2, 3, 8 and 11 should be attributed high importance and should form the base of a robust, flexible and responsive **Bushfire Mitigation Strategy**.

## CONCLUSION

PALs congratulate NSC for the professional, well conducted review of the DBMS that promises to make very positive contributions to the safety of the broader community as well as, in particular, the rural and semi-rural communities living in the landscape within the Green Wedge.

Whilst there is ultimately no real protection from negligence, it is more likely that if, in the catastrophic event of another major fire event across the landscape, the council has in place a robust, working and responsive initiative and action plan, there is less possibility that the council could be accused of neglect and of contributing to the magnitude of such an event.

A revitalised *Bushfire Mitigation Strategy* further contributes to the deserved public perception that this Council is properly fulfilling its obligations and fiduciary protection of its ratepayers and residents.

Nillumbik PALs restates and emphasises that this submission carries the legitimate imprimatur of the vast majority of landowners in the Nillumbik Shire, who effectively are custodians of and are responsible for the management of the bulk of the footprint of the Shire. PALs views should be attributed an appropriately prevalent degree of influence in the settling of any final BMS.

PALs commends this response submission to the NSC and its BMS team.



**Damian Crock**  
**Chair**  
**Working Group**  
**Nillumbik PALs**

**28 May 2019**