



Nillumbik Pro Active Landowners (PALS)

**SUBMISSION TO
VEC LOCAL COUNCIL REPRESENTATION
REVIEW 2019**

Nillumbik Shire Council

8 May, 2019

VEC Local Council Representation Review 2019
Nillumbik Shire Council
Response Submission From Nillumbik Pro Active Landowners (Pals)
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INTRODUCTION

This submission to the VEC Preliminary Report Nillumbik Shire Council 2019 (Preliminary Report) is made in response by Nillumbik Pro Active Landowners (PALs) who actively represent in excess of 1500 landowners across the rural, semi-rural and peri-urban areas of Nillumbik Shire, largely contained within the Nillumbik Green Wedge.

It is imperative that the VEC understands the genuine and legitimate representation numbers above, which resulted in the October 2016 local government elections seeing a significant shift in community sentiment towards an emphasis on landowner issues and views being prevalent. This submission presents a genuine reflection of the vast majority of those landowners and, as such, deserves appropriate recognition and properly weighted consideration in VEC considerations and deliberations.

PALs support Option B as outlined in the VEC Preliminary Report and set out below the reasoning, background and considerations to inform the conclusion that the most appropriate structure for the Nillumbik Shire Council (NSC) is to maintain a 7 ward, single councillor per ward model.

The Preliminary Report sets out a series of advantages and dis-advantages to each of the Options A and B.

As an initial response PALs consider that Option A will lead to an increased politicalisation of the local government process which is considered undesirable and avoidable. A three ward, multi-councillor structure will lead to candidates being far more likely to look for external funding due to the increased ward areas, increased time commitments, consequential increased costs and the increasing appeal of political backing looking for party faithful for support.

Whilst there have always been candidates in Nillumbik elections that were both overtly and covertly backed by formal party structures, typically they were not of any great significance. Within Nillumbik the direct involvement of the two major political party machines has been limited and minimal. The main involvement emanated from the Greens. This was due to their alignment with local extreme environmental groups and their sense of entitlement, as well as their direct intent to sway the public vote.

The Local Government space is poorer for the direct involvement of major party machines. This space should be occupied by individuals following their own beliefs and policies and delivered on a local and personal scale. Option B is more likely to ensure that type of candidate.

A well constructed councillor group is critical to good governance. Individuals elected should represent their constituents, not their political allegiances. They should vote on their constituents behalf and in accordance with their mandates, but on a personal or individual basis.

This submission addresses each of the dot points in sequence.

PALs REJECTION OF OPTION A and PREFERENTIAL ENDORSEMENT OF OPTION B

The Preliminary Report lists the advantages to Option A as:

- *allowing for representation of non-geographic and geographic communities of interest in the Shire*
- *ensuring that the same counting system will be used in all three wards (i.e. proportional representation)*
- *addressing some of the concerns of rural voters in the Green Wedge by providing two councillors to represent the predominantly rural part of the Shire*
- *ensuring that existing geographic communities of interest are not divided. While the proposed Artisan Hills Ward is much larger in size, keeping it as a single ward means that the existing suburbs and towns within the Green Wedge are not at risk of being split by ward boundaries*
- *the proposed Montsalvat Ward ensuring that most of Eltham, Eltham North and Research are kept within a ward. The VEC notes that this is not the case in the current single-councillor ward electoral structure, where Eltham voters are divided across three wards (Edendale, Wingrove and Swipers Gully Wards).*

allows for representation of non-geographic and geographic communities of interest in the Shire

PALs consider this statement to be non-sensical and misleading as it implies that this could not occur with Option B. It is also an incorrect statement as a major community of interest, specifically PALs and more generally rural landowners, have not been considered with Option A.

Option A proposes to create 3 multi-councillor wards essentially divided along the Urban Growth Boundary which separates the two “suburban” wards from the single “rural” ward. This is an arbitrary line dictated by Government that does not facilitate or reflect representation of communities of interest in either a non-geographical or geographical sense.

Within the suburban wards there is no representation of communities of interest other than those that directly reflect or relate to suburban matters. There is a significant sense of entitlement however, where the suburban community expects to be able to influence or even assert control over what occurs within the Green Wedge lands that they do not occupy or own, yet seek to control.

This is not an acceptable purported entitlement and carries the clear and obvious perception that the VEC consider this “entitlement” as manifesting itself as a “*community of interest*”.

This is a perversion of the intent of proper consideration of the terminology.

Within the proposed rural ward, the residents of the townships may not regard themselves as being effectively represented as their “*community interests*” may not be well served by a ward that is dominated by rural land.

Equally, rural landowner communities of interest are not properly represented as there may be a bias towards a combined township outcome that does not meet or service the needs and requirements of the rural community.

Option B is not ideal in this respect either, but it better balances the competing interests by splitting the rural area into two wards (essentially as they are now). The two rural ward scenario assists in increasing the representation by halving the combined area and therefore increasing the potential for a better balance of the needs of the rural townships as well as the rural landscape.

Option A, with a single overall rural ward, requires both Councillors to cover the entire area with the consequential effect of a decrease in the likelihood of either Councillor being across all of the various or competing issues necessary for proper representation.

Option B retains the area of the current wards of Bunjil and Sugarloaf (apart from the change to the Swipers Gully Ward) which, as now, would have a single Councillor in each. Therefore, each councillor would only need to cover and care for half the area proposed in Option A.

This must deliver a significantly higher likelihood that each councillor will more likely be across the issues necessary for proper representation.

The existing Green Wedge area and its management is a critical issue that needs to be balanced across the broad range of parameters and policy settings that are required in order for it to thrive and be successful into the future.

It cannot be understated, and the VEC needs to properly understand, that the only way for the green wedge to thrive is to realise and accept that it is those that own the land, live on the land and have a great love for the land who are the only ones that should properly control and manage the land.

It is not acceptable that suburban elites seek to or actually impose controls and restrictions over the green wedge area when they do not, in fact, even live within it and would bear no responsibility, cost or effect on those controls or restrictions.

Option A would facilitate that improper control by creating a council structure resulting in a voting gerrymander overtly biased towards both suburban elites and rural environmental zealots.

ensures that the same counting system will be used in all three wards (i.e. proportional representation)

PALs consider this to be an extremely weak attempt to justify an Option A as Option B provides the identical outcome (i.e. preferential representation).

There is no justification or explanation to demonstrate why the VEC considers a proportional voting system superior to a preferential voting system.

A proportional voting system does not require the majority of voters in any given ward to vote for a candidate. It relies on achieving a quota only.

A preferential voting system, whilst not perfect by any means, at least ends with a single person who achieves a 50% plus 1 majority. Whilst this is made up of votes that were not necessarily the primary choice, it does ensure that the person elected is more likely to be a person who the majority of the voters **are prepared to accept**.

This is not the outcome of a proportional voting system. This system is far more likely to result in groups and cliques being loyal to a candidate and that candidate pandering to that clique in any decision making process. As this system is based around multiple councillor wards, the candidates elected in this system are far less likely to consult broadly across the ward and far less likely to listen to alternative views. Due to the fact that the multi councillor wards are significantly larger in area (3 wards as distinct from 7 single councillor wards) each individual councillor is far less likely to travel the full length and breadth of the ward, instead concentrating more likely on their individual support base areas.

A preferential voting system results in a single councillor in any ward, the wards being individually smaller and the councillor being far more likely to visit and consult across the full length and breadth of the ward. This system is far more likely to result in a more broadly considered decision making process across the council structure and a view that is more likely to reflect the voters in that ward.

However, there is a clear and obvious perception that the VEC is pandering to the “environmental” viewpoint in the mistaken belief that:

1. it is being consistent with the misguided broader Government vision of the “protection of the environment”, and
2. the VEC accepts that landowners, particularly rural landowners, are indeed developers. This is patently falsely stated in a number of the submissions from the usual environmental zealots and their unrepresentatively few followers. PALs vehemently rejects this characterisation, which deliberately misrepresents the reality of the landowner constituency, which in fact is a diverse group of people from all walks of life, of which land and property developers are virtually irrelevantly few.

This is demonstrated by the apparent preparedness and eagerness of the VEC to prefer Option A put to it by environmental zealots in preference to, and in absence of, any rational argument as to why it actually would deliver a more representative outcome.

addresses some of the concerns of rural voters in the Green Wedge by providing two councillors to represent the predominantly rural part of the Shire

As above, PALs consider this to be a very weak justification to propose the purported and apparently predetermined outcome of Option A. To suggest that Option A addresses some of the concerns of rural voters in the green wedge is a complete furphy.

In fact, the only concerns addressed here have been the requirements of the extreme environmental zealots where the VEC have faithfully fallen into line with a common lack of rigour in assessment of valid and legitimate options.

To suggest that Option A better represents rural views is a total nonsense.

The VEC have failed to explain the difference between:

1. Why a single rural ward made up of the sum total of the two previous wards differs in terms of "concerns".
2. Why a single ward with two councillors differs from two wards, each of effectively half the area of the above, with a single councillor in each ward.

PALs were of the initial view that the VEC was an "independent" umpire in this process. However, it has become very evident, as witnessed in part by the above weak justifications, this is not so. There is, at least, a clear perception of inappropriate bias.

ensures that existing geographic communities of interest are not divided. While the proposed Artisan Hills Ward is much larger in size, keeping it as a single ward means that the existing suburbs and towns within the Green Wedge are not at risk of being spilt by ward boundaries

As above, PALs consider this to be a very weak justification for Option A.

The VEC seeks to justify Option A by suggesting that "*existing geographic communities of interest*" are as one within the proposed rural ward.

This is, by even the most scant investigation, clearly not so. There are many different communities of interest within that proposed rural ward.

- Township groups exist to, quite properly, advance the needs and requirements of the differing townships.
- Extreme environmental groups exist within the proposed ward who will advocate for only accept the total removal of the human footprint across the entire green wedge (which excludes townships) and as a result oversee the proliferation and onslaught of feral animals, noxious weeds and rampant scrub regrowth by default.
- A genuine landowner group (PALs) which legitimately asserts that they represent around 1500 rural landowners who support being able to live within the green wedge, support

being able to reasonably control and responsibly manage their own land, support being able and obliged to maintain, as far as is possible, a safe environment from the scourge of bushfire events across the landscape and support and encourage the propagation of a healthy and vital green wedge into the future.

- A similarly genuine ratepayers group (Nillumbik Ratepayers Association) to advance the support of ratepayers within council decisions.
- Tourist and business groups to advance the future of the rural communities and those within the green wedge.
- Farming groups to support and advance the needs and requirements of both small scale and broad scale farming enterprises.

Yet the VEC does not appear to see, identify or recognise multiple communities of interest, it only sees one. It is PALS submission that the only community of interest the VEC sees in this space is the extreme environmental community of interest, without actually understanding that this group is the smallest in number of all, which is a potentially fundamental failure of this process.

This appears to represent clear and unequivocal bias. It is not the role of the VEC to dabble in environmental perceptions. The obligation of the VEC is to assess and determine a structure based on facts, untainted by ideology.

The VEC appears to summarily dismisses the fact that the proposed rural ward is larger in size without even addressing the effects that size difference makes in relation to the increased responsibilities, requirements and obligations that are placed on the ward councillors. Councillors are quite rightly charged with the obligation to consult, visit and support all residents within their ward.

The doubling in size of the rural ward sentences each ward councillor to a doubling of their work load, potential doubling of the expense, doubling of their time input and all whilst factionalising their constituents into predetermined camps in order to push individual agendas.

The VEC has offered no evidence to justify the statement that ***“keeping it as a single ward means that the existing suburbs and towns within the Green Wedge are not at risk of being split by ward boundaries”*** which is in fact detrimental.

The proposed new interfaces between wards still divides communities, as will any model. There will always be residents who may be confused as to why they have been placed in any given ward and perhaps regard themselves as being more aligned with an adjoining ward.

The fact that the VEC uses this as a justification for the enlarged rural ward but does not apply the same criteria to the other wards presents a clear indication of poor assessment and the prospect of biased outcomes.

the proposed Montsalvat Ward ensures that most of Eltham, Eltham North and Research are kept within a ward. The VEC notes that this is not the case in the current single- councillor ward electoral structure, where Eltham voters are divided across three wards (Edendale, Wingrove and Swipers Gully Wards).

The VEC fails to provide evidence and justification as to why it is, in itself, a problem for suburbs to lay across ward boundaries, particularly where the VEC acknowledge that this issue has not been fully resolved anyway.

The VEC also fails to investigate and/or acknowledge that the last review in 2008 did not consider this to be a significant issue.

Suburban boundaries are also, and always have been, arbitrary and based around development time frames and logistical outcomes.

Most certainly there would be residents in the proposed new wards who would see themselves as more aligned with rural issues than suburban issues. For example, there are areas within Research, Yarrambat, Plenty and possibly Diamond Creek where residents would see themselves as being more connected to rural considerations given that they own land well above the average suburban area and their interests, lifestyles and outlooks are more aligned with a rural framework than a suburban mentality.

Whilst Option B also contains residents with the same views, it is not as blunt as those imposed with Option A.

PALs view is that the area that is proposed to be moved from Sugarloaf to Swipers Gully Ward in Option B is a case in point. There is a relatively clear divide within the Research suburb as to what would reasonably constitute rural or semi-rural (or peri urban) and what would be more appropriately regarded as suburban.

The decision to take part of Sugarloaf ward and purportedly drop it into Swipers Gully is not consistent with the apparent VEC approach that communities should not be split by ward boundaries.

PALs submit that when Option B is finally adopted, further consideration should be given to this interface boundary and that land more appropriately identified as being rural or semi-rural should more correctly be placed within the Sugarloaf ward and any redistribution be taken from the interfaces with Ellis, Wingrove and Edenvale.

If this cannot be achieved, then a redistribution from Blue Lake into Bunjil should be used to balance voter numbers as there are also many residents within Blue Lake that would identify with a rural or semi-rural outlook and are more aligned with rural issues.

However, an important and highly relevant aspect of Option B is the fact that many of the existing wards do contain areas of mixed lifestyles. The fact that Swipers Gully, Wingrove, Ellis and Blue Lake contain significant areas that would rightly be regarded as rural or semi-rural requires and obliges a sitting councillor to at least consider a rural viewpoint when making a council decision.

This would not be the case with Option A as the clear dividing line on paper would be the Urban Growth Boundary which would also define the clear opinion divide of suburban entitlement versus rural lifestyle.



OPTION A - NEGATIVES

The Preliminary Report lists the potential drawbacks of Option A as:

- *the proposed Artisan Hills Ward is much larger in size and could pose a travel burden for the two councillors*
- *the large numbers of candidates in the past three general elections may mean larger ballot papers, particularly in the two wards located in the urban south of the Shire, although these papers would still be more manageable than a ballot paper for an unsubdivided Nillumbik Shire Council*
- *the proposed Artisan Hills Ward has both urban and rural populations and, as is the case in any large sized ward, both councillors could be elected from one area to the detriment of other communities in the ward.*

the proposed Artisan Hills Ward is much larger in size and could pose a travel burden for the two councillors

As stated above the adverse impacts of a doubling of the rural ward are much broader than the single described negative outcome, although a significant travel burden would be imposed.

Additional burdens include consideration of the costs associated with the additional travel.

The time allocation to consult and discuss community matters, plans and projected outcomes would double. The doubling of the work load itself and the logistical difficulties of being able, or obliged, to meet and greet on a regular basis will prove retrograde.

It is naïve to suggest that by having the rural ward as a two councillor ward solves these issues, it clearly does not. Each councillor has a duty of care to all the constituents, as well as a clear obligation, to represent the entire ward in council deliberations.

This, in fact, applies across each of the multi councillor wards.

Therefore, to imply that by having a two councillor ward in a new rural ward that is double the area of the existing ward, the workload is the same is clearly a nonsense. Each Councillor would be duty bound to be across matters that relate to the **entire** ward. With a two councillor rural ward this would then require each councillor to have double the workload, double the time allocation, double the expense and significantly increase the associated costs to both the council and to the councillor.

In fact, each of the three proposed multi councillor wards would likely result in significantly increased workloads as each of the 3 wards cover a larger area than each of the wards proposed under Option B but still, theoretically, require each of the elected councillors to represent all.

That is, unless the VEC is content with the notion that:

- *Each councillor would only do as much work as is required for them to represent the voters that installed them, and/or*
- *Each councillor would only seek to visit, meet and consult with self-selected groups, issues or projects that suited their own agendas.*

This would be a grossly unacceptable outcome.

the large numbers of candidates in the past three general elections may mean larger ballot papers, particularly in the two wards located in the urban south of the Shire, although these papers would still be more manageable than a ballot paper for an unsubdivided Nillumbik Shire Council

The size of ballot papers is an issue and appropriately should be a contributory or determinative factor. However, to place a caveat on this consideration by comparing it favourably to an option that is not even under consideration is an indication of the lack of independent assessment and rigour being displayed by the VEC.

There is no doubt that suburban elites will flood the elections with candidates pushing their own particular brand of environmental bastardry. There will be a real risk of the rise of self righteous, extreme environmentalists who seek to impose controls and restrictions over all rural landowners (people that live within the green wedge), whilst living outside the green wedge themselves, and hence outside those same controls and restrictions.

This was clearly evident within the recent council review of the Green Wedge Management Plan where a community panel, improperly loaded within environmental activists and suburban elites with a vendetta against the current council, sought to advocate the imposition of these same types of controls and restrictions over landowners that live within the green wedge.

The majority of these people did not even realise that they did **not** live in the green wedge, but all agreed anyway that they should have the right to control it.

the proposed Artisan Hills Ward has both urban and rural populations and, as is the case in any large sized ward, both councillors could be elected from one area to the detriment of other communities in the ward.

The VEC has been quick to point out that the divide between the proposed suburban wards, one with three councillors and one with two councillors to be elected, is drawn along the Urban Growth Boundary, citing this as a positive.

PALs presume therefore that the above "negative" to the adoption of Option A refers to the townships within the proposed rural ward.

PALs agree with the VEC that the elected councillors from such a large rural ward could be elected from a small very localised section of the community. This would indeed be detrimental to the remaining parts of that ward in terms of representation.

If Option B was adopted this may also occur within that framework, although it is significantly less likely.

Option A contains the peri – urban area of North Warrandyte, the townships (or effective townships) of Kangaroo Ground, Wattle Glen, Watsons Creek, Christmas Hills, Panton Hill, Smiths Gully, St. Andrews, Kinglake, Cottles Bridge, Hurtsbridge, Nutfield, Arthurs Creek and Strathewan.

Much of the land around these townships (or effective townships) is rural and contains a large number of rural enterprises, lifestyle properties, agricultural enterprises, grazing properties and pasture enterprises. If, for example, two extreme environmental activists were elected to council under Option A, what hope would either the township population or the rural population have in being able to approach, communicate or lobby for rural or township issues and be able to rely on the elected councillors to properly represent them?

The answer is - none. This is clearly evident by the history of the previous councils in place prior to the current council.

The sole intent of those previous councils, comprised of councillors backed by a troubling number of environmental renegades within the council staff itself, was to punish, control, restrict and prohibit any and every landowner living within the green wedge. The immediately previous council's illegal conduct required a landowner VCAT case (re council's abandonment of proposed Planning Scheme Amendment C101) and a strong, evidenced based argument to the Planning Minister (to recommend his refusal to approve proposed Planning Scheme Amendment C81) to have both thrown out.

The 5-7 year processes that the council officers manufactured and ran, and what the councillors endorsed, were found to be unlawful and so removed from, or not allowed to be inserted into, the Nillumbik Planning Scheme.

This cost the council hundreds of thousand of dollars of ratepayers' money. It cost the community thousands of dollars as the rural community was forced to legal action to stop the unlawful conduct of the then council.

No option should ever be considered that would return NSC to this type of abusive, arrogant and unlawful behaviour. Option A could easily deliver that outcome.

Option B could also go the same way (as was the case) but with the ongoing awareness amongst the rural community, it is much less likely to do so again.



PALs PREFERENCE for OPTION B

The Preliminary Report lists the advantages to Option B as:

- *Addressing loss of dedicated local representation.*
- *The current electoral structure guarantees a distribution of local councillors across the Shire, including the rural parts of the Shire. In this structure, no single town or area would dominate at elections.*
- *The current single-councillor wards appear to reflect and serve the Shire's geographic communities of interest. Submissions and findings from the VEC's previous representation review of Nillumbik Shire Council suggested that the Shire is characterised by its geographic communities of interest, as people strongly identify with their local suburb or townships.*
- *Councillors are more likely to be accessible to their constituents and they are encouraged by the current structure to be aware of local issues.*
- *The size of the ballot paper in each ward is smaller and more accessible for voters compared to ballot papers for multi-councillor wards and in an unsubdivided electoral structure.*
- *This is a minimal change option and would minimise confusion to voters.*

PALs strongly agree with all of the positives listed above.

It is noted that the advantages for Option B are immensely more compelling than those listed for Option A. So much so that it almost beggars belief that Option A is the VEC "*preferred*" option at this stage in the process.

The advantages above re-enforce the fact that there have been four different council structures introduced through Nillumbik's history and, apparently the VEC have still not been able to introduce a system that works for Nillumbik.

This would suggest that:

- *The NSC is a basket case incapable of proper and sound governance.*
- *The VEC is (yet again) introducing change for the sake of change.*

It may well be that the VEC considers that both of the above may apply, but it is the community that once more will bear the effects of that change.

A more appropriate position by the VEC would be to give the existing structure a genuine chance. By letting the existing structure settle (in its current version proposed as Option B) and allowing the community some real continuity, the VEC should more correctly sit back

and observe, rather than forcing yet another change in the structure, which will only further disenfranchise voters - leading to more disconnected communities.

A comparison with the format of State and Federal electorates is a clear indication that a single elected representative, elected by a preferential voting system within any given electorate, is a system with which the public is familiar and therefore reasonably comfortable.

The comments in relation to “dummy” candidates do not appear to favour one structure over another. These types of candidates are an unfortunate by product of any democratic electoral system.

However, there is strong empirical evidence to suggest that, particularly within the two proposed suburban wards, there would be a significant increase in “dummies”. Within the proposed rural ward there is strong empirical evidence that a combined environmental / political thrust of “dummies” would also occur in the belief that the sheer weight of numbers would outweigh fair representation and good governance.

It is also of note that the VEC does not directly list any dis-advantages for Option B.

It therefore becomes very difficult to fully understand the reasoning behind the VEC “*preferred*” Option A.

PALs concludes that there may have been other opaque or covert factors that have unduly influenced the VEC in its presented options.

Proposed Ward names

PALs do not support the name changes put forward by the VEC under Option A.

Ward names should more properly reflect the history of the area with some indigenous influence included.

Proposed **Montsalvat** ward

This is a commercial enterprise based on a commercial return. It is part of the history of the Shire but should be excluded by its commercial basis.

Suggestions:

- *Barak*
- *Knox*
- *Mount Pleasant*
- *Sweeney*
- *Woodridge*

Proposed **Plenty Valley** ward

Plenty Valley is used more generally to describe the growth corridor along the Plenty River and largely contained within Whittlesea Shire and is not easily identifiable with Nillumbik or its surroundings.

Suggestions:

- *Wurran*
- *Gellibrand*
- *Diamond Valley*
- *Ironbark*
- *Hillmartin*

Proposed **Artisan Hills** ward

This is coined from and aligned with a recent NSC tourism initiative and endeavour which is to be discontinued. It also does not reflect the history of the area.

Suggestions:

- *Wimbi*
- *Ferguson*
- *Long Gully*
- *Rob Roy*
- *Hildebrand*
- *Pretty Hill*

SUMMARY

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 deliberations and consideration of the VEC in relation to the current critical process.

PALs commends this response submission to the VEC



Damian Crock

Chair
Working Group
Nillumbik PALs