



Nillumbik Pro Active Landowners (PALS)

**SUBMISSION TO
THE VEC REPRESENTATION REVIEW
OF THE NILLUMBIK SHIRE COUNCIL 2019**

March 13, 2019

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INTRODUCTION

This submission to the VEC Representation Review of the Nillumbik Shire Council 2019 is made by the Nillumbik Pro Active Landowners (PALS) who actively represent in excess of 1500 rural residents across the peri-urban areas of Nillumbik Shire and largely contained within the Nillumbik Green Wedge.

PALs have been an active organisation since early 2016 and have fulfilled a much-needed role to advocate directly for landowners hitherto unrepresented and overtly ignored by previous councils and Government Agencies.

PALs have no political allegiance and do not advocate for any political agenda. We represent landowners and provide a conduit into council and/or other bureaucratic mechanisms where it is not only appropriate, but also vital that landowner rights and responsibilities are represented.

PALs welcome the opportunity to make a submission to the VEC in relation to the ongoing structure of the Nillumbik Shire Council (NSC).

CURRENT FACTS AND PARAMETERS

- Current electoral configuration consists of 7 wards and comprise 5 wards representing suburban residents and 2 wards representing a mixture of township and rural residents.
- Approximately 80% of the population live in the 5 suburban wards.
- Approximately 90% of the land mass across entire shire sits within the 2 rural wards.
- Approximately 80% of the rural land mass is in private ownership. i.e. owned by rural residents.
- Each ward currently has a single councillor representing its residents.
- By default, council decisions are biased towards suburban wards as in part witnessed by council's proportional spending across the wards.
- By default, the needs of rural residents cannot be reasonably and properly fulfilled by the current system.

- Any decision by council as to what can, or cannot, occur in rural areas is controlled (through their ward Councillor) by residents who do not live in the rural areas and have no interest in achieving fair, reasonable or appropriate outcomes for rural communities.
- Private land ownership is a fundamental right across Australian landscape and cannot be properly served by a council composition that is biased 5:2 against fair and reasonable outcomes that should be spread evenly across its local communities.
- The Local Government Act 1989 requires a council to act in the best interests of the local community¹

There is an inherent obligation that the council must act fairly and reasonably in relation to the rural residents and are bound to act "in the best interests of the local community"¹. This wording must logically incorporate the best interests of the rural community. This cannot occur when residents occupying less than 20% of the land mass outside rural areas can dictate outcomes to residents who own 80% of the land mass within the rural areas.

The ongoing impacts of such bias can inflict significant detrimental effects across the rural community, not only from the infringement of landowner rights, but also undoubtedly the impacts that the bias can inflict on the potential safety and well-being of residents from a fire perspective, human rights perspective, rights of self-determination, environmental preservation and proper, fair and reasonable planning outcomes and controls.

There is a means by which this could be addressed.

The Minister for Local Government can establish a Local Government Panel to conduct a review of any matter relating to local government restructuring².

SCOPE OF THIS REVIEW

It is acknowledged that the above issues lie outside the scope of the VEC Local Council Representation Review for Nillumbik Shire Council.

However, that does not diminish or eliminate the need for a Local Government Panel, properly constituted by the Minister for Local Government. The VEC could make an appropriate recommendation from this VEC Representation Review.

There is a clear failure of the current structures (which, it is acknowledged, are applied State wide) to properly and appropriately represent the broad views of a Municipality where that Municipality is so starkly divided by the land mass / population anomaly.

1. *Local Government Act 1989* Part 1A – Local Charter Ss 3D, 3E

2. *Local Government Act 1989* Part 10A – s220 – Local Government Panels

CURRENT REVIEW

It is noted that the current review can only directly address the matters referred to in its terms of reference.

The relevant matters stipulated are addressed in turn with a relevant response from PALS to each item.

Should the structure be subdivided into wards or left un-subdivided.

 **It is the view of PALS that it is vital to the fairness of representation that the structure remain subdivided into wards.**

This is the only ongoing means to ensure some degree of proper representation across the wards where an elected Councillor can present a policy platform to the voters and voters have a direct opportunity to endorse that platform, or not, through their vote.

 **Any consideration of an un-subdivided structure must be rejected.**

If an un-subdivided structure was introduced this would exacerbate the issue of unrepresentative candidates flooding the nominations so as to effectively gain control of council. This has the real and serious potential of ensuring even greater control of council by suburban candidates assuming total control over the rural areas and rural residents but not having to bear any responsibility or effect from those suburban-centric decisions.

If subdivided – the number of wards

Assuming no action by VEC in relation to the PALS position stated above.

 **PALS advocates for the seven (7) wards to remain.**

There will remain serious imbalances in the ability for rural residents to have matters appropriately and fairly addressed by council where a 5:2 (suburban:rural) Councillor composition exists.

If the 7 wards remain PALS would advocate for the Local Government Minister to investigate the alternatives that would better balance the needs of rural landowners against the bias of suburban residents, taking into account the imbalance between population and land mass occupied and owned.

However, maintaining the 7 wards would support the best spread of representation compared to an un-subdivided Shire and would also ensure that any given Councillor would remain directly answerable to their respective electorate.

What the ward boundaries should be

PALs submit that whilst the equal voter number approach is exclusively used across the State and this is unlikely to change, within Nillumbik Shire at least, it does not properly reflect the representation experienced between its rural and suburban counterparts.

PALs would advocate for an investigation into what options may be available to the Minister to better balance the views and needs of rural residents against suburban residents, perhaps developing the potential for the incorporation of a land mass factor that could take into account the area of a ward as well as its population.

There is a genuine need to develop a more balanced representation between rural and suburban voters based around the impact and ongoing effect of decisions taken by the council body.

The name of each ward

PALs have no direct view on the name of the wards and would abide by the VEC determination.

How many Councillors should be elected to each ward

 **PALs advocate that, as a base position, there should be no more than 1 Councillor elected to each ward.**

By default, this would limit the total number of Councillors to 7, which if the framework above is maintained in its current form, is appropriate. This situation ensures proper direct, personal and reactive representation on a ward by ward basis.

Any overall increase in the Councillor numbers would have a significant impact on the council budget and expenditure which is not justified and cannot purport to give any net benefit to the community.

However, there is scope for investigation as detailed above, as revised formulae in relation to the structure of the wards may deliver a fairer outcome for rural landowners.

This is of particular importance in relation to planning outcomes and controls which are, at present, dictated by those who do not live with the consequences of the overly burdensome, expensive and protracted requirements of a planning system geared towards a principle of prohibition.

Damian Crook
Chair
Working Group
Nillumbik PALS

March 2019