

TRANSCRIPT

LEGISLATIVE COUNCIL ENVIRONMENT AND PLANNING COMMITTEE

Inquiry into the 2022 Flood Event in Victoria

Melbourne – Thursday 12 October 2023

MEMBERS

Sonja Terpstra – Chair

David Ettershank – Deputy Chair

Ryan Batchelor

Melina Bath

Gaelle Broad

Wendy Lovell

Samantha Ratnam

Rikkie-Lee Tyrrell

Sheena Watt

PARTICIPATING MEMBERS

John Berger

Ann-Marie Hermans

Joe McCracken

Evan Mulholland

Rachel Payne

WITNESSES

Colin Waters, and

Stanislaw Korkliniewski.

The CHAIR: I declare open the committee's public hearing for the Inquiry into the 2022 Flood Event in Victoria. This public hearing is for the Environment and Planning Committee, an all-party committee of the Parliament looking into the October flood event. We will be providing a report to Parliament, which will include recommendations to the government. Please ensure that mobile phones have been switched to silent and that background noise is minimised.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands we are gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee. I welcome any members of the public in the gallery and remind those in the room to please be respectful of proceedings and to remain silent at all times.

For those of you that are giving evidence to us today, all evidence that is taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and the provisions of the Legislative Council's standing orders. Therefore the information you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded, and you will be provided with a proof version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee's website.

At this juncture I will take the opportunity to introduce myself, and committee members will also introduce themselves to you. My name is Sonja Terpstra. I am the Chair of the Environment and Planning Committee, and I am also a Member for the North-Eastern Metropolitan Region.

David ETTERS HANK: David Ettershank. I am the Deputy Chair of the committee, and I am from the Western Metro Region, so you are in my catchment. Welcome.

Melina BATH: You are not in my catchment; I am from Eastern Victoria Region. Melina Bath. How do you do?

Colin WATERS: Well, thank you.

Gaelle BROAD: Hi. I am Gaelle Broad, Member for Northern Victoria.

Colin WATERS: Pleased to meet you.

Rikkie-Lee TYRRELL: Hello. I am Rikkie-Lee Tyrrell, Member for Northern Victoria.

Wendy LOVELL: Wendy Lovell, Member for Northern Victoria.

Ryan BATCHELOR: Ryan Batchelor, Member for the Southern Metropolitan Region.

The CHAIR: Thank you for those introductions. With that we will invite you now to commence your opening remarks. I know each of you has 5 minutes. As Mr Ettershank observed, we do run a tight ship, so I will be monitoring the time very carefully. I invite you to make your opening comments, and could you please, for the Hansard record, when you begin, state your name and any organisation you are appearing on behalf of. Over to you, thank you very much.

Colin WATERS: Good afternoon, panel. I would like to thank the committee for the opportunity to explain, as a flood victim, my perspective of why the flood event occurred at Rivervue.

My name is Colin Waters. My wife and I have lived at the retirement village since December 2017. Since time is limited, I shall start with my eight key questions and eight subsequent actions that I think are important to understand the story behind the lead-up to the inevitable flood disaster at Rivervue. Then, time permitting, I will run through a summary of how I came to my conclusions. If I am able to explain how I came to my conclusions, you will hear a different discussion from what you have sat through up to now, because I am a victim and do not have to cover my backside like the perpetrators of this scandal.

My submission to the committee back in June totalled 45 pages wherein I believe that I documented the most significant events involving abuse of power and contrivances that led to the guaranteed flooding at Rivervue. All 47 flooded villas are only about six or seven years of age. The flood was just 2 centimetres higher than the 1974 flood, which also inundated the Rivervue site. The site has a lot of established history, plus anecdotal knowledge of locals. In total there are about 50 to 60 villas on site that are directly susceptible to another moderate flood at any time. Here are my eight questions.

One, why and how did Melbourne Water arbitrarily reduce the one-in-100-year flood line AHD at Rivervue, ranging from 6.6 to 6.85 metres, down to a mere 6 metres in July 2006?

Two, how is it that Melbourne Water gazetted a 100-year flood line perimeter illustration that almost coincides with the edge of the large pond behind my back fence? This is the root cause of the multimillion-dollar land swindle that is Rivervue.

Three, where is the true and verifiable one-in-100-year flood line at Rivervue? Probably in Redfern Avenue, almost at the top of the hill from where it was always located.

Four, what are the contents of the Craigie report dated 21 December 2010 that may have persuaded Melbourne Water to ultimately capitulate and deliver such a disastrously flawed determination to lower the flood line at Rivervue to just 6 metres and remove the LSIO from the building envelope?

Five, how is it that the stormwater pipes entering the river do not have surge protection? That is surely civil engineering 101 basic design. Who approved and signed off such a culpable design liability?

Six, the comprehensive contour map prepared by the then owners, Metricon, back in 2007 indicates there is now filling under most villas. Does this not exacerbate the capacity of the flood plain to absorb the flood event? The contour map would suggest to a professional or any reasonable person that a residential development that has been constructed would never sustain a moderate flood event. How and on what technical basis did Melbourne Water support the development?

Seven, did the C151 report panel test the two-flow software modelling and Melbourne Water's modelling results against the extensive historical flood frequency analysis data? If so, how is it that any reasonable person would think that the decision to shift the 1 per cent annual exceedance probability 90-plus metres down a steep hill would be a safe and professionally responsible idea? The same question must be asked of Melbourne Water regarding when they removed the LSIO from the Rivervue building footprint in 2016.

Eight, what is the true reason why the minister in 2015 compelled Melbourne Water to instigate through Moonee Valley City Council the inept Wimbush panel that had the sole purpose to significantly relocate and substantially lower the hundred-year flood line and remove the LSIO from the decades-renowned flood plain? This brain fade did not consider 48 years of development upstream along the river since the 1974 equivalent flood nor climate change, which Melbourne Water often states needs to be accounted for.

Where to from here? I have eight points. There are some fundamental matters that need to be forensically investigated by the government. One, Rivervue acquired the property in 2010. It came with a registered building permit from Moonee Valley council but immediately set about altering the design to maximise the number of villas. Up until November 2015, which is the Wimbush report time – C151 – it was subject to VCAT's 2006 ruling for minimum finished floor levels of 7.2 metres. But in September 2011 Melbourne Water seems to have done a desktop approval of amended plans that satisfied the updated earthworks, which amended finished floor levels that were merely shown on the new design drawings for earthworks and finished floor levels.

It seems that the trick is to obtain a building permit, play a long game, then submit significantly altered specifications in regard to finished floor levels and design AHD and claim that the earthworks had been completed back in 2010 by the previous owner, who Tigcorp now say was them, and that the works were done over the period of 2014 and 2015 – all this amongst the prevailing rules of a much higher VCAT 2006 requirement of 7.2 metres. The document that must have satisfied Melbourne Water to move the hundred-year flood line about 95 metres down a steep hill was presumably prepared by Mr Craigie dated 21 December 2010. Mr Craigie was also the consultant whose report resulted in the VCAT 2006 rulings. Melbourne Water must release the contents of the document as nobody has seen what is contained in the document.

Secondly, refer the Rivervue scandal to the Attorney-General or IBAC, or both, for probity and rectitude of Melbourne Water's board and senior executives and Tigcorp.

The CHAIR: Sorry, Mr Waters. Could I just interrupt you there? You have run out of time. I am happy to let you continue, but I just wanted to remind you both that if you did want to go towards making allegations about particular individuals in this hearing, parliamentary privilege does not extend to that, so I just need to caution you against naming individual people. Please continue.

Colin WATERS: You should have said that at the start. I have already raised it.

Melina BATH: Well, you are under parliamentary privilege.

The CHAIR: No, I have checked. It does not extend.

Colin WATERS: Oh, well, let us extinguish that.

The CHAIR: Anyway, keep it general. That is fine. Continue.

Colin WATERS: While there are the directors of where I live, there are architects, there are town planners, there are the consultants, whose roles and motivations are inadequate, and selective reporting, and other professional players that developed the site, that nobody ever thought that what they were engaged in delivering was not dubious is implausible. These are all professional industry people.

Thirdly, refer the Act that covers retirement villages to a royal commission to clean up the industry Australia-wide, because we now have a significant case study on our hands at Rivervue, ranging from development, contractual privilege and compliances of several types.

Fourthly, ensure the Act recognises fit and proper people only hold a licence to operate retirement villages, strengthen the audit systems with content and introduce penalties.

Number five: how can a lightweight panel with flawed logic lead Melbourne Water to blithely remove a building safety code so easily and cause such devastation in defiance of the VCAT 2006 ruling that possessed such a sensible safety finding? This is an extremely serious matter, and it has a distinct stench about it, because it was an important step in the eventual swindle.

Six: what will Melbourne Water gazette as the new one-in-100-year flood line? Because it will naturally reveal that dozens of villas are illegally built on a flood plain and should be condemned, with substantial amounts of compensation for ruining so many lives and inheritance plans. Compensation as a minimum must be an extrapolated real-time market value plus pain and suffering, opportunity losses, relocation costs and exit costs as if all villas were not built on the flood plain. The other option is for Tigcorp to offer us alternative equivalent freehold villas not built on the flood plain. How can it be that Rivervue owners could only obtain flood insurance of a mere \$5 million and still operate the business? There now is a new insurer, but the coverage is still \$5 million because it is an industry-recognised flood plain.

Eight: the current Melbourne Water business-as-usual approach cannot be allowed to drag on, because nobody can change God's laws of physics, so further floods are guaranteed unless protection works are initiated. This is the bottom line of an expensive fraud that has been committed without any doubt.

Recently I hear that Melbourne Water is reapplying an LSIO to the flooded areas at Rivervue; but it is not a one-in-100-year situation, it was only a 50-year flood. So, again, that is a nonsense.

The CHAIR: Have you concluded?

Colin WATERS: I have completed, unless you want me to drone on.

The CHAIR: We will be able to ask you questions, but the idea was just 5 minutes for your opening remarks.

Colin WATERS: Yes, I understand.

The CHAIR: Did you have anything to add to that?

Stanislaw KORKLINIEWSKI: No, Chair.

The CHAIR: No? Okay, fantastic. All right, thank you. Thank you very much for those opening remarks. Obviously, this is something that has impacted you greatly. It is something that obviously was unexpected as well. What has it been like for you in terms of the recovery and where you are at now? Are you back in your unit? What has been your experience?

Stanislaw KORKLINIEWSKI: Excuse me, Chair, am I allowed to make my submission?

The CHAIR: Did you want to make some opening remarks? That is what I asked you.

Stanislaw KORKLINIEWSKI: Sorry, yes, I do.

The CHAIR: Right, well, you will only have 5 minutes. I just want to say: the longer you talk, then we cannot ask you questions.

Stanislaw KORKLINIEWSKI: Sure.

The CHAIR: So perhaps you did not understand what I was asking you.

Stanislaw KORKLINIEWSKI: No.

The CHAIR: You each were meant to have 5 minutes. You took about 10. I will give you 5. It just means we have less time to ask you questions.

Stanislaw KORKLINIEWSKI: Sure.

The CHAIR: So please commence, and I will pull you up at 5.

Stanislaw KORKLINIEWSKI: Thank you.

The CHAIR: Okay, thank you.

Stanislaw KORKLINIEWSKI: My name is Stanislaw Korkliniewski, and I thank you for the opportunity to address you today. As I sit here before you I cannot help but take you back to the 1940s, a time when Europe was torn apart by war. From my child's eyes, my parents were homeless concentration survivors after World War II. We were classified as displaced persons, and I lived in camps, temporary homelands, in exile, divided by nationality. These displaced-person camps were overcrowded and heavily guarded. My parents together with me had fled war-torn Germany with just a suitcase and a wooden storage box. As my parents crossed from their broken past into an unknown future, they carried with them their wounds, their fears, their hopes and their secrets.

Eventually we arrived in Australia and settled in Cowra. I can still remember the shock of arriving at a camp in the middle of nowhere, with the accommodation being extremely basic. After six years living in Cowra we arrived in Sunshine, Victoria, and my father built a house. It was more than just a house; it was a symbol of our resilience, our hopes and our dreams. Later I built a life and a career. I am blessed to have three children and six grandchildren. When my wife Cheryl and I moved into Rivervue in September 2018 we felt a sense of relief. We had spent the better part of our lives working, saving up and looking forward to a comfortable retirement. We were hopeful that this place would provide us with the comfort, care and security which we needed in our golden years. We had had never expected our stay would be as short lived as it was.

Move forward to 14 October 2022, the day the floods came rushing at around 9 am. There was no warning whatsoever. A resident was on her balcony and saw water rising. There I was again in a panic, grabbing a few things, with absolutely no warning. The flood came rushing in, leaving nothing in its wake. Our haven was gone in an instant, and we were left homeless, leaving our home once again with nothing but a suitcase over my head and my wife beside me, uncertain of the outcome. The physical damage to our home was severe, but it was the emotional trauma that cut deep. I saw faces filled with anguish, despair – people who had lost everything. The pain was palpable. The days that followed were filled with uncertainty and despair. We tried to come to terms with our losses.

Over the days that followed, we along with residents were appalled and shocked to find that Tigcorp had not enough insurance to pay for all the flooded residents to live in temporary accommodation. And also we found out that Tigcorp had completely underinsured the village, as they had \$5 million of building insurance for the entire village, which represents roughly 6 per cent on an asset of \$80 million, which had to cover temporary accommodation costs too. This should not be possible. Like others, Cheryl and I had to urgently find and pay for our own temporary accommodation, all because Tigcorp had failed to get proper insurance for Rivervue and had never revealed it to the residents.

We were told if we were unable to find accommodation we would be sent to Mickleham, a quarantine hub reminiscent of the worst experiences from Germany and Cowra. As someone who had suffered from displacement, loss and unstable living conditions in the past, this prospect filled me with terror. All the memories of my childhood and my parents' escape from war-torn Germany flooded back to me. The memories of my past traumas flooded back, and then the weight of depression, anxiety and panic attacks became my norm. It has been devastating to me and Cheryl. Now, with the benefit of medical care, I know that the flooding at Rivervue means I have PTSD, and I am under active management with my treatment plan and medication. With my medical team I am working to process my past traumas and find the coping strategies for the challenges ahead. I will be managing PTSD, as will my family, for the rest of my life. And there it was: the arc from my childhood with a suitcase fleeing Germany had reached me, a man of 77 years of age, with another suitcase fleeing Rivervue after the flood.

Today I am sitting before you filled with a sense anger, frustration and disappointment. I have every reason and legal and moral right to feel that way. Since the flood I have reflected on the irony of the ownership and control of Rivervue. David Thurin is the managing director and majority shareholder of Rivervue. Rivervue is David Thurin's responsibly. Often, when I have written to Rivervue since the flood about my concerns, I have copied Mr David Thurin in. David Thurin's decision about insurance and building on a flood plain contributed to me becoming a refugee for the second time. He let Rivervue be underinsured before the flood for \$5 million against a conservative building value of \$80 million-plus. I know now the insurance was refused more than 12 times the first time. I also know that since the flood he has put back the same underinsurance now of \$5 million.

The CHAIR: You have about a minute left.

Stanislaw KORKLINIEWSKI: The Maribyrnong will flood again unless mitigation goes ahead. When I raised my concerns about mould and drying by asking for an occupational therapist, the general manager has refused to do so. I will skip that bit as there is a minute left.

Empathy is not enough. We need to be able to see ourselves in each other, to recognise the value and dignity of every person affected by the tragedy. As a man of hope, I believe that truth will prevail, that the facts will speak for themselves and that justice will be done.

Finally, after learning about Tigcorp's construction on a flood plain, there is a substantial risk associated with living in this area. Therefore I propose that in exchange for the negligent decision Tigcorp should offer an equivalent freehold villa in a safer location within their property.

The CHAIR: Thank you very much for those opening remarks. All right, questions. Sorry, Mr Waters, I will start with you again, and, perhaps, Stanislaw, you might be able to supplement this as well. I just note your comments – did you also go to temporary accommodation?

Stanislaw KORKLINIEWSKI: Yes.

The CHAIR: You did. Did you go to Mickleham as well?

Stanislaw KORKLINIEWSKI: No.

The CHAIR: Okay.

Stanislaw KORKLINIEWSKI: No, I did not go to Mickleham. What I am highlighting is that if I could not find my own accommodation, then Mickleham would have been available, which I just could not have handled.

The CHAIR: No, I understand that. But I guess I was just trying to understand what your experiences were. What has it been like for you now, for both of you? I am assuming you are both back in your residences now. How have you found things have progressed in terms of getting back into your unit and repairs and recovery and those sorts of things? Has it been smooth sailing or not a great experience? Have you found it difficult? What has it been like?

Colin WATERS: Well, it has not been a great experience. To be fair, Tigcorp, or Rivervue, offered us hotel accommodation for a couple of weeks, and then they just cut us loose. Fortunately, I was insured, so the bank was paying up to \$7500 a month just to keep us in a serviced apartment, which is uncomfortable anyway. Over the whole journey – I kept a log of all the expenses, rah, rah, rah – the insurance has coughed up over \$105,000 to support me. The other problem was we were initially told, ‘Oh, we’re going to have three builders; it’s going to be a big push to get everyone back really quick,’ and I think we were promised end of February – was it the end of February?

Stanislaw KORKLINIEWSKI: April.

Colin WATERS: April, was it? Sorry. And then month by month it went out. Well, we ended up going back in the middle of July, so it was almost nine months. You know, there are still teething problems; there are still little odds and sods that need to be fixed in the house. But throughout the whole time my wife suffered severely. I kind of treated it as a holiday, to be honest, but it was not comfortable. We ended up in a rented place up at Diggers Rest, which was out in the middle of the boondocks. It was not comfortable there either. See, my wife has displayed very dark thoughts, not just to me but to friends as well.

The CHAIR: All right. And what about you? I am just letting you know, each of us have got about a 4-minute block, so I am going to have manage things very tightly. So what about you?

Stanislaw KORKLINIEWSKI: One of the big issues was we were insured for contents, we were not insured for accommodation. The problem we had was navigating the insurance with our insurance company. The issue we had was carpets. We understood that the carpets were provided by the owner as part of fittings. My insurance company asked me to produce my contract, which I did. The insurance company continuously asked me, ‘Where does it state that I am responsible for the replacement of the carpet?’ And I said, ‘Well, I can’t tell you. There is the contract, and as far as I’m concerned, somebody has to pay. I cannot put my hand in my pocket again.’ That took many, many weeks to resolve. Finally, my insurance company did rescind and honour, because I think we were there for over 35 years, so it was a goodwill gesture, in my opinion.

The CHAIR: Okay. Thank you. I am sorry, but we have run out of time. We will go to Mr Ettershank now. Thank you.

David ETTERS HANK: Thank you. Thank you for coming in and sharing your stories, and my sympathy to you for what you have been through. Can I just ask a couple of questions – and we do need to be really tight on time: what did you each pay for your units, by way of your 99-year lease?

Colin WATERS: Well, I paid \$825,000 for a 99-year lease. There was no stamp duty, of course, but what would my property be worth now?

David ETTERS HANK: Hang on, I am going to come to that.

Stanislaw KORKLINIEWSKI: \$650,000.

David ETTERS HANK: \$650,000? And how representative is that? Is that pretty much the full range across the village?

Stanislaw KORCLINIEWSKI: No.

Colin WATERS: No.

David ETTERS HANK: Is it more expensive?

Colin WATERS: Oh, yes, because of staging and the passing of time. I can say that on the night of 13 October, I thought my place was worth \$1.3 million.

David ETTERS HANK: Okay, well, let us move on to that, then. So you paid \$825,000 three years ago?

Colin WATERS: 2017, December.

David ETTERS HANK: Okay, 2017. And what do you reckon it is worth now?

Colin WATERS: Oh, it is pretty much worthless. It is built in a swamp. Would you buy it off me for \$325,000?

David ETTERS HANK: Well, I was told by Tigcorp when we did the inspection the other day that they have already had their first sale post the flood of one of the 47 units, and it came out at the same valuation – sorry, it came in at the same price as what was paid for it by the previous owner. Is that sort of consistent with your sense?

Colin WATERS: She paid about \$645,000, I think.

David ETTERS HANK: This is the new resident?

Colin WATERS: No, the one that lived opposite me that left the village about a month before the flood actually came through. But that house has not been sold, as far as I know.

David ETTERS HANK: Okay. I will follow that up separately. So your expectation of your \$825,000 investment is that it is unsellable?

Colin WATERS: I reckon, yes.

David ETTERS HANK: Okay.

Colin WATERS: It is – what was the word? It is unencumbered land – I heard the last gentleman talk about that – because it is a swamp.

David ETTERS HANK: Okay. Mr Korkliniewski, what do you think your unit is worth at the moment?

Stanislaw KORCLINIEWSKI: Probably nothing.

David ETTERS HANK: Nothing? You do not think you would be able to sell it?

Stanislaw KORCLINIEWSKI: Well, if I do sell it, it would be probably for a loss in that I would have to disclose, or people seeking to buy my property would see on their own investigation that it is built on a flood plain. So therefore I do not think I would get my money back, but more importantly I think what has to be highlighted is the way the contract is structured, in that if I sell it at a massive loss I will owe money to the owner.

David ETTERS HANK: Yes, which is pretty common under the *Retirement Villages Act*.

Stanislaw KORCLINIEWSKI: So I am thinking to myself, ‘How can that be?’ There is a peril that came about. We had asked for many years for the disclosure of the insurance policy. We never, ever got anything with it. I am happy to submit a total file to the committee on that basis, so that at the end of the day if I, the

purchaser, knew what the value of the insurance was, I would then say to myself, ‘Hold on – \$5 million against an \$84 million asset as of October 2022 does not make sense.’

David ETTERS HANK: Whose valuation was that \$88 million?

Stanislaw KORCLINIEWSKI: That valuation I believe has come out of Rivervue. That is what we gauged it from. It is viz. the certificate of currency.

David ETTERS HANK: Thank you.

The CHAIR: I am sorry, but the clock has beaten us. Ms Lovell, a question, please.

Wendy LOVELL: Firstly, can I offer you my commiserations. I realise that you have been through a dreadful, dreadful time. What assistance have Rivervue given to you with dealing with insurance companies and with helping you to understand your legal obligations under their contract, and have they offered in any way to repurchase any of the units or to compensate you for your loss?

Colin WATERS: Okay, we will both talk to that. I will start. Sorry, Stan. To those specific questions: zero. That is it.

Wendy LOVELL: So you feel very let down by them?

Colin WATERS: Not really, if you know what these people are like.

Stanislaw KORCLINIEWSKI: See, moving fast forward, we do know via the minutes of the meetings that Rivervue has also got insurance for only \$5 million, and you ask yourself: how can that be? When we process that thought, what we are told is that we should not be reliant on Rivervue for accommodation; we should seek our own insurance for accommodation. So as a consequence of that I rang the Commonwealth Bank, who told me they would not insure me. I rang two others, who also said, ‘We will not insure you.’ So based on that, if a form of tragedy happens tomorrow and, say, for the sake of argument, 100 villas are destroyed, where do these people go? Where do the 70-, 80- and 90-year-old people go?

Wendy LOVELL: Absolutely. So have you been able to get insurance from anywhere else, other than those?

Stanislaw KORCLINIEWSKI: Yes, I have.

Wendy LOVELL: You have. Because one of the things that we are finding in places like Rochester, where insurers are not insuring properties now, is that if you cannot get insurance, you also cannot sell. A new buyer, apart from being wary about buying and wanting it for a lower price, also cannot get insurance, so they cannot get a loan from the bank to purchase. So these properties become unsaleable.

Stanislaw KORCLINIEWSKI: I have got insurance for the next 12 months. My concern is: will I have or be able to obtain insurance for the following 12 months? That is an unknown. My car insurance has skyrocketed because allegedly the insurance company have done their own due diligence and we are classified as being on a flood plain. Rivervue all along, as the documents will show, make a lot, a lot of promises, but never, ever come to the party, and all we want to know is: what is the policy, what exclusions exist, and how does it affect residents? Going back, if I knew that there was only \$5 million, I could then take action to protect myself and my wife from an accommodation point of view. So you ask, you ask, you ask, but nothing happens.

Wendy LOVELL: You are both back in the units now?

Stanislaw KORCLINIEWSKI: Yes, we are.

The CHAIR: I am sorry, the clock has beaten us, Ms Lovell. I am sorry about that. We have to move on. Mr Batchelor, a question, please.

Ryan BATCHELOR: Thanks, Chair. Thank you, gentlemen, for your appearance today, and I extend my sympathies for the trauma you have been through. You mentioned that you received no warning from Rivervue at the time –

Stanislaw KORCLINIEWSKI: Correct.

Colin WATERS: Zero.

Ryan BATCHELOR: Zero warning – so that is on the time of the floods, the day of the floods.

Colin WATERS: Correct.

Ryan BATCHELOR: At any time prior did Rivervue provide you with any other drills or preparation for other sorts of disasters that might strike? So, for example, were you ever given instructions on what to do in case of a fire?

Stanislaw KORCLINIEWSKI: No. A number of –

Colin WATERS: Hang on, we have had one fire drill.

Ryan BATCHELOR: So you have had a fire drill, right? I am just trying to set up some facts here.

Colin WATERS: Yes, a few years back, but it was a shambles really.

Stanislaw KORCLINIEWSKI: It was only in one location.

Ryan BATCHELOR: But there has been some form of communication from management.

Colin WATERS: No.

Ryan BATCHELOR: No, no, just about types of disasters, other than floods. So you have had a fire drill.

Colin WATERS: We have had one fire drill since I have been there, in December 2017.

Ryan BATCHELOR: I am just trying to establish that the company clearly on some level recognises that it has a degree of obligation to you as residents, but it should be informing you about potential dangers, which it would do if it was –

Colin WATERS: Well, let us talk about that.

Ryan BATCHELOR: What I am trying to do is I am trying to find out what they think they are responsible for doing.

Stanislaw KORCLINIEWSKI: Let me lead you into the question then. At the time of the flood, a day or so after, the village manager made a statement to some observer that all emergency procedures were put in place. I, with a number of others, challenged that comment in that I, in conjunction with Colin and many other residents, had started to knock on people's doors to alert them of the impending flood.

Ryan BATCHELOR: And more generally, did you have an expectation under the terms and conditions under which you came into the community and bought into the community that the services that Rivervue would be providing to you would extend to the general sorts of warnings about the condition of the property, threats that might exist and emergency procedures?

Stanislaw KORCLINIEWSKI: Yes. On the back of our door there is an emergency procedure with a little map. That is a fire drill. It also shows you the mustering areas.

Ryan BATCHELOR: So who put that on the back of your door – Rivervue?

Stanislaw KORCLINIEWSKI: Tigcorp did.

Ryan BATCHELOR: Tigcorp. So in case of fire they provided you with emergency –

Stanislaw KORCLINIEWSKI: What you need to do.

Ryan BATCHELOR: What you should do in an emergency in case of fire.

Stanislaw KORKLINIEWSKI: Correct.

Ryan BATCHELOR: Was there anything there in case of flood?

Stanislaw KORKLINIEWSKI: No, nothing. So moving forward, when this statement was challenged and the Rivervue residents committee also brought that topic up, the general manager stated that it is the responsibility of the residents to find their own evacuation procedures.

Ryan BATCHELOR: In case of –

Stanislaw KORKLINIEWSKI: Flood.

Ryan BATCHELOR: Did they explain why there is a difference between a flood and a fire?

Colin WATERS: No.

Stanislaw KORKLINIEWSKI: No. That is documented in the form of the minutes, that statement.

Ryan BATCHELOR: At the committee?

Stanislaw KORKLINIEWSKI: Yes. So being rather sarcastic, I said to my wife, ‘Perhaps I should write to Rivervue and ask them where I can moor my boat in the event of another flood.’

The CHAIR: Unfortunately, the clock has beaten us at that point. I think I will ask Dr Ratnam for a question, please. Excellent timing.

Samantha RATNAM: Thank you very much for being here today. I imagine that it is really difficult to have to relive it, and I cannot imagine the stress and the trauma that you and a number of others have experienced, and your family, and continue to do so. We will do our best to honour that and to understand what happened so we can prevent this from happening in future.

I have a couple of questions, particularly I think on your presentation, Colin. You talked about the Craigie report, dated 21 December 2010. We are trying to get to the bottom of the decision-making here as well so we can hold those who need to be held accountable accountable as well. I am trying to put pieces of jigsaw puzzle together. Do you have a sense of what that report – I have not heard that before. What is that report? Who is Craigie?

Colin WATERS: Craigie is a gentleman who owns a consulting business that goes by the same name, so let us talk about the consulting business.

Samantha RATNAM: Consulting business, yes.

Colin WATERS: He was part of the panel of the VCAT 2006 –

Samantha RATNAM: Decision, yes.

Colin WATERS: that ended up with this safe AHD for the flood plain at Rivervue, which meant they would have to put a lot of fill in. The finished floor level minimum across the whole site – obviously way up the hill it does not matter – had to be 7.2 metres, which meant that the AHD was 6.6 metres. You have to have 600 millimetres of freeboard on top because it is a flood plain. So as I was trying to say in my notes on page 2 or 3, when Rivervue acquired the site, they immediately set about changing the design, because they could see the benefit of the terracing. If you have been there and visited, they have created a beautiful village. The trouble is it is not quite kosher. They needed to have a much lower design AHD so that all the streets and all the tiering of the houses worked. Otherwise up in Redfern, if you had a 7.2-metre finished floor level at my place down at the bottom, that is about 800-odd millimetres higher. You add 800 millimetres higher to the driveways in Redfern, you would have a driveway like that, so a car would never get up it, or it would tip over if it tried to. So that is why they set about designing the village to cram all the units in that are physically there now, and it looks beautiful, but it would not work unless they had an adjusted design AHD of 5.85 metres.

Samantha RATNAM: Could I interrupt there? Sorry to interrupt, but are you suggesting that Craigie provided a report, the consultancy provided a report, as part of – you are saying in 2010 there was this report that after that you said Melbourne Water might have used to reconsider the flood plain overlay?

Colin WATERS: Yes, so that is interesting, isn't it? 2006 –

Samantha RATNAM: It goes through VCAT, yep.

Colin WATERS: 2010, Rivervue get hold of the property, even though it might have been through this directors' common, right? They immediately set about to change the design. When they bought the property, or acquired it, it came with a Moonee Valley City Council building permit, which did not suit their purposes, so they set about to change it. Then in 2010 or 11, whenever that Craigie report was –

Samantha RATNAM: Who commissioned that? Are you saying the developers commissioned that report?

Colin WATERS: Well, the Tigcorp Rivervue town planners would have commissioned Mr Craigie's company to do the new design works, which turned out to be inadequate. So we have got a guy, 2006, same company, setting 7.2. Next thing, we have got one that is –

Samantha RATNAM: So you are saying it is the same company that did the analysis in 2006 and 2010, but the 2010 result was different?

Colin WATERS: Well, hang on, you are putting words in my mouth there.

The CHAIR: I am sorry, but the clock has beaten us. Ms Bath, with a question.

Melina BATH: Thank you very much. Would you like to finish that sentence?

Colin WATERS: All I am saying is, the Craigie consulting business was a consultant to the VCAT inquiry back in 2006. Passage of time – all of a sudden Rivervue have a town planner, who I will not name, but he is there. I believe that town planner used Mr Craigie's consulting business to get the answer that they wanted. So that consulting business would have had a very intimate knowledge of the Rivervue flood plain situation when they have all of a sudden done something else.

Samantha RATNAM: Thank you.

Melina BATH: Thank you, that is great. Thank you for being here, and thank you for sharing your experience. We are very, very sorry that you had to endure that. Thank you for having the courage to talk about it.

I would like to talk a little bit more broadly. It might be something that you would like to take on notice and get back to us. You spoke about retirement villages and having a royal commission. If I could give you some responsibility to say, well, what about changing the *Retirement Villages Act*, is that something that you have thought about in your time waiting to get back into your homes? Is that something where you have got something you would like to share with us?

Stanislaw KORKLINIEWSKI: Most certainly. Reviewing the Victorian *Retirement Villages Act 1986* – I believe it is a very, very soft touch in that if I compare it to the Queensland Act and also compare it to the New South Wales Act, they are very, very strong in their form of legislation with regard to the responsibilities of what the owners should do and not do. For example, in Victoria the retirement villages say 'For sale' or 'Sold'; in New South Wales that is not allowed – it is 'For lease' or 'Leased'.

Melina BATH: Yes, it is a different construction.

Stanislaw KORKLINIEWSKI: Correct. So what I have found through my experience is that Rivervue continually hide behind the villages Act. Insurance is a perfect example. Rivervue say, 'I don't have to give you the insurance policy because the Act says I don't have to.' And I am arguing, well, I am paying for it through my service fee. Why am I not entitled to it?

Melina BATH: To have that transparency.

Stanislaw KORKLINIEWSKI: Correct.

Colin WATERS: Correct.

Melina BATH: And you pay monthly?

Stanislaw KORKLINIEWSKI: Yes, I pay monthly. And that is the point. So my point is, if you pay for something, wouldn't you like to have it? For example, your car insurance – surely you want to know what your PDS is.

Melina BATH: There should be a level of transparency. And are you saying that in New South Wales and Queensland there is that level of transparency within the Act?

Stanislaw KORKLINIEWSKI: I believe so. I stand to be corrected.

Melina BATH: But if not, that is your recommendation to us?

Stanislaw KORKLINIEWSKI: It is my recommendation. The same with emergency procedures. The Act does not cover any form of emergency procedures.

Melina BATH: Requirements, sure. Now, I know David Ettershank wanted to ask one more question, so I will give him my –

The CHAIR: He has only got 28 seconds.

David ETTERS HANK: Very briefly, have you sought legal advice on whether you have got a line of action in the courts against Tigcorp?

Colin WATERS: Well, hang on a minute.

David ETTERS HANK: Very briefly – you have got, like, 15 seconds.

The CHAIR: Yes, so yes or no?

Colin WATERS: It is a yes – a qualified yes, because we are exploring our options, right?

David ETTERS HANK: Okay, yes.

Colin WATERS: Have we physically done anything? No.

David ETTERS HANK: You have not actually sought legal advice?

The CHAIR: Excellent timing. That is the end of that question, unfortunately. We are going to have to move on. Ms Tyrrell with a question, please.

Rikkie-Lee TYRRELL: Now, previously you stated how much time and money was spent in temporary accommodation, because you were insured for it, but Mr Korklin –

Stanislaw KORKLINIEWSKI: You can call me Stan.

Rikkie-Lee TYRRELL: Okay, Stan. Thank you very much. You were not insured for accommodation. How much did you spend on accommodation?

Stanislaw KORKLINIEWSKI: We paid \$1890 per month. Overall we were a little bit fortunate that the people that we sought accommodation from were a little bit generous to us. They understood our circumstances, so our bill was just under \$9000 that we paid out.

Rikkie-Lee TYRRELL: Was that local, or did you have to go –

Stanislaw KORKLINIEWSKI: No, we finished up going to Mornington.

Rikkie-Lee TYRRELL: Mornington? Right, okay. That is no good.

Stanislaw KORKLINIEWSKI: Which, I might add, my wife was not very happy about, because her fear and anxiety was that she could not see her little grandchildren. We would pick up our grandson on a Thursday. We had a three-year-old little granddaughter, and my wife was a little bit traumatised. Her fear was that her little grandchildren would not know her.

Rikkie-Lee TYRRELL: That is no good. Before the flood event, were you aware of the flood risk posed at Rivervue? Did anybody at Rivervue or solicitors or an agent you may have used prior to purchasing at Rivervue tell you?

Stanislaw KORKLINIEWSKI: No.

Colin WATERS: I can answer that, Stan. When I married my first wife, she lived just down the hill and up around behind Coles. That was in April of 1974. The flood came through in May of 1974, so I was acutely aware of the flood at that location where her house is. So when I was talking to the salespeople about flood mitigation, it was pretty much the first question I asked, and they said to me, 'Oh, don't worry, Mr Waters. We've got all these pondage swales and land swales; it's all been professionally designed and flood-proofed.' So like an idiot, I accepted it. All of this information – I had no idea what a one-in-100-year flood meant. I have had to teach myself, so I sat down and taught myself. What has happened is we have been constructively deceived into buying. When I talk to my neighbours, guess what – it is the same sort of story, because a lot of the people are locals that have downgraded. They came from the area, and they all know, 'Oh, gee whiz, there's a problem.' And they have all been told the same lie. It is as simple as that.

Stanislaw KORKLINIEWSKI: Just to add to that, I have spoken to and I have written to the village manager regarding sales et cetera. I was told, and it is in writing, that we should not rely on the commentary of salespeople but we should adhere to the plans and the contract, which absolutely floored me.

Rikkie-Lee TYRRELL: So when you insured your properties prior to purchasing them, did they mention any flood risk?

Stanislaw KORKLINIEWSKI: No.

Rikkie-Lee TYRRELL: Thank you.

The CHAIR: Thanks. Ms Broad with a question, please.

Gaelle BROAD: Thank you. My question kind of leads on from Rikkie's question in a way, but if you were aware of any flood risk, would that have changed your decision?

Colin WATERS: I would not have been there.

Stanislaw KORKLINIEWSKI: It is as simple as that.

Colin WATERS: Because we bought off the plan anyway. You are buying an imaginary – 'Here's the vision and here's the lot.' I said to my wife, 'I must be stark raving mad to want to come into this place, looking at the onerous conditions of the contract,' and I am thinking, 'Happy wife, happy life'. So you are buying a lifestyle, and honestly, the lifestyle – the place is brilliant. It is magic. The trouble is –

A member: It floods.

Colin WATERS: You know.

Stanislaw KORKLINIEWSKI: Yes, happy wife, happy life. All my family live overseas. For us it was great. We could lock the door, go over and see my family in Europe for three or four months and not worry about a thing and just sit back in our golden years and relax et cetera. That did not happen.

Gaelle BROAD: Well, I think we should take a recommendation from this committee – 'Happy wife, happy life'! But are you aware of plans now for the Rivervue village? Are there plans for further development on the site?

Stanislaw KORKLINIEWSKI: Yes, there are.

Gaelle BROAD: Okay. What is your view on that? Should that be prohibited?

Stanislaw KORKLINIEWSKI: They have stayed seven, which I personally have objected to until such time as we know exactly what is happening with the floods et cetera. The other issue that arises to my mind is that in the event of a major peril there is only one exit, and I just do not see how all the residents would in fact get out of that village, quite frankly.

Gaelle BROAD: Good point. How much time have I got left, Chair?

The CHAIR: Two minutes.

Gaelle BROAD: That is fine. Well, just briefly, I guess, what support have you had since the floods? Have you had any calls from flood recovery officers in the area or anything aside from the village, just generally – any sort of check-ins to see how you are going?

Stanislaw KORKLINIEWSKI: From my point of view, Moonee Valley have been good in that they rescinded nine months of rates for us. I also need to declare that I am on the Moonee Valley committee for residents. Our endeavour is to help residents as such. From that point of view they have also offered us care for mental health et cetera, so for my part, for me, they have been proactive because of my condition, yes.

Gaelle BROAD: That is positive.

Colin WATERS: In my case, my wife has had some counselling – probably organised by Rivervue, I think it was. So there has been something, but most of it has come from our own initiatives. When you asked us about looking at our legal options, we thought, ‘Well, we’ll go along to the government-sponsored legal aid people,’ and things like that. So we have done that. And they understand the story crystal clear, and we are working through those issues.

Gaelle BROAD: Do I have any further time?

The CHAIR: Thirty seconds.

Gaelle BROAD: Okay. Can I cede my question to Ms Ratnam?

The CHAIR: Yes.

Samantha RATNAM: Just a follow-up question – on point 8, Mr Waters, of your submission you talk about the minister in 2015 compelling Melbourne Water to investigate the ultimate changes to the land subject to overlay.

Colin WATERS: Yes.

Samantha RATNAM: Do you have any evidence of that? That is the first time we have heard that there was some ministerial pressure. You can take it on notice and provide it.

Colin WATERS: Well, look, in 2006 we had got a sensible situation prevailing of how you build houses on that flood plain – 2006. Now, in 2015 –

The CHAIR: I am sorry, but the clock has beaten us. Perhaps you can provide that answer on notice.

Samantha RATNAM: I am happy for you to give it on notice – type that up.

Colin WATERS: Just read the rest of it.

The CHAIR: Okay, it is in there. All right. Well, look, I am sorry. This has been a very tricky process. As you can see, there is only a short amount of time for each of us to ask you questions, but I want to congratulate you both on coming in. You presented a really interesting insight and experience that you have been through as a result of the floods. So thank you, Colin, and thank you, Stan, for coming in today. We really appreciate it.

Witnesses withdrew.