

# CORRECTED VERSION

## SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

### Subcommittee

Melbourne — 3 April 2008

#### Members

Mr D. Davis

Mr B. Tee

Ms S. Pennicuik

Chair: Mr D. Davis

#### Staff

Secretary: Mr R. Willis

Research Officer: Mr A. Walsh

#### Witnesses

Ms J. Bell, and

Mr T. Pikusa, Royal Park Protection Group.

**The CHAIR** — I declare open the public hearing of the Legislative Council Select Committee on Public Land Development. This is a subcommittee of that committee. Today's hearings are in relation to the sale and development of public land. In particular I welcome first off today the Royal Park Protection Group — Julianne Bell and Tom Pikusa. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and is further subject to the standing orders and provisions of the Legislative Council. Any comments you make outside the hearing may not be afforded such a privilege. You will be provided with a Hansard transcript in the next few days for the opportunity to make typographical corrections. If I can perhaps ask Tom and Julianne to give us a short presentation — we have got half an hour — and then we seek to ask some questions.

**Mr PIKUSA** — The Royal Park group appreciates the opportunity to make a submission to the committee today. I am going to talk to the written submission that the group has provided to the committee, which is dated 16 October 2007. I wonder if members of the committee have got copies of that written submission.

**The CHAIR** — We do have a written submission here. I do not have a date on it, but I think that is probably the one.

### **Overheads shown.**

**Mr PIKUSA** — The group is obviously concerned about the alienation of public land in Royal Park which has occurred during the time that Royal Park has been in existence. About a third of Royal Park's original size has been excised over time to incorporate various specific activities, some of which have a public benefit and some of which do not. Part of the land has been excised for children's and psychiatric hospitals and services, a rehabilitation centre, a juvenile detention centre, a TAFE horticultural training centre, the Commonwealth Games netball and hockey stadiums, and the now privatised Commonwealth Serum Laboratories.

The thing we want to talk about today, though, is the development of the former Royal Park Psychiatric Hospital site, which was used for the 2006 Commonwealth Games and is now the site of the Parkville Gardens residential development. While the group acknowledges that not much can be done to change what has happened in the park, what we would like the opportunity to do today is to suggest some things that could be done or considered by the committee in the future to deal with the question of how you balance the public benefit of retaining public land in public hands against either a specific use which is for the public benefit or selling it off and using it for some private-type benefit. Really the Parkville Gardens development is a good example of the kinds of issues that arise when a use that was made of some public land no longer is of relevance and the question becomes, 'What do we do with the land now?'

You may not be aware of where the psychiatric hospital land is, but it is effectively a part of Royal Park that is right over near the corner of the Tullamarine Freeway. There is a part section of it on the overhead. It is an area of about 20 hectares which is over to the far western side of Royal Park bounded by the Tullamarine Freeway, Park Street and Oak Street in Parkville. It was reserved back in 1854. From 2000 the group tried at various stages, unsuccessfully, to have that land incorporated into the Royal Park proper when the psychiatric hospital closed. A decision was made to develop the land for the site of the Commonwealth Games village. That was done under the Commonwealth Games Arrangements Act. That act effectively abrogated the normal kinds of legislation that would apply to the redevelopment of some public land, like the Planning and Environment Act, the Heritage Act and the Building Act. Of course under those acts there is the opportunity for members of the public to make submissions as to the benefits or the problems in using public land for a particular purpose other than what it was reserved for.

There was a lot of discretion placed in the then Minister for Commonwealth Games, Justin Madden, to decide how the land was developed. When you look at the detailed agreement that was made between the government and the developer of the land, you see that while there was a requirement that the developer provide accommodation for the athletes for the period of the Commonwealth Games, it was nonetheless pretty much the case that most of the land was going to be subsequently developed for residential private development. At that point obviously the public ownership transferred to private interests. The concern really was that the alienation of land in this case was made highly discretionary on the minister, and there was, once that decision was made, very limited opportunity for any kind of consideration of the public benefits of losing that rare inner-city land.

You might say that to develop the Commonwealth Games village we needed to get rid of some of the impediments that can be thrown up by things like the Planning and Environment Act — namely, a question of timing. If you have got two years to develop a village and you have got a process in place where you think it is all going to happen properly, then maybe there is a public benefit in saying, ‘Okay, we do not want the normal rules to apply, but then once that development is finished they come back into operation again’. That did not quite happen here. There are still some exclusions to the way that land is being developed which are probably not warranted in circumstances where it is basically now just a private development.

The other thing the group was concerned about was that there is going to be effectively a sale of this land from the public to the private sector. When you look at what we have been able to work out from the agreement as to what financial benefit the state was going to receive and when you look at what the state had to do, it does not seem to add up.

At pages 5, 6 and 7 of the submission there is some more detail about the kinds of concerns that the group has identified from the agreement which seem to suggest to the group that yes, there is obviously a financial benefit that the state has obtained from the sale of this lands, but in reality it looks as though the state has probably paid more money out to the developer to ensure the development of the Commonwealth Games village. We cannot say that is the case for sure, because various financial details in the agreement are not publicly available, but it just seems as though that is highly likely to be the case. You have got to think that it is 20 hectares of prime inner city land that was held by the public, and it has basically been given to the developer. Of course that may or may not be the case, but that is the concern the group has. The issue that the group has with that arrangement is that there just does not seem to have been an opportunity for the public to consider whether that is really the best way for this to have been gone about.

Paragraph 24 states that the group believes the games village represents the alienation and sale of public open space for minimal financial benefit, the loss of 20 hectares of inner city parkland with over 1900 mature trees cleared, the loss of wildlife habitat and the destruction of Royal Park Hospital’s heritage-listed buildings. Despite the fact that they are incorporated on the state heritage register, they have nonetheless been effectively subdivided and are now being sold of as units, in the group’s view, without proper regard for their heritage significance being given. There was a commitment by the Minister for Commonwealth Games at the time to say, ‘What we will do is ensure that there is some public use made of those public buildings in the final development’, but it seems as though that has not happened and it has all just been — —

**The CHAIR** — Public or community use.

**Mr PIKUSA** — That is right, yes. At paragraph (f) I note that there is the potential for the land banking of valuable inner city former public land by the developer until 2018. That is because the agreement provides that while initially it is hoped that all the development on the land will be done by 2011, there is the opportunity for the developer to say, ‘Look, the market conditions aren’t that great; I want to extend this period of time out for me to ultimately develop the land until 2015 and then again until 2018’. While there is not much that can be done about that, it is apparently the case that the developer has not only got this land, apparently for not a lot of money, but the ultimate financial return to the state, because it is dependent on the sale of units as the development occurs, may be drawn out till 2018. By that stage you think, ‘What is the financial benefit going to be at the end of the day?’.

**Mr TEE** — I suppose the reality is that when the developer gets paid, the state gets paid.

**Mr PIKUSA** — That is true, but when the state has put in a fair bit of money to allow the development to occur in the first place, back as far as 2004, to say that the end of our return will be in 2018, it is a fair bit of time that passes.

**The CHAIR** — It is a long time between drinks.

**Mr PIKUSA** — That is right. While some of that may well be picked up in the detail of the agreement, we cannot quite work that out from what has been made available, but you have to wonder what the actual benefit is, at the very least, in a financial sense. There are obviously as part of this development public uses that are being incorporated within the development. They include things like an aged care facility and some public housing which is interspersed within the units, townhouses and houses that are being developed. The thing is, though, that the state is paying for them as the development is going along. It is not as though the developer is saying that as part of the deal of you giving us the land, the developer is giving to the state, effectively, some units, houses and townhouses

that will be used for public housing. The fact is the government is paying for them as well. I suppose the group's point is this: in its view there should be a better way of balancing the — I will go back a step. The group believes that public land in inner cities and in Victoria is a very valuable asset and Royal Park demonstrates that over a period of time small sections of Royal Park slowly get taken away.

**The CHAIR** — Nibbled away.

**Mr PIKUSA** — Nibbled away at the edges, and each time a proposal comes along — —

**Ms PENNICUIK** — 'Munched' I have heard someone say.

**Mr PIKUSA** — Each time a proposal comes along there needs to be a proper consideration of what is the public benefit in keeping it, what is the public benefit in doing what it is that they want to do — whatever the proposal is — and what opportunities does the public have to contribute to that process?

I will finish in a moment, but the only thing that the group has come across which provides an interesting way of dealing with this issue is a bill that was put up by the New South Wales opposition entitled the protection of public lands bill 2004, and I make some mention of that at paragraph 27 and onwards in the group's submission. What that bill proposed was the establishment of a register of iconic public lands that would be afforded permanent protection from development. Further, it would be virtually impossible to remove those lands from the register once they were on there. A public land protection trust would assess nominations to the register based on heritage, land management and community considerations.

The group believes that would be one way that the committee could consider establishing a process whereby these considerations over how public land is used or developed at some stage can be considered because it affords a greater degree of protection to a lot of Melbourne's iconic parks and waterways than at present. Also greater public scrutiny of the process of deciding what to do with public land if there really is some additional public benefit that could be considered. As well as that process the group recommends that the Crown Land (Reserves) Act process for alienating Crown land, or any proposal for development on Crown land, be subject to the permit process in the Planning and Environment Act; further that the Public Land Protection Trust be a referral authority in that process. The Public Land Protection Trust's role would be to ensure that due consideration is given to the public benefit of public open space whenever a proposal is made to alienate some or all of it.

The group suggests that that is a possible series of mechanisms that could be used to assist in the consideration of the public benefit of maintaining open space and then deciding what to do with proposals that come along to use or alienate part or all of those public open spaces over time. There needs to be greater public consideration of these matters and it not be one where it is just at the discretion of a particular minister. Did you want to show some photos?

**Ms BELL** — Just to run through, if we could, the glories of the heritage buildings. You will see aerial views of the heritage complex prior to the development; the original administrative building that has subsequently been demolished.

**Mr TEE** — When was that demolished?

**Ms BELL** — It was demolished in 2004. The facade had been removed but the rest of the building was still intact. It was the office and laboratory of Dr John Cade who discovered the application of lithium for bipolar disorder. This, as you can see, was a convalescent ward — I think it was the female convalescent ward — and was restored under Justin Madden, \$5 million worth of restoration but unfortunately it has now been handed to the developer who is selling the units.

**The CHAIR** — Subdividing it?

**Ms BELL** — Selling them off as units. That is the male convalescent ward in its restored state. These are the buildings that have been retained, which were originally the psychiatric hospital staff buildings. That is one of the social housing blocks. Again these have been restored but converted into units. And that is it.

**The CHAIR** — Thank you, Tom and Julianne, for your presentation. There are a couple of matters I would like to follow up. The first is: your understanding or estimates of the financial return on this land, both to the developer and to the state as best you can estimate?

**Mr PIKUSA** — Yes. I have not done that assessment. All I have been able to do is from the agreement itself identify at paragraph 21 of the submission various expenses that the government has incurred and all I know from a press release that the government issued in about 2006 was I think that the estimated financial return to the state was in the order of \$88 million. But it appears as those there has been expenditure of at least \$60 million or \$70 million.

**Ms PENNICUIK** — At least on those figures. Yes.

**Mr PIKUSA** — As far as the financial return to the developer is concerned, I think there is in the order of 1000 lots and units that are to be developed at the site. I am not aware of the price of those lots or units, and what the anticipated return is but I understand it would be substantial.

**Ms BELL** — We understand the land was valued at \$250 million to \$350 million, and you might like to comment on that.

**The CHAIR** — That was a fair windfall for that public land.

**Ms BELL** — That is right. And the heritage buildings that the then Commonwealth Games Minister Madden had declared were going to be for future generations — that was in 2005 — were restored at public expense of \$5 million. Unfortunately, there was not sufficient accommodation during the Commonwealth Games and so they were subdivided. They were going to be left until after the Games. They were subdivided during the Games and now they have been passed over to the developer who is selling them between I think \$390 000 to \$900 000 a unit, and there are 33 units on the market at the moment.

**The CHAIR** — So this is the minister who had made a promise that it would remain public and he is now — —

**Ms BELL** — That is right, in a series of press releases. It was stated publicly.

**The CHAIR** — And what has the local member said, the member for Melbourne I suppose it is?

**Ms BELL** — No, there has been no comment.

**The CHAIR** — And the other issue is the trees. How many trees do you think have been lost, in total?

**Mr PIKUSA** — We understood in the order of 1500, 1600 trees.

**Ms BELL** — There were actually 1970 mature trees, and there were pre-settlement trees there, and there were subsequently plantings of deciduous and conifers for the hospital, and they were removed because of the difficulty of retaining forest gums, of course, in a dense housing development. There are now — I counted the other day — 13 mature trees left.

**The CHAIR** — Thirteen mature trees?

**Ms BELL** — Yes.

**The CHAIR** — Down from 1970?

**Ms BELL** — Out of 1970, and that is not counting the rest of the vegetation.

**The CHAIR** — It has been moonscaped?

**Ms BELL** — It has been, indeed.

**The CHAIR** — To the point at the end of your presentation about the protection of public lands bill, essentially what your organisation is advocating is some form of protection, perhaps similar to the New South Wales proposal?

**Mr PIKUSA** — Yes.

**The CHAIR** — And that there would be systems that would not allow a minister, without going through a detailed public process — —

**Mr PIKUSA** — That is right, yes.

**Ms BELL** — If I could just say this: as it was envisaged to operate in New South Wales, the public would make nominations and then they would be examined in a process and approved for inclusion in the trust. This came up in New South Wales with Callan Park, which was the equivalent of the Royal Park psychiatric hospital, on Sydney Harbour in heritage buildings, similarly about 20 hectares of prime parkland, and it was destined as a development site. It was saved. In New South Wales the Public Land Protection Trust legislation actually failed; however, there were individual acts of legislation to save Callan Park, Hunters Hill High School and Erskineville Public School and the quarantine station at the heads.

**Mr TEE** — The psychiatric hospital — the parts that have been now, I think you said, renovated and turned into housing — were they being used for anything prior the Commonwealth Games development? What was the accommodation being used for?

**Mr PIKUSA** — They were not used from 2000 when the psychiatric hospital closed, so they were at that point derelict, but then the decision was made in about 2003 or 2004 to redevelop that land for the Commonwealth Games, and it was at that point that a decision was made to redevelop the psychiatric hospital buildings substantially for residential development with a public housing or community centre inclusion in that.

**Mr TEE** — Is it the position of your group that none of that infrastructure should have been used for housing, either public or private, or for community?

**Mr PIKUSA** — I think ultimately the group would have liked that land to have been included as part of Royal Park. Obviously, that cannot be turned back now, and I think that really the group is wanting to make submissions today about what we can learn from that process. I think the main issue is that in the group's view there does not appear to be any financial return to the state, and that is a real shame because it is extraordinarily valuable land and it could have been an addition to the park, because once land like that has gone, it has gone, and there is less and less of it.

**Mr TEE** — I think the important bit is the lessons we can learn, or the part that interests me, I think, in particular, is having a look at other models, and I am interested in what you said about the New South Wales proposal. I suppose the concern I have is this: who is it that ultimately defines what is iconic public lands in the sense that I suspect there would be certain sites where there would be furious agreement by everyone in this room? I suppose it is more the marginal areas, and I suppose the question then is what authority and how do they balance the various views? Do you have a view on that at all, and I suppose I have in mind that ultimately this site was approved, or the power was given by Parliament to the minister, and ultimately that is the supreme body in terms of accountability?

**Mr PIKUSA** — Of course.

**Mr TEE** — But I am just wondering what views you have about who it is out there who can determine what is iconic public land?

**Mr PIKUSA** — When I first read the bill, the first thing that came to my mind was that the same sort of process would need to be gone through in the same way that you nominate something to the Victorian Heritage Register. It is either determined then by the executive director or by the heritage council, who are a body of people brought together with various backgrounds and different heritage issues to take some submissions from the public about it and then make a decision and a recommendation. You are right, it is a difficult process because there are some obvious places where you could say, 'That is clearly public land that we should keep forever because of its iconic status'. When it comes to more discrete issues of public benefit, I suppose, you would need some kind of expert group or people with some expertise in different areas to assess these things.

**Mr TEE** — I am not for a moment suggesting there is an easy answer. I think it is an issue that we are grappling with, and that is how do you decide who makes the decision on about what is iconic or not?

**Mr PIKUSA** — That is right.

**Mr TEE** — I am not saying it is an easy way through.

**Mr PIKUSA** — If you look at some of the things that are on the heritage register you might think, 'I do not know how that got on there', but you know at least that when things are nominated and actually then included on the register that they have gone through a fairly rigorous process to determine: is there a benefit to including this on there? What is its heritage status?. There is a whole range of things that influence that decision, and ultimately an expert body of some sort comes to that conclusion.

**Mr TEE** — These buildings are on that heritage register?

**Mr PIKUSA** — Yes, they are.

**Mr TEE** — I suppose the question is: does that then place constraints on how those buildings can be used and modified?

**Mr PIKUSA** — Normally it would, but because of the specific legislative arrangements that came into place for the Commonwealth Games they do not apply other than — —

**The CHAIR** — The minister can do anything.

**Mr PIKUSA** — Pretty much.

**Mr TEE** — Has there been then a conflict between their use and their heritage listing?

**Mr PIKUSA** — Yes.

**Ms BELL** — May I also add to that that we did not have here that it is listed on the Register of the National Estate in Canberra. These buildings are regarded as possibly the finest example of Federation Queen Anne-style domestic architecture — as it is called — in Australia, and for it to be disposed of so shamefully has been a matter of great concern throughout the community. The second thing — the historic aspect of it — is that the hospital itself was a model for turning a lunatic asylum into a psychiatric hospital with proper care for the insane — a hospital for the insane. That is why it was set in a park and had a farm attached for the proper care of patients. It is historically extremely important in the history of psychiatry. It was a laboratory for Dr John Cade and so on. There is no relic; there is no legacy of anything. We proposed to keep the mortuary and pathology block, which was one of the leading pathology centres in Australia at the turn of the century and until the 1940s. We proposed to have that as an information and referral centre. That was refused. We were not even allowed to keep that. The only memento is the name of one of the streets, which is Cade Way.

**Ms PENNICUIK** — Thank you very much, Tom and Julianne. I would like to start by saying that one of my first jobs when I left school was working in the kitchens at the Royal Park Psychiatric Hospital, so I am fairly familiar with it — or at least with the kitchen part of it — but certainly with the site and its beauty. I concur with your description, Julianne, of the historic value of that site. To my mind it is an absolute tragedy that we lost the laboratories of Dr John Cade, and now we are losing the major Queen Anne buildings. It appears to be a lost opportunity to lose buildings of such stature and significance for the community into the future and to celebrate and remember all those things you mentioned, whereas now it will be occupied by private people and therefore not available to the public. With all that in mind, and the tragedy that has befallen the site, it is good that you have come here. In paragraph 5 you are saying you are proposing some ways that might in the future better balance the consideration of the public benefit of retaining open parkland — and significant heritage buildings for community use, I would add — when a proposal is made to alienate them. That is really the nub of the issues that are before this committee. We have seen a number of tragedies such as this one. Tom, earlier you said that some inappropriate exclusions still apply to the site. Could you expand on that?

**Mr PIKUSA** — The main one is that the Commonwealth Games Arrangements Act effectively suspended the operation of the Planning and Environment Act, the Building Act, the Heritage Act and pretty much any other act that might get in the way of the development, for the purposes of developing the Commonwealth Games village. So far as I can tell those exclusions still apply even though ostensibly now — —

**The CHAIR** — Until 2011, I believe.

**Mr PIKUSA** — Unless the agreement is extended.

**The CHAIR** — Unless it is extended.

**Mr PIKUSA** — Yes. Effectively it is private development that is occurring on the land without the normal types of checks and balances that you get in those bits of legislation. To me there is obviously a benefit in suspending potentially that legislation for the purposes of developing something like the Commonwealth Games because it needed to be done quickly, but after that, if it is just a private development, why should he retain the benefit of those things?

**Ms PENNICUIK** — Arguably if those acts came back into being, once the Commonwealth Games was finished, then we might see the Heritage Act applying — —

**Mr PIKUSA** — Yes.

**Ms PENNICUIK** — In terms of the buildings.

**Mr PIKUSA** — Although it may be too late now because they have already been developed.

**Ms PENNICUIK** — Yes. My next question is: how far has the hiving off of those developments proceeded?

**Mr PIKUSA** — As it relates to the heritage buildings there, I think it is 100 per cent.

**Ms PENNICUIK** — Do you know how many of them have been sold?

**Mr PIKUSA** — I am not sure, no.

**Ms PENNICUIK** — In paragraph 25 you mention that the development of the site is having a deleterious impact on Royal Park and surrounding suburbs and the green link. Can you expand a bit on that for us?

**Mr PIKUSA** — I think that is from the perspective that before the development occurred there it was a marvellous open space, and it really linked the existing Royal Park land, which is further to the east and to the river — —

**Ms BELL** — And to the Moonee Ponds Creek.

**Mr PIKUSA** — And to the Moonee Ponds Creek, excuse me, yes. But now that it has been effectively wholly subdivided into a private development those links are not in existence any more except through what is now a new roadway, or network of roadways I should say.

**Ms PENNICUIK** — Also I am familiar with the New South Wales bill and the idea of the public land trust that was integral to that bill. Following on from Mr Tee's questioning, I suppose the benefit of something like that is that you take out the political aspect of decision making by a government — any government of whatever persuasion — on what happens to a site, and you have got an independent body overseeing that. Would you say that is the major benefit?

**Mr PIKUSA** — Yes. And while you cannot obviously exclude the political influence, it is subject to a more open scrutiny.

**Ms PENNICUIK** — Yes, so the public is involved.

**Mr PIKUSA** — Yes, and possibly — we would like to think — a more objective scrutiny from the particular issues that are raised, in the same way that Heritage Victoria operates.

**Ms PENNICUIK** — Thank you.

**The CHAIR** — Can I thank you both for your submission — a very comprehensive and well-thought-through submission. I think there are some significant lessons for us. Thank you again.

**Witnesses withdrew.**