

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 C. Jeddou, Friends of Chicquita Park; and

Cr R. West, City of Kingston.

The CHAIR — I welcome Cathy Jeddou and Rosemary West from Friends of Chicquita Park.

Cr WEST — I might just correct you, Chair. Cathy is presenting for the Friends of Chicquita Park. I am the ward councillor to back her up.

Ms JEDDOU — First of all, thank you for the opportunity of making a presentation today. I am stepping in in the place of Colin Long, who has actually made the submission but unfortunately has had to go overseas so he is not available to speak today.

The CHAIR — I welcome you doing that and if you could perhaps just make a brief presentation and then we will ask some questions.

Ms JEDDOU — I presume you have all had an opportunity to read a little bit of the history of Chicquita Park. It is a small parcel of land in Mentone which contains some locally significant remnant vegetation. It was 81.5 hectares and a much loved park by people wide and far who used to come from the municipality to visit this particular block of land because of its unique character. It is one of the last remaining pieces of coastal heathy woodland left and it had potential to recruit and regenerate what is possibly lost vegetation now.

The real reason we are here today is — it is too late for our park; as you can see from the photos, it has been trashed — to stop this from happening to other significant parcels of land. We feel particularly let down and think the planning process that has been applied here has failed miserably. The land was owned by the department of defence since the 1950s and rented to the local council for use as a park land. A former councillor said before amalgamation that the intention was to give the council opportunity to purchase and preserve that park and that that was always council's intention. Unfortunately the previous federal government decided to sell the park. As you are probably aware, Crown land does not come under a planning scheme.

The CHAIR — Federal land?

Ms JEDDOU — Yes, federal land. So it was sold unzoned, given the interim zoning of the underlying zone as residential and sold for residential land. That, we feel, was the first, the biggest, mistake. Once that federal Crown land has passed into private ownership, it is very hard then to retrieve that for what was necessary, in this case, remnant vegetation protection and also for public open space.

The land itself was in the Kingston planning area, which in the whole of the municipality had the third lowest provision of public open space. Two adjoining areas had the first and the second lowest. The area is very short of public open space, and a lot of people bounded by Nepean Highway, Warrigal Road, Lower Dandenong Road and Centre Dandenong Road, in that little pocket there, were reliant on this park for recreation. A lot of elderly people live in the area and needed that for the passive recreation space that was not afforded in other parks where kids play ball games and so on and so forth.

Our biggest concern with the planning system is that we as a resident group have to learn it as we go. This is a one-off event for us. We are not familiar with processes, we go on a very sharp learning curve, but at every turn we seem to be thwarted or we have to learn how to do the process first, and it is very hard to participate under those circumstances. We sought assistance from our local council representative, who was one of our members initially and stood on the grounds of protecting the park and was elected. We sought help from our local member, Janice Munt; we sought assistance from the Community Development Fund; we appealed to the state planning department, the Minister for Planning. Everybody was very sympathetic, everybody acknowledged that the park was worthy of saving, that it had significant vegetation, but nobody was prepared to put up the money.

If that land had not been sold by the federal government into private ownership on the expectation that it could be developed for residential land, we feel the outcome could have been very different. We feel that the state government could have intervened and refused to allow — to make it known to any prospective developer that the land would not be developed for residential purposes. It is already in an area of incremental change: all backyards are now getting second, third and fourth dwellings; houses are knocked down; units are developed; the density is intensifying all the time. But the open space that these people need is being diminished. That is what we would like to see; maybe this committee could take that into consideration.

We feel that the democratic process, having seen up close how it works, is not a pretty thing. We rely on elected representatives. It is supposed to be our democratic right to have people represent us. As ratepayers, citizens,

taxpayers, we are all of those people. We find that not only did they fail to represent us, but they undermined us; they actually worked against us. Two of them in particular — a former state member and a former council member — both ended up representing the developer at subsequent planning processes. It just does not seem right. They were not the current members — previous members.

We were told to participate in the process and that a planning panel would be appointed which would decide on planning grounds for what should be the outcome for this park. We ratepayers and taxpayers paid for a 10-day planning panel hearing, only to find that the outcomes of that hearing were ignored. The planning panel recommended that the responsible authority, the council, undertake an open space study and also an environmental management study to see whether the council had the wherewithal to manage the environment were the park to be saved; and under those conditions the planning panel recommended that the park should be saved 100 per cent.

The open space study revealed and confirmed what we already knew: that yes, indeed the area was short of open space, that it was very short of parkland of this particular nature and that it ought to be conserved on those merits. The environmental management study revealed the same: that yes, the council could manage and had the resources to manage it. An eminent ecologist, Jeff Yugovic, did a survey of it and said it could have been used as a demonstration site for alternative lawns and alternative garden types, because it had existing wallaby grass and the like. He said it could have been shown how you can have grass without rain. The remnant vegetation survives in a drought, and it could have been a demonstration. Another point he made was that the site most likely contained a remnant seed bank which could have been regenerated with burning or smoke water treatment. It is a shame that that is now lost. It has all been dug up, transported, buried and trashed. So we had a real opportunity to do something here to learn to live with less water — 10 of the last 11 years have been all-time dry years — and with dry conditions; we had the wherewithal to start doing that, and now it has been lost. We feel really let down. We think a good opportunity has been missed here, and that all levels of government — all of them, from the federal and state to the local government — have failed to show a bit of leadership and a bit of foresight here.

The CHAIR — Cathy, I am interested in two things here, I guess, from what you have presented, and thank you. The first is this issue of federal land, and yours is not the only parcel that we have evidence on. Do you think there should be some process in operation where the federal government makes an offer to state and/or local governments prior to moving — —

Ms JEDDOU — That did happen.

The CHAIR — Yes, I know, but I just want to step through. Do you think there should be a process of some type like that?

Ms JEDDOU — Yes. That happened in this instance, but the federal government wanted residential land rates for it, so they would not accept it.

The CHAIR — So the first thing is the approach. The second thing I ask is: do you think, given that federal or commonwealth land is in effect public land, there should be some reasonable consideration to transferring some or all of the land in various cases to the state or local authorities?

Ms JEDDOU — Absolutely, even that land should be zoned properly. It is unzoned land. It should actually go through the planning process to determine what the land use should be prior to the land being sold, because once a developer has paid X amount of dollars, the argument put forward is that ‘Even though I think he is a punter and he has bought that in the hope that it will be zoned in his favour and he has taken a risk’, the risk is ameliorated by the fact that he has already paid the money. Councils, state government officials, and councils officers particularly, feel ‘He has already paid the money. How can we then turn around and say this should be public open space?’.

The CHAIR — Sure, but I am interested in getting to this initial process where commonwealth public land is being disposed of. Do you think there should be an approach to council or the state, as appropriate, and that then there should be some reasonable consideration, and not necessarily a full-value transfer, as it were?

Ms JEDDOU — I think the planning process should be applied earlier. The planning panel should have been applied before the sale. The use of the land should be determined before it is sold rather than being granted an interim zoning of residential status, because then everybody has the expectation that that will be developed for residential purposes. It has gazumped the planning system. The planning system has been made redundant.

Mr TEE — I suppose just on that, on the issue of offering the land, as I understand it, on this occasion in 1999 the commonwealth offered that land to the council for, I think, \$2.9 million and then two years later sold the land to Croft healthcare for \$2.23 million.

Ms JEDDOU — Exactly.

Mr TEE — So you have position where the commonwealth offered the land to the council for \$2.9 million, and then sold it for something like \$500 000 less than that — —

The CHAIR — Was an offer made to the council at that later point?

Ms JEDDOU — No, I not think so.

Cr WEST — It was part of the tender process. Council tendered — —

Ms JEDDOU — For open space — —

Cr WEST — About 500 — —

The CHAIR — So the government valuations were askew, in effect.

Cr WEST — The council tendered an open space valuation of, I think, \$500 000 or \$600 000 and the government awarded it to — —

The CHAIR — But — —

Cr WEST — But you are right, yes.

The CHAIR — But even if you accept that you are transferring it at residential value, the commonwealth's valuations were askew?

Cr WEST — That is right; they asked for too much from the council.

Mr TEE — Yes, so you get three evaluations here essentially — you get the council valuation on open land, which is half a million dollars; you get the commonwealth offer to the local government of \$2.7 million; and then two years later you get the commonwealth sale at \$2.3 million.

The CHAIR — Different from their estimate, in effect?

Mr TEE — Different to it, yes.

Ms JEDDOU — Yes.

Mr TEE — I suppose the other thing that jumped out is that initially the sale to Croft Health Care was, as I understand it — —

Ms JEDDOU — For a nursing home.

Mr TEE — For a nursing home, and I might add I think the public record is that Croft Health Care has been a significant contributor to the Liberal Party over the years, including at that time. But what you have then is Croft Health Care purchasing the land with plans to put an aged care centre on the site, and then onselling the land, as I understand it, to another developer, who puts on the residential units.

Ms JEDDOU — No, can I just say that Croft also changed his plan. His first proposal was not for a nursing home. The first proposal he put up for approval was for an 86-unit development on 1.5 hectares. That density is gobsmacking!

Cr WEST — Just a slight correction. He did say before the sale that the tender was based on a nursing home, but within a month of settling he came up with the proposal for a unit development.

Mr TEE — So he had gone a long way down the track and then came up with a housing development rather than what he started off on, which was the aged care?

Cr WEST — That is right, yes.

Ms JEDDOU — It was not actually a long way down the track at all. It was a matter of weeks.

Mr TEE — It was a matter of weeks. That is how we ended up with the residential issue. I understand there was an appeal to the Prime Minister. Was there any feedback or follow-up on that?

Ms JEDDOU — Yes, we did, we got a letter from the Prime Minister.

Mr TEE — I should say the then Prime Minister.

Ms JEDDOU — The then Prime Minister, who said it was a state planning issue and referred it to the state planning department.

Mr TEE — Even though this is Crown land and there is no jurisdiction for the state planning minister over what is Crown land?

Ms JEDDOU — I think by the time the Prime Minister responded, which was several months after he received our letter, the land was well sold. It had actually been sold for the second time, so it was not probably any longer — —

The CHAIR — So it was a state matter at that point.

Ms JEDDOU — This has been going on for six or seven years, and they have only just started building.

Cr WEST — But we had written to the federal government before the sale and Brendan Nelson was then the defence minister, I think.

Ms JEDDOU — We had a deputation with Brendan Nelson.

Cr WEST — The friends had a deputation with Brendan Nelson. Brendan Nelson said, 'How about if we just develop this little bit here' — indicating about 10 per cent', and the friends said, 'Well, we can probably live with that'. Then it turned out that the proposal was to develop all except 25 per cent.

Mr TEE — It was defence that ultimately sold off the — —

Cr WEST — Defence, his defence policy.

Mr TEE — As I understand it, the original owner then — that was the Croft group — onsold it to Omni. Do we know what sort of profit it made when it onsold it?

Ms JEDDOU — We have never actually found out how much they paid for the land, but they will make millions because the subdivision, some of the block sizes are 80 square metres; the average is probably 120. My block of land, which is supposed to be in keeping with neighbourhood character, is 800 square metres. Of the people adjoining the park, one house with its backyard has had eight units overlooking it or facing into it probably 3 metres off the fence line.

Ms PENNICUIK — Thank you, Cathy, for coming today — because you must be broken-hearted — and trying to offer suggestions to prevent us getting into that situation again. It seems to me that if all things were working well at the state level — and it is a big 'if' — and that was actually state Crown land, possibly if it had gone through the DSE assessment because it had so much remnant vegetation on it of, you would have to say, state and national significance, DSE probably would have said, 'That land cannot be sold because it has environmental significance'. But because it was federal Crown land there was no such process. Obviously there is no such process at the federal level whereby, for example, the federal environment department assesses the land before it is sold. Under the state scheme as we know it, through the inquiries of this committee, any Crown land is first assessed by DSE to see if it has any environmental significance. If all things were working well at the state level, that may have happened. I am concerned that we have not quite heard all the things you have to offer. If you have anything more to offer by way of ideas as to how we can prevent this sort of thing occurring, we would be happy to hear them.

Ms JEDDOU — During the second stage, when the state government was involved, DSE did assess the land. It did not agree with Jeff Yugovic's report of the value of the vegetation.

The CHAIR — Who did their assessment?

Ms JEDDOU — They did not see it as viable. They doubted its viability, which I think is probably mistaken because once it passed into private ownership and stopped being mowed — you can see these coastal manna gum trees which have a beautiful spreading; they are of a quite beautiful spreading nature — it recruited. Once the council stopped mowing, because it is now private land, all of this vegetation has been self-recruiting. With a bit of assistance, as Jeff Yugovic suggested, we could have recovered — who knows what species are there?

Cr WEST — Giant mushrooms grew and it was amazing.

Ms JEDDOU — They popped up all over the place.

Ms PENNICUIK — Did you have more things to offer before I ask you any more questions? Do you have anything else to say about processes?

Ms JEDDOU — Only that with respect to public servants I know everybody is busy and people do not have time to do full surveys, but I believe the environmental survey that was done was done in a very quick time and only during the day, so they did not get the species, the night-time species were never recorded. After that park was raised and all the trees cut down, including some that should have been protected but had mistakenly just gone — —

Cr WEST — Some maturing ballarts were pulled up.

Ms JEDDOU — I went out at night and saw fruit bats that had probably been evicted from the gardens around here. They used to come and roost in that park at night, and they are just all flying around. It was just heartbreaking to see the birdlife that is just distraught. You can hear the distress in their calls. The fruit bats were flying around and had nowhere to land because all their trees were gone, from one night to the next. These are the environmental impacts that public servants working 9 to 5 do not see. That habitat or that flora and fauna was not recorded. The flora probably was recorded. I am no botanist, but the fauna that is there certainly was not all recorded, only what they saw in the half hour they visited.

Ms PENNICUIK — So is there any vegetation left on the site that could be rescued?

Ms JEDDOU — The few trees that are left are going to be so close to buildings, have their roots under roads or have their roots bored through to put services in and are unlikely to survive, I would say.

Cr WEST — We probably should have brought you plans. We could let you have a plan of the development that has been approved, and we could also give you Geoff Yugovic's plan showing the remnant features there. We could do that.

Ms PENNICUIK — You could provide that to us subsequently.

Cr WEST — We just realised when we saw the previous submitters.

Ms PENNICUIK — It was offered to the council?

Cr WEST — It was offered to the council for, I think you said — —

Mr TEE — Two point nine — —

Cr WEST — Two point nine million.

Ms PENNICUIK — So what happened there?

Cr WEST — The council said no.

Ms PENNICUIK — Is that because of the cost?

Ms JEDDOU — They are blaming a debt level, which was inherited from amalgamation, I think, because, again, there was a failure on the part of government — my understanding, anyway; there may be more to it than

this — a big dispute between the new Glen Eira and Kingston councils about who would bear unfunded superannuation liabilities, so Kingston council was left in a bad way. Their idea was they could not afford the land because they are hell bent on reducing the deficit.

Ms PENNICUIK — Yes. I suppose what I am getting to is one of the things that I think has come out of the inquiries that we have been making with this committee is: to all intents and purposes that land belongs to the people, because it belongs to the people as federal Crown land, so what I am interested in this committee feeding back to the public via the Parliament is that the pros and cons are probably the cons of that process, whereby big levels of government — federal or state — are insisting that the least financially able level of government pay for land that is already owned by the public. In fact if it had been offered to the council at no cost

Cr WEST — Or at half a million.

Ms PENNICUIK — Whatever.

Ms JEDDOU — Or at public open space value, which the council would have paid. That was really the value of the land that should have been retained. They all acknowledge that. They all say that it should have been retained, but, 'Our hands are tied' — you know? — 'We cannot do it; we cannot afford it', whereas — —

Cr WEST — An outstanding failure of process.

Ms PENNICUIK — But at the end of the day \$2.2 million was paid by a developer who is going to make gazillions out of it, so basically the public loses?

Ms JEDDOU — Not only did they not get the highest rate for the sale of the land — they cheated the taxpayers — but now all the profits from the sale of that land are actually going into developers' pockets, not to the people.

Ms PENNICUIK — That is exactly right.

Ms JEDDOU — And it is the people who have their amenity reduced, their environments destroyed. The streets around here will not carry the traffic from those 56 units. If there are a few tradesmen parked in the street, it is very difficult to get through now. What is the next thing? Are they going to take back the nature strips to park the cars?

Cr WEST — I have recommended that there should be an open space authority — I suggested a green wedges and open space authority — that should need to look at any proposals to alienate — —

Ms PENNICUIK — In your previous submission?

Cr WEST — In that other submission. My point is that in this case I think Colin Long has made some interesting comments about the associations between the developer and different levels of government and so forth which I think are very relevant. I think you need an agency that is independent of those that can probably assess the community benefit and the environmental benefits against other proposals, because I do not feel that that was ever done. There was another stage. The council did accept the federal government's proposal to sell the land subsequently — after council had said, 'No; we cannot afford that much money' — they did spend more than that on a community centre the year after Chiquita Park rezoning was approved, and they are now spending about the same on upgrading another community centre, so it is a question of values, whereas most people are actually hugely concerned about public open space. When the planning application went on display objections came from the whole of the municipality. It was not just the local neighbourhood; it was from as far afield as Blackburn, Frankston and Brighton.

Ms PENNICUIK — People are aware of these places.

Ms JEDDOU — People are very aware of public open space. They can see local communities being deprived and being diminished, and with this particular park people used to come from miles around just to enjoy this park and it is a tragedy.

The CHAIR — I think we are about done. I thank you both for your contribution and your earlier one. You have got a little bit more to add, Rosemary?

Cr WEST — I made a submission as a councillor, and I listed half a dozen open space issues just in my council ward.

The CHAIR — Yes. I remember that.

Cr WEST — And there is another one that has come up. One that is now going on sale is listed as a drainage reserve but to all intents and purposes it is a park. It has been revegetated.

The CHAIR — Where is that?

Cr WEST — That is in Patterson River, Carrum — on the edge of the eel race. It is the one at Tradewinds Lane. That is going to be advertised for sale shortly. It will be interesting to see what the community thinks. The problem is that the council is doing that to pay for part of the cost of extending a community centre. My colleague, Cr Greg Alabaster, who is also a staunch defender of Chicquita Park, also put in a submission where he briefly made some suggestions which I would not mind addressing. He is suggesting that the state government conduct a full audit of existing federal, state and local government public land and open space. I think he would mean your broader definition rather than the narrow definition that was suggested by some.

The CHAIR — We think we would agree with you on that.

Cr WEST — He suggests setting minimum levels of public land to be provided for community needs, such as a minimum number of hectares per thousand head of population. In this case there was an accepted standard of 2.4 hectares per thousand, and a study was done by ARCUE — the Australian Research Centre for Urban Ecology, based in the botanic gardens. They did a study looking at the amount of open space in the different municipalities. They just did it by municipality. We applied that same measure as part of council's open space strategy, and that is how we came up with the fact that this area and the other two adjacent were the lowest. Chicquita Park had, I think, 1.4 hectares per 1000 in that local area, and the other two areas of Cheltenham and Mentone close by have 0.2 and 0.4 hectares per 1000. Basically Greg is saying, 'Create a public land and open space plan to ensure that minimum levels are in fact provided and the needs of future generations addressed'. Greg is saying, 'Given that Melbourne 2030 is going to add to the population, we need more open space'. In fact Melbourne 2030 requires open space to be provided but — —

The CHAIR — It does not appear to be happening.

Cr WEST — It does not have any mechanisms, so it is not happening. Greg has got a couple of other ideas. He is basically talking about a levy — to increase the developer levy for open space. He is saying that that should be in proportion to the amount of open space in the area of the subdivision, so that in areas that are short of open space there should be a higher proportion. I would sort of suggest all of those points.

The CHAIR — We have a copy of that?

Cr WEST — That is the submission to you.

Ms JEDDOU — We would also support a public lands authority. I think there is too much pressure on councils and council officers from vested interests to get fair process in this. The council officers, that is their career path. If they alienate themselves from developers, they have got nowhere to go but councils for a career move. Councils can be — I have seen the pressure that is applied to them by — —

The CHAIR — Although in the last case we have just heard, it appears to be the councillors who are standing up?

Ms JEDDOU — We felt we were being undermined by the council officers as well. One of them actually made a submission under the guise of a local cricket club against the development of Chicquita Park, and against council policy too, by the way. He was a senior planner who was in charge of the case.

The CHAIR — I thank you both very much.

Witnesses withdrew.