

CORRECTED VERSION

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

East Kew — 26 September 2007

Members

Mr D. Davis

Mr P.Hall

Mr P. Kavanagh

Mr E. O'Donohue

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Mr M. Viney

Chair: Mr D. Davis

Deputy Chair: Mr B. Tee

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Secretary: Mr R. Willis

Research Officer: Ms C. Williams

Witnesses

Mr B. Walsh, president,

Mr D. Anderson, and

Mr M. Jackson, Kew Cottages Coalition; and

Mr G. Harris.

The CHAIR — I welcome to the proceedings members of the Kew Cottages Coalition: Brian Walsh, the president; Don Anderson; Geoff Harris; and Max Jackson. I understand that Ann Brewer will make a video presentation during the hearing. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Any comments you make outside the hearing may not be afforded such privilege. Witnesses will be provided with proof versions of the transcript in the next couple of days. Brian, could you make some opening comments and then we will follow with questions?

Mr WALSH — Thank you, Chair. Very briefly, on behalf of the Kew Cottages Coalition I welcome you and your committee to Kew. It has been a long road! I will ask Geoff Harris to make our first presentation from a live person, followed by Don and by Max, but first, Ann Brewer — our secretary, who could not be with us today — has kindly provided a short video, which we will run as an introduction.

Video shown.

Mr WALSH — Thank you, Chair. I now ask Geoff Harris to make a presentation.

Mr HARRIS — I have a correction. I am not associated with the Kew Cottages Coalition at all. I am an ex-regional planner, and my career extended over three decades, from 1955 through to 1985. I understand that the coalition has made a submission to the committee. I am not a member of the body, as I have said, and my views are quite independent from it. What I am about to say arises from my 30 years experience with the former metropolitan planning authority, the board of works.

I think the first thing — and I assure you this is not meant to be facetious in any way — is to understand some terminology, because there is enormous confusion out there in the real world as to what terms like ‘green belt’ or ‘green wedge’ mean. This is a green belt. In planning jargon a green belt is something that encircles a city, and there are various views as to where development should go, either within or beyond that green belt; whereas a wedge looks like that, a green doorstep. Its critical part is the apex. In this case the apex is the bit that forms the Kew Cottages land. The Kew Cottages land lies at the apex of a green wedge which relates to the Yarra Valley — and I will come to that in more detail.

However, it is important to bear those different concepts in mind, and, in the case of a green belt, one has existed around London for near enough to a century. London was perceived as being overcrowded, and it was important to disperse population from within the land, within the green belt, to other locations — new towns, and so on and so forth. So a policy of urban consolidation has not applied in the case of London. It has been quite the opposite. London was too big and had too many people, so dispersal was the aim, to planned new cities and towns. I just point out that we had the reverse policy applying, especially here in Melbourne.

The term ‘growth corridor’ was devised to refer to an area of limited width astride major transport routes within which town expansion or urban development may be permitted at some time in the future, separated by what we have called ‘green wedges’. In *Melbourne 2030*, at page 73, five transport corridors are identified, extending to and beyond Geelong, Ballarat, Bendigo, Seymour and the Latrobe Valley. Thus lands within these corridors are not within green wedges. Experience over the last century indicates that such expanded towns will inevitably coalesce and join with Melbourne unless permanently separated by large, low-density institutions or public open space. Long-term zoning restrictions are unlikely to be effective, and that is evident from the experience here over the last century.

Urban consolidation within Melbourne’s existing urban areas, with consequent reduction in outward growth, was raised as long ago as November 1978 in a board of works report *The Challenge of Change*. That was prepared at my direction. This caused some academic and

consultant furore at the time because it was a change in the notion as to how Melbourne should be developed, with all sorts of funding implications and so on.

Apparently now bipartisan support exists for urban consolidation, especially having regard to the contents of page 1 of the *Age* yesterday, 25 September. This is ironic because with ongoing urban consolidation it transpires that we know, to be crude, bugger all about costs of public transport, roads, utility services, schools et cetera to service expanded population and activities. At government level only dribbles of information are emerging, such as the fact that Melbourne's main sewer will need to be, if I recall correctly, trebled in capacity at enormous cost — I think the figure was something like \$2 billion-odd. With Melbourne's increasing overall population growth, the levels of urban consolidation, as distinct from outward corridor growth which is now supported, requires review — and I have not the slightest doubt about that. Melbourne's green wedges were shown as non-urban areas on page 19 of the Melbourne Metropolitan Planning Scheme 1984. This is a map of what it looks like.

And now we come to the Kew Cottages issue. That plan shows non-urban areas as well as urban areas. The non-urban areas are in two categories — areas of high ecological and landscape interest value — and those are the bits you will not be able to see on the map from that distance but which are the ones coloured green; and the orange ones areas are broad-scale, mixed or intensive farming. Here we are describing the attributes of land. This in no way relates to who owns the land or what. It is looking at the nature of the land and its qualities.

I just need here to point out — this is the important issue — that the Kew Cottages land forms the apex of this Yarra green wedge. There is not the slightest doubt that that was so. That formed part of a planning scheme, which of course was prepared by the Board of Works. It was vetted at state level and was ultimately approved by Governor in Council. We are talking about a statutory document in which the Kew Cottages land was in a defined green wedge.

We did not just dream that up from nowhere. There was a prior action at state government level which was of relevance. It was what was called a statement of planning policy; it was no. 4. That was initiated by the Honourable Alan Hunt when he was Minister for Local Government in 1971. Of course, with the ongoing urban consolidation, the apex portions of green wedges, including the one I have just referred to, in close proximity to urban facilities, will be under increasing pressure for release for urban purposes, as I pointed out in a report some time ago.

It is this one, *Melbourne's Green Belt and Wedges*, and I will supply a copy of that to you. On page 59 I pointed out in particular that we have an urban growth policy which places weight on growth within the built area rather than urban extension. Such a policy naturally puts pressure on the disposal of Crown lands for enormous income to government. Of course the economic benefit is quite clear. The important issue I am talking about is the extent to which such land should not be sold off for urban development. The current proposal for the release of that land for housing, in conflict with the thrust of a statement of planning policy and in conflict with the content of the metropolitan scheme, just makes nonsense of the planning process, in my view.

There is another way of looking at it— that is, what has happened to inner Crown lands from the 1850s to today? I will be brief here and just simply point out that there were retained Crown lands around Melbourne's central business district. You will not be able to see this clearly from that distance, but there is a plan on page 5 of my book. Those lands were retained. They were not sold off for farmland and so on. They were progressively set aside for parks —and other uses. The Kew Cottages land — I am pointing to the site — is within that retained land area. In Thomas Ham's map of 1852 that was then shown as Village Reserve. As you well know, the land has remained as a reserve, ultimately for asylums and so on, through to today's use. It is one of the remaining open lands along the Yarra, along with other important reservations.

The CHAIR — Can those documents be made available to the committee?

Mr HARRIS — Certainly; copies of all of these are here for you. Just in summing up, retention of the cottage land as open space is vital on two grounds: it forms part of that retained heritage Crown land dating from the 1850s; it also, as I mentioned before, forms the apex of the Yarra wedge. We must stop selling off the family jewels. They will become increasingly important with ongoing growth of population and despoliation of natural environment.

Mr WALSH — Thank you, Geoff. In the interest of brevity, Chair, we might just continue with the other presentations unless you wanted to ask questions.

The CHAIR — No, we will save the questions until the end.

Mr WALSH — Don Anderson is a parent and member of the coalition committee.

Mr ANDERSON — Like Mr Walsh I thank the committee for the opportunity to make this submission. As a member of the Kew Cottages Coalition and the parent of Bruce Anderson, a former Kew Cottages residents for 36 years, I tender the following submission for the consideration of the Davis committee in the hope that wise counsel will not let this shameful, undemocratic sale and misuse of public land continue unabated into the future.

Under the heading 'Due process', I would like to point out that the sale of any public land to a private developer or otherwise should require complete justification. The owners of the land, be they the legal or the traditional owners, should be fully consulted and their wishes carefully considered. This process is particularly necessary if the land has buildings or other improvements on it that are used for the good of the community and particularly its occupants.

In the case of the Kew Cottages site, the real owners, the people of Victoria, were never properly consulted by the government of the day when the decision was made to close the cottages and sell this property to a private developer. Instead of the Victorian public being properly consulted by either the Kennett or Bracks governments, both appear to have yielded to the pressure of private developers to allow this highly valuable land ideally located close to the Eastern Freeway to be redeveloped as an upmarket housing development for the financial benefit of both the government and the developer, and particularly the latter. A pretence used that there was a shortage of land suitable for housing development close to the city does not hold up, as there is and was at the time plenty of unoccupied Crown land within close proximity of the city and which was and still is today not fully utilised for any useful purpose.

I turn to land availability. One such area is the vacant land adjoining the Royal Talbot Rehabilitation Hospital between the Eastern Freeway and the Boulevard at *Melway* map reference 45, A1, which commands excellent views of Melbourne over Fairfield to the north and the city to the west. It appears to be virgin land providing limited usage for recreational purposes only. I have no doubt there is a deal of other Crown land available in metropolitan Melbourne which is currently underutilised and was at the time suitable for housing. To close the Kew Cottages and sell the site for a commercial housing development was in my view completely unjustified and a tragedy which, unfortunately, did not have to happen.

On the deinstitutionalisation myth, no doubt some government members may have been impressed by the claims made at the time by the deinstitutionalisation lobby that all institutions were outmoded and intrinsically bad. Therefore it was argued that they should all be closed and the residents rehoused in normal suburban houses. Then by some magical process they would become normal citizens and immediately accepted by their neighbours and absorbed into the local community. Unfortunately, except in a few rare cases, this has not happened, as anyone with a realistic understanding of public opinion and attitude could have predicted.

The claim by both the Liberal and Labor state governments and the state Department of Human Services that the Kew Cottages residents are better off in brand-new purpose-built residences located separately out in the community is highly debatable. Some parents and some former staff would disagree quite strongly with that claim for a number of valid reasons, the chief of which

are: (a) the lack of in-house medical and dental facilities, which were provided at the Kew site and which are now not available either at Kew or in the community residential units; (b) the pleasant, safe and relaxed ambience of the former Kew Cottages site where most of the residents could walk or relax in a park-like setting and enjoy the many tailor-made recreational facilities provided on the site in complete safety and in many cases with a minimum of supervision; and also (c) the existence of specialised educational, training and recreational facilities onsite, which were designed and constructed to suit the special needs of the intellectually handicapped and in some cases the multi-handicapped, which are not readily available to the intellectually disabled generally in the community.

I turn to health and educational services. In the case of (a) above, the medical facilities provided at the former Smorgon Medical Centre included a complete 24-hour nursing and dental service, staffed by fully trained and highly experienced doctors, dentists and nurses. The Smorgon staff fully understood the special needs of the Kew Cottages residents, who in many cases were non-verbal and illiterate. Therefore they were unable to communicate their symptoms and thus were not able to assist in their diagnosis and treatment without some form of approved restraint or the specialised communication skills of the staff. This high standard of service is understandably sometimes lacking in the community health system.

With regard to (b) above, despite the various assurances given by the Department of Human Services that it will be quite safe for the 100 or so intellectually disabled residents left onsite to walk around the site in relative safety, is of course a complete nonsense. The only speed-reducing devices to be used on the roads will be traffic humps located at intersections where speeding vehicles would have to reduce speed to turn or negotiate the intersection. The fact that most of the intellectually disabled residents have little or no traffic sense appears to have been completely ignored by the site planners.

With reference to (c) above, I find it difficult to justify how an excellent training and recreational facility such as the Perkin Centre, specially designed to meet the special requirements of intellectually disabled people and staffed by appropriately trained and dedicated teachers, could be abandoned in favour of using external training facilities that are not always adequately equipped to meet the special needs of intellectually disabled people.

On the question of economic grounds, the dubious claim that large institutions are very costly to maintain and operate I find very difficult to accept, when the cost of building, maintaining and providing the services for the 73 community residential units recently built by the government was at an average cost of over \$800 000 each, plus the cost of the 20 CRUs to be built on the Kew site for the KRS residents remaining on site.

There will also be the annual cost of maintaining these 93 CRUs, and that cost will only increase in time and should be considered. As the bulk of the building costs was in the purchase of the land and the demolition of any existing buildings, just imagine what could have been achieved with the injection of the equivalent \$60 million to \$70 million that this project is costing the taxpayer into the Kew Cottages site. A few older buildings could have been updated and possibly up to 200 new five-bedroom houses built on the Kew Cottages site. This would have had the very important effect of substantially reducing the urgent list of 1000 or more intellectually disabled people waiting for admission to full-time care, which successive governments, both state and federal, continue to ignore.

Then of course there is the question of running costs. How any government can claim that a large number of CRUs are cheaper to run in total than a large institution such as the Kew Cottages defies belief, when it is realised that the resident-to-staff ratio in a CRU is normally 2.5 to 1, compared with most institutions where it ranges from 8 to 15 or more to 1. The supporting administrative costs would probably be about the same in both cases. On the question of whether the Kew Cottages site would support an extra 200 CRU-type dwellings, the developer at one stage produced plans proposing over 300 new dwellings for this site.

In conclusion I would like to remind the committee that our forefathers had the foresight and imagination for the sake of the welfare of the intellectually disabled and psychiatrically disturbed people in the state of Victoria to acquire and dedicate this once-beautiful park-like site for the sole benefit and wellbeing of these people. It seems very thoughtless, unnecessary and unappreciative that this once-beautiful and historically important site is being decimated for purely financial considerations, without the proper and full approval of its real owners, the people of Victoria.

Also in closing, may I draw the committee's attention to a piece of poetry that is very relevant to this inquiry, adapted by Robert F. Riddiford, who used to be the president of CIPAIID, from an elegy written by the English poet Thomas Gray. It's title is 'Elegy Written on a Hill in Kew, the Former Site of Kew Cottages':

No church bell tolled the ending of their stay,
No cheering crowds to send them on their way,
But gone are they where people will not see,
To leave this hill to darkness and to me.

No voice had they to reach the seat of power,
When faceless figures fixed their final hour,
Their site too good for such as them to hold,
To richer citizens it will be sold.

These lesser ones to scattered sites must go,
And where and why is not for them to know,
Now gone the aimless wandering of their feet,
But safe were they from danger on the street.

From here I see the far-off city light,
And feel the sombre history of this site,
And pause to think of those unknown, unseen,
And contemplate the joy that could have been.

With thanks to Thomas Gray and Robert Riddiford. I have a copy, if you would like it, Chair.

The CHAIR — I think we have one, thank you very much.

Mr WALSH — I would like to introduce Max Jackson, who is a former chief executive officer of Kew Cottages.

Mr JACKSON — Thank you, Brian, thank you, Chair, and thank you, committee members. You will be aware of course that I have submitted written documentation to the committee, and I suspect at this stage you have not had time to look at it. As indicated by Brian, I was a former CEO of Kew Cottages for some nine years, and in all I spent approximately 14 years there as a teacher, CEO and coordinator of programs, but probably just as importantly I also come before the committee as someone who has had just on 40 years in the disability field, for the last nine of which I have been running my own consultancy through which I do lots of work with funded disability agencies — so I believe that I do come before the committee as someone who has a reasonable understanding of disability and in particular of families and people with a disability.

What I intend to do over the next few minutes is to seek to paraphrase the contents of my written submission and address in particular two of the three terms of reference — the two which relate to the sale and alienation of the public site for private development. In my paper I have indicated what I believe are two important definitions that the committee must address — that is, the definition of alienation, and you will note that I have not only chosen to select a definition as per the *Oxford* dictionary, but I have also chosen to use a definition that I understand is a legal definition. But I just want to highlight key words in those definitions. They are the words

‘estrangle’, ‘transfer ownership of’, ‘turn away’, ‘divert’, ‘a state of depersonalisation or loss of identity’, and ‘the power of the owner or tenant to dispose of interest in real or personal property’.

I also want to highlight for the committee what in my understanding the concept of public land means. I think a previous presenter indicated that in fact public land is not owned by the government, whatever the government of the day happens to be. Any government represents a political party, and a political party cannot have ownership of public land. The government of the day holds that public land in trust, and I might say that the public land that we are talking about, the Kew site, has in fact been public land since at least 1887, when Kew Cottages was first established.

I want to address what I have identified as nine core issues, and I will do each of them very succinctly if I may. The first is in regard to three critical documents that I believe the committee needs to make itself aware of. The first is what is known as the State Disability Plan 2002–2012. The other two documents are the one that I am holding up now, which is the Intellectually Disabled Persons’ Services Act 1986, and the second one is the Disability Act 2006. The importance in particular of these two pieces of legislation — and particularly what I will refer to as the ‘IDPS act’ 1986 — is that it is this legislation that was in vogue at the time the government made the decision to sell land. It is this legislation that was in vogue up until the end of June this year, so it is this piece of legislation that must be considered in relation to decisions which have been made about the former clients of Kew Cottages. It cannot be dismissed. In any event, if we look at the Disability Act that came into being on 1 July last year, we see that that act indeed reflects the principles and the rights as articulated in the original IDPS act. I would urge that the committee make itself aware of the key tenets in those two pieces of legislation as well as the state disability plan.

In referring to the state disability plan I want to highlight the concept of choice as articulated in that plan. It is a particularly important choice, and it is one that I would argue very strongly that the committee must come to grips with. We need to note of course that the plan has been articulated by many government representatives over the last few years, including former Premier Bracks and former Minister Garbutt. In government documents it has been described as a hallmark of the Victorian government’s policy — that is, the government’s policy in regard to disability and how people with a disability ought be treated in this state. It also goes on to state that it reaffirms the rights that people with a disability have to live and participate in the life of the Victorian community, with the same rights, responsibilities and opportunities as all other citizens in Victoria.

So we cannot make light of the concept of choice as articulated in the government’s own policy documents. The interesting thing in regard to the Kew site, if we look at the concept of choice and its application as undertaken by the government, is that what the government has said is it will only allow 100 of the former 400-plus residents to have the choice to live on this site. Bad luck for any of the other 300-plus if they wanted to choose.

I note a question from the panel to the parents association representatives as to how many people might have chosen to stay on the site as opposed to how many may have chosen to leave the site. Might I suggest to the committee that the question is not about how many, the question is, even if there was one person who was forced off the site — and I deliberately use the word ‘forced’ — then the government has not adhered to its own policy of allowing that person choice. Very simple; choice is a very simple concept. In essence by not allowing those people who sought to stay, the government has in fact devalued what I would identify as the traditional occupiers of the site. It has devalued them to the point of saying, ‘You are not members of the community, because we will allow other members of the community to take over this site’.

I also indicate regarding the point of choice that in the IDPS act there is reference to a concept called general service plans, and these are articulated as being very significant in regard to individual people with a disability. It is a planning document that identifies the main life areas. I

submit to the committee that in fact, if we cannot consider an individual's living arrangements as a main life area, then we are sorely missing the point of what a general service plan is about.

Another important concept or entity identified in this document is an intellectual disability review panel. This panel in fact did as a job lot the GSPs of the people on the Kew site. They did not undertake the review of the individual GSPs according to the legislation, according to the law, so I would argue very strongly that in regard to the way this act is being followed in regard to the Kew Cottages clients in relation to their general service plans and indeed in regard to the way in which the IDP review panel looked at them, it was an illegal act.

I want to now look at a core issue called the principle of dignity and self-determination. This is one of four guiding principles in the state's hallmark disability policy, the state plan. Indeed it is described as underpinning the vision of the plan. We need to reflect on the words 'principle of dignity and self-determination', and then if we link them to the concept of choice — and we know that many people who wanted to stay on the site were told they could not — then we see that in essence the principle has been ignored. Those people were not given the dignity and were not allowed to self-determine where they were going to live.

I also now want to look at the core issue of the principle of non-discrimination, again hailed as one of the four principles of the state's hallmark disability plan. I would suggest that in not allowing those people who wanted to stay on the site and forcing them off the site — diverting them, relocating them — the government has been discriminatory. It has been discriminatory in two ways. Firstly it has discriminated within a classification of people — that is, Kew Cottages clients. Allowing some to stay on the site and forcing others off is a discriminatory act. It has also discriminated by allowing other members of the community to take over and live on the site while directing those traditional occupiers off the site.

I also want to refer to the concept of private versus public development. Let us be very clear that they are not one and the same. We have variable figures about the number of dwellings on the site, but one quote I have from government documents is that it is around 380 private dwellings and 20, I assume, social or public housing dwellings. The reality is that, even if the 400-plus former Kew Cottages clients had all chosen to live on the site, we would still only be talking about 93 dwellings and not 380 plus the 20 social housing dwellings. What we have actually got, very clearly, is nothing to do with public development. We have got a clear case of private development on what was public land.

I also want to make reference to the concept of what I have described as site versus accommodation. It is important that the committee distinguish between these two concepts. To me we are not talking about an institution, as some in what I would describe as 'the new right' would have us believe. The site is the site, and just as the government has chosen to build 73 dwellings off the site, it could equally have chosen to build those 73 dwellings on the site. This is not about the retention of old, antiquated institutions, this is an issue about providing options and choice and using public land as the site, not the institution.

I will now talk about the concept of community. As a writer in England when he was talking about it quite clearly articulated: the word 'community' is articulated as though it is a place. Let us be very clear — it is not a place, it is people — and as each of the committee members and everyone in this room knows, we all belong to multiple communities. What the advocates of the off-siting of the Kew Cottages clients would have us believe is that by staying on the site they are not members of the community, yet the same advocates will talk about people from the community living on that site. If any of the committee members believes that there is the potential for setting up a ghetto, as some advocates against cluster housing would believe, why do those same advocates not condemn village living for elderly citizens? The notion of community inclusion is being pushed by the government and by the policy gurus as though it is some new concept. Community inclusion is not about where you live; community inclusion is about who you are able to participate with. Let me assure you, after having worked on the Kew site for 14

years, those people had lots of participation both on the site itself and within the broader community of Kew, but what we now have is private development — for at least up to 95 per cent of the dwellings to be put on the site.

I now refer to the definition that talks about the state of personalisation or loss of identity. I noted a question from a committee member earlier seeking advice as to what assessments had been undertaken on those people who have moved off the site. Let me assure you that one assessment that has not been undertaken is a psychological assessment of what impact the move has had. At a time when as a community we are more concerned about how we deal with grief in our community, at a time when as a community we are more concerned about the stolen generations and orphans who were shipped to Australia after the Second World War, in 2007 we are prepared to move people out of their traditional home and not concern ourselves with the psychological impact that move may have on them.

Any psychologist worth his or her salt would tell us that moving house is one of the most traumatic events that anybody can go through. If we look at the legal definition of alienation, as I understand it it talks about the power of the owner or indeed the tenant. If we argue, as I have, that the owner is not the government but the public, and we know that in fact the government has not sought advice from the public as to its view about the sale of the land, then the government has transgressed this definition. Equally, given that the definition identifies tenants as having the option of selling up the property, again the government has failed the test of seeking advice from those people.

As I have indicated in my paper, I believe the committee has no option but to find in fact that the act of the government in seeking to sell off the land, the act of the government in seeking to have the land as private development, is illegal. I believe the committee can find no other outcome than that the government under all definitions of the term ‘alienation’ has in fact alienated the traditional occupiers of the Kew site public land. Let us be very clear. As the committee will note in my paper, I have quoted from some works by Huxley. Huxley says in the work that I have quoted from, ‘Who is going to watch what the engineers do?’, because what I argue and I submit to the committee is that what has happened in regard to the Kew Cottages site and what has happened in regard to the people, not just the land, is in fact a form of social engineering by this government.

Mr WALSH — Thank you, Max. Could we have the next picture, please? We are on time, I understand, Chair. It is not my intention to take much time today. I am here to answer questions, and it is a question really about why it has come to this after Max has talked about the alienation. I am sorry to say that we are not there on site today, as you understand, and I appreciate the work of your staff in trying to have this hearing there today. I also understand that we have a missing attendee — that we do not have the developer here today. We had originally understood that we were going to have Walker Corporation, the developer, here, and I think that is a crushing problem on our deliberations, and I would hope that we will see it before this inquiry before too much longer.

Mr TEE — I think they will be here in the week.

Mr WALSH — I have some additional information which I can give you. That is just the picture you have seen.

The CHAIR — Thank you.

Mr WALSH — Just let me try and put what Ann originally, and Don and Geoff and Max, have put into context — the context which brings us here today and everyone else here. It is why it is important that you are here, why we need you here today, and more specifically it is about how we get a better solution for Kew Cottages than you see there and how we get a better solution for the traditional owners, black and white. You only have to look at the front page of the

Progress Leader about a year ago to see how the Aboriginal traditional owners were treated or not treated — ignored — and how you would get a better solution for the environment and the issue of this site in relation to the Yarra Bend Park, which it drains into there, and ensure a better solution for the whole community.

How has it come to this? Why has it got as bad as it has? Is it just a cock-up? Geoff Harris has given us the expert advice about how those sites were looked on by La Trobe and the people who are planning green wedges and how it has disappeared suddenly with the stroke of a pen in Melbourne 2030 — exorcised in the dark.

We have heard the discrimination argument exercised against Victoria's intellectually disabled and their families, and the hundreds who are stuck — not here, the hundreds and thousands we have heard who are stuck generally in the wider community on Victorian government waiting lists — who have been denied access to that site for many years. I simply add this — and it goes back to the words of Dr Dax, who called for this inquiry two years ago; he was at one time chairman of the Mental Health Authority and probably understands what has happened in Victoria in this area over the last 35 years better than anyone else: in my experience that story is one of Victoria's failure, Victoria's neglect and alienation. It is not just being repeated in terms of the people, the most important part of the community; in everything we have looked at — the Aboriginal archaeological issues, the environmental issues, the heritage issues — the same problems come up time and time again. All the way through the people outside can see that the public transport issues have not been addressed, the traffic has not been addressed, the school issues have not been addressed, as we have heard this morning, and the neighbourhood issues have not been addressed.

This is supposed to be a project of state significance. It is not supposed to be neglected. It is not supposed to have dummies working on it, so how has it got so bad? Why has someone always apparently stuffed up? I say that it looks suspiciously like an engineered disgrace of the kind feared by Dr Cunningham Dax. He made a personal plea, and what he said in that plea was that you have to look at the relationships, when you look at the proposed and the actual sale of former lands like Royal Park and so on, between the governments of the day and the people who financially profited out of those sales, at the financial arrangements of the people who benefited, at the arrangements with the building organisations that are erecting the houses or have a financial interest in the destruction of the hospitals and the sale of their lands. That, I think we are starting to see now, is where the answer is to be found. That is where you, Chair, and your committee need to look to get to the bottom of this.

What have we found? We have found that patterns are now starting to emerge in what has gone on at the cottages, and they need to be further investigated. In the modus operandi of some of the developers, not just here but when they are in Tasmania and when they are Sydney, patterns are starting to emerge and people are starting to write about it in bestsellers. You do not have to go to the boring statutory planning acts. We will give you a bit of light reading, Chair. You can read Australia's best investigative reporter's comments about *Jonestown* and you will find every little red tick in there is about Mr Walker and the Walker Corporation, and what the Australian Broadcasting Authority found out about some of his financial dealings in Sydney 10 years ago. You can go to *Packer's Lunch* — if you can get a copy; it is going off the shelves pretty quickly, a reprint from last year — and you will find Mr Walker's well-known political lobbyist, former Senator Richardson, covered amply in there, too.

Some of the things referred to in those works have a direct bearing on what we are discussing here. As we heard earlier today, Senator Richardson was here in Victoria lobbying on behalf of Walker Corporation and, it suddenly turned out — although the *Age* when it broke the story did not know who he was working for altogether — also for Mirvac. What happened as a result of that? You had here in Victoria this contract, signed, sealed and delivered on 27 October 2006. Oh! Was there not an election on 25 November? Were we not in a caretaker period? Was the opposition consulted. To the best of my knowledge today, no, the opposition was not consulted.

On what basis and what legality was that contract signed, and what was the relationship between the people who met the person who came to plead for that contract and with the other parties who were involved in it? We have not been able to find out the details, Chair. I trust that you and your committee with the powers you have will do better than we have. Certainly some key government decisions seem to be related to those type of visits.

If you go right the way back to the caretaker period before the 1999 election, you find some of the same lobbyists at work, some of the same issues, and I have attached more detail here in that. I could go on. It is not hard for the public in the age of the internet and Google to find out a lot of this. You can find out about how Mr Walker ended up in court and how he was found to have falsified evidence and how he was charged and all the rest of it in terms of political donations. You can look up the publicly disclosed donations, but you will not always find all of the donations, because you will find in the law reports that Justice Einstein in the Supreme Court of New South Wales found and accepted the plaintiff's submission that it involved using a joint venture to falsify Walker Corporation's accounts. That was Justice Einstein.

If that is the sort of people we are doing business with here in Victoria, I suggest someone has to have a bit of a closer look, because some of those people are being brought to account in other states that have got stronger regulatory bodies than we have. In Western Australia, in Queensland, in New South Wales they have anticorruption commissions. I suggest that this state would not have allowed that sort of thing to happen if we had that type of regulatory body. You are the best bet we have got, Chair. You are the only body that has got anything like the powers of those commissions that other states have already got and have realised they have to have. I think it is incumbent that you exercise those powers to get to the bottom of the problem.

The problem goes right the way back to the original 4 May 2001 statement by the Premier of the state at the time, Mr Bracks, about what was going to happen with this site. When you look at that, you wonder how that proposal — and it is attached here with a media statement — could ever come out of any responsible cabinet submission. Nothing in that proposal about a new housing estate and about jobs made any reference to the environmental issues, and yet here we are right next to Yarra Park. It made no mention of the heritage issues although it has been always part of the heritage lands, so who is fooling who? There is a lot still to be answered, Chair, and we hope you will help us do it.

The CHAIR — I thank you all for your submission and the comprehensive nature of it. I think you have touched on a number of different details that have not been provided in other submissions to date. I am conscious that we are over time, but certainly I have some questions and I know others on the committee will also have some questions. I might start, Brian, by noting some of the political donation material that you have attached here. I notice the very significant donations, including a \$50 000 donation in the year 2000 to the Victorian Labor Party, and other donations, including a small one to the Liberal Party, but I notice a particularly large donation to the Labor Party in the year 2000. Do you believe that those political donations by Walker Corporation have had any influence on the decision to award a contract to them?

Mr WALSH — I think on the basis of the evidence that has been put in the courts as to why Mr Walker has given donations before — he thought he was getting value for money because one of his partners took him to court when they had a disagreement about it — but if he thought he was getting value for money, and he is a very canny businessman and he has just got \$1.7 billion, then I would have to say that I would agree with him. Yes, I am sure he did get value for money.

The CHAIR — Do you believe that this is corrupt or this is an untoward set of processes that has occurred?

Mr WALSH — I would say this, Chair: I would say it smells bad, it looks bad and if it does all of those things in a bad way, then it probably is bad. If you look at what some other

people have said about those people who are involved here and in other states, that is the confirmation they have drawn, but they have not always pursued it. I just draw you to something that happened at the end of the hearings that were looking at some of these issues in broadcasting where they got to the stage of saying some of the money that was being used by Mr Walker and others was buying silence. It was not just cash for comment, it was actually buying people's silence. There was then probably the issue of extortion and all sorts of other matters that needed to be pursued. The tribunal went to the stage of subpoenaing documents but did not then proceed further. That might be a point at which your body would want to pick up those matters. Thank you.

Mr TEE — Thank you all, and thank you for all your submissions. I hear the language and the rhetoric, but I am just trying to get to the bottom of what it is you say your concerns are, and perhaps I will put what has appeared to me to be the position today. As you said we had announcement in April by the Premier; we had the local member this morning saying that a year later he supported it; so we have a bipartisan position. We have got a — —

The CHAIR — I do not think that is true. I think he made it clear that he supported the redevelopment of the CRUs — —

Mr TEE — He said he supported the proposal.

The CHAIR — I think it was much more complex than that — —

Mr TEE — I am just reading his media release. His media release says — —

The CHAIR — He gave a complex explanation this morning, so I do not think — —

Mr TEE — I am just repeating his media release, which he did not retract.

The CHAIR — I think he made it very clear what he meant. Keep going.

Mr TEE — Thank you. We had a position from the opposition this morning which said it supported the proposal. We have got a proposal that has been confirmed in writing with the developer, and that proposal is available on the internet.

Mr WALSH — You may well be right, but through you, Chair, that is not my understanding. The body of information regarding the contract that I have seen on the internet is censored, and there is a large amount of the financial information missing. If it has been updated, then it has been done so recently. When it first went on the internet it was definitely censored.

Mr TEE — This morning we had a tour of the site and we have seen some of what I thought were excellent facilities that are being made available; facilities that the representatives who gave evidence today said complied with DHS standards, and certainly looked to me to be of a high standard. There is the allegation you raise about Mr Richardson coming down. As I understand it he wanted a proposal that he put, and again it was that the developer handover part of its proposal — and I am just going on what is in the papers — and that that proposal was knocked back by the government as not being in the best interests of Victoria. I suppose I am just trying to get to the rub, as it were, in terms of your concerns.

Mr WALSH — The first rub, to start where you finished, is if you looked at the buildings that were being built there today you would know in relation to what the Premier said in 2001 that 20 buildings — the CRUs that we have heard about today — were promised to be delivered by the last election. Half of one building was completed by the last election. As we understand it there was no contract in place until the contract you now refer to which, as I understand it, was signed during the period I referred to on 27 October. An election promise that was going to be delivered and they sign a contract to do it less than one month before, — how are

you going to build 20 houses in a month? That is the nub of the concern, I would say, in terms of who you believe. It is unbelievable.

If you go deeper, and I suggest we make further submissions, Chair, to the way companies like Walker Corporation operate, they were probably delaying until the last moment the arrangements to build those houses to get the greatest political leverage. If you look at how they took the people of New South Wales to the cleaners for \$60 million over a contractual breach about a piece of land in Sydney, you get a sense of how they operate, and I would sense that is how they were operating when they had Senator Richardson down here talking on their behalf. That was at the time they were trying to sell their whole portfolio, and that is a similar situation if you look back as to what was happening to when they were going public in 1994.

Mr TEE — Sorry, if I can just take up the point about the delay in 2006. Again, is that not as simple as there being a number of heritage applications that were made, that were properly dealt with, independently dealt with? Those outcomes have resulted in the protection of three buildings that we had a look at today, and the protection of a number of trees some of which we saw today which were surrounded by fencing. Again, I am just not sure on what basis you suggest the delay is any more conspiratorial than simply a proper independent process by our friends properly considering the heritage value. Turning it around, I suppose I would have some sympathy if government had signed a contract and met that 2006 deadline but had rushed through or not taken into proper account the heritage value of the site. Is your criticism that we took too long to get the heritage right?

Mr WALSH — Through you, Chair, the government did not even start trying to get the heritage right. If it was going to address the heritage in a proper manner, as you refer to as appropriate, it would have done so before the cabinet submission was put up on which the decision was made to build a housing estate. There is no evidence of any heritage work being done prior to that. I suppose it is ringing bells now when you look at the Wonthaggi desal, and you hear the same thing. When you saw Mr Bracks on that night answering criticism from local people about no consultation and why had they not been consulted — and you can look at the transcripts on, I think, the ABC news that night — he said, ‘We make the decision, and then you start due process’. We say no. If you go to the cabinet handbook for this state, you will find all of the things that are supposed to be done before the cabinet submissions go up. On the basis of the evidence we have, that was not done. There was no due process.

Mr TEE — So you did not want us to make an announcement and then do the heritage, you wanted — —

Mr WALSH — We wanted you to make a proper decision on the basis of what the heritage issues were. On the basis of the information we have, you were trying to avoid that. It was not until people like Don Anderson here, and Louise Godwin, who you heard this morning, took the issue to an independent body to get heritage status that anything was being done. If they had not done that, you would have put the bulldozers through, yes, a lot sooner.

Mr HALL — I have not got any questions to ask, but I just want to say thank you for what was a very powerful set of submissions from all you gentlemen and also from your secretary via video link. What you said was said powerfully and left me with no ambiguity which I want to explore further. You have given us some challenges and some homework as a committee, and I thank you for that. From my point of view I am sure the committee will endeavour to follow up on some of those issues as best we can with the relevant people when they appear before the committee. Thank you.

Ms PENNICUIK — Thank you, Peter, because you stole my thunder a bit. I was going to say a similar thing. Things went straight here with me. I just wonder whether any of you want to say whether you think there is some way of salvaging the situation from here. Is it all too late?

Mr WALSH — I will say very quickly that I think yes, you can, because it is still public land. You can draw a line in the sand now, and I suggest the government should do it, and I will give you a card, as I say, where — if you go down the boundary of where the bulldozers have gone now, if you finish building the houses that the intellectually disabled deserve and had promised to them years ago, you can still leave what is effectively two-thirds of the site to be dealt with properly.

The CHAIR — Can I just ask for clarification on that? How much in terms of the vegetation — I know there have been some trees lost improperly, to my understanding — has been lost?

Mr WALSH — Would you like to comment on that, Don?

Mr ANDERSON — Even the video presentation shows you the destruction that has taken place in stage 1. There is hardly a bit of green left there. There are a few heritage-protected trees that have not been completely protected as far as their roots are concerned. The bulldozers have cut through the roots. They will probably survive. I hope they will. But I have been going out to Kew for about 40 years now, and I remember that site not in its early pristine state, but in the early days it was an absolute pleasure to visit my son out there as far as taking him around the site and generally relaxing was concerned. But when you look at that photograph it just looks like a battlefield. You would think a major battle had been fought there. To restore that to its original park-like appearance would not be impossible — it could be done — but the first thing you would have to look at would be cutting back the concentration of buildings. It would have to be redesigned by competent landscape architects who have that principle in mind of trying to restore the natural park-like look of the place. Even at this stage I think it can still be done. Quite a lot of the old roads might look a bit dilapidated at the moment, but with just a bit of tender care they could be not reconstructed, but rejuvenated. The services are already there — the power, the sewerage, the water supply. The whole thing is still there, even though in stage 1 quite a few have probably been affected in some way. It would not be an impossible engineering task and it could cost a little bit of money, but in my view it would be quite feasible.

Mr JACKSON — Chair, if I may respond to Ms Pennicuik's query, I think we need to re-emphasise Brian's response — that is, that it is still public land, so it can be salvaged. I think we also need to reflect on the comment made by Ms Godwin during the parents' association presentation that this government is a rich government. We are a rich state, and we should not have to depend on the sale of assets and valuable public land to support funding for people with disabilities. I would argue that the sale should not go ahead. I would be arguing that we should be building 100 CRUs, which would accommodate those people who may wish to remain on the land, as well as going some way to satisfying the 1500-or-so people on the urgent waiting list for accommodation and support. I would also argue that the remainder of the site should be given over as open public space, because the public has also been alienated from the site.

Mr KAVANAGH — If we were to make a recommendation for changing the way that governments go about investigating land sales, for example, is there something in particular that you would change?

Mr WALSH — On our experience, probably everything, Chair. For it to have reached this stage after so long suggests that everything is broken — either that, or there is someone who is quite deliberately sabotaging the processes that are in place; someone who is steering developers through the process, finding all the legal loopholes, avoiding the regulatory positions that are already there. If that is the case, if you stop that and you take them out of the equation, then it might be better, but otherwise it is broken.

Mr O'DONOHUE — I have one quick question. I would also like to echo the comments made by Sue and Peter. It has been a most informative day and I am very appreciative of all the time and effort that has gone into the submissions today. I think the committee has been informed

very well about the issues affecting Kew Cottages and, more generally, about public land from the submissions we received. I thank you all.

Max, when were you the CEO of the Kew Cottages?

Mr JACKSON — I took over as CEO in October 1984 and concluded in 1993. Before that I had three years teaching there and also two years in the position of coordinator of programs.

Mr ANDERSON — Chair, I have a couple of little points I would like to raise.

The CHAIR — Very briefly; we are — —

Mr ANDERSON — There seems to be a misconception that all the proceeds from the sale of the Kew land is going to the intellectually disabled people. I have it in black and white — from Sherryl Garbutt when she was minister — that it would go to all the handicapped people in Victoria, irrespective of the type of handicap. That includes the visually impaired, the hearing impaired — all the people who are physically handicapped, and not only to the intellectually disabled, so only a small percentage will go — —

The CHAIR — We will follow up that point.

Mr ANDERSON — The other thing I would like to point out is the question of whether the families were given the option of their offspring or their sibling remaining on site. That is not correct. In our particular case our son was not able to stay on site because he could not meet the three criteria that were laid down. We were not given any option; he just did not meet it, so we were asked to agree to him going off site. I have not heard that mentioned so far.

Mr HALL — Perhaps Don could give that in writing by way of a late submission?

The CHAIR — Yes. Do you want to put that in a note? We would welcome that.

Mr ANDERSON — I will tell what the options were, if you would like me to.

Mr HALL — Yes. Thank you.

The CHAIR — Very briefly, please.

Mr HARRIS — In the matters which were raised following my presentation there are things I have heard which suggest to me there is a process issue which warrants investigation in relation to the preparation and amendment of planning schemes. To get the position clear, statement of planning policy no. 4 was approved by the executive council — that is, His Excellency, the Governor of Victoria, and the relevant members of Parliament — in September 1971. That was the one which, amongst other things, said that planning policy for the river Yarra and its immediate environs shall be identified for appropriate planning measures — —

The CHAIR — Sir, I can promise you we are going to follow this up. Alan Hunt has put a submission in to the committee, and your tweaking of that point from 1971 — when he was the planning minister — has certainly marked in my mind the need to ask him directly about what he meant and how he saw the integration of those wedges. I think your connection of those two points is a valuable linkage for us.

Mr HARRIS — If I could make one further quick comment, it seems to me that when a planning scheme is submitted for approval that the process should involve some testing as to whether a significant strategic change is being made and what justification exists for that. I suspect that, out of nothing, a planning scheme amendment was prepared without any regard to any of this material whatsoever, and there is no due process in which that was reviewed. I suggest that there is a need for attention to that matter.

The CHAIR — An important point, thank you. I am going to draw these proceedings to a close.

Mr WALSH — Thank you, Chair. Let me give you some lighter reading than all this.

The CHAIR — Thank you, I appreciate it. I reiterate the comments of a number of committee members and thank you very much for your submissions and those of many of your members. I understand the great significance of the issue. I appreciate it. Having said that, I draw the proceedings to a close.

Mr WALSH — Thank you for your time.

Committee adjourned.