

CORRECTED VERSION

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Melbourne — 31 January 2008

Members

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Mr P. Hall

Mr P. Kavanagh

Mr E. O'Donohue

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Witness

Mr P. Carroll, contractor.

The CHAIR — I resume the public hearings of the Legislative Council Select Committee on Public Land Development, and I welcome Mr Peter Carroll. This committee has been established following a resolution of the upper house. Evidence given here is protected under the Constitution Act and by standing orders of the Legislative Council. You will not necessarily be protected if you speak outside these surrounds. You will receive a transcript of the hearing in a couple of days, and you will be able to make corrections to any typographical errors or to make other corrections you wish.

I would like to thank you, Mr Carroll, for appearing before the committee and invite you to make a short statement, and then we will ask some questions.

Mr CARROLL — Thank you, Chair. I would like to make a brief statement. I am an adviser to the Land and Property Group at the Department of Treasury and Finance, level 5, 1 Treasury Place, Melbourne. I am engaged as an independent contractor under a contract for the provision of services. I was a member of the public service until my resignation on 2 May 2007.

I have received a letter from the Acting Secretary of the Department of Treasury and Finance, dated 30 January 2008. This letter enclosed correspondence between the Attorney-General and the select committee regarding the executive government's position on the scope of the terms of reference of the select committee. As a consequence I propose to give evidence to the committee in a manner consistent with the definitions used in the ministerial arrangement which supports administrative arrangements order no 58 of 1988.

I have also been provided with a copy of the guidelines for appearing before state parliamentary committees as issued by the Department of Premier and Cabinet in October 2002; the guidelines for protection of witnesses as issued by the chairs of the joint parliamentary standing committees; and the code of conduct.

By way of background, I commenced my employment in the public service in 1983. In 1991 I transferred to the then Department of Finance which subsequently joined with Treasury and became the Department of Treasury and Finance in about 1993. Between 1991 and 1998 I was the deputy director of the Asset Management Division which later became the Victorian Government Property Group (VGPG). I was director of that group from 1998 until my resignation from the Victorian public service.

VGPG ceased to exist as a result of machinery-of-government changes following the 2006 state election. The Land and Property Group was created to manage the disposal of surplus land. On 3 May 2007 I commenced my current role as adviser to the Land and Property Group.

In relation to the Land and Property Group, the land and related property assets represent a valuable state resource. To ensure that this resource is used efficiently, government requires thoroughly researched and carefully considered advice. In addition to managing the sale of surplus Crown land, the Land and Property Group and its predecessor facilitates transfers of Crown land and property to meet whole-of-government service needs. The group acquires land on behalf of departments and agencies to meet infrastructure programs. It also optimises the value of government land and property and provides advice and assistance to government, departments and agencies in relation to property matters including land issues associated with major government projects.

Since its creation, the specific responsibilities of the Land and Property Group have included — and I will not go through the list, you have probably heard it before — but needless to say the major one is the selling of surplus Crown land and freehold land on behalf of other government agencies.

One of the major activities of the Land and Property Group relates to the disposal of Crown land under the Land Act 1958 where that land has been categorised as surplus. The group also sells surplus freehold land from its portfolio and acts in a number of cases as an agent for disposing of other government agencies' surplus properties.

As deputy director of the Asset Management Division VGPG, my role was to manage the assets sales program which was part of the responsibility of that division. The sales program continued when I became director of that group but as director I also had additional responsibilities which included the provision and management of government office accommodation and government property advisory services, including the acquisition of land on behalf of other government agencies.

In my current position as adviser to the Land and Property Group, my role is to provide advice to the current director of the group in relation to knowledge management, knowledge transfer and on general property matters, including those matters set out above.

I now welcome questions from the committee.

The CHAIR — Thank you for your evidence. I am sure we will have many questions, but my first set of questions relates to your witness statement and the preparation of that. I notice at 3.3 you have been provided with a copy of the code of conduct. I presume you mean the code of conduct for the Victorian public service?

Mr CARROLL — Yes.

The CHAIR — But you are not a public servant?

Mr CARROLL — I was.

The CHAIR — But you are not?

Mr CARROLL — I am not a public servant.

The CHAIR — You a contractor?

Mr CARROLL — From 2 May last year. I am now an independent contractor, although I am working under contract back with the Department of Treasury and Finance.

The CHAIR — But you are not a Victorian public servant in the meaning of the act or as relevant to the code, in fact? That is correct?

Mr CARROLL — That is correct.

The CHAIR — Did you have any assistance in preparing this statement? The members of this committee will be aware that we have seen a number of statements from public servants that have come forward in a somewhat roneoed type of manner and same format in each case. Did you have any assistance preparing this witness statement?

Mr CARROLL — I did.

The CHAIR — From?

Mr CARROLL — When I got the invitation to appear, my first thoughts were, ‘I am employed by the department, what is their view on it?’ so I sought advice from the department’s legal office.

The CHAIR — Who was that?

Mr CARROLL — A number of legal officers employed in that area. That resulted in a message to me from the department that I was an independent contractor and I should make my own decision with respect to accepting the invitation. I did. I decided that I should accept the invitation, and I then prepared a statement. Reading some of the transcripts, it seemed to be that people presented statements, so I prepared one, and I gave it to the department to see whether it was likely to cause any detriment to my existing contract with them. As a result of that it came out in this format.

The CHAIR — There was an earlier version of that that you presented?

Mr CARROLL — It was a rough draft which was doctored into this form, if I could put it that way, which I am happy with.

The CHAIR — You are happy with this one?

Mr CARROLL — Yes.

The CHAIR — What were the differences with the draft?

Mr CARROLL — Mine was more of a rambling statement without any real structure to it.

The CHAIR — Right. I see that the department has provided correspondence. I am only asking this because of my desire to get evidence of high veracity. I notice that the department provided copies of correspondence from the Attorney-General.

Mr CARROLL — Yes, two letters. Two letters to yourself from the Attorney-General.

The CHAIR — And you say you, in a sense, paid heed to those.

Mr CARROLL — I did.

The CHAIR — Do you feel that you are bound by what the Attorney-General has presented there?

Mr CARROLL — Under my current role as an adviser, which has virtually carried straight on from the role I had for 20 years as a public servant, I do feel that I cannot just turn around and say something different. I must abide by the letter that the Attorney-General has provided to the government departments.

The CHAIR — Even if the Attorney-General sought, through his letters and so forth, that you present evidence that you had some doubt about, you would be conflicted in that sense?

Mr CARROLL — I do not quite understand the question, I am sorry.

The CHAIR — If the Attorney-General, through some letters of this type, asked you to provide evidence of a certain nature, you would be in a difficult position, given your contractor status?

Mr CARROLL — I have not been asked any questions by the Attorney-General myself.

The CHAIR — No, but you have been provided — —

Mr CARROLL — I have just been provided with these two letters which evidently went to all the departments, as I understand it. When I looked at it with respect to the definitions of public land, et cetera, it is exactly what we have run with for the last 20 years. There was also, which I think I took note of, the second letter, paragraph 3, which said:

The meaning of the committee's terms of reference must depend on the way in which the terms of reference are expressed, having regard where appropriate to relevant government or industry practice (where, for example, the terms of reference use words that have a special meaning in government or industry practice).

That goes back to the very definitions of the words 'public land' and 'government land', so I had to have regard to that. I know this must be rather frustrating, and by nature I am a very cooperative person, but I have made the decision that I must have regard to these letters.

The CHAIR — The committee has adopted a different definition of public land, which comes out of its debate in the chamber. The definition is broad and Ms Pennicuk described it as a common-sense definition, as the community would understand public land. We have through that process sought to look within our terms of reference and following the chamber's decision at the broad sweep of public land — local, state and commonwealth government land. I would ask you, if you can see fit, to give evidence within that broader definition in terms of public land as the community would see that. They, in my view and the committee's decision, would not see it as some narrow administrative definition.

Mr CARROLL — That definition, as I understand it, would be something along the lines that public land is any land owned by government. That is good and it fits neatly into a dictionary, but it is too simplistic to get us anywhere. There have to be categories, layers on layers, differences on differences, so no, I am not prepared to accept that. It is just the definition that we have run with here. We need to go broader. It has been pointed out to me — I am sure you have heard this before, and I would hate to insult your intelligence, but it would appear that senior public servants who have come here before me have been bursting at the seams to assist on the understanding that the terms of reference would be amended.

The CHAIR — I am not sure I would agree with you.

Mr TEE — Let him finish.

Mr CARROLL — I think the terms of reference can be amended quite easily, and I am wondering why they are not. There are obviously games that I do not understand here, but if they were amended it would mean that there would be a lot more assistance from the government agencies to inform you better.

The CHAIR — You know this for a fact?

Mr CARROLL — No, I do not.

Mr THORNLEY — Five witnesses say so.

Mr CARROLL — I am just suggesting that would be the case.

The CHAIR — You may wish to ask a question.

Mr TEE — I do not have any questions at this stage, thank you.

Ms PENNICUIK — I asked the same question of our previous witness: given your role as an adviser and your extensive experience in the land and property group, the policy that the Department of Infrastructure works under, and I presume you have a lot of dealings with that department in your role, is quite old — about eight years old. Do you think there has been significant development since then that would warrant these policies being reviewed, and how could they be strengthened?

Mr CARROLL — Are you talking about the policy that is put out by the government land monitor? Is that the one you are referring to?

Ms PENNICUIK — The Policy and Instructions for the Purchase, Compulsory Acquisition and Sale of Land.

Mr CARROLL — Yes, it is dated 2000. It definitely needs review. I understand it is being reviewed.

Ms PENNICUIK — That is interesting, because — —

Mr CARROLL — I understand that, but I am a little bit out of the loop at the moment, so I am not quite certain what other government departments are doing, but that policy needs to be reviewed. It is long in the tooth now, so it should be reviewed.

Ms PENNICUIK — Could you offer any suggestions as to what areas it needs to be reviewed in, what deficiencies it has or updates it requires?

Mr CARROLL — I would have to go back over some notes I prepared back in, I think, 1999 when I actually wrote the policy myself in my own vision of things, but most of it did not happen that way. But I think there are a number of things that can be reviewed, because of what has happened since that time with changes in, I guess, practical operations between departments. Departments are more in charge of their own asset management. We have railway land which is dealt with by VicTrack and no longer by Treasury, and that type of thing. That needs to be looked at and changed. There is a whole host of information there on land contamination. The theory and the science and the way in which that is handled has changed quite a lot too. So there is a lot of updating to be done.

Ms PENNICUIK — That obviously is required. So in your view that needs to be done?

Mr CARROLL — Yes. There is one thing I like in that policy, which states that all transactions should occur at market value.

Ms PENNICUIK — I also asked the previous witness about the review of this policy in light of other policies such as Melbourne 2030, such as linking people and linking spaces, and whether there was any regard or how much regard or engagement is made with those policies in regard to the sale and disposal of — —

Mr CARROLL — How much there should be?

Ms PENNICUIK — How much there is and how much there should be.

Mr CARROLL — As this point of time I do not really know the answer to that because I do not who in the various departments are talking to each other. I know, for example, there is some discussion going on relating to the value of land, from comments that are in 2030. I think it states to some effect that the value of the land should be relevant to its best use rather than its highest best use, or some description like that. But, of course, the valuation of land is a science in itself, subjective as it might be. No piece of land has one value; it has several values. I think there just needs to be some clarification of what that all means. I think that sort of clarification can be picked up in a revised policy.

Ms PENNICUIK — You stated in your statement that you resigned from the public service last year. From what I can see from your statement that we have just had tabled and read out, you were quite a senior person in the public service, and Melbourne 2030, for example, had been around for five years before you resigned. How much did the goals of Melbourne 2030 — preservation, protection, supply of public open space, for example — inform your decisions?

Mr CARROLL — To be brutal, my job was to sell surplus government land for which agencies had made the decision that it was no longer required for their operational purposes. One of my big focuses was consolidating the public service in this end of town, in government — —

Ms PENNICUIK — Sorry, could you repeat that?

Mr CARROLL — Consolidating the public service in this end of town, which was another hat I wore, which was government accommodation. There were also building works and a whole host of things that I focused on. None of that was particularly relating to 2030.

Ms PENNICUIK — Many local councils have provided evidence to us that land is identified by government departments as surplus to their requirements, and they often do not know this has occurred; they are not consulted. As I have mentioned before, a government department can identify land that they say is surplus to their requirements in an abstract way and it is actually land that has local implications. There has been a lot of evidence and a very strong theme emerging that there is no consultation and the value of that land to local communities is often discounted or not included. What I am picking up from you is that you had a very hard-headed approach to the sale or disposal of public land. That is certainly what we are hearing from the other end. Would you say that is a correct assessment, that I am certainly getting from other evidence? Do you think that needs review?

Mr CARROLL — There are a lot of government agencies that sell land.

Ms PENNICUIK — They still need to go through — —

Mr CARROLL — Let me just finish, I am just painting the picture. I do not know what a lot of agencies are doing. Some of them have not got the capability to sell land, so they might come to Treasury and Finance and ask us to act as their project manager. They have declared it surplus. Certainly it would be up to us to have a look at that land to see whether we should consult with the local council or not, and often we did. With Crown land, for instance, which was the major task of the Land and Property Group or the Victorian Government Property Group and land sales program, that included the land being released; often Crown land is reserved and the like. That is a matter for DSE, the Department of Sustainability and Environment, to focus on. I know you have discussed it with their officers, and I am sure you have gleaned a lot of information from that, but that is their role. Their role would have been to handle all those matters. When it came to me, my role was to dispose of that land and to obtain the highest and best value for it.

Ms PENNICUIK — So you were at the end of the chain, you are saying?

Mr CARROLL — End of the chain. Happy to have been there too.

Mr HALL — Peter, thank you for coming before the committee today. I noticed in your witness statement that you received the letter referred to under point 2 of your statement on yesterday's date, 30 January 2008. Would you be prepared to make a copy of that letter available to the committee?

Mr CARROLL — As the letter has been addressed to me by the acting secretary with those two letters attached to it, I assume that this letter is mine to do with it as I see fit, unless there are some lawyers amongst us here who can give me some advice on that. But I do not have any secrets, Peter.

Mr HALL — Okay. Are you going to make that letter available to the committee?

Mr CARROLL — I will report back to the department and if there are no problems, I shall release it. Is that fair?

Mr HALL — Okay. Was it on receipt of that letter yesterday that convinced you to make up your mind to respond to the committee today in the way in which the advice has been given to other public servants?

Mr CARROLL — Yes.

Mr HALL — Prior to receipt of that letter therefore were you prepared to come and speak to the committee more generally about government land as opposed to strictly public land?

Mr CARROLL — I had not formed a view.

Mr HALL — Sorry.

Mr CARROLL — I had not formed a view at that stage. I was, obviously because of my current employment with the government, seeking to, if I can put it bluntly, not bite the hand that feeds me.

Mr HALL — Were you coerced in any way to come to that decision?

Mr CARROLL — No. I sought advice from the department. They made no contact with me over it.

Mr HALL — Thank you.

Mr CARROLL — In fact they have given me a note to the effect that it is purely my decision.

Mr THORNLEY — Peter, I am certainly not interested in the endless debate about the definition of public land, that is for sure. I am interested in a whole range of the public policy issues that come up in these discussions and in learning something from your experience over many years. I am interested to understand which were the sort of key challenges that you saw in the role as you were performing it. You mentioned one of them was relocating a significant portion of the public service closer to this precinct. I presume there was a number of other key priorities that were an important focus of your work. I am keen to understand a little bit more detail about what some of those might have been.

Mr CARROLL — You can imagine how — —

I mean, you cannot imagine how! If you could can imagine being a unit like property in Treasury, and to make money you need to spend money. You need to get a budget. You need to have a budget to undertake all the studies on a property. You need to have a budget to maybe put in some civil works. You need to have a budget to clean up a site. So a lot of my energy went into that process of getting money to do those projects, and to try and build up a business case, which is the jargon of the day, to show that the government at the end of the day would get back all those funds — —

Mr THORNLEY — So you were making the case that the incremental expenditure would be more than offset by the incremental return?

Mr CARROLL — Yes. Then secondly, I do talk about we were at the end of the queue, so to speak, but everyone wants a piece of the action, I guess, with a surplus piece of government land, so there was obviously a whole lot of discussions with groups and people and the likes in other agencies even. At one stage in the early part of my career everybody thought Crown land was a free resource, and we had huge battles to convince them otherwise. With the introduction of accrual accounting that came in the 1990s, that sort of got people focused on the need to recognise and account for all their assets, so things started to form up and agencies then had an opportunity to dispose of redundant assets and receive the proceeds from the sale into other approved projects. Up

until that time there were government surplus assets sitting around all over the place. There was no incentive for anyone to do anything with it. They would sit there just running down.

The CHAIR — They still are, I think.

Mr CARROLL — To a large extent that has not been resolved completely, but it all comes down to budgeting. It is the responsibility of those departments to manage those assets and report them to their auditors with respect to their balance sheet, so it has improved a whole lot in that time. We have been involved gradually in trying to accommodate that and educate other agencies as to how they would best deal with that, but there is a cyclical budget process. Obviously if you miss that, then your property can sit around for a while afterwards. There is a need for advance planning, and that has been happening with agencies now having multi-year asset management plans and the like. It is gradually coming together. It is not there yet, but it is gradually coming together. In the future I can see all this mapped — e-mapped, or whatever you want to call it — and the whole of government ownership will be on maps, which will tell you who has the ownership of that particular piece of land, what it is used for, what its lifecycle planning is. That will all occur, but governments probably have got a lot more higher priorities than some of this, so it is a gradual incremental process that we are talking about.

Mr THORNLEY — Just following up on that, can I ask — and I should know the answer to this, but I do not — does government have internal property charges between departments that makes sure that they are paying, if you will, a commercial cost out of their budgets? I know that when people like Telstra, for example, went through and levied an internal property charge they suddenly found that all sorts of space got freed up by parts of the organisation that actually had to pay for it back to the central group, and it led to significant rationalisation of assets. Do we have a similar process at the moment?

Mr CARROLL — Yes. Government agencies pay a capital asset charge on all the assets that they hold. They also account for depreciation on their balance sheet.

Mr THORNLEY — So with some of these redundant assets are assets that are lying idle, somebody would have to pay for them and that would create the incentive for them to work out whether they really wanted to incur that charge?

Mr CARROLL — Yes, theoretically. Government is a big ship; it takes time to get it turning in the right direction, but it is gradually getting there. I am fully confident about that.

Mr THORNLEY — Thank you.

Mr KAVANAGH — What is normally the process by which a department decides that land is surplus to its requirements?

Mr CARROLL — The best way is to look at an example. You have got a lot of lands had have been held by agencies historically — old police stations and courthouses, for instance, that are no longer appropriate for modern-day policing or legal court proceedings. Governments come and go, as we all know. They come in with a whole host of platforms. They are going to change the way in which, say, policing is done. There are going to be 24-hour police stations in regional locations. Others will come along and say, 'No, there is going to be one on every corner in the main street where we can all see it'. If that is then funded as part of an obligation by a government, then those older police stations — and most of them would be on Crown land reserved for public purposes — —

They are accessible to the public. If you are a criminal, you have got to go to court and have all the access about the place, but they are not exactly public assets that I would say was like a park or something like that. They are then released by the agency as surplus to requirements, because they will get a new product — a police station or a new courthouse. The properties would then be released to Treasury and Finance to dispose of.

Mr KAVANAGH — Before this committee was established how important was this distinction between public and government land in your dealings?

Mr CARROLL — My view was public land was not for sale.

Mr KAVANAGH — You always had that view?

Mr CARROLL — Yes. Historically if you go back to when the assets sales program got under way in full flight about the mid-1980s — —

Whilst there are a number of stories you would probably hear about it, I run by the one that I thought was relevant from my experience at the time. It was when the Auditor-General started looking at all these assets that government had, how they had been utilised and made some comments that they were just sitting there underutilised, and perhaps government could even lease them out or get some money in while they are sitting there waiting what to do with them. So it grew from that. Then in about that same period the Department of Property and Services was created; it had a shelf life of about five years. Then various committees were put in place, cabinet committees were put in place to oversee how government assets were being managed and how they were being disposed of, and then they started setting targets for agencies to make them at least aim at something to get them to measure their performance.

That all culminated in 1988, or thereabouts, when I guess there must have been some concern about what we were disposing of. So it came out in that definition of ‘public land’ and ‘government land’ — ‘public land’ being something that you would not even consider for disposing. I mean, governments can always change their minds on it, but the bureaucrats should not even be looking at that type of land; they should be looking at land that has been assessed as government land to sell.

That was all I concerned myself with. There were foreshore lands, there were parks. This is not talking about a whole lot of other government assets that you might, under your definition, consider. Municipal councils have lots of land. Some of it is Crown land for which they have management rights over; a lot of it is their own held in freehold title. The commonwealth government has a lot of land, too. They all look after their own. So we were dealing with state government land-holdings, government lands that were not required; they were redundant, sitting there doing nothing — ‘Let’s get rid of them; let’s get the funds in to use for replacement assets’.

Mr O’DONOHUE — Mr Carroll, in your opinion who has ultimate authority — the executive or the Parliament?

Mr CARROLL — I am not a constitutional lawyer or even a student of Parliament. The government of the day runs the state, is my simple way of looking at it; and if they tell me to jump, I will probably have a close look at that.

Mr O’DONOHUE — I just asked that question in reference to your question to the Chair previously. Perhaps your answer to that may give the underlying reason why you proposed that question to the Chair. But I will move on. Could you explain to me the difference between the VGPG and the new property group that came into existence?

Mr CARROLL — Basically the responsibilities of the VGPG were split in two. Following the machinery government changes after the 2006 election the government established a new division operating out of Department of Treasury and Finance called the Shared Services Group. Government accommodation, the office buildings that government owns, the projects involving office fit-outs and refurbishments all went into that new group.

Mr O’DONOHUE — And properties the government leased as well as owned?

Mr CARROLL — Yes, leased and owned — they all went into that new group. The asset sales, the sale of surplus land in effect was then left out of that group and renamed the Land and Property Group. It is part of the Commercial Division, so it is not part of the Government Services Group at all.

Mr O’DONOHUE — In your role did you have any part of the process in coming to the target figure in the budget each year for asset sales?

Mr CARROLL — I was certainly consulted on it, and in some years I actually gave it myself.

Mr O’DONOHUE — What material did you draw upon to form your opinion?

Mr CARROLL — It was based on what I knew was in the pipeline, what I thought was likely to come our way and what I thought might be best for a challenge for the staff to stretch themselves.

Mr O'DONOHUE — So you always aimed for a higher figure?

Mr CARROLL — Yes. Despite the fact that my budget might have been based on getting the figure, I always thought it was best to stretch people.

Mr O'DONOHUE — Yes, push for the highest and best value, as you said?

Mr CARROLL — But based on the fact that I felt there was plenty of stock that had been declared surplus. The difficulty is in assessing how long it will take to actually move it from declaration to sale. That includes things like rezoning. When the current government came to power we were virtually advised that we would have to seek zonings in accordance with anyone else and go through the process of applications.

That could cause huge headaches, it could take years in effect, to get done. So I had to make the assessment — 'Could it be done in this financial year or would there be delays due to those various reasons to push it into the next financial year?'. That is where I had to make the call, I guess.

Mr O'DONOHUE — You said before in response to a question from Ms Pennicuk that you had discussions with groups, councils and others from time to time about land disposal?

The CHAIR — That was a nod; Hansard cannot hear a nod.

Mr CARROLL — Sorry, I am not nodding; I am probably in fear.

The CHAIR — I doubt it.

Mr O'DONOHUE — Was there any formal process that you followed in relation to that? Or was that more an ad hoc decision based on your perceived needs or potential other uses for pieces of land?

Mr CARROLL — The process changed considerably from 1985 until the present. Are we talking about just the immediate past? I suppose in the immediate past the processes were common sense; someone mentioned that word before. It was a common-sense approach. If you went back in time, there was one period where there was a formal consultation process put in place. Unfortunately nothing ever happened, because once you consulted and took into account everyone's views and tried to accommodate everyone's views, you lost years. Whereas we now define 'consultation' as 'gathering the data we need'. It does not mean to say that can be accommodated, but it is the data we need to make a good decision. So I would say in the last few years we based our discussions with agencies and the likes on a common-sense basis.

The CHAIR — Peter, our inquiry is into the sale or alienation of public land, and it is the second part of that that I would like to ask you about. Are you aware of any land — Crown land, public land, government land, as you define them — where land has been alienated other than by sale? I am particularly interested in where there has been a lease signed to allow a development, or something of that nature, where the ownership may still remain with the government, with the people? Are there some examples of that that you can enlighten us with?

Mr CARROLL — To fall back on the terms of reference, I would have to say that leasing was not included there.

The CHAIR — Alienation is included, which could include a lease arrangement.

Mr CARROLL — Government has been leasing property for a long period of time. There are lots of leases. Mainly leasing is the responsibility of the Department of Sustainability and Environment, and I guess you will be talking to them about that.

The CHAIR — There are no examples that you can point to in your dealings with property where government has in some way alienated land, short of sale?

Mr CARROLL — If the terms of reference were to be amended, for instance, and you were including government lands, you would be asking me — —

The CHAIR — Use whichever definition you wish.

Mr CARROLL — You would be asking me, ‘Are there government lands, for instance, that may be leased?’.

The CHAIR — Crown land, for example.

Mr CARROLL — Crown lands, yes.

The CHAIR — Could you give us some of those examples?

Mr CARROLL — Off the top of my head, I could indicate there is the majority of the Crown Casino complex on the Yarra; that is a Crown lease. The aquarium across the river is a Crown lease. So there are lots of them.

The CHAIR — Are you aware if there is a list of that sort of land that has been alienated in some way, including leasing?

Mr CARROLL — I would imagine agencies have a list of their various land-holdings and how they are tenured. I would be surprised if they don’t.

The CHAIR — In terms of the sale of land, is there a list that is held by the group that you headed up, in its modern incarnation? Is there a list held?

Mr CARROLL — Of sales?

The CHAIR — Yes.

Mr CARROLL — Yes.

The CHAIR — And that is readily accessible?

Mr CARROLL — It depends on who to.

The CHAIR — Well, say to the departmental secretary or the minister?

Mr CARROLL — Yes. It is all held electronically.

The CHAIR — It could be printed out in a simple process? It would have the sale date, the way the process was conducted, what was received?

Mr CARROLL — Treasury’s got a very good system; it is called the government property sales system. It can be massaged to produce any report you want as to the detail you want to go into — and it is FOI’d regularly.

The CHAIR — I am sure that is right.

Ms PENNICUIK — Mr Carroll, you say it is FOI’d regularly. From my point of view, we are talking here about Crown land, government land, public land — land owned by the taxpayer — being sold. In your view, shouldn’t that be readily accessible by the public, for their information as to what has happened to their assets, so instead of it being FOI’d, shouldn’t it be up on the website?

Mr CARROLL — I think the government is probably getting to that sort of facility. There are various registers available, of course. The Government Land Monitor — —

Ms PENNICUIK — We have had difficulty in ascertaining that a list even existed.

Mr CARROLL — Well, maybe if you worded it better.

Ms PENNICUIK — Pardon?

Mr CARROLL — Maybe if you had worded the question better.

Ms PENNICUIK — My word?

Mr THORNLEY — It is not a list; it is a database

Mr CARROLL — You are saying you are having trouble ascertaining whether there are lists. In this day and age when you have accrual accounting, when there is balance sheet accounting, all the assets are on the balance sheet so there has to be some accounting for them. There has to be some list, you would imagine.

Ms PENNICUIK — We did imagine, yes. I would just like to go back to some of the things you said. I found what you had to say quite fascinating. I am sure you know that the Department of Treasury and Finance and its workings are a great mystery to many of the public.

Mr CARROLL — Sure. I have been there 15 years and I am still trying to work it out.

Ms PENNICUIK — It certainly has a reputation as being very hard-headed.

Mr CARROLL — Yes, and I think they have to be.

Ms PENNICUIK — Sure.

Mr CARROLL — Someone in government has to be hard-headed.

Ms PENNICUIK — I just wanted to pursue the issue of market value. You have stated very strongly that you agree with assets being sold at market value, but certainly evidence that we have had put to the committee from local councils, from community groups and from my own personal experience regarding the disposal of taxpayer land at market value — land that has been identified as surplus for one need but is highly valued by another section of the community for another need and unable to be acquired at market value by that section of the community, usually a local council.

It has been said to us by many people who have given evidence here that that is the downside to that philosophy that land that is already owned by the taxpayer and is being transferred, perhaps from one government department to another, has to be paid for at market value, when in fact it has always been owned by the taxpayer and is only going back into the ownership of the taxpayer but is lost to the public because the council cannot afford it at the current market value, be it a courthouse or a police station that the local council wishes to use for a community purpose.

It might not be its original purpose, but it is a valued and identified community purpose but it is lost because of this philosophy of market value being paid for something that is already owned by the taxpayer. That is obviously a downside. It is occurring all over the place; we are hearing it every day. Have you got any comments about that?

Mr CARROLL — Yes, I guess I could say that the taxpayer probably paid good dollars to get the asset in the first place. Why would they just want to give it away? Surely they would not appreciate the government giving it away?

Ms PENNICUIK — What is happening is that because of this philosophy those assets are being sold to private development and lost to the community, where they were owned by the community.

Mr CARROLL — When you said they were owned by the taxpayer — —

Ms PENNICUIK — The community is losing its benefit. I am just asking you: do you acknowledge that there is a downside, that that philosophy may not be all good? You are obviously very much in favour of that philosophy. I am just pointing out what the downside of that philosophy is, and we can see it in many of the submissions that have been made to this committee.

Mr CARROLL — There are many groups out there that would like to get their hands on surplus government assets to start up a new this or that — a playschool or whatever. Most of them do not have any business plans or any idea of how to run it, so you have to work through it with them. It takes a lot of our time to do that. I think you are talking about government assets being transferred from one agency — one government department — to another, and I think that is — —

Ms PENNICUIK — One level of government to another.

Mr CARROLL — Yes. If those properties are transferred from one department to another department, they are transferred at market value, so the department receiving that then has to be able to show that its service delivery cost is based on its real cost and not just some sort of a leg up that they might get, and some other department may miss out completely. It has got to be a fair system; that is where Treasury is. The role of Treasury is to make it fair to everyone. Everything is transferred at market value.

If a local government municipality has Crown land, and they have lots of it — depots and this and that — we never put pressure on them to buy it off us. They can continue to use it reserved for the purpose if they like. What happens these days is that those municipalities usually want to do something grand, make a statement, build something better on the property. When they go to borrow money from a bank the bank says, ‘No, we are not going to lend it to you because you do not own the property’. They might come to government and say, ‘Look, sell us the property’, and we are quite able to do that under section 99 of the Land Act — sell to a public authority. We will sell it to them at market value. But the market value will have regard for the fact that they are using this for a certain type of public purpose which is ongoing, and that will have a different market value to the you-beaut private sector 10-storey block of flats, if they could get a permit. We will transfer it to them at that price, but we will put a restriction on the grant which says they must use it for that purpose, so that later on down the track if they decide to go in another direction and sell it to the highest bidder, they have to come back to the government and have that restriction removed. Do you understand that process?

Ms PENNICUIK — I think you are talking about a certain type of transfer, but I am talking about where land gets to you at the end of the chain. You are saying, ‘Okay, we are going to sell this asset’, be it open space or be it a public building — —

Mr CARROLL — Open space? Selling open space?

Ms PENNICUIK — Yes, government land that is open space.

Mr CARROLL — I do not think we sell open space under my definition of it.

Ms PENNICUIK — If local council has a need for that land for a community purpose, not for a commercial purpose, and cannot acquire the land because it has to be acquired at market value, you are saying that your philosophy and the way it is done is fair. We are hearing it is not fair because community — —

Mr CARROLL — Okay. I understand where you are coming from.

Ms PENNICUIK — Okay.

Mr CARROLL — But people like local councils and other community groups have other avenues to go and apply for grants, have they not? If the business case is right they can get a grant of money and they can use that to buy the land.

Ms PENNICUIK — But the reality is that that does not occur, so what I am saying is that there is no downside — —

Mr CARROLL — If it does not occur it is probably because the business case is not strong enough.

Ms PENNICUIK — I suppose, Mr Carroll — —

Mr CARROLL — There is only so much money in the world and that is why Treasury has to be the one — I am sorry, I get a bit excited about this avenue.

Ms PENNICUIK — So do I!

Mr CARROLL — I really believe that Treasury has to manage the money, because that is the way we all expect governments to operate these days.

Ms PENNICUIK — I wonder whether that is the case because the evidence we are hearing is that not every piece of public land or government land or Crown land is about just having a market value, but that the market value is taking precedence over other values that the community has, and those uses that are not market

driven are being lost because of this market philosophy. I am asking you: do you not see that there is any downside to this philosophy, because that is certainly what we are hearing from other submitters?

Mr CARROLL — I would imagine that the only things you are hearing as a committee are in fact all the downsides in life. You are not getting the good side of things that are happening out there and therefore you might be a little bit clouded in what you are saying; I hope you are.

Ms PENNICUIK — Thank you.

Mr HALL — Peter, if land has been identified as surplus to requirements and is therefore put up for sale, is local government notified as a matter of course that that land is available?

Mr CARROLL — No, not always. Of course, some of the land is already leased to someone and we are selling it to the lessee, for instance. Some of the land is derelict industrial land that has come back to us after it has been brutalised by someone for 99 years under a previous lease. It will come back to us. It is in an area that the government has designated for ongoing industrial purposes, so it will be sold as industrial land. I would not think there was any need to offer that to council. I do not think we are encouraging local government to compete with industry.

Mr HALL — This morning an instance was presented to the committee. I think it was Melbourne Water that put a 'for sale' sign up on a block of land part of which provided access to a park area. They were not notified, they just found out by chance.

Mr CARROLL — The council was not notified?

Mr HALL — The council was not notified. My question is: do you think there is merit in alerting local government to the fact that public land is being disposed of in its area prior to its sale? I am talking about the disposal — —

Mr CARROLL — You say this is land owned by Melbourne Water?

Mr HALL — Yes.

Mr CARROLL — I hear what you say. I am sure they took that into consideration. I would hate to think that any government agency blocked access to a park. Are you saying the park is now landlocked?

Mr HALL — I do not want to get into the particulars of that case. All I am asking is: do you see merit in advising local government of an intention to sell any government land within a municipality, and giving it first option to buy at VG's price?

Mr CARROLL — I might have a personal view on that.

Mr HALL — I am asking. Do you want to offer your personal view on this?

Mr CARROLL — No, I am not.

Mr O'DONOHUE — You might upset the department?

Mr CARROLL — It is not in the terms of reference.

Mr HALL — Local government is required by a provision under the Local Government Act that if it is disposing of land, to give public notice of the sale. Do you think that state and federal governments should also be required to give public notice of sale?

Mr CARROLL — There may be exceptions to why you would not do that.

Mr HALL — Such as? Could you think of an instance where such public notice should not be warranted?

Mr CARROLL — For instance, the sale of redundant industrial land, the sale of houses to existing tenants, the director of housing is probably selling houses to tenants. Under your definition that is all public land. I would not think that that should be referred to council. Councils get notification of change of ownership, certainly,

but they need not be told about it up-front. So then it comes down to a rather subjectiveness, does it not — what lands ought to be advertised or why?

Mr HALL — Should there be guidelines that set out the protocol for the disposal of certain types of public lands? If there are existing tenants, I would agree with what I think you are saying — that is, the existing tenant should have first right to purchase. Maybe there needs to be a set of protocols?

Mr CARROLL — In the invitation I received to come to this hearing one of the issues that was outlined here was the possible need for a long-term strategic and coordinated approach to the sale and alienation of public land by the three tiers of government. Yes, good idea.

Mr THORNLEY — In the process of the sale of public lands, does the group engage outsiders for various parts of that process — I presume you do — solicitors, real estate agents, various others?

Mr CARROLL — Yes. The group that sells surplus land at Treasury is a very small group. They are basically project managers managing a whole lot of consultants, agents and others to provide the necessary information to enable that piece of land to be sold. One thing you learn very quickly with government land: it never leaves you, even when you have sold it. If you have not told them about every blade of grass that is on the land, you are in trouble.

There is a huge amount of time and effort undertaken to provide prospective purchasers with all the detail they can possibly want to know about the property. If there is a building on it, there has to be a hazardous materials report; structural reports; geotechnical reports. That is all done by consultants. A lot of them are on the government's panel of approved consultants or else quotes are obtained to select one.

Mr THORNLEY — With the real estate agents that you might deploy, what sort of commission would they typically be earning on significant sales?

Mr CARROLL — There is no typical commission. Some will offer to do it for no commission; they just want to get their name on a sale board under the impression that that will give them some profile in the community as acceptable to government.

The CHAIR — Extremely generous, isn't it?

Mr CARROLL — There is nothing off the record here, is there, but if it were off the record — —

Mr O'DONOHUE — It is about as off the record as it gets!

Mr CARROLL — If it were off the record, I would say that we would not accept those because you get what you pay for.

Mr THORNLEY — How are the decisions made about who you would deploy to act in that capacity?

Mr CARROLL — It depends on the particular property. If it is a large complex property, we would probably look at the larger agents in the city who could handle that and give it the greatest exposure and then get quotes from at least 3 or maybe even 4 or 5 of those. If it was in the country and it was a complex one which might appeal to the city, we might get a local agent and a city agent working together. It depends on the property. If it was in a country town, we would go into the directory and find out who is on the REIV list, who is approved, and we would get quotes.

Mr THORNLEY — And then you would get quotes from several providers and you would make a decision on price alone?

Mr CARROLL — No. We ask them to provide us with a whole host of information, including how they will go about managing that sale, the price, the type of advertising they will do, the estimated cost of all of that. All of that is taken into account, put into a matrix to see which one offers government the best value. Their commission will not be the whole criteria for selecting them. We would mainly want to know that they were capable, that they have vision, we even ask them what price they are going to get for us but we do not hold it to them.

Mr THORNLEY — I do not know if you were involved at the time — it was a while ago — when the government was selling a large number of schools, for example, how would the decision be made as to which real estate agent was employed for some of that work?

Mr CARROLL — I was not involved. The Department of Education property group managed that process.

Mr THORNLEY — Do you happen to recall who might have been involved in those sales, who would have been in charge of the area at the time?

Mr CARROLL — That was going back about 10 or 12 years, I guess. There were a couple of names there, but I do not know how involved they were. They were just part of that property complex that the education department had at the time. I would not want to name them.

Mr THORNLEY — If we chased down those folks, they would be able to talk about those transactions in more detail to this committee, potentially?

Mr CARROLL — Yes. A decision was made early by the government. The Minister for Finance made the decision at the time back in the early 1990s that he was convinced that the education department had the core capabilities of handling those sales.

Mr THORNLEY — I realise you did not have access to the specific data in this case, but just from your general knowledge of the types of commission structures that typically prevailed in these sorts of transactions, what sort of range would you expect that commission would have fallen into? I mean, are we talking 1 or 2 per cent of value? I do not know what the sort of market norms are.

Mr CARROLL — As I recall, those school sites were sold off in bulk. They were packaged up in bundles, with one agent handling it, so there would have been a lot of concessional-type commissions involved in that, because — —

Mr THORNLEY — Because the agent got the whole deal themselves.

Mr CARROLL — Yes, and I am not privy to that. If it was a school site on its own, with a whole lot of details required about rezoning, what can you do with the site, preparing plans to show prospective purchasers what you could do with the site and the like, I would imagine 1 per cent might be a typical commission.

Mr THORNLEY — And on a large group — —

Mr CARROLL — On a large one I think there would have been a lot of competition. I have got no idea, really, what the price was.

The CHAIR — Thank you for appearing, Peter. I have got to say I appreciate the fact that you attended today. I am disappointed that we perhaps heard one set of evidence which was different from what we may well have heard if you had not been in tight communication with the department. I think it is a concern that there has been some massaging of what is presented. As you said, you do not want to bite the hand that feeds you, and I understand your difficulty as a contractor with the department. But thank you for appearing in any event.

Mr CARROLL — Thank you. I was happy to do so.

Witness withdrew.