

# CORRECTED VERSION

## SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Melbourne — 31 January 2008

### Members

Mr D. Davis

Mr P. Hall

Mr P. Kavanagh

Mr E. O'Donohue

Ms S. Pennicuik

Mr B. Tee

Mr E. Thornley

Chair: Mr D. Davis

Deputy Chair: Mr B. Tee

### Staff

Secretary: Mr R. Willis

Research Officer: Ms C. Williams

### Witnesses

Mr M. Baker, director, city development, and

Ms L. While, manager, property leisure and accessibility, City of Greater Dandenong.

**The CHAIR** — I declare open the public hearing of the Legislative Council Select Committee on Public Land Development. Today's hearing is in relation to Victorian government policies relating to the sale and development of public land. I welcome Mal Baker from the City of Greater Dandenong and Lyn While also from the City of Greater Dandenong.

All evidence taken at the hearing is protected by parliamentary privilege as provided by the Constitution Act 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. You will be provided with transcript copies shortly after the hearings with an opportunity to make minor corrections.

I want to put on record our thanks for your appearing and invite you to make a short contribution followed by some questions. Welcome.

**Mr BAKER** — Thank you, and thanks for the invitation and interest in our thoughts. Our submission was really centred on one concern about a process similar to what local government has to go through when it is going to sell public land and really more around public open space and the potential for any public open space to be sold.

### **Map shown.**

The reason we see that as being important — and we have got a map here, which we can leave with you, which shows the open space holdings in Greater Dandenong which are owned by council or by Melbourne Water or by the Crown — as I am sure you would be aware, Dandenong is one of the transit cities which is picking up increased residential development and density as a result of transit cities. It is our view that it is very important that as the densities increase there is useable public open space where people can recreate, whether it is active or passive recreation.

If local government is to sell land, whether it be public open space or holdings it has got for other reasons, under the Local Government Act we are required to give notice that we are going to sell that. There is then a submission that can be made to council, and council has to hear that submission and formally make a decision as to whether to sell or not. So it is that due process of the impact on the community that we just wanted to highlight what we went through. I suppose it came to our attention on two occasions recently, both of which were resolved quite well, but the lack of a process meant it was a little bit more difficult. One was a Melbourne Water site, Tirhatuan Park. We leased that — and I will get to tenure a little bit later — from Melbourne Water. There are a number of entry points off the surrounding residential area. It is the red and green up in the top corner just through there.

On one of the entry points there was a lot which was still shown as a residential lot, and Melbourne Water, in doing its property reviews, took the decision that it would sell that property. The first thing that anybody knew about it was that up went a sale sign and the community said, 'How do I get into the park?'. You can still get into the park because it has leased half of it as part of the park. 'But we have been there for 20 years, and we like the entrance, and it has actually got a playground on part of it', and all of that sort of stuff. We were able to resolve that through the working relationships, and that is fine. Melbourne Water said, 'Would you like to include it in the lease?', and it was done. But if it had not have been picked up, it could have gone too late.

Another example is not state land but commonwealth land, which is in the Dandenong Central Park. If you know Dandenong, it is the bottom end as you head out towards Frankston on your left — Shepley Oval is there, and there is an old drill hall. The first we knew was, here was this huge sign that went up and said, 'Ideal spot for takeaway food development subject to council approval'. There were whole issues around zonings and the like, apart from the fact that we would have said we would buy it because it bisects a park. We resolved that too. It is just about that process.

The other thing that our process requires is that if we are selling public open space, then the money that is generated from that has to go back into public open space generally within the area. That comes from a section of the Subdivision Act. I cannot recall what it is; my guess is it is section 4 or section 10. So there is a safety catch, if you like, that says, 'If there's a very good reason to put this land to another use' — and we have done this just recently with the state — 'then the money that comes from that gets spent on something else'.

The example was the police department wanted to put a new police station in Springvale. The ideal spot was on the front half of Erickson Gardens, which is a park. We could see the sense of that, and we sold it. But in doing so the community is protected in that the money from that has to go back into public open space.

We are in the process of redeveloping our offices over the next few years, so the Springvale site will not be occupied as city offices. There will still be a town hall, but when the city offices come down the money from that will then have open space provided on the other side of the road. So there is that safety net. They are the things we had in mind when we were saying, 'If land is to be sold, it needs to be replaced'. If you look at the densities in Dandenong and where the public open space is spread and at the usable areas, there is the possibility that you can whittle away some of the land. In residential areas there is nowhere for the kids to exercise. It is a fairly simple thing, but we thought that was important. I will finish quickly, and we will get to questions.

The other issue is that we have extensive leasehold agreements or Crown land. On the map the blue is Crown land, green is Melbourne Water land and red is ours. The two big spots on your right are Melbourne Water land. They are wetlands, really, along the Dandenong Creek. It is the area of Stud Road and Heatherton Road, with the basketball courts. We have not only got the basketball courts in there but also an extensive bike track. You could start at Scotchmans Creek or back in the city, come out past Scotch College, work your way down through Monash, all around the south down here and you end up at Patterson Lakes. One of the examples of what we do is that we have put in that bicycle track. If it floods, it is our risk; we have to replace it.

The sorts of figures that we spend — I have a handout that I will leave with you — are: in Tirhatuan Park our annual costs are \$174 000 over and above the rental and the rental is not excessive. The blue area at the top of the map, which is Crown land, has soccer pavilions and hockey pavilions, and Parks Victoria is saying, 'Let's strike a commercial rental'. It is on an old tip site and it costs us a fortune each year to level it. With a commercial rental, we start to say, 'Well, can the community continue to pay for it?'

We will leave with you as an example this photo taken in late 2005, when the Dandenong Creek flooded. It gives you an idea of what potentially is washed away. It is just a recognition that we have a lot of land which is in Crown or instrumentality holdings that we look after. There is a fair risk to us and a fair expenditure on an annual basis. The agreements are capped at 27 years. That is acceptable; we would not want to see that coming back. If there was an opportunity for those to be 50 years or something like that, it just helps with the community seeing that if the investment goes in there they have a life to get their use out of it, rather than the risk of not doing so.

**The CHAIR** — Security?

**Mr BAKER** — Security. That is essentially the content of our submission. We do not have any real complaints or negativity. We saw an opportunity to make some points that improve it in the future.

**The CHAIR** — Thank you. Did you have some comment, Lynette?

**Ms WHILE** — No. I am here for moral support.

**Mr BAKER** — She knows the detail.

**The CHAIR** — I have two questions. One is related to this concept of selling one bit of public land and then the money being held and another piece is purchased somewhere, which I presume you are arguing?

**Mr BAKER** — Yes.

**The CHAIR** — I can see the sense of that. How do you ensure that those later purchases actually deal with the needs that are in different areas of the community? Has some overall analysis been done?

**Mr BAKER** — Yes. We have an open space strategy which Caroline Williams asked us to forward a copy of. It is a document that is dated 2000. We are currently going through a review process, and there will be public consultation on that. But essentially it is designed to ask: what are the levels of public open space that are required — one in a neighbourhood, one in a city, and which ones make a regional contribution; are they serving their purposes; are they playgrounds; are they active sport; are they passive sport, and a lot of the stuff around the creeks is passive; and what is the community requirement? That then drives into our annual maintenance budget and the 10-year capital improvement program, and for capital improvements and acquisitions we go to that separate fund, which is the public open space fund. It is accounted for separately.

It is a bit of a legal interpretation. We have not gone down this path of asking whether, if I sell something over on the eastern boundary, can I spend it on the western boundary? The legislation says, 'Generally in the area'; we say, 'No, that's not generally in the area. For a municipality, it needs to be over on the other side'.

Also, we would not have an argument with anything coming out of your review that says if quite clearly there is excessive land available and you are looking for a development which is going to benefit the community, whether it be affordable housing or whatever, then that money may well go into improving infrastructure in the existing parklands. For example, we find it very difficult to service all the sporting requirements in the community.

In Ross Reserve, which is in central Noble Park, we have got two soccer clubs which have got both senior and junior teams, and I think one of them is playing firsts and seconds at senior level, and so that ground is just absolutely booked out for the weekends. We do not have the funds at this stage to provide future grounds, although we have Tatterson Park, which is down on Cheltenham Road, and that is having new ovals built in the future, and the public open space fund is providing that. But there are always community groups unsatisfied in terms of access to ovals and clubrooms.

**The CHAIR** — The other question relates to the Dandenong Creek and those important strips of park along there. What is the level of security with respect to that land?

**Mr BAKER** — In terms of tenure?

**The CHAIR** — In terms of tenure and the management of it. Is it possible that some bits of it would be developed at this point?

**Mr BAKER** — Certainly around the basketball court, when you look at that and the zonings and the flooding, it would be difficult to put any residential-type development there. We have land ourselves abutting it on Cheltenham Road on the old market site which is being developed for housing — a range of housing, from detached through to apartments — and that is a partnership with VicUrban. The creek face itself is being included as a public open space in that area.

I am just going through the mind's eye of the parks as to where you will find some residential development. I do not know that you are going to find much around the creeks. I think that is pretty much wetland. You might have a small component potentially in Tirhatuan Park, but whether that would be economic — you would be stretching to get a road frontage.

**The CHAIR** — I am looking to understand what level of security there is, because there is actually another submission that talks about further up and some risks there.

**Mr BAKER** — Yes. Lynette knows the details here, but most of those are on 27-year licences or leases. Lynette has been negotiating with Melbourne Water.

**Ms WHILE** — Yes. I would say that the security of tenure is really not there from a council perspective, in that our understanding is the maximum tenure is in that 20 to 30-year space. Given that we are quite literally sinking millions of dollars into the development of the parkland and then the maintenance of it, there is the potential — because we do not know what the future holds — that some areas could potentially be converted over to some sort of high-density housing.

I think around areas like Shepley Oval, which is part of our major Dandenong park on the Dandenong Creek, there are perhaps some pockets within that major parkland that could have the potential, with appropriate design, of being converted to high-density residential housing. It may be unlikely to happen, and it might be the last thing on any list of things to happen, but there is always the potential for that. That gives us, I guess, a little bit of nervousness, especially having experienced, as Mal has mentioned, a portion of land in the northern part of the city potentially being sold and the drill hall, which was part of the Dandenong park, potentially going up for sale.

We have had a little bit more nervousness behind us over the last couple of years than we might have had in the past, because of those experiences, I guess, and because when you are sinking that amount of money into a public asset, you would generally tend to think there would be a 100-year lease or some sort of lifetime lease, which there is not at the moment.

**The CHAIR** — Thank you.

**Mr BAKER** — In terms of the public holdings that we use as parkland, as a rough guide to you, if it is owned by Melbourne Water, it has been acquired — 90 per cent accuracy — for drainage, and therefore drainage would be an issue and inundation would be an issue. Crown land is a different kettle of fish.

There is Hemmings Park opposite the high school. Most of that would be buildable land, although there is a tip site there underneath it. Lynette mentioned Shepley Oval, which is the one on the left as you leave Dandenong heading towards Frankston. We have got a master plan which council has adopted, and that master plan is based on that parkland being the future recreational area for the higher density that is going to happen in Dandenong. It has been costed at the moment at \$10 million-plus in terms of purchasing the drill hall and turning that into parkland; building a new sound shell, somewhere for Australia Day celebrations and community events; and Shepley Oval, which is the old Dandenong VFA oval and also the cricket association oval for the A-grade cricket. It is earmarked with a \$4 million budget in the next 10 years, but it is really going to take 10.

**Ms PENNICUIK** — Some of the other councils that have made submissions raised one of the key issues that you are raising of lack of consultation from state government departments with councils when they have identified land and have put it up for sale. I just want to clarify that in fact in the two examples you mentioned there was no previous communication with you as a council.

**Mr BAKER** — No.

**Ms PENNICUIK** — Certainly we have been told in other evidence that councils are always advised, and that there is then a very short time for a council to respond — something like 30 days — and many other municipalities have given evidence that that needs to be extended. I am asking you to clarify that actually you were not notified?

**Mr BAKER** — On those two occasions, no. Only when — —

**Ms PENNICUIK** — It is not necessarily working in practice in your case, and in the cases you have brought here.

**Mr BAKER** — It may well have been okay in the past, but they are the two recent experiences — —

**Ms PENNICUIK** — That is an issue of concern to you as a council which needs to be addressed?

**Mr HALL** — Can I ask on that point, are there any other examples where you were given an opportunity by the state or federal governments to purchase land?

**Mr BAKER** — If you go back, there has been quite a period where there has not been anything like that, but Tatterson Park, which is the one on Cheltenham Road, came out of the old Melbourne and Metropolitan Board of Works days when it was parks, roads, sewage and drains. It ran two funds, the metropolitan general fund and the metropolitan improvement fund. The improvement fund included a parkland.

One of the things that Melbourne Water did to promote parklands was to say, 'We have acquired land or are about to acquire land' — because it had roads at one stage as well — 'We are not going to need all of this. Is the council interested in acquiring it for space or so forth?'. Then it had this fund — I think it might be a 10-year with quarterly payments. That is an area. Somebody told me it is something like 15 MCGs in size. I cannot remember but it is fairly sizeable. It worked then.

There have been enormous changes in terms of the way instrumentalities have become semi-privatised, and just like us government departments doing business cases these days. I suppose it is just catching up on processes, and things that have changed where perhaps there are some minor cracks in the wall.

**Mr HALL** — Were the two examples you gave in recent years — the board of works one and the drill hall?

**Mr BAKER** — The board of works one we resolved last year, and the one from the commonwealth would have been in 2005 when I think it started.

**Ms PENNICUIK** — It is an important issue. I know in other evidence the complaint has been that councils were notified but the time was too short, and your complaint is that you were not even notified. Obviously we have an issue there with that process or with an inadequate or lack of process, or processes not working entirely properly?

**Mr BAKER** — There is just an opportunity to put something as part of your review.

**Ms PENNICUIK** — Certainly what we need to do is find where these issues are and how we can best resolve them.

One of your other main points is about tenure and money — funds and resources — that council puts into state-owned land or land under the control or ownership of another level of government. There is also another issue. I think you said that you could ill-afford to acquire some land. I wonder if you have any comment about land that is in public ownership, whether it be held by local government, state government or federal government and the requirement to sell that land at market value to another level of government?

**Mr BAKER** — Our legislation enables us to exchange with government instrumentalities with or without consideration. With the drill hall we were able to negotiate favoured treatment because of the government issue. It certainly helps if you are doing it cheaper. We are not necessarily saying though — and this might not be answering your question — we have to own the stuff that is in public ownership; we are happy with a tenure arrangement so long as there is some security. If we are putting sizeable money in and if a building has a 30-year or a 40-year life, then we ask, ‘Can we have 30 or 40 years?’. You can then write it off.

**Ms PENNICUIK** — Do you think there is a need for some review of the maintenance of land? Who pays for the maintenance of land in terms of council obviously having to pay sometimes for the maintenance of land that is not, as you were saying — —

**Mr BAKER** — I think there is an argument — —

**Ms PENNICUIK** — Sorry, not just in terms of the tenure but in the way it is paid for.

**Mr BAKER** — I think there is an argument for some shared capacity in there, but we are realistic enough to realise that if we are getting the land at a reasonable or token rental and the community is getting some benefit out of it, then mowing it and having plantations and that sort of stuff is fine. It gets a little bit rich if someone requires a concrete bicycle path to be put on there as a condition of the tenure and full recovery if a flood comes. Maybe that sort of thing could be shared.

**Ms WHILE** — If I may add very briefly to that, we have issues around the quality of the maintenance that occurred on that land, and I can very quickly give an example with Melbourne Water land where there are wetlands constructed which may be part of a large parkland within a housing development. There is an expectation among the residents there that the wetland will be maintained to a higher standard than it is particularly given that a wetland functions as a drain so that after heavy rain or a storm you get a lot of rubbish coming through.

Melbourne Water’s requirement might, for example, be to clear that on request or up to — I think it is — around four times a year. In fact that means there is a lot of accumulation of litter, and it is not maintained to the same level as the remainder of the parkland which council might maintained. There are some issues of quality and frequency around maintenance.

**Mr HALL** — You mentioned that if council decides to dispose of land it is required to give notice under the Local Government Act. How do you do that? How do you give notice?

**Mr BAKER** — Advertise. There is a requirement to advertise in a press circulating in a local area, so we put it into three there in the municipality’s spread with a bit of an overlap, but no one paper covers the lot.

**Mr HALL** — They are local papers, not statewide papers?

**Mr BAKER** — No, not statewide.

**Mr HALL** — Do you do any letterboxing, posting to nearby residents or anything like that?

**Mr BAKER** — We would not do that unless it was a particularly sensitive one.

**Mr HALL** — If the state government or the federal government were disposing of land, or an authority of state or federal government, what sort of notice do you think they should give? Certainly you have indicated they should notify council. Should they give public notice generally as well?

**Mr BAKER** — I would have thought so, because it is not just the land that is being intended to be for another use, it is actually the use, and you are crossing into that planning notice which would probably come at a later stage. I have almost invariably found that it is a much easier path to declare what you are doing and get the feedback on it earlier than try and sell something that is not going to fly afterwards.

**Mr KAVANAGH** — On the requirements under the Subdivision Act to, effectively, put any money that you make from the sale of public land into other public land, are you calling for that section of the act to be repealed? Would you like to see that repealed?

**Mr BAKER** — No.

**Mr KAVANAGH** — Would you like to see it changed somehow?

**Mr BAKER** — No, I think it works fine. I think it is a good safety valve, and we have used it. As an example, back after amalgamations a number of councils looked at the practicality of these small, 1-lot parks — you know, somebody does a 50-lot subdivision and they dedicate one lot as a park. They were not big enough for kids to kick footballs on, they were not big enough for a playing field, they were very difficult to maintain.

But we were able to go through the consultation process and say, ‘Look, if we were to sell these, there are these bigger ones’. You are still going to have a park within 800 metres of where you live, or 500 metres of where you live, but when we sell this one there is the double one up by the shops and we can put in the playground, the soft-fall and that sort of stuff and, from an officer’s point of view, it is good to have the safety aspect there of, ‘Yes, if we are going to do that, then the money gets put back into the equivalent community benefit’ rather than, ‘Well, it might go off and be spent on a road or drain’. That is important, but you have got to find that in your rates too.

**Mr KAVANAGH** — Does the money you make from the sale of the land have to be spent on purchasing land?

**Mr BAKER** — It can be spent on capital improvement. My understanding is that it cannot be spent on maintenance.

**Mr THORNLEY** — Chair, congratulations on your recent elevation.

Just stepping back from some of this discussion, I have come across in a number of discussions with other local governments difficulties that they have had not just with state or federal governments or others’ activities within their location, but specifically in transactions between themselves and either state or federal governments over particular parcels. Have you had any of those types of transactions causing difficulty?

**Mr BAKER** — No. I cannot recall.

**Ms WHILE** — With regard to the sale of land?

**Mr THORNLEY** — Yes.

**Mr BAKER** — The actual transactions?

**Mr THORNLEY** — Between arms of government.

**Mr BAKER** — No.

**Ms WHILE** — No.

**Mr O’DONOHUE** — You mentioned before that the City of Greater Dandenong is one of the identified transit cities. Can you just give me an idea of what sort of population growth you are expecting in the city of Greater Dandenong over the coming years?

**Mr BAKER** — We put in a fairly high stretch target and said that by 2015 we would like to see another 7000 residents in the central area.

**Mr O’DONOHUE** — That is the CBD of Dandenong?

**Mr BAKER** — Yes, and in the outer there would be another eight. So we are looking at 15 000 in that period. It is not just a response to containing the urban growth boundary, but rather it is also around the economics of the local community of Dandenong with the changes of the big industry — it is about employment, it is about retail opportunities as well. We have got 1200 dwellings and 3000 residents in the metro 3175 proposal as the objective there, and we would be about a third of the way through the life of that project, and it is going well. It is certainly going to be an issue — not for the likes of your area — but to get apartments up, then you are running into issues of floor levels and lifts and building agreements and that sort of stuff, but they are all addressable.

**Mr O'DONOHUE** — You referred to updating your open-space strategy from 2000. I suppose that is partly in response to that population growth?

**Mr BAKER** — That is right.

**Mr O'DONOHUE** — Are you confident you have got enough open space in that area and the CBD of Dandenong to accommodate those new people?

**Mr BAKER** — If you look at that map, you can see that we have got three activity centres — Dandenong, Noble Park and Springvale. The land tends to be around the periphery. There is the stuff that is close — like the two blue ones on the map we have supplied today; this is central Dandenong, this is Ross Reserve around Noble Park, Springvale is here, they are our offices where part of the replacement of public open space is going to go, and this is an old tip site — and it is fairly difficult to get something in there in the very heart of the CBD. It is very expensive.

**Mr O'DONOHUE** — Sure.

**Mr BAKER** — We would love to have a park like what you have got over the back in the middle of Dandenong, and what would that do for the amenity. But the practicalities of doing that!

**The CHAIR** — I thank you both your contribution. It has been very helpful, giving us a very good snapshot of a council in action on these issues.

**Mr BAKER** — We will leave the map with you and if there is anything else that you want as a result of a review, just get in touch and we will provide it.

**Witnesses withdrew.**