

# CORRECTED VERSION

## SUB-COMMITTEE OF SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Caulfield — 13 February 2008

### Members

Mr D. Davis  
Ms S. Pennicuik  
Mr E. Thornley

### Other Committee Members Present

Mr E. O'Donohue

Chair: Mr D. Davis

### Staff

Secretary: Mr R. Willis  
Research Officer: Ms C. Williams

### Witnesses

Cr M. Esakoff, deputy mayor,  
Mr A. Newton, chief executive officer, and  
Mr J. Akehurst, director, city development, Glen Eira City Council.

**The CHAIR** — I welcome Mr Andrew Newton, chief executive officer; Jeff Akehurst, director of city development; and Cr Margaret Esakoff, deputy mayor, from Glen Eira City Council. I ask you to briefly address us, and then we will ask some questions as well.

**Cr ESAKOFF** — Certainly. Thank you.

**The CHAIR** — Just before you start, I want to put on record our thanks for allowing us access to this facility today.

**Cr ESAKOFF** — It is a pleasure. Mr Chairman and committee members, on behalf of Glen Eira I would like to thank you for coming here today and for continuing your examination into public lands.

The committee has asked council to make a submission. That submission was sent in at the beginning of this month. Copies are available here for anyone who has not read that but would like to read it. I do not propose to repeat the submission in full here. I would like to summarise in seven brief points.

Point 1: we are talking about Crown land the size of 25 football grounds. The Crown land is reserved by deed for three purposes — a racecourse; public recreation ground; and public park.

Point 2: the current situation is that the land is used almost entirely for commercial purposes — 20 race days a year; training of horses early in the mornings; a Tabaret with a very large monetary turnover; and commercial exhibitions such as caravan and camper shows.

Point 3: there is a master plan, developed by the Melbourne Racing Club, which mainly deals with development of land owned by the racing club — their freehold land.

The fact that the racing club has become such a large landowner is, in part, a tribute to the commercial success of its occupancy of the Crown land. That plan will need to be dealt with under the Planning and Environment Act as it involves potential rezoning of land and applications for multi-storey development.

The master plan does affect public land, as it proposes a nine-storey building on what is currently Crown land reserved for a racecourse, public recreation ground and public park. It is difficult to see how a nine-storey commercial building is any one of those three things.

There also appears to be the potential for the private development to displace car parking onto the Crown land. It is relevant that there are multi-storey car parks at the adjacent Monash University campus, comprising hundreds of car spaces which are little used on most race days. Monash University's next phase of development, for which planning permission has been granted, provides for hundreds more car spaces still.

Point 4: council's position is a simple one. The legally-prescribed purposes of a 'public recreation ground' and 'public park' are not adequately provided for, and they should be. There are 345 non-race days each year, and we believe they provide ample opportunity for junior sport and equivalent active and passive recreation. Such activities should be undertaken without compromising the use of the land as a racecourse. They do not require infrastructure such as pavilions.

Additional playing areas are desperately needed. For example, there are more junior soccer teams — both boys and girls — wanting to play in Glen Eira than we have grounds for. The area should be available to be used for active and passive recreation by the taxpayers who 'own' the Crown land.

Point 5: risk is often put forward as the reason why junior sport cannot be played in the centre of the land. If you go to the Caulfield Cup or various other commercial events, you may find yourself parking in the centre of the racecourse or enjoying hospitality or other activities there. If the centre of the Crown land can be made safe for you on those days, why can it not be made safe for your daughter or son to kick a soccer ball for a few hours each week? Either the area is safe for both or it is safe for neither.

Any proposition that the centre is safe for commercial uses but not safe for community uses is not credible and ought to be rejected by this committee. If the training of horses is incompatible with normal uses of Crown land, a plan should be developed to shift the horse training to more suitable venues in regional or rural Victoria.

Point 6: we are not opposed to the racing club or its horseraces. Community recreation and 20 race days a year can coexist very happily together. It was council's idea, more than seven years ago, to ask for a master plan to be developed for both the Crown land and the freehold land. We have been trying to negotiate with the racing club for some time. We now have a master plan to intensify the uses of the freehold land but without opening up what is supposed to be the public land.

Council's final point, point 7, is this" it is all a question of balance. We believe that the current situation is out of balance. We believe that it is not difficult for balance to be restored. We submit that this is an opportunity for the committee to help provide considerable benefit to thousands of Victorians at negligible cost or no cost at all. Thank you.

**The CHAIR** — Thank you very much for your submission and your evidence today. To start with I should ask two very obvious questions: does the council have an open-space policy or plan, or has there been an open-space audit through the municipality?

**Cr ESAKOFF** — Yes.

**Mr NEWTON** — Perhaps I can tackle that. We have two documents — one is the long range, open-space strategy, the other is the recreational needs strategy. I am happy to make both available to the committee. Glen Eira has the second-least amount of public open space of any of the 30 municipalities in Melbourne and we need to make — —

**The CHAIR** — And yet ongoing intense development.

**Mr NEWTON** — Yes. We have five major activity centres, so we are desperately short of public open space, and where there is public open space we need to make as much use of it as possible.

**Cr ESAKOFF** — If I could just add something there: Glen Eira has the second-lowest amount of open space in Melbourne, as Andrew has said, but funnily enough the municipality with the least amount of open space is Stonnington. This area we are talking about is on the border of both Glen Eira and Stonnington.

**The CHAIR** — Does your open space policy, in a systematic way, take account of the space and the public park aspect of the racecourse?

**Mr NEWTON** — It identifies that as having the potential, but because we do not control it, we cannot make those decisions. Most Crown land is vested in the local council — for example, Caulfield Park is Crown land and we are the committee of management. There are unique arrangements in relation to this Crown land, and it is not under our control. That is why our role has been to advocate and lobby and negotiate — hopefully in the future with more success than we have had in the past.

**The CHAIR** — So if there was some arrangement where there was greater access to park uses for the land, you would systematically incorporate that in the public open space policy for the municipality?

**Mr NEWTON** — Absolutely.

**The CHAIR** — That is the first question. The second question is also a straightforward one. Again the perimeter: what discussions has the council had to work with the racing club to open up the perimeter to beautify the perimeter of the racecourse? Is that a joint responsibility? Is it the racing club's responsibility? How would that work?

**Mr NEWTON** — That has been one of a long list of issues that we have discussed with the racing club. I think the result would depend on the part of the fence you are talking about. There are some parts of the fence where, if you could open it up, the public would get far more benefit than others, depending on the change of levels and on what is inside the fence and whether it is obstructed in any way by a building. But there is plenty of potential to get not only the benefits of use of the public land but the, dare I say, spiritual benefits of actually seeing a long way in the distance, because around here there is not anywhere where you can get that feeling. I do not think it would be very difficult to achieve.

**The CHAIR** — And you would be prepared to work cooperatively with the club to achieve that?

**Mr NEWTON** — Yes, absolutely.

**Ms PENNICUIK** — Andrew, you were just saying that you hope you will have more success than you have had in the past. Could you describe how the council feels — whether the council feels it is making some headway, it is not getting very far at all, it is going backwards, or it is somewhere in between — in terms of getting its point of view across and getting that message through to the Melbourne Racing Club about the need for recreation and public park on that land?

**Mr NEWTON** — Look, we have got nothing to show for our endeavours. We cannot point to any improvement that has been made as a result of our efforts, and I guess that is the most important thing. We have written various letters and that sort of thing, but they have not yet made any changes that benefit anybody on the ground. Part of the issue is that there are two bodies to deal with. There is the racing club, which has been in occupation for a long time, and there are the trustees. The trustees have one meeting a year, and I would have to say that that is an issue; if anybody wants to actively discharge responsibilities, it is difficult to deal with a group that has one meeting a year. But we are continuing to put views to the racing club and to the trustees and we will keep battling for the residents of Glen Eira and further afield.

**Ms PENNICUIK** — Have you raised these issues with the state government at all, understanding it is state Crown land?

**Mr NEWTON** — Yes, we have written to and had meetings with the Crown lands part of the Department of Sustainability and Environment and the office of the Minister for Planning about these issues. It is somewhat interrelated with the planning amendment that the racing club is seeking mainly for the freehold land. So there are some issues there. As I say, the arrangements are unique in that you have this body of trustees, which you do not have very often with other Crown land. So I think, strictly speaking, they are responsible rather than the minister, unless the minister chooses to change those arrangements.

**Ms PENNICUIK** — So the council would be seeking to be actively involved in the process of whatever happens on that land, so you are committed to that on behalf of the residents of Glen Eira?

**Mr NEWTON** — Yes.

**Ms PENNICUIK** — I just want to ask another question that came to me. I was interested in what is known as the Phoenix precinct. In our meeting with the MRC they said it was the Monash University, the MRC and the council involved in that. It was interesting to me that the boundary of that was not a public road — it was actually inside the land, or appears to be — and it incorporates part of the car park on Kambrook Road. You may not be able to answer it, but I am just wondering how that came about.

**Mr AKEHURST** — Just the actual boundaries?

**Ms PENNICUIK** — Yes.

**Mr AKEHURST** — I mean, the Phoenix name really is related to Phoenix palm trees that are growing in the area. There is nothing magical about that. It is just a local thing.

**Ms PENNICUIK** — It was a mystery.

**Mr AKEHURST** — It is just a local name that is really given to what the state government calls a major activity centre. At the time when we put our boundaries in place it was what we saw as really the sphere of influence, if you like, of that particular centre. But I would not say to you, Sue, that that is locked in. In fact, when we have been before various panels on planning scheme matters it has been said that perhaps that boundary should extend further at least to the south. So, there is really nothing magical about that particular boundary. There is no physical major road or anything like that.

**Ms PENNICUIK** — I was just wondering why it extended onto the actual land and the southern boundary was not Station Street. That was my question. It just seemed odd. The council is relaxed about that, is it?

**Mr AKEHURST** — Probably from the position of today I think we really see that whole area will probably need to be expanded out in terms of what constitutes a major activity centre.

**Ms PENNICUIK** — So that is still an ongoing discussion?

**Mr AKEHURST** — Yes.

**Mr THORNLEY** — I just wonder if you can give me a ballpark — you offered to give us specific planning documents which sound like they will have more data. I grew up hitting tennis balls against the wall at Caulfield Park, and I think riding my bike around the track, which I am not sure I am allowed to do any more because there are so many joggers. It was pretty busy 25 years ago so I am guessing it is busier now. Roughly what sort of usage per hectare or whatever would you see in the other facilities around the city of Glen Eira?

**Mr NEWTON** — We would not measure it that way. We could try to dig out some information, but basically the grounds are getting all the use they can carry, given water restrictions and so on, and there are people who have registered their interest in getting a ground allocation that we cannot satisfy. So if the centre of the racecourse, for example, could make available a couple of soccer pitches, they would be played on this weekend.

**Mr THORNLEY** — I presume if you had access to it for these sorts of purposes the council would also be willing to invest an appropriate level of funds in creating such facilities from the raw environment there.

**Mr NEWTON** — Yes.

**Mr THORNLEY** — In relation to the development itself, I understand the council registered a number of concerns around parking facilities and a range of things when the initial development proposal was put forward, and as best as I can ascertain there is a bit of argy-bargy going on around the development partly as leverage in this other dispute. Is a high-density development in that location something the council has a problem with conceptually?

**Mr AKEHURST** — The short answer is no. I do not want to sound presumptuous saying this, but when the state government put out its Melbourne 2030 policy it copied our council's local policies. We were there first in terms of identifying major centres within the municipalities, and that was one of them. I am not necessarily being smart about that because in my opinion Melbourne 2030 and council's policies are based predominantly on common sense. You want to increase activities around places like stations and shopping centres, so a lot of Melbourne 2030 in my opinion is just common sense; it is basic town planning principles.

The significant development that the Melbourne Racing Club might have in mind in principle is not at odds with the council's policy or, probably more importantly, the state government's policy. The problem is we have never been able to get from the Melbourne Racing Club a precise enough idea of what they want in terms of being able to put it out to the public in terms that the public could meaningfully comment on what they are on about. In other words, what they have really been able to give us in detail is not much more than concept plans.

The problem with the priority development zone, as envisaged by the Melbourne Racing Club, is that that is the first and only time the community, and for that matter anybody, including the council, can meaningfully really have a say in what is going on. That is the dilemma of the Melbourne Racing Club's plans. It is not really any issue around what I would call the merits, what planners call the merits, the details. That is not to say that the council will be happy with every particular thing that might come up in the future; it is just that we have never been able to get our teeth into what is proposed.

To better explain that is it contrasts very significantly with what happened at Monash, which the council really went along with, without kicking and screaming. That went through a priority development zone through the priority development panel, but the big difference there is there is a degree of exactness and preciseness about what Monash is going to do. They are going to build certain buildings in certain sizes in certain locations, and that is going to generate a certain amount of car parking that is precisely going to be parked there. We have never got to that point with the Melbourne Racing Club. I honestly do not think they understand that that is the big difference. That is probably a bit of explanation about the contrasting difference between Monash and the Melbourne Racing Club. The Melbourne Racing Club will really try to go through on the coattails of the same process that Monash went through.

Another way of looking at it, the big difference is that the Melbourne Racing Club does not have a developer. Monash have some plans and they have a developer — Equiset — that is going to execute those plans. The Melbourne Racing Club does not have that. You could torture them and they could not tell you what is going to go

there in any precise way, and the reason why they cannot do that is they do not know themselves. So if they do not know, how does anybody else know? And that leads to why this council has said it cannot agree to put this on exhibition at this stage.

**Mr THORNLEY** — So we have a bit of a chicken-and-egg problem here, though. Presumably they would need some confidence about the zoning before expending the sorts of funds necessary to create a detailed plan. And then your concern is if you do that, because there is only the one round of consultation with the PDZ process.

**Mr AKEHURST** — Yes.

**Mr THORNLEY** — It is pretty obvious that we have a chicken-and-egg problem here. Have you folks got any recommendations about how we could change that process or how we can get over that chicken-and-egg problem?

**Mr AKEHURST** — Yes, it is being got over. I am not sure it is a totally chicken-and-egg process, because I think there is a lot of certainty about what can happen in that particular precinct through state government and local government planning policies. They are both saying significant development can happen there. I think that is a big hurdle to get over.

**Mr THORNLEY** — But then, in your mind, why would the club not have advanced more specific plans? They are obviously very keen to proceed here.

**Mr AKEHURST** — Because they have not got anything precise in mind about what they want to do. They know in a general sense they want to develop the land, but there is no exactness or preciseness. They cannot tell you a particular building is going to be occupied by a particular thing or that it is going to generate a certain number of cars. There is a lack of preciseness.

**Mr THORNLEY** — If the only barrier to them proceeding was for them to have that precision, and given their fairly obvious enthusiasm for wanting to proceed, I am struggling with if that were the only barrier, then presumably they would have created those more detailed plans. That has not happened, so something is not making sense to me here.

**Mr AKEHURST** — No. It cannot happen because they do not know what they want to develop at this point in time. That is the circular part of it. This exact dilemma has been put to the priority development panel. Jane Monk has been asked by the minister to get the parties together, which happened before Christmas, and see if this seeming impasse can be addressed. The trick from our point of view is coming up with a plan that has some meat on the bones that is sufficient enough for when it goes out to public exhibition the public can meaningfully comment on its impact or lack of impact.

What I can tell you is that the council, through working with its lawyers, has worked up a position that in the officers' minds — this has not been put to the council yet — there is a form of amendment that could go on exhibition. It is going to be up to the minister. Whatever the minister does with that, I do not know. The minister may say something to the priority development panel: 'You can exhibit it or not exhibit it or whatever'. It is possible the council would be asked to exhibit an amendment like that. If we are asked, we will obviously put that to the council to make a formal decision on it.

I suppose the answer to your question is the parties have got together before Christmas. We have worked to try to resolve some of these seemingly difficult differences. We have put those views back to the priority development panel, and we are just waiting for the result of that.

**Mr THORNLEY** — I am just wondering if the council has done any work to demonstrate usage in the internal portion of a raceway from other locations. Off the top of my head, I am thinking Flemington, Randwick — I do not think there is anything in the middle of either of those. Somebody mentioned to me Hong Kong — there probably is not. That would not surprise me, because they really know how to utilise land there. Has the council got any examples it can bring forward from elsewhere? If the racing club is putting forward this range of concerns about risk and other things, if there are 20 examples around the world of where there is all sorts of stuff happening in the middle of a racecourse, that would seem to alleviate those concerns. Have you done that work, or do you have any access to any examples?

**Mr AKEHURST** — Not as part of any town planning sort of assessment. I accompanied our recreation manager to Cranbourne Racecourse, which has some sort of sporting activities that take place within the racecourse. That is the only thing.

**Mr THORNLEY** — I might encourage you to think about that. It would not seem to be a particularly difficult thing to do. If there are other examples around the world and you can list a pile of them, that would make your case more compelling, I would think.

**Mr O'DONOHUE** — Just to add to Mr Thornley's point, I understand they play Rugby and soccer in the middle of the racecourse in Hong Kong, which you may already be aware of. You mentioned before, Andrew, that the city has five major activity centres. What sort of population growth is the city likely to experience over the coming 15, 20 years?

**Mr AKEHURST** — Not as much as you would think. In terms of population projections, we envisage we will be adding about 300 dwellings a year. This city is caught in the falling occupancy rates per dwelling. You need to add dwellings to stand still in a population sense. That is very much alive here.

**Mr O'DONOHUE** — You talked about the PDP before. What sort of involvement did the city have in that process?

**Mr AKEHURST** — In September 2007 the council resolved not to put the amendment that the Melbourne Racing Club wanted on public exhibition. It said it would put an amendment on exhibition, but not the one that was put forward. Basically it sort of kills it. If the council will not put something on exhibition, there is no appeal to VCAT or anything like that. The Melbourne Racing Club went to the government. Minister Madden, as I understand it, referred it to the priority development panel to get the parties together to see if some resolution could happen, and that is what I was explaining to Mr Thornley.

**Mr O'DONOHUE** — Did you make a submission to the PDP?

**Mr AKEHURST** — We did.

**Mr O'DONOHUE** — Do you know how many other submissions were made to the PDP?

**Mr AKEHURST** — I know the Melbourne Racing Club did. I think a number of other people may have wanted to. I am not sure whether the priority development panel did or did not hear them.

**Mr O'DONOHUE** — Would you be able to make your submission available to the committee?

**Mr AKEHURST** — Yes.

**The CHAIR** — Was that publicly advertised, the PDP process? Was there an opportunity for full public submissions?

**Mr NEWTON** — No.

**Mr AKEHURST** — I do not think it was widely. As I understood it, it was an informal sort of request for the priority development panel to get the parties together to talk to see if some movement could occur.

**Mr O'DONOHUE** — Thank you for the seven points you outlined, too. That was a very succinct outline of your position. Just to clarify, you mentioned the horse training. Would it be council's formal position it would prefer to have the training move off-site, elsewhere?

**Mr NEWTON** — Our view is that it is Crown land and it should be used for the three purposes that it was set aside for. If training can be done compatible with that, that is one thing. But if you have a situation where training is stopping ordinary people using the centre of the racecourse, if you have to choose between the two, ordinary people should take precedence. I would have to think, from the government's point of view, that if you are looking for rural and regional development, horse training is a pretty obvious candidate to be set up somewhere other than next to Caulfield railway station.

Could I just add one point? There has been some debate about whether there are two or three uses. Could I give you two documents? One is the Crown grant itself. The key provision is permanently reserved to provide a site for, and I quote:

... a race course public recreation ground and public park at Caulfield ...

I also would like to give you a caveat which the government has placed on the land. It is called a Queen's caveat, and it was done on 20 February 2004. It says that the land:

... has been permanently reserved from sale in order to provide a site for a race course public recreation ground and public park.

You might want to take that into account.

**The CHAIR** — Thank you.

**Ms PENNICUIK** — You were showing me a model in the Melbourne Racing Club's rooms today which proposes a very tall building on the pocket of Crown land opposite. That building, from what we can ascertain — notwithstanding you are saying, Jeff, that Melbourne Racing Club is not saying what it actually wants to do — appears to be for commercial purposes. What is the council's view on that in terms of that being Crown land reserved for those purposes you just said?

**Mr NEWTON** — Our view is that it is Crown land and that if any change is to be made it would need to be made by the government. If the government wanted to do that, our view would be that that amount of Crown land should be replaced with public land somewhere else. Whether that means a swap of privately owned land for Crown land is a matter of detail that somebody would have to work out. But I do not think the amount of Crown land should be reduced in order to provide a commercial development.

**Mr AKEHURST** — Could I perhaps just add a tad from a town planning point of view? There is a basic principle about town planning: if you generate a need for certain — —

**The CHAIR** — People or traffic?

**Mr AKEHURST** — For a certain number of car parking spaces, that you ought to provide a means for how they are going to be provided. In other words, I should not be able to just build on my land and say, 'The cars that I generate I am going to park on your land', no matter who owns it. That is something that planning is always looking at. In an ideal world you would like all the cars that are generated from a particular use to be provided on the subject land. Sometimes that cannot happen, and there are arguments to be put about why it should overflow somewhere else. But I think one of the fundamental concerns from a town planning point of view is: where is this car parking? If there is overflow, where is it going to overflow to? I guess there is a concern with overflowing about whether some of it is going to overflow onto Crown land.

**The CHAIR** — Thank you. I appreciate the submission of the council and the obvious enthusiasm for our work. Well done! I have just one further point in terms of the council before I completely finish. The correspondence between the council and the minister and the Department of Sustainability and Environment and Planning and Community Development, could we have a copy of that? Thank you.

**Witnesses withdrew.**