

# 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

### Witness

Mr J. Campbell, Glen Eira Residents Association.

**The CHAIR** — I welcome Jack Campbell from the Glen Eira Residents Association.

**Mr CAMPBELL** — Thank you, Chair, for this opportunity which we greatly appreciate. I want to make it clear at the beginning that our organisation and association is not against racing. We have no ambitions in that regard, but we do believe the Crown grant purposes are a vital issue to this whole question of alienation. I believe alienation has been pursued; if not deliberately, then it certainly has by the lack of action of the trustees. I have taken the liberty of pointing out the first few sentences of that Crown grant and I do not know whether you can read them — I cannot.

**The CHAIR** — Yes, we can.

**Mr CAMPBELL** — It makes it very clear that the purposes are as stated by the council earlier today ‘for a race course public recreation ground and public park’ — no commas. And yet in recent discussions and letters the chairman of trustees has talked of and written about a racecourse — omitting ‘public’ — a racecourse recreation ground and public park.

My presentation today is on the lower key aspects in support of our submission of alienation and I give up the evidence we have had and the experiences in trying to obtain greater access to the Crown land for the public. We quote the limited visibility of the reserve, and I know you have seen some of these issues for yourself this morning. There is no signage of the availability of a public park. The only sign is on the entrance to Glen Eira Road where it says, ‘Caulfield Racecourse and Public Reserve’, and most of the time that actual sign is covered up by advertising the next race meeting.

Access is restricted. It seems ridiculous to say that, but for 340 days there are no race meetings and the training of horses, although much is made of the risk requirement by the MRC and trustees, occurs from the early hours of the morning until 9.30 a.m. when a sign goes up on the tunnel saying, ‘Track closed’. After that access is available, but, of course, there are only pedestrian gates available.

The horses do not appear on the course again until about 2.00 p.m. when, particularly from the Epsom stables, horses are led by halter rope down to the swimming pool along the southern boundary of the reserve. They are given a swim, and then they are led back. It is important, of course, that the main gate at the Glen Eira Road entrance is closed at that time in the afternoon. But the MRC has demonstrated quite clearly that that is not a problem by running its commercial activities and parking cars for its commercial clients in the reserve at that time through that gate. I will show you a slide showing how it makes that possible.

#### **Overheads shown.**

**Mr CAMPBELL** — This is the entrance that they visit, from that gate, and you can see the entrance to the tunnel. The horses are led around that pathway up to the top of the track. But when you want to use the tunnel at the same time, there is a notice on the inside of the front gate saying what to do. You close the gate just here — you cannot see it from this photograph unfortunately. There are fences here of gauze, nice visible fences, with galvanised wire. You close the gate there, and the sides of the tunnel are fenced here and on the other side, and there is another gate up here. That is where those horses are, and you close that. When that happens the horses are led over the top. The horses are then quite separated from the traffic going through the tunnel. It is the three-way tunnel in there. That is the way they have been doing it. The risks are eliminated for the clients of the MRC going there for their commercial activities. We are grateful to the MRC for proving that to us, that it can be done, in effect.

A recent proposal, also from the MRC master plan, which you may have noticed this morning, actually segregates that pedestrian access to the northern part of the reserve. That, to us, is just unacceptable. The whole reserve is required to be used as a public park, and there are vast spaces there, as was pointed out before, of 25 football grounds equivalent. It is simply a matter that those spaces can be used without risk to the horses or people. The concern on the part of the MRC risk analysis is mainly about risk to the horses, really; they are very valuable animals.

**The CHAIR** — Do you have a copy of that analysis?

**Mr CAMPBELL** — Not of the analysis; no, unfortunately. Recently the secretary of the trustees was reported in the local paper to have said the risk is high because the horses graze in the area. That is a complete

fabrication. I spoke to one of the trainers recently and he said, 'Sometimes, after the horses have had their afternoon swim, we might allow them to have a brief pick of the grass, whilst they are being resettled and led by halter, but we would never let those valuable horses simply loose to graze within the reserve'. Horses, like many other animals, often are not very kind to one another. I should return to the score.

The other factor of the failure of the MRC or the trustees to provide adequate facilities for access is that there are no public toilets within the reserve, and there are no trees. They recently removed most of the trees from the area. I have, by the way, Chair, provided written appendices to these statements.

**The CHAIR** — Yes, thank you.

**Mr CAMPBELL** — We go into discussions that some of our members had in 2002 with the VATC and the secretary of trustees to try and get approval for access to a cricket/sportsground within the reserve, and we were received in a very friendly fashion. We had some quite positive discussions. This was particularly with the deputy chief executive of the reserve — the VATC — at that time. He even suggested that in the then current master plan for the reserve, which has long gone by the board, where they had intended having hedgerows at regular intervals across the open spaces, between which they intended to park cars, but those hedges were only really schematic and could easily have been relocated so there would be room for soccer grounds between those hedges. We thought that was great because, as has been said before, Glen Eira, even then, was short of space for junior soccer teams.

Subsequent to that we received a letter from the secretary of the trustees, saying that the trustees had in fact discussed this issue in their annual meeting in March and there was agreement in principle that a cricket sportsground could be included. At that time we discussed putting it within the new trotting track, which now has been constructed and has ample space for a very large cricket ground — probably two junior grounds. We were very encouraged by that, and they said they would review the matter again in subsequent meetings. They pointed out that it would be necessary to wait until the various constructions were complete. That took a year or more, and we kept reminding the trustee secretary that this should be taken up with the trustees, so we continue to live in hope.

At that time the master plan included also wonderful intended improvements— apart from the hedgerows, there was going to be a wooden promenade around the new lake, barbecues and hedgerows and other improvements. In fact what transpired was that the MRC built their new lake and the new trotting track, but there were no other improvements whatever. They did absolutely nothing. That tends to be our experience, that trustee representatives — and we have never got past the secretary of the trustees — always treat you very well, are very kind, but in fact do nothing. So it was gratifying today to hear your questions about what the actual plan was for improvement.

I should mention at this stage that in earlier years there was a cricket ground on I think the north-eastern side of the reserve, and also the Glenhuntly Athletic Club always had their activities within the reserve. So in fact the use of the reserve as a public park has declined over the years, and that has not been helped by the lack of signage and poor visibility of course.

It became of interest to us that some of our representatives cited the lack of funds for improvements to fencing, et cetera, and that has been mentioned before. This resulted in us wanting to see some of their financial statements that went to the trustees. One trustee told us that he had never seen a financial statement, if you could believe that. I wonder if he had asked for one. I cannot tell who he that was.

**The CHAIR** — You can or you cannot tell us who it was?

**Mr CAMPBELL** — I was not going to, no. If you want to know, I can. I have got a copy in the appendix — I may be taking too long — of the 2004–05 financial statements to the trustees. They indeed show income of less than \$70 000 a year receipt of funds from the MRC. That is interesting against statements made in public meetings last year that the MRC pays the trustees \$200 000 to \$250 000 a year. The obvious questions are, 'Where is the rest? Where did it go? Has the MRC spent it before they pay it?'. No-one knows. There is no indication of rent being paid for the two stables that exist within the reserve, yet the trustees issue those agreements, and they are 25-year agreements from the date they are issued. I made a note: 'Is it explained by the cosy arrangement for rental of the prime land of the reserve?' — that is, the reserve on which all the grandstands and Tattslotto et cetera are built. Under FOI I managed to get what they pay:

The club shall during the term pay to the trustees the rent at the times and in the manner agreed between the parties from time to time.

How cosy! I then go on to mention a letter I had in reply to one of my inquiries as to when I was going to get an answer to the 'agreement in principle' that I had initially from the trustees. The chairman of the trustees wrote to me and said there is no record of such a letter. In fact the minutes of that meeting of the trustees simply noted that my concerns had been noted. I wrote back to him of course and sent him a copy of the letter that I had received. That letter, incidentally, says that, apart from completing the construction then planned, they would need to wait to see whether Caulfield Flying Club would agree to our entering the course. In the years that have gone by the Caulfield Flying Club no longer exists, yet the trustees today were claiming that that was part of the park use. They have not been on the course for years.

**The CHAIR** — When did they last fly?

**Mr CAMPBELL** — When? On Sundays, I think it was on the fourth Sunday in the month.

**The CHAIR** — But what year?

**Mr CAMPBELL** — The last time? I do not know. Certainly I do not think since then. Someone else might know because the residents used to often complain about the noise on Sundays.

Also, my experience with attempting to get this proper access, which is quite practical, and use out of the area as a public park and for normal recreation — it would make a wonderful bike track in there too around the lake — you know it has just been faced with obfuscation and deceit over the years. And I really do not think the trustees know what is going on. Is it surprising when the trustee chairman is a former chairman of the MCC, and the secretary to the trustees is a former employee of the MCC — an executive of the MCC.

The trustees by their financial reports also do nothing to raise the wherewithal or plan for expenditure on a public park. There is nothing in their expenditure that indicates that. Why should they not issue a budget of where their expenses should go and what they expect the MCC to carry out their — —

**The CHAIR** — The MRC.

**Mr CAMPBELL** — Pardon? MRC, yes, sorry. The trustee's chairman claims that the MRC by deed of trust from the trustees has the power to decide on the master plans for the reserve. It is almost incredible that the trustees can believe that responsibility for actions and policy for outcome of the reserve purposes can be delegated. Authority may be delegated, but not responsibility. That lies with the trustees at the top. So how long, I say, will the government, ostensibly a people's party, permit continuity of this body of trustees and the way they react. Increased transparency has been mentioned and certainly that is the case. I have been to the Auditor-General and he has indicated that in his remit it does not cover this area of concern and said I should talk to the trustees.

**The CHAIR** — When did you do that? When did you see the Auditor-General?

**Mr CAMPBELL** — 2006. I have it here. His response is in the appendices. I went to the Ombudsman and got a similar answer there. The Ombudsman is interested if I can show a real misdemeanour by the trustees — otherwise not.

I submit that changes to each of the purposes of the Crown grant could be achieved by a change in attitude by the trustees, to ensure that those purposes of the grant are at least attempted rather than being paid mere lip-service. Perhaps inclusion by the government in its appointments to the trustee body of a person or persons representing the public's physical wellbeing in the future could be thought of. There is a need for greater public awareness of the purposes of the reserve and its potential to meet the future needs for public wellbeing. That may not be all the responsibility of the trustees but they should also think of it.

We suggest the Auditor-General be empowered to scrutinise the financial performance of major Crown lands administered by the trustees, if only to lessen the administrative load of the Minister for Planning if he is the responsible minister.

I have not mentioned it, but there is also an appended letter there from the then Minister for Racing saying that he approved this greater use of land within Crown lands in racecourses provided that it was practical. I think the MRC has proven that it is practical and that with anything like reasonable controls, it can be done. The notice that was

referred to on one gate states what you had to do if you wanted to take a dog into the park that you can enter with a dog after 4.30 up until sundown — or up to 9 o'clock or sundown. So they admit there is no sign saying, 'This is a public park (on non-race days), please come in and look at it'. But they admit you can go in after 4.30 without any trouble.

There is another very interesting proviso in the Crown grant. It is on the tail end of the submission. I would like to read it out because it is very meaningful. I do not know whether such a clause has ever been acted upon, but I think it is close to that point. The statement virtually says that if there is a failure by the trustees, their heirs or successors to carry out the purposes of the grant:

... the Governor or other officer for the time being administering the government of our said state to re-enter upon the said land or part thereof and to hold possess and enjoy the same as fully and effectually to all intent and purposes as if this grant had not been made.

I am not suggesting that, but I think it is high time that in some way — some legislative change probably — this whole scheme of things has to be reviewed and changed.

**The CHAIR** — Jack, I thank you for your submission, your detailed notes and the attachments. I just note about halfway through that you mentioned the correspondence from the Auditor-General I do not have a copy of that. I may be missing that. You referred to it in your notes there.

**Mr CAMPBELL** — It is the valued one; yes, I have one here.

**The CHAIR** — That would be helpful. We would be very interested to see that. I think a lot of what you say in all this material speaks for itself. I do not have a lot to ask. We just need to follow up on some of the details. I note, in terms of reconciling the financials, that there appears to be a need for some explanation, which is probably not something we should put to you because you probably cannot explain. I am not an accountant, but it does not fully sit, obviously.

**Ms PENNICUIK** — I do not have a question. I thank you, Mr Campbell, for coming along and for your perseverance with this issue over the years on behalf of the community of Glen Eira. I think you have outlined the case, but you have raised questions which are not ones you can answer, as the Chair has said.

The financial arrangements, as I mentioned to the previous witness, have been raised by your group, and we need to follow them up. Also, I think one of your main points is that either the structure and/or the operation of the trustees in terms of them carrying out the remit as specified in the original grant is an area that needs to be followed up, so I am not intending to ask you a question.

Some of the points you have raised here, I probably would have liked to have had before the trustees were in front of us so that I could have raised those with them, but we can certainly do that outside the hearing.

**Mr CAMPBELL** — Did you want my correspondence with the auditor?

**The CHAIR** — I have asked the secretary to follow that up. That would be appreciated.

**Mr CAMPBELL** — I can add that under FOI, I also got details of the rental paid by the trainers for their stables, and there is one stable on the Crown land for which Crown Land Department does not have the lease. It did not seem to know about the lease. I do not know who gets the money from that lease. Payment of those lease moneys does not appear on the trustee statement either, and yet that lease has come from the trustees.

**The CHAIR** — You probably cannot reconcile these points in that respect?

**Mr CAMPBELL** — No.

**Mr THORNLEY** — I do not have any further questions either, but thank you, Jack, for your evidence, and a deep thank-you to you and Cheryl for taking me and Mr Hall around the area this morning. I do have a couple of thoughts.

As I indicated earlier today, I find the same frustration that I am sure many of you do that we are having silly debates over things like the wording or the punctuation of the grant when quite frankly, regardless of the intent at that time, it would seem to me that we have a clear public case of needing to review the use of land in a very crowded area. But if we are going to go back to that, I do want it on the record, if I may, Chair, that I asked the

previous witness whether there were any other commas in the document — because my experience with parliamentary drafting is that indeed they usually go without punctuation.

I note from the document — and I thank you for your historical research, Sir — that this document does not appear to have any commas or even full stops, which is consistent with my understanding of the way these documents are usually drafted. But I think that raises a wider point, which is that people are wanting to have obscure debates about these things rather than actually having some commitment to solving the problem.

I thought you raised a number of creative suggestions about additional land uses, such as a bike track and other things that I am very much in favour of. We as a government have a particular commitment, as I think is widely shared across the community, about getting kids in particular the opportunities to exercise that they need. We are out there night and day trying to find ways of making sure kids get out there and get exercise. A shortage of facilities that has been demonstrated by the council is clearly one of the potential barriers to that and this appears to be a good opportunity to redress that.

I just want to say, if I may, because unfortunately I will have to leave the hearing shortly, that, as I suggested earlier, it seems to me it would be helpful if we could demonstrate other cases of similar land use to that which is proposed by all of you at other racecourses. And related to that, we could then get the expertise from the safety managers at those racecourses so that we do not have the safety debate as a barrier. It is always difficult when you raise an opportunity; if there is a public safety concern that is always paramount in everyone's minds, and understandably so.

If we can get some real expertise from others who deal with safety in equine environments, we can then have some practical solutions to those concerns beyond the obvious point that both you and the council proper have made, which is that those safety concerns do not seem to prevent other commercial activities in this place. But I would encourage you to continue those forms of research that I think can help bolster the case.

Thank you for the time, Chair, and thank you, Jack, for your evidence.

**Mr CAMPBELL** — Thank you.

**The CHAIR** — And I will get Richard Willis to follow up on those other matters.

**Witness withdrew.**