

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 H. Ronaldson, Secretary, Department of Infrastructure.

The CHAIR — I declare open again 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 Howard Ronaldson, Secretary of the Department of Infrastructure.

All evidence taken at the hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and is 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 a transcript of the hearing shortly, and you will be given the opportunity to make minor typographical corrections and so forth. I would invite you to make some opening comments before the committee members ask some questions..

Mr RONALDSON — Thank you, Chair. May I read my statement?

The CHAIR — Please.

Mr RONALDSON — I am the secretary of the Department of Infrastructure in Exhibition Street. I commenced in that position in December 2002.

I attend before the select committee in my capacity as a member of the Victorian public service. I am an employee of the Crown and appear as a representative of the Minister for Major Projects.

On 12 December 2007 I informed the committee that I would be unable to appear before it on 13 December 2007, being the date on which I was originally scheduled to give evidence. I now ask the committee to accept my sincere apology for my inability to appear on that date. I take full responsibility for that failure. I meant no disrespect to the committee or to its officers.

I have 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 Victorian public service code of conduct, and the Legislative Council select committees and legislative committees guidelines for the protection of witnesses.

In giving evidence today I have regard to the Attorney-General's letter to me dated 3 December 2007 in which the Attorney-General informed me of his correspondence with the select committee on the scope of the terms of reference and enclosed copies of that correspondence. In his letter the Attorney-General requested that any witnesses from this Department be aware of the view taken by the government in relation to the terms of reference. The Attorney-General also requested that witnesses provide information to the committee that is consistent with the definitions used in administrative arrangements order no. 58 of 1988.

I have also had regard to the code of conduct which provides that public servants may appear before parliamentary committees as representatives of the minister and are not expected to answer any questions which seek their personal views on government policy or details of matters considered in relation to a ministerial or government decision or possible decision that would require a personal judgement on the policies or policy options of the Victorian or other governments.

Having regard to the correspondence to which I refer in paragraph 5 of this statement, I understand that before a particular site can be said to fall within the committee's terms of reference, three separate determinations need to be considered: whether it involved public land as defined in the ministerial agreement which supported the administrative arrangements order no. 58 of 1988; whether the public land has been sold or alienated; and whether the sale or alienation of the public land was for the purposes of private development.

On this basis I believe that such individual sites as the Kew Cottages redevelopment project fall outside the scope of the committee's terms of reference. Accordingly in giving my evidence I will not discuss such individual sites.

Furthermore, on 21 November 2007, I received a letter from the select committee inviting relevant senior officers from Major Projects Victoria (MPV) to appear before the committee. On 3 December 2007 I wrote to the committee to inform it that I intended to appear before the committee to give evidence about relevant matters relating to the department, including MPV.

On 12 December 2007, the Minister for Major Projects, Theo Theophanous, MP, wrote to the committee, advising that he had nominated me to attend the committee to answer questions as to the role of the Department of Infrastructure, including Major Projects Victoria.

On 21 December 2007 I received a copy of a letter from the Attorney-General to the select committee in which the Attorney-General stated that it was not appropriate for the Committee to seek information from secretaries in accordance with an interpretation of its terms of reference which is contrary to the government's view.

Role of the Department of Infrastructure — the department provides support to the Minister for Public Transport, the Minister for Roads and Ports and the Minister for Major Projects. The department (and its employees) are subject to specific statutory regimes (primarily those under the Transport Act 1983 and the Project Development and Construction Management Act 1994), which confer functions and powers on the department or its officers and provide a framework for the department's operations, supplementing government policy and administrative arrangements.

The Transport Act 1983 confers on the department a range of objectives to improve the efficiency of the entire transport system, covering public transport, freight, the road network and the ports. In the roads, ports and freight areas the department has a largely policy development and coordination role, with the road network being developed and maintained principally by VicRoads and councils and the ports being managed by statutory authorities (such as the port of Melbourne) or the private sector. In relation to train, tram and bus services, the department has a more direct role, managing contracts with the private sector providers and developing and improving the rail and train networks.

I will deal with the department's role in public transport and major projects in turn.

The Transport Act 1983 sets out the objects and functions of the department. Broadly speaking, a key objective of the department is to ensure that the public transport system in Victoria is efficient, effective, safe and reliable, delivering optimum transport outcomes by undertaking integrated transport planning, in the context of the government's overall planning strategies and policies such as *Growing Victoria Together*, *Melbourne 2030*, *Linking Melbourne: Metropolitan Transport Plan*, *Meeting Our Transport Challenges* and *A Fairer Victoria*. Specific functions are conferred on the department to enable it to meet its objectives, a key function being the development and coordination of public transport services. The act recognises the importance of safety by conferring on the department the responsibility for the development of public transport safety regulation policy, including legislative policy, and conferring the regulatory role on an independent statutory office-holder, the director of public transport safety.

The Transport Act 1983 confers on the director of public transport, being a person employed by the secretary of the department under the Public Administration Act 2004 and a representative of the Crown, specific powers to administer and manage the public transport system. These include the power to enter into a range of agreements for the operation of train and tram services — for example, agreements with train and tram operators — and the power to enter into service contracts with bus operators. These powers have been exercised to enter to a range of agreements, including lease agreements with VicTrack and the public transport operators.

The key leasehold agreements are outlined below.

The Melbourne metropolitan rail network, including the metropolitan railway stations other than Southern Cross station, is owned by VicTrack, leased to the director of public transport under the metropolitan infrastructure head lease — train and subleased by the director of public transport to Connex under the infrastructure lease — train. Southern Cross station is owned by Southern Cross Station Authority and operational responsibility was handed over to the private sector partner, Southern Cross Station Pty Ltd — that is, Civic Nexus — on 1 August 2006. Various access arrangements exist for train operators that use Southern Cross station.

The Melbourne metropolitan light rail or tram network is owned by VicTrack, leased to the director of public transport under the metropolitan infrastructure head lease — tram and subleased by the director of public transport to Yarra Trams under the infrastructure lease — trams.

The Victorian country rail network, other than the country railway stations, is owned by VicTrack, leased to the director of public transport under the primary infrastructure head lease and subleased by the director of public transport to V/Line Passenger Pty Ltd, subject to deed of company arrangement in the regional infrastructure lease.

The Victorian country railway stations are owned by VicTrack, leased to the director of public transport under the country station head lease and subleased by the director of public transport to V/Line Passenger Pty Ltd under the V/Line passenger VLP station lease.

The Victorian interstate rail network is owned by VicTrack and leased to the director of public transport under the interstate infrastructure head lease and subleased by the director of public transport to the Australian Rail Track Corporation Ltd under the interstate infrastructure lease.

The lease arrangements are supported by a network of complex access arrangements, allowing operators access to operators track and other infrastructure, so as to provide an integrated and effective system.

The Public Transport Competition Act 1995 further details the power of the director of public transport to enter into service contracts with bus operators. Under provisions recently inserted in that act the state has a right to acquire property, including depot land, from operators in certain instances.

The Transport Act 1983 also allows the director to build train and tram infrastructure, to develop land for the provision of transport services, and to acquire, hold or dispose of land on behalf of the Crown in performing his statutory duties. These powers are supported by powers to acquire privately owned land by agreement or compulsorily, in accordance with the provisions of the Land Acquisition and Compensation Act 1986. These powers have been exercised to acquire land for transport projects in accordance with government policy.

At the conclusion of the project, the infrastructure is transferred to VicTrack and added to the relevant head lease and infrastructure lease, enabling it to be and treated in the same way as the rest of the rail network land. Disposal of surplus land is then undertaken in accordance with government policy and guidelines.

I turn to major projects. Major Projects Victoria (MPV) is a division of the Department of Infrastructure and not a separate legal entity, reporting to the secretary of the department and being the responsibility of the Minister for Major Projects, Theo Theophanous, MP. The key government policies in this area are *Building One Victoria*, which promotes and supports the building of economic and social infrastructure to make Victoria a competitive and fair society, and the government's Partnerships Victoria policy, which aims to optimise the level of government spend on infrastructure by delivering the project in partnership with the private sector.

MPV is the government's leading provider of project management services for complex property development and construction projects. Large-scale projects are allocated to MPV by the Premier and are often unique in nature, sitting outside more routine capital works such as roads, public housing and schools.

MPV provides the following services to government, through its three groups. The project management group is responsible for the delivery of projects, mostly on behalf of other departmental clients. The delivery of projects involves design through to construction once projects have received budget approval. A significant portion of the project management role includes contract management and dealing with the complexities of public/private facilitation.

The property and development group looks after the redevelopment of surplus government property, including arranging for the sale of the land in accordance with government policies and guidelines and joint venture arrangements with the private sector.

The Partnerships Victoria group offers significant experience and expertise in the complexities of public-private partnerships, providing commercial, technical and project management skills in the procurement of projects from feasibility through to the completion of construction. It delivers within the government's Partnerships Victoria policy.

Major Projects Victoria utilises the Project Development and Construction Management Act 1994 for the delivery of some of its projects. The act establishes the secretary to the Department of Infrastructure as a body corporate and confers on the secretary a range of powers to manage public construction for departments and public bodies, including entering into agreements with other parties. In addition, the act provides Governor in Council processes for the nomination of projects, the appointment of facilitating agency and the conferral of specified legislative powers on that facilitating agency to facilitate the delivery of the project.

Key powers conferred on facilitating agencies are: powers to deal with land for the purposes of the project, including powers to compulsorily acquire land, receive grants of freehold land, grant leases and licences, sell its freehold land and surrender land to the Crown; and powers to close, realign or relocate roads.

In a typical PDCMA project delivered by MPV the Secretary of the Department of Infrastructure is appointed the facilitating agency, the Minister for Major Projects is the responsible minister and the MPV officers exercise powers of the secretary under the delegation, entering into a range of agreements to deliver the project. This often includes an agreement under section 16 of the act with a government client that wants a project delivered. Such an agreement identifies the respective roles of MPV and the client, and often includes the requirement that MPV manage the delivery of the project.

The MPV tasks vary depending on the project, but could include providing advice, structuring commercial arrangements, entering into joint ventures, managing the planning requirements, managing or developing a design brief, undertaking tender processes, letting construction contracts with the private sector and managing those contracts until project completion, granting private-sector parties commercial rights to completed projects and managing the disposal of surplus land in accordance with government guidelines and policies.

I now welcome questions from the committee.

The CHAIR — Thank you, Mr Ronaldson, for your contribution and your evidence, and we do have a number of questions. I want to go first to your point no. 7, where you state:

On this basis I believe that such individual sites as the Kew Cottages redevelopment project fall outside the scope of the committee's terms of reference. Accordingly in giving my evidence I will not discuss such individual sites.

You have obviously prepared this statement in conjunction with government solicitors and others, but the reality is that the upper house of the Victorian Parliament carried a motion establishing the committee, and it had wide debate on that motion. This committee has agreed on a definition of 'public land' which the committee is using subsequent to that motion. I think I will pass this over for your information in this process and for other committee members who may wish to look at this as well.

It is clear that a number of members of Parliament in that debate specifically referred to the Kew Cottages site — Mr Guy, Mr Viney, Ms Pennicuik, myself, Mr Hall, Mrs Coote and Mr Atkinson. There were a number of members in the debate, and it was very clear that the will of the chamber in establishing this was that the Kew Cottages site would be one of a number of sites and other matters that would be examined by the committee.

I think it is implausible in the extreme to argue that the Kew Cottages site, which is under your direction and management as the officer, in a sense, ultimately responsible for Major Projects Victoria — and I would like you to reflect on the fact that you said you will not answer questions, and I know you said that in correspondence to us as well — but I put it to you very strongly that the will of the chamber in the way it carried the motion and the terms of the debate was that specifically the Kew Cottages site was one site that this committee was requested to examine.

Mr RONALDSON — Thanks for the question, Chair. I recognise the weight of your argument, but I am here today representing a minister who has given firm instructions, as has the attorney, that in their opinion the Kew Cottages redevelopment, for the reason stated, is not within the purview of this Committee I am not at liberty to answer questions from the committee on Kew Cottages redevelopment.

The CHAIR — Let me ask you a question in the hypothetical then. If the minister — your minister — directed you not to answer questions of the parliamentary committee, are there any circumstances in which you would cooperate with that committee and answer the questions?

Mr THORNLEY — It is outside the reference. We have been through this 100 times.

The CHAIR — ?No, this is — —

Mr RONALDSON — As a public servant all I can do is answer questions consistent with government policy on matters, and it is just not within my purview to step outside government policy. Much as from time to time I might have other thoughts, I just am not in a position to answer in such a way that is not consistent with government policy, and government policy on this matter I believe is — —

The CHAIR — Are there any circumstances in which you would not — —

Mr TEE — It is hypothetical.

The CHAIR — It is a direct question. I asked: are there any circumstances in which you would answer a question from a parliamentary committee if instructed not to by the minister?

Mr RONALDSON — I say again, I can only answer questions that are consistent with stated government policy.

The CHAIR — Let me ask you again: are there any circumstances in which you would answer a question where a minister had instructed you not to answer that question?

Mr TEE — What is the relevance of this?

The CHAIR — This is very relevant.

Mr RONALDSON — If the question was framed in such a way that I could answer it, in that it was consistent with government policy, I would answer it, but if it is outside government policy, I am just bound by that position.

The CHAIR — This is very disappointing. I have to say that — —

Mr THORNLEY — It is outside the terms of reference.

The CHAIR — The plan to defy the decision of the upper house to look at a series of public land issues — and the one that in the debate in the chamber was specifically flagged by a number of speakers was the issues around Kew Cottages — and for you as the senior bureaucrat to defy the will of the chamber is a — —

Mr THORNLEY — It is outside the terms of reference.

The CHAIR — I think that that is a great matter of concern.

Mr TEE — My question is this: if the will of the people's chamber was changed so that the terms of reference included Kew Cottages, that would change your position?

Mr RONALDSON — I take advice and direction from my minister, but certainly I should imagine that I would be here answering many questions about Kew Cottages.

Ms PENNICUIK — Thank you, Mr Ronaldson. I will say again what I said to other department secretaries, that it is disappointing to me that the government, in terms of this spurious challenge to the terms of the reference of the committee which are outlined in plain language and which are understood by people in the community, has put yourself and other public servants in a difficult position. So far as I am concerned, the blame lies with the government. I just wanted to take you up a little bit about the points you were talking about on government policy. Are you presuming that it is government policy expressed in the letters of the Attorney-General rather than ministerial opinion?

Mr RONALDSON — Yes, I think the basis is the Attorney-General's letter.

Ms PENNICUIK — If I could go to two aspects of what you have raised in your statement and ask you to elucidate on those. The first one is in paragraph 20 where you say:

A significant portion of the project management role —
of Major Projects Victoria —

includes contract management and dealing with the complexities of public/private facilitation.

Could you expand on what those complexities are?

Mr RONALDSON — Sorry. Is this at paragraph 20 — —

Ms PENNICUIK — It is 20.1; the ‘significant portion’ part.

Mr RONALDSON — Okay. Many of the projects that Major Projects Victoria undertakes — not all, but many — involve a mixture of public and private interests. Typically they are situations where the government tries to do a series of complex deals with the private sector so that both the government and the private sector can take out of those projects what they will. It involves complex negotiations, sometimes difficult negotiations, and where PPPs are involved they are often around very large projects with long gestation periods and large sums of money. That adds up to quite a commercial environment where MPV tries to get good value for money for the taxpayer.

Ms PENNICUIK — Mr Ronaldson, you say that those types of arrangements — public-private partnerships — add a considerable workload and complexity to the work of MPV?

Mr RONALDSON — They are part of the workload required from time to time that MPV shoulders. By their nature PPPs can be quite complex arrangements. There is a capital component up front, and what often adds to the complexity is that they are arrangements that are struck over long time periods — quite often 20 or 30 years — so that both parties, public and private, need to contemplate what might happen over a longer time period, not just build a piece of capital. I think that is where often a lot of complexity and legal advice comes into these deals.

Ms PENNICUIK — In your opinion is it appropriate to enter into PPPs in major infrastructure?

Mr RONALDSON — I think it is horses for courses. The government has in place a process where it rigorously looks at all forms of project delivery, and all forms are evolving as we talk. The nature and scope of PPPs are not the same as they were a few years ago, nor are D and C contracts or alliance contracts or any other form of contracts. But there are very rigorous processes put in place to try to ensure that if we are going to enter into PPP arrangements that that is the best procurement method.

Ms PENNICUIK — Can I just follow on from what you just said in terms of the rigorous processes, and if you could just expand on those a little bit and how contracts have changed?

Mr RONALDSON — The rigorous process involves full cost benefit and looking at all forms of procurement. It is typically done by what we would call a client department. The minister wishes something to be built and operated, so they are required to look at all forms of procurement methods in a business case environment and assess all methods and typically bring that back to a cabinet committee for assessment by the minister and his or her peers. It goes through many filters before a final decision is made about procurement. Then, of course, it has to be financed, so then it moves into another sphere, typically another range of cabinet committees where the financeability of the arrangement, whatever it might be, is further looked at.

In terms of progression of the art, certainly D and C contracts have moved, in my opinion, to look more and more like PPPs in general — some characteristics of PPPs. There is less concern just with fixed price contracts and contracts on capital works up front; they do envisage longer term scenarios and the like. My one comment on PPPs is that I think through time there are attempts by both government and the private sector to try to simplify and codify the process. This is very difficult because — at least I have never seen — two PPPs that are alike, but there is an attempt by the private sector and typically governments to make them more straightforward, standard arrangements through time.

Ms PENNICUIK — One more follow-up question. You mentioned there was a rigorous process whereby — what I heard you say was — there were different ways of delivering a project by comparing cost benefits. So is it the case that government — a minister or government agent — will say, ‘We want this project delivered by a PPP and that is how it is going to be delivered’, or does every project go through that process?

Mr RONALDSON — Yes, every project goes through that process. In my experience I cannot recall a minister making any apriori judgements.

Hearing suspended.

The CHAIR — I apologise for the interruption. Do you have more, Ms Pennicuk?

Ms PENNICUIK — I have.

The CHAIR — You might back in a second round.

Mr HALL — Thanks, Mr Ronaldson, for coming before the committee today.

Mr RONALDSON — It is a pleasure.

Mr HALL — I just want to ask you first of all in point 19 of your statement you talk about Major Projects Victoria receiving large scale projects that have been allocated by the Premier of the state. What major projects is Major Projects Victoria currently involved in?

Mr RONALDSON — I would be happy to take that question on notice and provide the committee with a list.

Mr HALL — Do you have an idea of how many projects Major Projects Victoria would be involved in?

Mr RONALDSON — Roughly probably about a dozen. Some they are doing in their own right, others they are providing advice, others they are playing a role from time to time. The type or number? I would have to check up on that, but I am happy to provide a list.

Mr HALL — Taking that on notice, could you also advise the committee as to which of those projects Major Projects Victoria is involved in involving land development of public land as defined and interpreted by the government? I want to know which projects we can ask you questions about.

Mr RONALDSON — I do not know whether I can do that, but I can certainly provide a list.

Mr HALL — You would be able to tell us, surely, whether any of those projects which Major Projects Victoria is involved in are being undertaken on public land — ‘public land’ as interpreted by the government?

Mr RONALDSON — I will take that question under advice, but I will certainly provide a list.

Mr HALL — The VicTrack land, where VicTrack looks at utilisation of public land, do you know if that VicTrack land is public land as interpreted and used in the definition by government?

Mr RONALDSON — To be honest, I have never really thought about it. I can confirm it is Crown land. It seems to me that the only time you would think about whether part of the VicTrack portfolio would be public or private would be when VicTrack declares a piece of land to be surplus and then takes it through a process.

Mr HALL — If VicTrack does that, does the Department of Infrastructure — through its relationship through various contracts with VicTrack as described in your statement — therefore have a right of veto or input into any land disposal that VicTrack undertakes?

Mr RONALDSON — Certainly when land is disposed there is a discussion between VicTrack and the department as to future need or needs or likely needs of that land from a transport point of view.

Mr HALL — Do you have a right of veto over any disposal that VicTrack decides to undertake?

Mr RONALDSON — The minister can always direct the board, if that is what you mean.

Mr HALL — I am wondering whether the department in its arrangements — its lease arrangements with VicTrack — as the ability to exercise that veto or is it only the minister?

Mr RONALDSON — I will give the answer as I understand it, but I would like the ability to go and check it. My understanding is that there would be no formal right or legislative basis for a department officer to veto an action of VicTrack, but at the end of the day the minister can always direct the corporation.

Mr HALL — I will leave it there for awhile.

The CHAIR — Just in follow-up to Peter’s point about land that the government would define as ‘public land’ according to its administrative definition, would you provide us with a list of that land that would fit into that category for VicTrack purposes?

Mr RONALDSON — We have no such list. As I said, VicTrack presides over a vast body of land — Crown land, land with titles, in fact almost any sort of tenure of land you can think of would be somewhere in the

VicTrack portfolio — and we do not as a matter of course sit down and try to define a vast portfolio as either public or government. We just do not do it.

The CHAIR — Do you have a list of land that has been declared surplus by VicTrack over the last five years?

Mr RONALDSON — No.

The CHAIR — No list is kept of land where an active decision has been made to declare it surplus?

Mr RONALDSON — Not in the department. No. The movement of land in this portfolio is largely done by commercial arrangement. The last big movement of land between the public and private sectors was when the government, not in terms of ownership but in terms of leasehold, repurchased the lease back from Pacific National over the country railway line. As part of those negotiations there was a vast number of commercial discussions about who would end up with what parcels of land around the rail network, as an example.

The CHAIR — There must have been documentation surrounding those pieces of land?

Mr RONALDSON — On that deal there were vast amounts of documentation, yes.

Mr KAVANAGH — Mr Ronaldson, you have said that in your work you do not differentiate between government and public land; is that right?

Mr RONALDSON — We do not think of the differentiation unless we get to a situation where a piece of land is declared surplus by the portfolio, and it is my testimony that that happens rarely as a process. What happens more often than not is that we enter into commercial arrangements with the parties around a transport network of which land might be a component, and then we deal with such parties.

Mr KAVANAGH — You do not regularly differentiate between government and public land?

Mr RONALDSON — No-one does unless they have a piece of land that is declared surplus.

Mr KAVANAGH — So the difference is not very significant; is that right?

Mr RONALDSON — No, I did not say it is not significant; I said it is rarely done by us.

Mr KAVANAGH — But you do not conceive of land in that way — categorise land as one or the other?

Mr RONALDSON — We do not conceive of land in that way unless it is declared surplus to the portfolio.

Mr KAVANAGH — So the difference is not very important normally; is that not right?

Mr RONALDSON — In our day-to-day operations it is not a matter that we give prime consideration to.

Mr THORNLEY — They do when they sell it, which is what this committee is all about.

Mr RONALDSON — We just do not sell pieces of land under the road network or consider whether it is public or private. We do not consider whether a piece of land under a piece of railway line is public or government. We do not consider whether Flinders Street station is public or government. They are working assets in a working system, and that is how we view them day in and day out, operationally.

Mr KAVANAGH — And yet when it comes to answering questions before this committee, then you differentiate and decide which ones you will answer and which ones you will not, based on which category they are in; is that right?

Mr RONALDSON — I differentiate on the basis that we are talking about assets surplus to the portfolio only that go through that process.

Mr KAVANAGH — If the terms of reference included the Kew Cottages site and the Attorney-General wrote to you and said, 'No, it does not include the Kew Cottages site', what would your response be then? Would you answer questions about Kew Cottages?

Mr RONALDSON — I don't know. I would have to take advice on that.

Mr KAVANAGH — I am sorry?

Mr RONALDSON — I don't know. I would have to take advice on that one. You are saying if the terms of reference specifically included Kew Cottages and the Attorney-General somehow said it did not, then I would certainly find myself in the position where I would want to take advice.

Mr KAVANAGH — What about legal responsibilities to be cooperative with a parliamentary committee; how do you reconcile that with — —

Mr RONALDSON — Legal responsibilities?

The CHAIR — Under the Public Service Act.

Mr RONALDSON — I do not understand the question, but I am certainly hoping to be cooperative with the committee. I am hoping to fully answer your questions to the extent that I can. Is that what you mean?

Mr KAVANAGH — What restrictions there are on your ability to give answers is another question, but you are aware of legal responsibilities to be cooperative; is that right?

Mr RONALDSON — Yes, I am. Yes.

Mr O'DONOHUE — With major projects are there any criteria which are used to define a major project or is it purely at the discretion of the Premier?

Mr RONALDSON — It is usually at the discretion of the Premier and the cabinet. As I said before, these things often have a long gestation. They are usually considered by — nearly always considered by — a cabinet committee or cabinet itself. All the issues are worked through, and then the Premier or cabinet decides to designate it as a major project.

Mr O'DONOHUE — There is no reference to capital amount or complexity or any other reference; it is purely — —

Mr RONALDSON — No.

Mr O'DONOHUE — So the Premier could decide that two guys digging a hole could be defined as a major project, if he so desired?

Mr RONALDSON — I think the Premier can do most things, including that. He could direct that a body of work go to the major projects unit, yes.

The CHAIR — You mentioned before that you would not answer questions, as it were, against the government policy in terms of the definition of 'public land'. You have obviously had an instruction from your minister and/or the Attorney-General in terms of correspondence. Is it your understanding that government policy, as opposed to the Attorney-General and the Minister for Major Projects, is driving this decision to define public land in a certain way or is it just the decision or just the view of those two ministers?

Mr THORNLEY — What is the difference?

The CHAIR — There are two ministers as opposed to a whole cabinet; that is what the difference is.

Mr TEE — There are more than the two ministers. We have received evidence that there have been a number of ministers.

The CHAIR — In terms of this witness — —

Mr TEE — We just need to give him the factual matrix.

Mr THORNLEY — I am not sure the witness sits in cabinet meetings.

Mr RONALDSON — Chair, I am not quite sure I understand your question, but let me have a go at it. I do not know what proportion of government policy is developed and articulated by one minister, but it would be a fair percentage, and as far as I am concerned on this occasion the Attorney-General was speaking on behalf of the government.

Ms PENNICUIK — Just to follow up on that, were you aware of this policy prior to this committee — of distinguishing between government land and public land?

Mr RONALDSON — I was certainly aware of the existence of the admin. order.

Ms PENNICUIK — Would I understand correctly, given your answers to Mr Kavanagh, that it is not something that was in the forefront of anyone's thinking in the department prior to this?

Mr RONALDSON — It was not in the forefront of my thinking, no.

Ms PENNICUIK — I would say it was probably not in the forefront of anybody's thinking until the Attorney-General drew this strange administrative arrangement — or the existence of this administrative arrangement — to redefine the understanding of public land as commonly understood by people in the community and obviously by you prior to the committee coming into being.

Mr TEE — I am not sure what the question is.

The CHAIR — She is getting to it.

Ms PENNICUIK — I did ask the question. I do not know if you were listening, Mr Tee.

Mr TEE — Closely.

Ms PENNICUIK — I would like to say too that it is disappointing that, having you here, we are not able to ask you — because you have said you will not speak on questions about the KRS development. We have all questions about that development, the community has concerns about it, and it is disappointing that you have stated that you will not be able to answer questions, so that matters of fact that you would have at your disposal you are not able to share with us, if we were to ask you the questions.

I wanted to go to paragraph 24 of your statement where right at the end you say, 'managing the disposal of surplus land in accordance with government guidelines and policies'. For the record, could you say what those government guidelines and policies are? That has been an issue of some confusion in the committee, as to what these actual guidelines and policies are.

Mr RONALDSON — If it is surplus land, certainly it is still the standing practice to refer to the admin. order of 88. If the government is disposing of land, it must treat with the valuer-general and his processes. And then there is plain, old ministerial direction that does not cut across either of those but the minister and the government will have a view about which bits of land, from time to time, are to be disposed of as opposed to retained.

Ms PENNICUIK — Are there no more policies and guidelines that you refer to?

Mr RONALDSON — There might be but they are the two major ones that I am aware of for surplus land.

Ms PENNICUIK — Certainly there seems to be some confusion about guidelines that are in existence that are not public.

Mr RONALDSON — That are not public?

Ms PENNICUIK — Yes, we have not — —

Mr RONALDSON — I do not know about that.

Ms PENNICUIK — It seems to me there may be others. If there are, you would let us know?

Mr RONALDSON — Which others?

Ms PENNICUIK — You are saying ‘guidelines’, you have not mentioned any guidelines. You have said the valuer-general and the administrative act, I do not recall those guidelines. And you speak about a ministerial direction, which I also do not consider a guideline. I am wondering what guidelines there are?

Mr RONALDSON — Guidelines in the broad. I take your point, you may not describe them as guidelines but they are the two most relevant sets of documents that we refer to.

Ms PENNICUIK — They are fairly bland documents, are they not?

Mr RONALDSON — No, they are pretty precise. The valuer-general’s guidelines are very precise.

Ms PENNICUIK — I suppose in terms of broader criteria that you might apply to the disposal of surplus land, but we are obviously not getting very far with this line. I just wanted to go to a broader question. It appears that the department’s policy and infrastructure for purpose of compulsory acquisition and the sale of land is dated, and in fact dated before 2030 was launched. I was wondering if that policy has been revisited, especially in the light of 2030, because there is an obvious link between disposal of land by a department and 2030’s goals in terms of public land and open space.

Mr RONALDSON — Sorry, you are reading — sorry, Chair, through you — —

Ms PENNICUIK — Is the department revisiting that policy?

Mr RONALDSON — Not to my knowledge.

Ms PENNICUIK — So there is no rethink of that policy in light of 2030?

Mr RONALDSON — Not to my knowledge, no.

Mr HALL — Just one question: when a piece of land has been identified as surplus and it is proposed to dispose of it, what sort of outcomes does the government look for in the disposal of that land? Is it an economic outcome, is it a community use outcome, or what sort of outcome?

Mr RONALDSON — It depends which piece of land.

Mr HALL — One of the initiatives of Melbourne 2030 is, and I actually quote here 6.1.7 of 2030, to:

Change the policy that governs the disposal of government land and buildings to reflect the best use rather than the highest price achievable, and base the policy on new socially responsible criteria

Has that initiative been adopted? If so, what progress has been made?

Mr RONALDSON — Here I have got to say I think you had better direct your questions to Yehudi Blacher or someone from his department. I do not feel I am in a position to comment directly on the inner workings of 2030, which my department is not responsible for.

The CHAIR — Although your department has disposed of land that would fit within that definition?

Mr RONALDSON — We have disposed of land but the question was in relation to the intent of a paragraph — as I understand it; I have not seen the document — inside 2030.

The CHAIR — But in a practical sense you must have encountered this change of policy, if you have disposed of land under the — —

Mr RONALDSON — As I said — —

Mr HALL — Anyway, I will take it up with Yehudi.

Mr O'DONOHUE — Does your department have any role in setting the target, as in the budget, for proceeds from land sales by the state government?

Mr RONALDSON — I do not know, I can certainly find out. It would be a very minor role. Why I hesitate is I do not know the nature of the last discussion between, say, our budget officers and Treasury in the last budget, whether we had an input on whether we are going to sell enough land to make an appreciable difference to the budget.

Mr O'DONOHUE — Can you perhaps take that on notice?

Mr RONALDSON — Yes, I can certainly do that.

The CHAIR — Can I ask you in terms of major projects developments, and I want to come to a specific site in a moment and you may have some responses on that but I want to talk in the general first: where vegetation is involved on that site — public land where there is a major project under development — can you explain the steps that would be gone through by Major Projects Victoria to preserve vegetation and to ensure that all legislative protections are complied with?

Mr RONALDSON — I cannot provide great detail on this, but obviously it would involve liaising with our colleagues at DSE.

The CHAIR — Who could provide great detail on that, on the processes?

Mr RONALDSON — Once again it depends on which project you are talking about, but we would be liaising with DSE to ensure that we had a proper interpretation of all statutory, regulatory and other requirements with respect to a particular site.

The CHAIR — So you are, in a sense, as secretary not knowledgeable on the detail of that area? Is that what you are saying?

Mr RONALDSON — I am saying I can probably talk in some detail about specific instances.

The CHAIR — But I am looking for the processes inside your department. Beyond just liaising, how does this actually work? Major Projects Victoria designated, you have got responsibility for it, there is vegetation on the project — —

Mr THORNLEY — The process is they talk to DSE.

The CHAIR — And is that it? But we have also just heard that you are perhaps not best placed to — —

Mr RONALDSON — There would be certainly better people placed than me —

The CHAIR — But I am asking — —

Mr RONALDSON — People better placed than me. When one goes to a major project there are dozens and dozens of pieces of legislation one has to comply with, and large part — —

The CHAIR — Is there a check list or guidelines inside the department? How does that work?

Mr RONALDSON — There are certainly standard approaches to major projects, of which consideration about native vegetation and the like, and other environmental concerns, would be on it. Many major projects are required to go through EES processes. They are vast. They are complex. We do take specialist advice, from legal through to environmental. We do employ consultants. We obviously certainly know the basic groundwork, but to get a major project up with a major environmental consideration is a major undertaking, and we do many of them.

The CHAIR — So who should we talk to deep inside your department to get a deeper understanding of how that process works?

Mr RONALDSON — Let me take that under advise, and I will get back to you.

The CHAIR — Because I am keen to understand how that process works, specifically in relation to Kew Cottages at the moment. There have been 170 trees that have been removed in stage 1, which is well on the way to completion, and stage 2 currently sits with the Minister for Planning, on application of the development plan by the Walker Corporation with, as I understand it, the support of Major Projects Victoria to remove 73 established trees as part of stage 2. How would that be managed — that is, the Major Projects Victoria responsibility to ensure this occurs in a way that is consistent with legislative and other guidelines?

Mr RONALDSON — With respect, Chair, I can only go back to my previous reply and say that I am not in a position to talk about the Kew Cottages development.

The CHAIR — On which grounds?

Mr RONALDSON — On the grounds stated in my statement, and that the government believes a discussion about the development of Kew Cottages is outside the scope of the terms of reference of this committee.

The CHAIR — So you are the secretary of the department, Major Projects Victoria is managing this project, more than 70 trees are at stake now, and this hangs in the balance, a parliamentary committee to look at public land and the disposal of public land, like the Kew Cottages site, is in operation, but you are telling us that you cannot talk about those 70 trees, the future of those trees and the moonscaping that is going to occur on that site under your control?

Mr RONALDSON — Once again, Chair, with respect — —

The CHAIR — It is shameful.

Mr RONALDSON — I am just not in a position to do that.

Mr TEE — And I take it that were the upper house to amend the terms of reference to include those 70 trees, then the position with your previous answer, you would be able to give evidence on those matters.

Mr RONALDSON — Yes. I would welcome the discussion. Yes.

Mr KAVANAGH — And yet you said that if the Attorney-General told you that it did not include those matters, even though it patently did, that you would not answer those questions?

Mr RONALDSON — I think I have already answered that. On that conundrum I would take advice.

The CHAIR — If the Attorney-General said the sun rose in the west, you would believe him and probably follow him to the ends of the earth, I suppose? Good on you!

Ms PENNICUIK — I just wanted to follow up a little bit, Mr Ronaldson, on the 2030 issue. I just want to clarify some issues for the record.

We have 2030, which is a major policy direction for Melbourne, and we have Department of Infrastructure, which is in charge of disposal of surplus land, and under paragraph 22 in your statement facilitating agencies have powers to deal with land for purposes including compulsory acquisition, receiving grants of freehold land, licences, able to surrender land to the Crown, powers to close, realign and relocate roads. That is a lot of powers, and it is a lot of shifting of land.

Am I to understand from your previous answers to my question that the Department of Infrastructure does not have a lot of interaction with 2030 and has not incorporated the goals of 2030 into its own policies and thinking and is not referring to that when it is undertaking its activities?

Mr RONALDSON — With respect — —

Ms PENNICUIK — I am just asking the question because I am following up on your answer.

Mr RONALDSON — But with respect — —

Ms PENNICUIK — If you dispute what I am saying, clarify the issue for the record.

Mr RONALDSON — With respect I do not think I said that. The 2030 planning policy feeds into broader planning scenarios and planning considerations. Like many other public and private developers, we are required to meet the planning provisions of the day. There is no special treatment, if that is what you mean, handed out to MPV with respect to developments. Generally speaking, MPV and other government agencies have to go through the same sort of planning hoops as anyone else. To the extent that the 2030 policy has influenced, say, the planning scheme of a local council and we wish to do something in that municipality, then we would be affected by the 2030 policy in the same way that everyone else would. Does that answer your question?

Ms PENNICUIK — I think so. I just was not picking up that the department is actively engaged, perhaps even, say, with the Parks Victoria strategy of linking people, linking spaces — the department engaging with all these other aspects of government policy which are about improving public space et cetera policy. In your day-to-day activities of acquiring or disposing of land are you engaged in these other policies which obviously impact on each other? That is what I am asking you.

Mr RONALDSON — Please stop me if I am off the point, Chair, but the major policy link as I see it between 2030 and what our department does is that when we sit down and try to plan for an efficient transport system, we try to have some idea of how the city will develop. One of the major implications of 2030 is that there is a belief that the state should try, through various mechanisms, to curtail the geographic spread of Melbourne.

One of the implications for the transport system is that it would probably not be consistent to take major transport arteries and corridors and expand them significantly beyond what is understood to be the urban growth boundary. So when we are doing transport planning and when we announce transport policies for government, it is done in such a way as to add significant capacity into the transport system over the urban spread largely as we have it — not exclusively, but largely — to be consistent with 2030.

There are other policy links as well, but they are the sorts of dynamics we look at from a policy context when we look at 2030, when we sit down and look at the implications for transport planning.

Ms PENNICUIK — Yes, I can see that is obvious in terms of transport, which is a very major part of your department's role. I am more interested in trying to get how much the department interacts with those policies such as linking people, linking spaces, and the provision of public open space in local areas. When you look at the Department of Infrastructure's disposal of land it can be quite an abstract concept, but it actually means land that is local to somebody or other, and a lot of it is public land.

Mr RONALDSON — I accept that it is a real debate locally, particularly among the forces that wish to influence the planning scheme. We are certainly cognisant of that, and from time to time we have a view about what will work from a transport point of view. And sometimes we do feed that into the consideration of a change of a planning scheme.

The CHAIR — Like Kew Cottages, which is not near tram or train — but that's just a small point.

Ms PENNICUIK — Because many councils, for example, Mr Ronaldson, are saying that state surplus land is being flogged off without them even being notified or consulted. That is why I am trying to pursue this line of questioning about how much the department engages, say, with local communities, with local councils and with those policies about the provision of public open space and the protection of it.

Mr RONALDSON — We do not provide open space; we do not have slabs of land generally that we hand over for public open space. If we are going to bite into open space — to build a road, theoretically — we do have to typically run through an extensive range of consultation subject to the planning scheme, usually, and usually it is a controversial issue that gets a lot of airing, or may be a controversial issue that gets a lot of airing.

Quickly thinking back on it, when our department has been involved with the discussions that may reduce public open space, my impression is that they have never been easy but the arguments have been well understood by many groups in the community and by many people within government. It is just not something you do quickly and easily.

Mr THORNLEY — I do not have any questions at this time.

Mr O'DONOHUE — Just one more question. Can you describe the process when the Minister for Planning calls in a project from the local municipality and how you, as secretary of the department, work with the planning minister and his department in progressing a project — when the Minister for Planning assumes planning responsibility?

Mr RONALDSON — Sorry, once again I might not be understanding the question, but you are saying the Minister for Planning has called something in and so we have a settled planning scheme? That for us provides certainty and then we can go ahead and treat with private partners about the nature of built form.

The CHAIR — What about the difficulty of dealing with local communities, for example?

Mr RONALDSON — That is a matter for the Minister for Planning and the planners, but if it is called in and a planning scheme is determined, then that does give developers of any hue certainty. I am not saying that certainly is a good thing necessarily, but that tends to be the scenario.

Mr TEE — It might give the community certainty, too.

Mr RONALDSON — Yes.

The CHAIR — It just might not be the certainty that they require. Further in that vein and to my earlier questions about who in your department may be able to assist us with some of these processes, since you are understandably the secretary, not necessarily across all the details of some of these processes, would Mr Sweeney, the head of Major Projects Victoria, understand a lot of these processes — the planning one alluded to here and in my questions earlier about vegetation? Would he understand those processes?

Mr RONALDSON — As I said, I will consider the question and get back to you. I am happy to get back to you.

The CHAIR — Because we did seek to have him appear at this committee at an earlier point and indeed at a later point — —

Mr RONALDSON — Yes, I understand.

The CHAIR — We would have appreciated him, certainly in my view here today, answering some of these questions very directly. You will take it on notice and come back to us?

Mr RONALDSON — I will, yes.

The CHAIR — Can I ask you another question about the preparation of your statement?

Mr RONALDSON — Yes.

The CHAIR — Who did you confer with in preparing that statement?

Mr RONALDSON — I conferred with my departmental officers and other people.

The CHAIR — And the 'other people' were?

Mr RONALDSON — In terms of names?

The CHAIR — That is right.

Mr RONALDSON — I am always hesitant to give out names of public servants and other people. Once again if I could take that on notice and get back to you.

The CHAIR — I would like to hear those names because it goes to the veracity of the evidence and whether there has been any attempt to limit the evidence the committee is able to receive. I am interested in the activities of some of the government officials in terms of requiring you to prepare a statement in a certain way.

Mr RONALDSON — Well, Chair, as I said before, I am here to answer questions openly to the extent I can consistent with government policy, and I take advice from many people to make sure I am well prepared in

terms of information and data. I honestly do not accept that receiving advice from both officers inside the department and other people somehow limits one. Quite to the contrary; I think it certainly lays the foundation for a better understanding of the issues concerning this committee.

The CHAIR — Did you confer with the Minister for Major Projects?

Mr RONALDSON — About the specific content?

The CHAIR — Aside from correspondence that we have seen, was there any other communication with the minister?

Mr RONALDSON — I did not personally, no.

The CHAIR — Was there communication with the Department of Premier and Cabinet?

Mr RONALDSON — I did not prepare the statement. That was done on my behalf by departmental officers and others. To be honest, I would have to go back and check as to who they talked to, but I suspect they talked with a wide range of people across the public service and people outside the public service.

The CHAIR — But it is your statement, despite your not preparing it?

Mr RONALDSON — I prepared parts of it, but a lot of it was written by people inside and outside the department, and they would have — I do not know who they conferred with specifically.

The CHAIR — Can you also establish, when you come back to us, whether they conferred with the Department of Treasury and Finance?

Mr RONALDSON — I can do that.

The CHAIR — That would be very helpful.

Mr TEE — Just to clear — in case there is, I suppose by implication — any confusion that may have arisen, you have given evidence about the correspondence that you have received from the Attorney-General and the relevant minister, but leaving those aside for a minute, my question is: you have not been in any way limited in the evidence that you have been able to provide to the committee today? Perhaps I am asking that the wrong way around.

The CHAIR — I think you are.

Mr TEE — There is a suggestion in the question that has been asked previously that there has been some limitation on you in terms of the nature of the answers that you have given and the statement that you have provided. I want to get your view on whether or not there have been limits on your statement apart, of course, from the evidence that you have given in relation to the correspondence from the Attorney-General and the minister.

Mr RONALDSON — Once again, Mr Tee and Chair, I might be misunderstanding this question, but apart from my obtaining a good knowledge of government policy, I can assure you that no-one is in a position to limit my testimony before this committee, and it would not be entertained. I might misunderstand the thrust of it, but — —

Mr TEE — The answer is much more articulate than the question. Thank you.

The CHAIR — I thank you for your appearance here today, Mr Ronaldson. I indicate that certainly I have concerns about your decision to follow government directions and, in a sense, attempt to defy, in my view, the resolution of the chamber, and I think that is unfortunate. I look forward to you coming back to us with some details as to who may be able to provide answers to some of those questions that you, as secretary, are not able to answer in detail.

Mr TEE — Can I also thank you and of course indicate that I understand clearly that you are, under the legislation under which you are employed and the guidelines pursuant to which you are employed, obligated to appear in these matters for and on behalf of the minister, and I understand that that is the basis on which you appear legally.

The CHAIR — You are required to be frank and complete with the committee. That is the fact.

Mr RONALDSON — Thank you very much.

Witness withdrew.