

CORRECTED VERSION

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Melbourne — 27 November 2007

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Witness

Mr I. Quick, president, Save Our Suburbs.

The CHAIR — I declare open the public hearing of the Legislative Council Select Committee on Public Land Development and indicate we have Mr Ian Quick, president of Save Our Suburbs, present here. Ian, can I just alert you to the fact that all evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Any comments you make outside the hearing may not be afforded such privilege. You will get a copy of the transcript shortly in which case you will be able to make minor typographical corrections and so forth. Can I ask you to make a short opening statement and then the committee will ask some questions.

Mr QUICK — Thank you, David. I would also like to thank the Legislative Council for establishing this committee. I think something like this should have been done a long time ago, and I very much look forward to what you are going to be reporting to the Parliament. I would also like to thank you for making it a very open committee. Unlike many others I have presented to, you are putting public submissions up on the website. You are very open and forward with the way you are dealing with the community, and we are very thankful for that.

Public land and the alienation of public land is not the core SOS business, but it directly impacts on us through Melbourne 2030 and planning, particularly activity centres, green wedges and very many other facets of planning. I go to more council meetings than probably anybody else in Victoria, because I do not go just to my own local council meetings, I go to most of the metropolitan council meetings that I can get to and indeed to some of the country ones. The whole issue of public land comes up many times in these meetings; many times with the community groups that I go to, many times at the council meetings I go to. I normally refer them to the Protectors of Public Land who are specifically interested in public land, although occasionally we get involved in some of them.

Part of the reason I do that is because the whole public land debate is worse than the planning debate, and I say that in the context that at least with planning issues that I am often fighting, as residents we have some legislative rights. We have a process where we can appeal council decisions; we have processes where we are guaranteed access to information; and we have processes to put in submissions when things are actually happening. With a lot of the areas of public land we have no such rights. We have many things that the state government can do that it is not even required to take public submissions in on let alone take any notice of them. While councils normally have to take public submissions on the sale of public land, they do not particularly have to take any notice of them. There is no legislative requirement for councils to have firm policies in place on how to deal with public land, and in fact many do not.

Believe it or not I have read through all the submissions that have gone to this committee, and I find a fair few common threads through them. There are councils saying what a great job they are doing, but there are some problems with the state government; there are residents, or groups of residents, who are complaining about particular public land decisions; there is a small minority of people who have bought property in a green wedge who do not want it to be a green wedge anymore; and a number of other submissions.

I just want to give you one or two problems that I probably was not clear enough on in our submission. One was the transfer of state government land to councils. This has come up through many of the submissions to this committee and has come up at many of the public meetings I have actually been at with councils. At the moment it is done at full economic cost. If land can have units built on it, it is valued effectively as a development block, and unless the council comes up with the same amount of money as a developer would, it is often not transferred to the council. I do not think this is proper management of public land, and I do not think councils should have to bear the economic cost of what a development could actually be worth simply to protect public land for the public.

The other problem, though, is if we transfer it to councils free, so say VicRoads gave land free to a council, what is to stop the council then onselling it? There are a number of comments in submissions and a number of ones that I have run over the years where that has actually happened. Two not directly like that but along that line are the Stonington Mansion for Deakin University, which went through a chain of owners and was then sold out to the public, where there is absolutely no doubt that the original idea was to have it in public hands and not to sell it; and the other is the Abbotsford convent which we eventually won after loud — very loud — local opposition. It went from Crown land to La Trobe Uni to VicUrban to Australand. It is this incremental leaking of land that we would have to stop even if we transferred it to councils.

That brings up: what is permanent public land? I notice in the previous submission they occasionally used the words 'permanent public land', and it has been used in many of these submissions. A number of them have pointed

out that there were acts of Parliament 100 years ago which established some public land, but all it takes is another act of Parliament to remove it as public land. We do not really have a concept of permanent public land, and I think that is one of the other mistakes we are making in managing public land at the moment.

Many of the submissions mention money, and there is no doubt that many of the councils sell public land for the money. Many of them make as a justification: 'If we sell these three small parks we can buy this bigger park'. The problem I have with that is that at many of the meetings I have gone to over these what we call pocket parks, they are the ones most supported by the local residents. They are within walking distance for parents with young children. The ones most used by the community are these small pocket parks. Having a much bigger park at the other end of the municipality is not what most of the residents are interested in, and I can talk more about that if you have questions.

The other issue that I run into that is mentioned, certainly in Marilyn Canet's submission — and she is sitting behind me — is corruption. I tell most residents never to speak about corruption when incompetence or indifference might be the answer. However, there are many times when residents strongly suspect corruption. There is no-one to go to; there is no-one to report it to; there is nobody who will investigate it. You can certainly talk to the police about it, but you will find they are not interested. One of the big problems I see is that with all of this money floating around for these developments and public sites, how do we know that it is all above board? I cannot sit here and say that X per cent of it is corrupt, but the point is that nobody can. Nobody knows because there are not the proper procedures in place to monitor it.

Finally, I would like to finish by quoting from one of the submissions which said that public land should be managed with net community benefit and public interest in mind, and that at all times the disposal or sale of sites could pose significant impacts on future generations unless commitment and partnership agreements at all levels of government are developed. I agree with that absolutely and it is just not happening. There are no strategic statements at the government level on how to manage public land. There are no strategic policies on how much public land there should be in particular areas or for particular purposes. There are no effective means or processes currently in place that handle the disposal of public land.

That is my quick summary. I will not run through the whole submission because I would much prefer to have questions and discuss issues that I know interest you.

The CHAIR — If I can just start by getting a simple definition from you. I see you say:

The definition I will be using in this submission is that public land is any land owned by any level of government (i.e. local, state and federal) and their departments, any government authority or institution, or any other type of body or agency. This would therefore include entities such as VicTrack, Parks Victoria et cetera.

I just handed to you a moment ago the committee's definition of public land. Do you think that is a fair description of what would be meant by the community in terms of public land? Do you think that is a reasonable definition?

Mr QUICK — I think it would be, with the definition of government being any level of government, so either local, state or federal.

The CHAIR — In terms of public open space, we heard some evidence this morning about Melbourne 2030 and its policies with regard to public open space. It seems to me that the evidence led to the conclusion that there is no central management of public open space or indeed even clear knowledge about what public open space is available in certain areas of development. Do you think that is a satisfactory state where the government has a plan to put another million people in Melbourne?

Mr QUICK — Absolutely not, and that is part of the problem. When you are researching what is happening with public land there is an absolute dearth of ability to actually get information. There is no central list of what all the public land is; there is no central list showing what public land has changed hands; there is no central list of what prices or processes public land is going through to actually be sold.

One of the things I have noted in our submission is even with the government land monitor, if you read the description, they specifically exempt councils to a large degree from the process. I do not think the government land monitor is working particularly well anyway apart from setting prices for pieces of land, but even what is in there is not being used by the councils. So in actual point Melbourne 2030 was supposed to give direction on a large range of things. Now the trouble is apart from the motherhood statements in the actual policy, there has been

no detailed implementation plans under that in this area or many other areas to do with Melbourne 2030. It is not a good state of affairs and it needs to be rectified. I think nobody really knows what is going on, and I think something needs to be done about it.

Mr TEE — I just want to see if you have got a comment on the position of the Liberal Party. Their view seems to be in the context of 2030 that restrictions on land supply have added greatly to the ever-increasing cost of a house in Melbourne and continue to do so. Is that something you think the committee ought to consider and how?

Mr QUICK — Specifically we have discussed this in SOS about whether we have a position on house prices, and we have specifically said we are not commenting on house prices and it is beyond the scope of our terms of reference unless it is directly impacted on a specific planning issue. I would be happy to give you a personal comment on that but not sitting here as the SOS representative.

Mr TEE — Are you able to take that hat off for a moment and give us a personal comment?

Mr QUICK — I am happy to. I personally suspect that the land availability on the fringe has absolutely nothing to do with the house prices in Malvern, Box Hill, Camberwell, the whole inner city ring of Melbourne. I do not believe the availability of land remotely impacts the price of those houses.

Ms PENNICUIK — Thank you, Mr Quick, for your evidence and for coming today. You made a comment in your submission and just then about the government land monitor and you thought there were issues with the government land monitor; could you expand on that.

Mr QUICK — I have a number of major issues with the government land monitor. Specifically, its primary purpose I do not think is correct. Reading directly from the government monitor guidelines, the role of government land monitor from their website:

The primary role of the government land monitor (GLM) is to provide government with an assurance of accountability and integrity in land transactions. It must ensure that transactions are legal, are in the public interest, and provide best results for government.

The trouble with that is the middle bit — ‘are in the public interest’ — is not being implemented in any way that I can see. I have never seen something that the government land monitor has been involved with that the public interest has been the main, or even evaluated properly, let alone the major component of the decision. What the government land monitor typically does is it does ensure that transactions are legal, as far as we can tell, and it does provide the best result for government — i.e., sets the highest value for the land for the person selling it — but it does not work in the public interest. One of the big reasons it does not do that is specifically in its definition of an ‘agency’, which is then used through the policy. The definition of an agency specifically excludes a council. I just do not understand how somebody could have written a policy that specifically excluded the council from the majority of the policy implementation. It is explicitly excluded. I can read you the actual wording. I may not have the actual wording with me, but it specifically actually says that an agency in the definitions of the policy is the following government entities, and it has a comma and says excluding councils from the definition of an agency.

The CHAIR — You might want to talk to our secretary and we will find that document.

Mr QUICK — The interesting thing there is that a lot of the problems caused to local residents are by the local council either aggregating land or selling land off for money. Quite often the money will just disappear into general revenue. But even when it does not, I believe it is a false argument for a council to actually say, ‘We are selling block A to buy block B’. It sort of assumes a council has a finite amount of dollar exposure to public open space and they cannot go above that, and so they have to sell something to buy something else. I disagree with that. For many of the councils the amount of money involved, particularly with the smaller pocket parks, is not a large amount of money in the scheme of the council budget. So justifying selling little bits of land which are being used for community, because you have to sell them to get the money for something else that might benefit the community, is a very suspicious argument, and a lot of councils do not even do that; they will just sell the land and stick it into general revenue.

I do not think the government land monitor is working. I would say the bulk of people that I run into do not even know it exists; that is how much impact that is having on the sale of public land. It is nothing like what I would do if I was actually running things. If you would like to know what that is, I would have a very solidly independent statutory board or committee that was responsible for any of the sale or alienation of public land, and anything from any public land holder, with your definition, would have to go through that statutory authority and that statutory

authority would have very, very, very clear priorities on community benefit, not to maximise the financial gain and for the land to be sold. I completely agree that on a piece of land once the decision has been made to sell it, yes, it should be sold for the proper economic and market-type price. The trouble is that we are putting the cart before the horse on a lot of these blocks of land. We are saying, 'Look how much money we can make out of them, let's sell them', not, 'We shouldn't be owning that block of land', or, 'There is some major problem with that block of land, let's sell it and now think about how much money we can get for it'. That is what I would like to see happen; I just do not see it happening any time soon.

The other reason to do that is — again, back to the point — we need some type of central repository or central authority which actually knows what is going on, because undoubtedly as you are finding you cannot get a single person sitting in this chair who can tell you what is happening with public land, let alone public open space, across Melbourne. Given we are trying to fit in an extra million people by 2030, do you not find it phenomenal that you cannot find a single person who is responsible and knows what is going on with all this public land and public open spaces? I certainly find it phenomenal.

Ms PENNICUIK — I have been finding it quite extraordinary that there is no repository with that information, or appears not to be. You also raised the issue of public land-holders renting land through a non-public process for the exclusive use of a single party. Would you like to expand on that and highlight some examples? I certainly know of some.

Mr QUICK — Yes, it is something that has come up quite often at a council level more than at a state government level, where individual councils or even councillors will make sure — it could be — a community group or some other group has very preferential treatment in terms of renting either council land or council facilities. One of the cases that came up that was indirectly referred to in Marilyn's submission was where a particular local group had rent-free use of a council facility that used to be rented out to a previous occupant. With those types of deals I do not know what we do to actually monitor them or stop that happening. How do we stop somebody coming up and saying, 'I will support you if you are running for council if you will do my group a good deal for rent afterwards'? I do not know how we actually stop that. But one thing we could do is at least make it far more public, open and transparent so we could require councils to publish all the premises that they rent to external groups and what the rental terms and conditions are. At least that would then bring it open to public scrutiny and local residents could say, 'Why are you doing this?', and they could bring it up at council meetings or they could write to the local paper, where quite often the rental agreements and the deals being done are just unknown. You do not know if somebody is getting a hall for free or that they have done something else.

Ms PENNICUIK — Yes, but it is not necessarily a bad thing for the council to provide the use of its facilities for community groups.

Mr QUICK — Correct. It might be a very good thing that they are providing a place free or for low rent for an urgently needed community group or community service. That may be a good thing or it might be a bad thing. One of the troubles we have at the moment is that it is very hard to actually know, because again you do not get access to the information.

Mr KAVANAGH — You mentioned that members of your group cannot prove it but suspect corruption quite often.

Mr QUICK — Yes.

Mr KAVANAGH — Without detailing any names or anything like that, what sort of corruption is expected? What sorts of groups are suspected of taking money or something like that?

Mr QUICK — I think there are two levels of what I call corruption, and one of them might not fit the legal definition of corruption. One is: you do something for me I will do something for you, with a nod and a handshake — there is no official agreement, there is nothing written down; there is no money changing hands. That is one thing that I would call corruption at the local community level. An example of that would be something that came before the upper house last week, the Victoria Gardens development, which is what you have voted a priority development zone along the banks of the Yarra. When that originally came up there was widespread community concern that a deal had been done with the state government. The concern was that the site was literally covered with asbestos and the state government — or the MFB in this case — had trouble selling it and the deal was that if somebody bought it they would get to build whatever they wanted on the banks of the Yarra. We have had no

evidence that that is actually so, but there was widespread belief in the community at one or two of the meetings that that was the deal that was done. I call that one loose corruption, as there is suspicion by the community that a deal looks strange enough that they are worried that there is some form of corruption involved. More specifically for corruption — —

Mr KAVANAGH — Perhaps you could be not so specific. Perhaps you could give a very general idea of what you have in mind there.

Mr QUICK — The age-old problem of if a block of land is being sold for some money or to a developer and the people making the decision to sell that block of land are able to be influenced either through being supplied money or other favours, and particularly in the council environment where the council now stands for re-election every four years, I think it has come up many, many times that residents have been concerned that small pockets of land have been sold to preferred developers who are somehow connected with one or two of the councillors on council, as a generic problem. Again, I get back to the problem referred to before that there is nobody to report that to. Ninety per cent of the time the community has these problems there might be nothing there — it might just be that they see something and they are worried about it because it does not look right to them and there may be nothing there. But at the moment there is no process that you can go through to say, ‘This is what we are worried about; can somebody independently tell me that there was nothing there and it was all aboveboard and the price that block of land got sold at was quite reasonable?’. There is nobody you can do that to.

Mr KAVANAGH — In the context of what you have been talking about there, would you have any comment on developers donating large amounts of money to what are called major political parties?

Mr QUICK — Yes, I have a position on that, which is that I do not like it.

Mr KAVANAGH — Why is that?

Mr QUICK — Very clearly, even if the developer has not bought special favours from the political party, it is the fact that the appearance, again from the residents, is developer A gives contribution, developer A gets permit. It is not to suggest that it is illegal or improper, because it may not be — it is certainly not illegal currently. It may not even be improper, but the view for most of the residents looking at it is they are going to draw the obvious conclusion. Again, if I had it in my power I would actually say you should not be accepting donations from large developer groups and then approving large developments from that group.

Mr KAVANAGH — If a developer were to claim that the purpose of the large donation was to jump the queue in terms of access to ministers or something like that, would you have any comment on that.

Mr QUICK — Yes. I do not like that either. It clearly should not be happening.

The CHAIR — Can I just follow up that point? I see that one of the things you have recommended is the establishment of a Victorian independent commission against corruption, similar to the one in New South Wales and other locations. Do you see that as a major gap in Victoria’s protections against corruption, the fact that we do not have a body similar to those other states?

Mr QUICK — Absolutely, without doubt, 100 per cent.

The CHAIR — What would your advice currently be to somebody who believes that a deal, perhaps of the type that you have described, has occurred with a parcel of land in a particular council area with the involvement of either an officer or a councillor potentially? How would an individual citizen, who became aware of something untoward, manage that now?

Mr QUICK — My advice to them would actually be to, one, forget it because there is nobody they can go to, nothing they can do, nobody who will listen to them; and two, if they want to actually do something about it, about the only avenue they have got is to run for council at the next council election and get on council. There is nothing effective they can do on an isolated case-by-case basis. Unless they are prepared to get involved with the local politics and get involved in running for council and get involved with the councillors, they have got absolutely no hope of raising that type of issue and getting anybody to listen to it or anybody to do anything about it. If you have got a single case where that is not so, I would be very happy to see it, because I have not seen a single case

anywhere on a planning-related issue, let alone a public space and open space issue, or a single time when a resident who has had a suspicion has got anywhere with anybody on it.

The CHAIR — On a similar but related issue that I raised earlier in the day, when Melbourne 2030 was promulgated and the urban growth boundary was — my word — peremptorily announced, there had been work undertaken prior to that that has never been made public, including various growth committees around the edge of the city. Do you believe that material should be public?

Mr QUICK — Absolutely, but I would not just limit it to that. There was a lot of material around pre the introduction of Melbourne 2030 that was meant to be public submissions or public inquiries or committees looking into things, and none of it has ever seen the light of day. Part of the reason I am thanking this committee for its openness and putting submissions up on the website is we have just had so many things in the past where not just the public submissions but sometimes the end committee result has never been seen by the public.

The CHAIR — The reference group?

Mr QUICK — The implementation reference group for Melbourne 2030, which until recently I was on, is an example of one where we continually argued on making the minutes and what it did public. We all had to sign confidentiality agreements on what we discussed in those meetings. We had some limited success in its last year and a half with some of that information being released, but the new planning minister, Justin Madden, formally got rid of the implementation reference group in the middle of this year.

The CHAIR — Do you have a copy of that confidentiality agreement?

Mr QUICK — I do.

The CHAIR — Would you make that available to the committee?

Mr QUICK — I will have to actually read the terms of it, because I have got a funny feeling that the confidentiality agreement itself might have been subject to confidentiality. But I will certainly dig it out of my filing system, and if I am allowed to give it to you, I will certainly send it to you.

Mr THORNLEY — Ian, you were talking about the pocket park example, which is certainly one close to my heart, particularly for young families and young children. Can you perhaps give some examples of where those types of pocket parks have disappeared?

Mr QUICK — I certainly can. In fact I specifically brought one in. This one is from the Cardinia Ratepayers and Residents Association. In one of their appendices they put a little photo up, which I will hold up for the members, saying, 'Auction — prime Emerald real estate — 1 acre'. A 4000 metre little pocket bit of land that was used by the local community is now going up for a development site. That is a specific example that has already been submitted to you. Again I will have to go hunting through my files, but there have been many times in the last few years when I have gone to council meetings — certainly there have been some out in Manningham who have been consolidating some of their pocket parks — and there have been many other councils I have actually been to where the argument council has presented has always been about consolidating these small blocks of land into bigger ones. In fact I would say the speaker before me actually made that point at least on one occasion, that they are consolidating underutilised public land into more useful ones. What councils generically mean by that is these small pocket parks. Sometimes they will not actually have facilities on them. It is not necessarily that they have infrastructure like slides or whatever, they just might be a small bit of greenery with some trees and maybe a bench which might be highly used by the community within a 200-metre radius. They are exactly the bits of land that council are trying to actually mop up and aggregate into some other area.

Mr THORNLEY — I am wondering — you obviously would not have it all here, but I suspect you have within your resources a good list — if you are able to provide the committee with a list of those pocket parks. That would be very helpful.

Mr QUICK — The biggest problem is that SOS has not been directly involved with the alienation of public land, so that has come up as a side issue to the main meetings that I have actually been to out at council. If you asked for examples on planning issues going back quite a few years, yes, I could go to my filing cabinet and bring out so many examples, whereas the public land ones I have been noticing more at meetings, and I have not

specifically kept a full list of all the ones that have come up. I will certainly endeavour to see what I can come up with. But why cannot the committee ask councils? Because if I asked councils, 'Could you please send me a list of all bits of land, say, under 2 acres that you have disposed of in the last five years', I would get a list back from councils and then I would go and have a look at them and see the types of things they have actually been consolidating. Sorry to sound like a broken record, but it goes back to my central point.

The CHAIR — We have trouble getting that information out of government departments.

Mr QUICK — I do not understand the legislative angle, but you might actually have more ability to get information out of councils than you do out of government. It comes back to my broken record point, which is that one of the things I would hope this committee would actually do is put up recommendations to the government just on aggregating and providing information on what is going on, so we could argue about policy — or some people could argue about policy — to do with public land. But until we know far more about what is going on now, how are we even in a position to actually make firm policy decisions? It is beyond my resources to go out and find everything that is actually going on.

I do want to give one more specific example on that. In this case the council acted quite correctly; it was the state government that did not. I do not know if you have driven around Bridge Road quite a lot. On the corner of Bridge Road and Church Street there is a little public courtyard just on the right-hand side out the front of the ANZ bank. Yarra council about a year and a half ago suddenly got a planning permit for this block of land, and the state government authority — I cannot remember which one it was, but I think it was actually VicRoads — had rented that little public square to somebody who wanted to put a restaurant on it. The first council actually heard about it was when that person put in a planning permit for their restaurant. This is an example of how not to manage public open space. As a result of very large community — —

The CHAIR — Just to get it clear, this was land owned by the state government?

Mr QUICK — Yes, the state government or a state government institution — I think it was VicRoads. The first council actually found out about it being changed from being an open square — and if you are used to driving along Bridge Road, you will know it is the only open square as you drive along that centre part of Richmond — and the first council found out that there was going to be any change of status of it was when they actually put in for a planning permit. Again, the state authority did not have to tell council that it was planning to rent it out.

Mr TEE — When was that?

Mr QUICK — It was about a year and a half ago; it might have been two years ago. The community, of course, was not happy. Most of the councillors, independent of the party, were not happy. Richard Wynne, the local member, who was quite sensitive about local opinion on some issues at that time, was also unhappy, and the end result was it did not go ahead.

Mr TEE — He must be an effective local member.

Mr QUICK — In that case I agree. The point is why do we have to go through all this hassle? Why do we have to go through yelling at our local member and yelling at our local council to protect something that it should have been blindingly obvious was a piece of public open space that community groups and residents use every day? You cannot go past that square at any time of the day and not find people sitting in it, and you cannot go past on most Saturday mornings and not find somebody doing something there. Again, that is just a specific example of the fact that the whole mix between councils, state government and the government land monitor, and councils' power to actually sell land without needing anybody's approval apart from their own, is simply not working.

Ms PENNICUIK — You made another point in your submission that councils and the state government often allow inappropriate development next to public land and in particular next to public open space, which detrimentally impacts on its use by the public. Certainly there is one site that we have been to where there is that issue, but I wondered if you wanted to say anything further on that.

Mr QUICK — It has come up quite a few times in planning decisions. You have got a block next to a piece of public land and you think that that piece of public land is going to be seriously impacted on by the development, and that is part of the thing that you want taken notice of with a planning decision or if you go to

VCAT. The unfortunate problem at the moment is that it just does not happen. Nobody will represent that piece of public land normally to either the council or to VCAT to stop its impact. You have just got no legs to stand on for stopping that individual planning decision. I am being ridiculous, but if you stick a 20-storey building next to a pocket park somewhere, what have you done to the amenity of that public open space?

Specifically what we would actually like there is far greater strengthening of the guidelines. We do want to change the entire Planning and Environment Act, but, putting that to one side, we want far greater strengthening of the type of things that have to be taken into account in making planning decisions, and one of those would be the impact on any neighbouring public land, and particularly any neighbouring public open space.

The CHAIR — Thank you for your evidence. We appreciate it greatly. It is a very comprehensive submission, and I think it gives us some useful new directions and information.

Mr QUICK — Thanks for having me. Can I just also note that if there is anything I can actually do to help any one of you look at any of this type of stuff, you have my contact details, and I am happy to do more work on this issue if I think it is going to be used or part of the conversation. I am happy to help.

The CHAIR — Thank you.

Committee adjourned.