

CORRECTED VERSION

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Melbourne — 8 October 2007

Members

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Mr P. Hall

Mr P. Kavanagh

Mr E. O'Donohue

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Chair: Mr D. Davis

Deputy Chair: Mr B. Tee

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Secretary: Mr R. Willis

Research Officer: Ms C. Williams

Witnesses

Mr J. Hughes, managing director, and

Mr M. Randall, development manager, Walker Corporation.

The CHAIR — I declare open the public hearing of the Legislative Council Select Committee on Public Land Development. Today's hearings are in relation to our inquiry on public land development. I welcome John Hughes and another member of the Walker Corporation and ask them to state their names and positions, and their addresses would be helpful too. 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 comment you make outside the hearing may not be afforded such privilege. Witnesses will be provided with a proof version of the transcript in the next couple of days. John, would you care to make some opening remarks before we move to questions?

Mr HUGHES — Thank you, Chair. Good morning, committee. For the record my name is John Hughes. I am the managing director of Walker Corporation. My residential address is 1060 Rosebank Way West, Hope Island, Queensland. In relation to making some opening remarks, I saw that from the transcript, and I thought the most constructive thing I could do — —

The CHAIR — Could I just perhaps ask you to introduce your colleague as well?

Mr HUGHES — Mike Randall. Mike, can you — —

Mr RANDALL — Yes, I am a development manager with Walker Corporation. I reside in Mont Albert.

The CHAIR — Thank you.

Mr HUGHES — I was going to say that one of the most constructive things I could do by way of opening is to hand to yourself, Chair, and the committee a pictorial representation of what Walker Corporation has developed in the last 30 years. It will with one quick look indicate the size and scope of what we do. Also, there is a more comprehensive set of photographs, which I think is worth looking at.

Whilst you are looking at that could I refer the committee to the photographs of the Prahran Central shopping centre, the Port Authority Building on Market Street — that is the one off Collins Street — the ANZ Bank building on Collins Street, Georges on Collins Street and Country Road, the Church Street, Richmond property? They are significant heritage developments that Walker Corporation has undertaken in Victoria, and on top of that you will see there the wharf at Woolloomooloo and the Broadway shopping centre in Sydney. There are many others that we have been involved in. I only refer you to them to indicate that Walker Corporation has some very large experience in dealing with historic sites. Other than that, Chair, I am very, very happy to be here to answer any questions the committee may have.

The CHAIR — If I can perhaps lead off with a question: as you will be aware, the Kew Residential Services development has been very controversial in Victoria. Indeed I think it would be fair to say it was one of those properties that sparked the establishment of this inquiry. There has certainly been a deal of controversy about the step that it appeared was going to occur, where your corporation, Walker, sought to sell or was contacted by Mirvac Corporation — and we only have the public reports to go by, but there was some arrangement whereby you were intending to on-sell the successful tender rights that you had for the site. I also understand, again from public reports, and I look forward to your indicating the situation in which Senator Graham Richardson was employed as a lobbyist — my word, but I am happy to be corrected on that as well — in the process of facilitating that transfer. Because, certainly on my reading, the contract for Kew Residential Services requires state government approval for such a transfer. Could you perhaps indicate how that arrangement with Mirvac occurred — if it did, as reported — and what were the purposes of engaging Senator Richardson?

Mr HUGHES — Chair, you are asking me too many questions in one go. I cannot — —

The CHAIR — I am giving you the context it has appeared in publicly and asking you to perhaps indicate what occurred, at least from the perspective of your corporation.

I will be very sharp then. Directly did you employ Graham Richardson, and how much was he paid?

Mr HUGHES — We have from time to time employed Graham Richardson. In this particular instance we were not engaging him.

The CHAIR — Right. He had no relationship — —

Mr HUGHES — Would it be helpful if I explained what the sale to Mirvac was, and maybe that will lead you to a number of questions?

The CHAIR — That is what I sought to do by laying the context.

Mr HUGHES — I do not want to be difficult, but I do not want to go outside what you require.

Last year, I guess in about July, Mirvac approached us as a result of us going out, if you like, to tender — ‘us’ being Walker Corporation — to sell most of the finished product that Walker Corporation had accumulated over the years. It was, if you like, a portfolio of many, many properties. The public tender process, expression of interest process, was not all that successful in that we found that a number of companies that were bidding would have preferred to cherry pick the assets rather than buy them in one go. So that came to nothing.

Subsequently Mirvac approached us and asked if we would be interested in talking. Lang Walker, the chairman of the company, said, ‘Yes, but it is on a whole-of-company-sale asset basis rather than a cherry-pick basis’. Negotiations proceeded with that in relation to most of the assets, and one of the assets we believed that we had at the time was Kew. The Kew residential development agreement, which we have now since entered into with the office of major projects, was in two effective stages. One, the KRS housing stage, if I can call it that, required us to build 20 houses for KRS residents, together with another 55 residences around and interspersed with those 20 KRS houses, together with a further 4 KRS houses, plus a community centre for community activities on the heritage site. The agreement for the KRS residential development agreement required that we could not sell, if you like, the KRS stage of the development without consent, and that that consent could be absolutely withheld at the state’s pleasure.

The CHAIR — According to the contract?

Mr HUGHES — According to the contract. The second part also required the state’s consent, but that consent could not be unreasonably withheld. The reason, I understand, for the difference was that it was in the state’s interest to ensure that the KRS housing got what it in fact wanted — which is the 20 plus 4 KRS houses.

So when we were negotiating with Mirvac, Mirvac was given a copy of the agreement and it was explained to them that we could not sell the first stage without consent, and that that consent would in fact be more than likely refused because it was in the interests of KRS housing to ensure that that had been done. In the second part of the sale, though, it was open to us to be able to on sell that contract with the consent of the government. I understand that the government has since rejected that. It has knocked back the sale.

The CHAIR — And the question about Graham Richardson — what the arrangements between your company and him were and what his role was?

Mr HUGHES — Yes. The arrangement between ourselves and Graham is that from time to time we use him as a lobbyist, mostly in New South Wales. After we entered into the agreement for the sale of the second stage of the Kew Residential Services agreement, Mirvac said, ‘You know, for the sake of continuity it may well be a good thing if we actually tried to buy the first stage’. We said, ‘Yep, we are happy to do that, if you can get the government’s approval. We think that is going to be problematic’ — for the reasons I have already stated.

Mirvac — I think we offered the services of Richardson, if they thought that made sense. They wrote a letter, which went to Richardson for the purpose of making representations to the government. Subsequent to that they wrote back saying no. The government knocked it back.

The CHAIR — Do we know what Richardson was paid and what arrangement he was contracted under?

Mr HUGHES — No, I have no knowledge of that.

The CHAIR — Was there a success fee on offer?

Mr HUGHES — I do not know.

The CHAIR — You have no knowledge whatsoever?

Mr HUGHES — No, I was not party to it.

The CHAIR — Other than Walker Corporation making him available to Mirvac?

Mr HUGHES — It was not a question of making him available. We suggested that he may be able to help. I mean, he is not contracted to us exclusively. He works for a number of people, as I understand it. We use him from time to time on matters that require government lobbying.

The CHAIR — And this is a normal process, you think?

Mr HUGHES — In relation to?

The CHAIR — This sort of lobbying for sites of this nature.

Mr HUGHES — No, I do not think it is a matter — I do not think I understand you. You do not have a lobbyist to lobby for sites.

Sites fundamentally from governments throughout Australia generally start through expressions of interest which go out to the public. They are not run by politicians. They are run in fact by departments, and throughout New South Wales — we have got experience in New South Wales; Queensland; Victoria, obviously; Adelaide — we have just recently been involved in one there, which we did not win; and Perth. Historically, and in fact with this particular one, the sale of this site, which was mooted I think first by government in 2001, was finally put to expressions of interest in March 04. There were, I think, 27 responses to that. In May 04 there were seven preferred tenderers chosen. In September 04 those seven were reduced to two — that was ourselves and Baulderstone Cbus. In March 05 Walkers was nominated as the preferred developer.

It is important to know and to understand that at all meetings in relation to all these matters there was always somebody there from KRS, always someone there from DHS, always someone there from the office of major projects, and as importantly — as is normally the case — there was a probity officer. Acquisitions that we have been involved in throughout Australia are always done by departments, they always have probity officers and it is a completely open and transparent operation and business.

Let me go on. In March 06 we had the development plan approved that we had developed for the site and the terms and prices starting to be negotiated with the office of major projects. Negotiations went on until 27 October 06. The price was determined by a Valuer-General valuation with the Land Monitor and the probity officers being involved. The whole system was completely run by the departments at all times completely transparently.

And so, on 21 October — from May 01 to October 06 is four-and-a-half years. Two-and-a-half years after the date of expressions of interest we finally got the documents signed. The negotiations on the agreements took from March 06 to October 06. There was an enormous amount of work done, as I understand it, by the various departments — heritage, council, department of planning, KRS — —

Have I left anyone out?

Mr RANDALL — That is about it.

Mr HUGHES — They were toing and froing in relation to approving the development plan that we submitted that was eventually a successful plan.

Let me just finish by saying the business in relation to the Mirvac sale was subsequent to all of that.

The CHAIR — I understand that. The question, though, with Mirvac is that you have indicated today in effect that you had no relationship with Graham Richardson with respect to this contract, that Mirvac were the people who employed him to lobby the government with respect to the contract. Am I correct in understanding that?

Mr HUGHES — In relation to the transfer of the residential services development agreement and our rights and obligations under that, yes, that is correct.

The CHAIR — Although you in effect sort of loaned him to Mirvac or made the introduction?

Mr HUGHES — Can I tell you, I think it puts the wrong implication when you say we ‘loaned’ him. We do not own anybody, and we certainly do not loan anybody.

The CHAIR — You made the introduction perhaps?

Mr HUGHES — We employ him from time to time. He is available, as I understand it, to do work for people. We said we think he does a reasonably good job or words to that effect — I do not remember particularly. In any event they engaged him to lobby the government to see if the government would in fact transfer the first part — you know, the entire agreement rather than the second part of the agreement. I do not think that they particularly held great hopes that it could be done, because we had told them before that the important thing as far as the office of major projects was concerned was that they delivered with Walker, they delivered the KRS housing, which was important to their client, KRS housing.

From our point of view can I say that Walker are completely happy to comply with the agreement. We are more than happy with the agreement. We are very, very happy to complete the agreement. We are ambivalent as to whether or not the government approves the transfer or otherwise.

Mr TEE — Thank you for those answers. You have indicated that at the meetings you had there were probity people present?

Mr HUGHES — That is correct.

Mr TEE — Do you know whether or not that process was overseen by independent probity auditors?

Mr HUGHES — Yes. The probity auditor was Geoff Walsh, I understand, from Pitcher Partners accountants.

Mr TEE — And do you know whether or not they signed off on the process? The role, as I understand it, of the probity auditor is to oversee the process and to ensure that it is done according to the probity requirements. Do you know whether or not they signed off on the process as having complied with those probity requirements?

Mr HUGHES — I personally do not. Do you know?

Mr RANDALL — No, I do not know.

Mr HUGHES — It is not something within our realm particularly. I mean one presumes that if the matter went on — but I do not know.

Mr TEE — That is all right, thank you. One of the issues that has been raised previously is whether or not the contract was signed after the commencement of the caretaker period in terms of the elections, on 31 October 06. Do you know when the contract was signed?

Mr HUGHES — It was 26 October I believe. Let me just check my notes. It was a Friday. I beg your pardon — 27 October.

Mr TEE — I am going through a couple of issues that were raised at previous hearings. One of the issues that was raised was your company’s meetings with the parents of residents who requested that you meet with them. They indicated some two weeks ago — to give you the full context — that as of the hearing last week there had been a presentation to which they had been invited where you had given a progress report. I am wondering if you can give us some indication as to your response to requests from the parents of the residents of Kew Cottages for regular and ongoing meetings with them. The submission that was made is that they had some difficulty. I am wondering if you could confirm whether that is the case and provide an explanation.

Mr HUGHES — The answer is yes. I read that transcript where the parents made that statement. That is in fact true. They did ring and ask for a meeting, and one of the girls working at the time for us said she would be happy to come along. That was countermanded by the manager running the operation at the time. The reason for that was that KRS was running the process in relation to those sorts of meetings. It was also being run by the office of major projects, and Walkers were really out of that loop in relation to dealing with the residents and the parents of the residents. It was expressed to us that it would be better dealt with by professionals than by us. That is what I understand the position was at the time, and that is why we pulled out of the meeting.

Mr TEE — At previous hearings there was a suggestion in a document that some four years before this contract you had made a donation to the Labor Party. I had a look around for them but unfortunately I have not got the documents with me. Can you confirm that subsequent to 1998, so in the last 10 years, you made donations to the Liberal Party of over \$300 000?

Mr HUGHES — You may have more information than me. We have been making contributions to both parties for many years. I do not know the actual amount. They are a matter, are they not, of public record?

Mr TEE — Indeed they are.

Mr HUGHES — They are what they are. To be candid, I do not keep a tally of that, but I saw that the suggestion was that we make payments in order to win favour. Everybody in government knows that is simply not true.

Mr HALL — Thank you, David, for coming this morning and informing us on a couple of things. I need some clarification regarding the development of the KRS site at Kew. You mentioned that the development agreement was signed on 27 October 2006. As I understand it, it is a proposed staged development of which the first stage has got 20 KRS residences and 55 others. How many stages do you propose to develop that whole site within?

Mr HUGHES — It is a complicated answer to give you initially. There are, in stage 1, stages A, B, C, D, E and F. They comprise, as I think you say, 75 houses, 20 of which are KRS houses. The relevant section of 1A to F inclusive is 1A, 1B and 1C, which relates to the KRS houses. The entire concept I understand was for the KRS houses to be interspersed between ordinary residential properties. I think that first set of residential properties, if I can distinguish between those and the KRS houses, total 40. There are 20 interspersed with 40. That makes a total of 60, with another 15 to be built. That is what we refer to as stage 1.

There is a second stage, obviously called stage 2, that KRS housing refers to, and that is the additional four other KRS houses, together with the community services buildings we are building. You would be aware I think that they are a hydrotherapy pool, another pool, a convention centre, an area for medical consultations, a boutique, recreational centre, a gymnasium, a community meeting room, a cafe/kiosk, which interestingly covenants to provide ongoing services at — I do not like to use the word ‘discounted’ — favourable prices to KRS housing residents because they were previously enjoying that benefit.

Mr HALL — I am just seeking some clarification. What have you actually got planning approval for now, and what is currently under construction? That, as I understand it, is the 20 KRS residences. Is it 40 additional residences or is it 55, which you suggest comprises totally of —

Mr HUGHES — No, it is 55. That is for the 75 in what is generically called the first stage. That is why I say it is complicated. In development terms we do not refer to the Kew Residential Services development agreement, which talks about the dissected sections. If you can think of it in terms of 75 residences in stage 1, 4 in the community services at stage 2 and the balance of site. On the site we have is 380 units, of which 201 are houses, 20 are KRS houses and 159 are units. It is interesting to note that I think the site was approved for 550.

The CHAIR — It was 520; is that correct?

Mr HUGHES — Five hundred and twenty — and we total 380.

Mr HALL — In that first stage of those 55 other-than-the-KRS residences, how many of those are actually on the market? Is it the whole 55 of those? Are they being marketed now?

Mr HUGHES — They have been sold.

Mr HALL — Totally sold, the other 55?

Mr HUGHES — Totally sold, which interestingly puts a price or a value of about \$1.5 million on every one of the KRS houses, which of course is owned by KRS.

Mr HALL — I understand that about stage 1 now. What is the process for getting planning approval for the second stage of the development of this site?

Mr RANDALL — We have to prepare a detailed master plan encompassing those buildings. It has to go through a DA process through the Department of Sustainability and Environment, and that gets referred on to various referral authorities including Boroondara council and other statutory authorities that have an interest in the site, including Heritage Victoria. Once a DA is approved then it goes through the normal building [approval] process before we start construction.

Mr HALL — So who becomes the planning authority for the second stage development; is it the government or is it the Minister for Planning?

Mr RANDALL — It is the Minister for Planning.

Mr HALL — And that was the same with the first stage?

Mr RANDALL — Yes.

Mr HALL — What role therefore will community organisations like Kew Cottages Parents' Association and the Kew Cottages Coalition have in terms of that second stage?

Mr HUGHES — That will be a matter for the department, will it not? It is certainly not a matter for the developer. In this day and age, every interested party, generally, is given an opportunity to comment. We have no difficulty with that.

Mr HALL — When you were talking before about onselling part of the potential development to Mirvac or indeed other interested parties that might be interested in doing that, I just need to clarify the current status; the current status of the first stage fully owned by Walker Corporation — you are the developers of that first stage — and at this stage you are also the owners and proposed developers of future stages?

Mr HUGHES — Yes. Correctly put, we are still party to the Kew residential development agreement; we are the developers pursuant to that. We have all the rights and obligations that that imposes upon us, which is the entire development. The application was made by Mirvac to transfer to us. That has been, as I understand it, knocked back. Whether or not there is an application made at a later time for the balance, if you like, that will be dealt with then. But the KRS and the office of major projects are entitled to consent or not consent. As I said, Walkers is very happy to continue with the entire obligations under that agreement to its end. It is a matter for them, not us.

Mr HALL — If somebody came to you with an attractive offer and sought consent from government to do so, potentially then we could have some other corporation developing the rest of the KRS site.

Mr HUGHES — Are you now distinguishing between, if you like, the first stage and the second stage?

Mr HALL — Yes, I am; future stages.

Mr HUGHES — The answer to that is theoretically yes. Practically speaking, what the government would have to decide — and when I say 'the government' I mean KRS and the office of major projects — is whether that is in the interest of their client, which is KRS, or whether that is a good thing to do. It does not in any way impact financially upon KRS. They are exactly in the same position financially before a sale as after a sale. The price, if any, that we get does not impact on the amount of money that is paid to them. They would have to decide whether, in all the circumstances, the purchaser who was applying for consent had the ability, the sensitivity, not only the expertise but the financial ability, to complete the agreement before making a decision as to whether it should allow the transfer or not.

Mr HALL — What rights does Walker Corporation have in respect to the future development of the site? If there was another company or organisation interested in that development, would you have to agree to onsell your development rights under the development agreement?

Mr HUGHES — Yes. You mean outside of Mirvac?

Mr HALL — Yes.

Mr HUGHES — If that arose, yes.

Mr HALL — What do you mean by ‘outside of Mirvac’?

Mr HUGHES — We have already entered into an agreement with Mirvac which gave them the rights but not the obligation to buy the second stage. I think that has already been knocked back by the government, or if it has not been, that is a matter still up in the air.

Mr HALL — So Mirvac is still a live player, so to speak, in the process, if it could convince government to give them consent to do so?

Mr HUGHES — I am not entirely sure about that, but I think the safer answer is that they still await a definitive answer in relation to stage 2.

Ms PENNICUIK — I have a couple of questions. You said, John — sorry; Mr Hughes — — .

Mr HUGHES — John is fine.

Ms PENNICUIK — At the beginning you said that last July Mirvac had approached Walkers — I thought you said to sell you something. Was I confused there?

Mr HUGHES — No.

Ms PENNICUIK — Which July was that? Was that July 2006?

Mr HUGHES — If I said that, it was probably a little bit inaccurate. Last June or July, Walker determined — —

Ms PENNICUIK — Of last year?

Mr HUGHES — Of last year — Walker determined to offer to the market a portfolio of property. There are a number of short-listed bidders who subsequently decided that, rather than buy the entire basket, they wanted to cherry pick. That expression of interest came to nothing. Subsequent to that, Mirvac approached us saying they would like to buy the basket of property, and that is where the negotiations started. It was not consummated until, I think, the very end of November, after due diligence and the normal negotiations. Then the settlement did not take place until January 2007.

Ms PENNICUIK — Sorry, just help me understand that. What basket of property is that?

Mr HUGHES — The Broadway shopping centre, Rhodes shopping centre, Rhodes residential, Rhodes commercial, Kew was in it obviously — what else? The assets at Hope Island, which was the golf course, the remaining development product there, the tavern, the marina, some shops — at one point, \$1 billion-odd worth of product.

Ms PENNICUIK — With the settlement, what do you mean by the settlement?

Mr HUGHES — Payment of the money.

Mr RANDALL — Transfer of the title.

Ms PENNICUIK — How does that fit in with their having to get government approval for the transfer? What I am asking is: some parts, obviously something on Broadway — I am just making it up — you can transfer, but something at Kew Residential Services you cannot.

Mr HUGHES — There were in fact in that basket — —

Ms PENNICUIK — That is what I am getting at.

Mr HUGHES — I understand your question. There were in fact in that basket at least two, maybe more but not many more, properties which were conditional. One was Kew in relation to it being conditional upon consent being obtained; another was a property out near Penrith which was conditional on a rezoning occurring some time in the next period of time.

Ms PENNICUIK — So, Mr Hughes, you are saying that you received the money?

Mr HUGHES — In relation to Kew? Absolutely not. It is conditional.

Ms PENNICUIK — So it is settlement on the other part of the basket but not on that part of the basket. Okay. Can I just go back to the Graham Richardson question? You say that you do not own him, and I am quite prepared to believe that, but I am just wondering what relationship Walker has had with Mr Richardson over, say, the last 5 to 10 years. In what role has he been engaged by Walkers?

Mr HUGHES — Our relationship with Mr Richardson does not I believe go back over the past five years — sorry, longer than the last five years. He probably started in about 2000 — I would be guessing now, but 2002 — and we have used him in a number of roles, but as I say mostly in New South Wales.

Ms PENNICUIK — What roles would they be?

Mr HUGHES — Putting our position to government; the traditional role of a lobbyist. I do not like to say this, but there are some times when you are dealing with departments when they simply put up a blank wall and say no, and reason has to be seen. The only way to do that if you are dealing with any person, employee or otherwise, is to go to their employer and say, 'Are we being unreasonable or are we being reasonable?'. He assists in that. It really does not amount to any more than getting access to put a case, if it be boiled down. You are in Parliament and you would know this. You know that lobbyists at the very best get the opportunity to put a reasoned case. It means no more nor no less than that.

Ms PENNICUIK — Is Mr Richardson engaged with you at present in any capacity?

Mr HUGHES — Yes, he is.

Ms PENNICUIK — Could you tell me what that is?

Mr HUGHES — It is commercial in confidence, I have to say. He is doing some work for us in New South Wales at the moment.

Ms PENNICUIK — Would it be true to say that Mr Richardson may have been engaged by yourself and by Mirvac at the same time?

Mr HUGHES — Yes, but on different — let me not mislead you. He was certainly working for us on different matters at the time. The answer to your question is yes, he was engaged by both of us at the same time but on different things. Having said that, it was not necessarily against our interest if he succeeded because if the government saw fit to sell the first stage, then we would probably have been a seller of the first stage. We had no contractual obligation to sell the first stage, let me hasten to add. Our agreement related only, as I call it loosely, to the second stage. There was no agreement to sell the first stage.

Ms PENNICUIK — Could I ask if there is any existing or pre-existing relationship between Walker Corporation and Mirvac in terms that you work together on projects and things like that?

Mr HUGHES — Have we ever done a joint venture together, are you asking? Not to my knowledge, no. Have we sold things to them? Nothing comes to mind.

Ms PENNICUIK — I have one or two more general questions. One is, if you have gone to so much trouble, as you were describing — taking five years to get from the beginning of the project to becoming developer — why would you be interested in transferring that property after taking so long to get there?

Mr HUGHES — It is a fair question. I think the answer lies in the fact that everything was being sold. Lang Walker, who owns the company, is 61 or 62 years old — 62 I think — and you have seen the work that has been done by Walkers. I think he decided it was a good time to cash up, so he put everything on the block. What got left out of the deal with Mirvac was of course all of the subdivision land that we are involved in nowadays, and that is because you cannot realise its real value until the subdivisions commence. If you have in globo land that is going to be turned into residential land or industrial land in the future, you cannot extract its full value until you have finished achieving those developments, and so they were not sold. Virtually every other building, property or

enterprise was in that basket except for the vacant land and an office building in Hope Island which houses our Brisbane office. So that is the answer really; it was all part of the sale.

Ms PENNICUIK — Mr Hughes, can I just also go to the stages. You were talking about stage 1, stage 2, but some of the maps I have looked at go to stage 7. They have stage 7 on them. There are actually more than two stages, are there not?

Mr HUGHES — There are more than two stages if you look at it from a development point of view. There are, so far as KRS and office of major projects are concerned, really only two stages, and yet there is a third stage, being the balance. Because of the sheer volume of property, you cannot bring it all on at one time. It would cost too much money to bring it on to start with, but subsequently you bring it on and you sell it and you go on through various stages. I am sure that there are more than three stages, but that is an internal decision in terms of staging, rather than the one as I have understood we have been talking about in relation to the residential development, the Kew Residential Services development agreement, which is the relevant one.

Mr KAVANAGH — I want to ask about political donations. Why does Walker give political donations, especially such large ones. It was reported in yesterday's *Age* that Walker Corporation is one of the largest political donors in Australia.

Mr HUGHES — Is your question, why do we give them?

Mr KAVANAGH — Why do you give them, yes. You said you do not get favours or anything like that, so why spend all that money?

Mr HUGHES — We think it is a responsible thing to do.

Mr KAVANAGH — How is it responsible?

Mr HUGHES — All parties require financing to be able to put their best foot forward; that is why they need to do that.

Mr KAVANAGH — You do not fund all parties though, you only fund, you said, both of them.

Mr HUGHES — No, we have, over the past — I do not have at my fingertips how much we have paid, but I remember vividly some years ago we paid money — this is many years ago, I think the Democrats were still in power — to the Democrats, we gave to Labor and we gave to Liberal, in New South Wales state. We are large contributors to the Liberal Party at the federal level, and I think that is because Lang has the greatest admiration for John Howard and he therefore supports him.

Mr KAVANAGH — And he also has admiration for the leaders of the ALP and the Democrats; is that right?

Mr HUGHES — We always try to support all of the parties.

Mr KAVANAGH — What do you get for it?

Mr HUGHES — At the federal level I do not think we get anything because I do not think at any terms we need access to the federal politicians. But we read, and I read, that this business about making donations gets you things; it does not get you things. What it gets you, at best, is access to be able to put your case. It does not get you any favours.

Mr KAVANAGH — Is that not a favour, then, if some people are getting access and some are not? Is it not a favour to get access?

Mr HUGHES — No, I do not think so.

Mr KAVANAGH — But if you do not make the donations, you do not get the access.

Mr HUGHES — I do not agree with that.

Mr KAVANAGH — I thought you just said that the donation gets you access.

Mr HUGHES — Yes, but I did not say to the exclusion of all others. I do not want to play games but the stark reality is, we support political parties. We support all of the political parties.

Mr KAVANAGH — No, you do not support all of the political parties.

Mr HUGHES — All the major political parties, I beg your pardon. And that allows us, at best I said, to get access. It does not preclude people from getting access to politicians to be able to put a case. People can make a huge amount of it, but in reality it just does not achieve what is implied it achieves.

Mr KAVANAGH — The \$50 000 that you donated to the ALP at the beginning of the year 2000, shortly after the election of the Bracks government, got you access; is that right?

Mr HUGHES — It does not get you access up the spot, but what it does, it allows us to support the government of that particular day, if it was Bracks you said. If we wished to be able to put a case at some point in the future, then one could hope that it would favourably get you that access faster than others, but it does not achieve anything. At the end of the day being able to have an appointment with somebody, to be able to put your case, does not guarantee a result. All of you, sitting there, know this.

Mr KAVANAGH — It does not get you favours, but it favourably gets you access; is that right? Those are your words?

Mr HUGHES — No, those are your words.

Mr KAVANAGH — I think you said, 'It favourably gets you access' — your words.

Mr HUGHES — If you like. Nothing turns on it, that is the point I would like to make. It does not get you a result.

Mr KAVANAGH — Apart from Mr Graham Richardson, has Walker had any dealings with Brian Burke or any of his associates?

Mr HUGHES — No, not to my knowledge.

Mr KAVANAGH — Thank you. In terms of Walker's contract no. 3669, is this the only agreement that Walker has with regard to the Kew cottages?

Mr HUGHES — Is 3669 the Kew residential development?

Mr RANDALL — [Is this the document?]

Mr KAVANAGH — I think so.

Mr HUGHES — We have never heard it referred to as that. What do your numbers relate to as a title?

The CHAIR — Is that the one?

Mr KAVANAGH — Yes, I think so.

The CHAIR — Kew Residential Services development agreement?

Mr HUGHES — Yes, that is this document.

Mr KAVANAGH — Is that the only contract you have with the government regarding Kew cottages?

Mr RANDALL — Yes.

Mr HUGHES — Yes.

Mr KAVANAGH — The first expression of interest did not refer to a profit-sharing deal. Who suggested the profit-sharing deal over Kew cottages?

Mr HUGHES — Do you know?

Mr RANDALL — I am not completely sure; it was before my time.

Mr HUGHES — I cannot help you there. I do not know the answer to that question. But let me say this: it is a profit share after Walkers make 18 per cent. We should clarify that. In the transcripts that I read it was suggested that it was a fifty-fifty joint venture profit share. That is not the case.

Mr KAVANAGH — What is the case?

Mr HUGHES — There is a base amount guaranteed to the government, which, if the milestones for payment are not met, is increased at a percentage rate. After that Walkers are to get an 18 per cent profit; and after that 18 per cent profit has been paid, the profit is to be shared fifty-fifty with KRS.

The CHAIR — So it is on the residual?

Mr HUGHES — It is on the residual. If you like, it is the upside. There is also additional money to be paid if we sell the properties for more than \$1.5 million. The department of major projects negotiated a very favourable deal for KRS, as we see it.

Mr KAVANAGH — There is a reference to a \$60 million minimum profit, is that right?

Mr HUGHES — Let me just, if I may, take a minute to go back. May I just read this in one hit? It will be easier for the committee.

The CHAIR — Sure. You may want to make it available, too.

Mr HUGHES — I will just read it. Walkers are to pay \$30.979 million as a base payment, increased by: if the average price of every lot exceeds \$1.5 million, KRS retains 10 per cent of the sale price, 50 per cent after Walker takes its 18 per cent profit; if the milestones for payments are not made because of delays, the base price of 30.9 is indexed at I think it is 8 per cent; plus 20 KRS houses valued at \$1.5 million; community centre and heritage core costing \$6 million; upgrades for public space, costing between \$7 million and \$8 million; decontamination of the site, which cost \$4 million; construction of roads and the walkways particularly, \$19 million; and putting the electricity underground, \$2.7 million. If you total that, and my maths are accurate, it is \$90-something million — \$98 million.

Mr KAVANAGH — When was the land rezoned?

Mr HUGHES — We think it was rezoned at the same time as the development plan was approved, and that was in March 2006.

Mr KAVANAGH — Going back to political donations, has Walker Corporation ever effectively made political donations in the name of other people? I am referring here in particular to Ibenmore. Could you say anything about that?

Mr HUGHES — Ibenmore?

Mr KAVANAGH — Ibenmore — I-b-e-n-m-o-r-e.

Mr HUGHES — Walkers do not as a rule make donations. To my knowledge, other than one occasion which I will get to, Walkers has never made donations in other people's names. We had a situation on a joint venture down in southern Sydney — at Allanvale, I think it was — in which there was an allegation made, which I read in the transcript. But in that particular case I believe that the donation was made to the Liberal Party, which was the then sitting government, the Labor Party exactly the same amount, and the Democrats. They were all the same.

Let me just give you some background to that, because I know well this particular case. That was a case in which an old developer friend of Walkers came and said, 'I am about to go bankrupt, can you help me? I need \$2.4 million immediately to pay out the bank. I've got this property which we can joint venture to try to obtain approval'. We could not obtain approval and he decided he did not want to sell the property. So he took us to court and he beat us — an extraordinary set of circumstances. He made all sorts of allegations about payments, like that. But the record will show, if you care to go back, that the amount of money paid to the Liberal government at that

time was exactly the same as the amount paid to the Labor Party — and there was some money also paid to the Democrats, I think. But other than that I have no knowledge.

Mr KAVANAGH — How does this affect favourable treatment to access work, do you think, in your experience? If Walker Corporation has made a large donation to a political party and that party is in government, what are the mechanics of the favourable treatment? Do you think that the party secretary rings the minister and says, ‘This company’s given us a large donation. You’d better listen carefully to what they’ve got to say’? How does it work, do you think?

Mr HUGHES — With great respect, Mr Kavanagh, you would know better than me. I do not know what happens inside government particularly. What I was referring to was that by making a donation I think it is more likely that you would be able to get a faster appointment with a government — or an opposition — member than otherwise. I put it no higher and no lower than that. I have to say that it applies equally as well to an opposition party as it does to a government party because there are times, you know, when the government does not see a reasoned argument as clearly as perhaps they might and maybe you would approach the opposition to engage them to help you to get the government to see a reasoned argument. If it is not a reasoned argument there is not a snowball’s chance in hell of it ever being approved.

Mr KAVANAGH — When you say ‘the opposition’, you mean members of parties to which you have given political donations?

Mr HUGHES — I mean the Liberal Party or the Labor Party or, if it was applicable, the Democrats, but can I tell you I do not even know if the Democrats exist any more. Do they, politically, I mean?

Mr O’DONOHUE — Thank you very much for your comments, Mr Hughes. Just a comment — it is more a commercial matter — but would you not have perceived the Kew residential site as an in globo parcel of land?

Mr HUGHES — In relation to?

Mr O’DONOHUE — You said that Mr Walker determined to retain his in globo parcels of land — —

Mr HUGHES — No — okay, yes. The answer to that is yes and no. When I was talking about in globo land I was talking about unzoned residential subdivisions of 2000 to 2500 blocks of land. I was talking about tracts of future urban expansion-type land, not so much this. This particular one is 27 hectares, of which we get to develop 48 per cent; 52 per cent goes to a combination of open space and road reserve. This is not the same category.

Mr O’DONOHUE — Fair enough, thank you for clarifying that. Can we just go back to the timetable? You said that the project was first mooted in 2001, the expression of interest in 2004, it was reduced to seven preferred tenderers in May 2007, and finally in March 2005 you were chosen as the preferred developer. You said later that the commercial arrangements were not agreed to until, I think it was, 27 October last year.

Mr HUGHES — I am not sure I said that. The price was negotiated between March 2005, but really between March 2006 and probably about June or July 2006. The document was not finally signed until October 2006.

The CHAIR — Three days before the caretaker provisions.

Mr O’DONOHUE — But the fundamental commercial arrangements were sort of agreed in principle — if I can use that term — mid last year?

Mr HUGHES — Yes, Mike would know better than me.

Mr RANDALL — I think it was closer to March, because it was all based on the approval of the development plan.

Mr O’DONOHUE — When did you start construction on site?

Mr HUGHES — There was an early works program, and subsequently after this was signed. But there was early works program that commenced early in March, wasn't it?

Mr RANDALL — Yes, the demolition actually was commenced. It was being done by the office of major projects I think in late 2005.

Mr HUGHES — The reason for that was that they had to split up the decommissioned part of the existing structures so that the remainder could continue with all the services, but we could split the services off so we could get on with doing stage 1.

Mr O'DONOHUE — Right. So what commercial security did you have to start early works if the agreement was not signed until — —

Mr HUGHES — We had a contract, an early works contract.

Mr O'DONOHUE — You had an early works contract. What was the extent of the early works contract?

Mr RANDALL — It was to a maximum value of, I think it was, \$8 million or \$9 million, which related to initial works to facilitate the development of stage 1.

Mr O'DONOHUE — Site preparation — —

Mr RANDALL — Site preparation-type works.

Mr O'DONOHUE — Not road infrastructure and that sort of stuff?

Mr RANDALL — No, that is subject to approvals.

Mr O'DONOHUE — Then the sale to Mirvac was first mooted in or around July?

Mr HUGHES — No. I have confused everybody with this. The concept of going out to expressions of interest from a select number of buyers started in June-July. It did not come to anything until subsequent to that, and then after that in about September or October Mirvac came along. We did not execute anything with them until 28 November.

Mr O'DONOHUE — I suppose if you did not have an agreement you could put it to the market in effect until 27 October.

Mr HUGHES — In relation to selling that?

Mr O'DONOHUE — Yes.

Mr HUGHES — The second stage?

Mr O'DONOHUE — Yes.

Mr HUGHES — It was conditional. It did not matter. If it had not been signed, it could not have been part of the sale.

Mr O'DONOHUE — You mentioned before that the Government's consent could not be unreasonably withheld.

Mr HUGHES — For stage 2?

Mr O'DONOHUE — Stage 2.

Mr HUGHES — We call it stage 2.

Mr O'DONOHUE — For the balance parcel. Was that defined, what 'unreasonably withheld' — —

Mr HUGHES — No, it just simply says that in the agreement. My understanding of the reasons for those clauses — the division between being able to absolutely withhold consent for stages 1 and 2, as they call it, and for

the balance of the site, which we call stage 2, was that the office of major projects and KRS were completely intent on making sure that the people that they had decided to be their preferred developer, Walker, were the people who delivered KRS housing. I understand the reason for that was — what allowed us to be favourably chosen as the preferred developer — was the way we integrated the design of KRS housing amongst the other residences, particularly the way the design of a KRS house, as opposed to another third party house, looked exactly the same. They did not stand out; they were part of a suburb.

Mr O'DONOHUE — Sure.

Mr HUGHES — And that was why I think they were drawn towards Walker's designs — one of the very major reasons — and they wanted therefore to ensure that Walker delivered on stage 1. So the office of major projects was adamant that, so far as stage 1 was concerned, there could be no transfer without consent, but that consent could be completely withheld without reason. After that it was simply a commercial business — houses being built, properties being sold, profits being shared, if there were profits. Then, providing that, I guess, an applicant was solvent, had the expertise et cetera, there was a possibility that there could be consent. But, as I said before, Walker is completely happy to finish the contract it has started out with. We would have no objection to that and never have had.

Mr O'DONOHUE — Again, just for clarification, in effect that means you have to deliver stage 1 with KRS housing involved, the balance of the lots can be developed at your choosing depending on market conditions and other factors pertinent to your corporation — —

Mr HUGHES — You are talking about in terms of timetabling?

Mr O'DONOHUE — Yes.

Mr HUGHES — Absolutely. Walker is completely alive to not only the time constraints but the cost to KRS housing for not completing earlier. There are very stringent liquidated damage provisions in here. Am I right in saying \$750 000 a month?

Mr RANDALL — Yes, \$750 000 a month.

Mr HUGHES — It is \$750 000 a month in liquidated damages.

Mr O'DONOHUE — Is the government enforcing those terms of the contract?

Mr HUGHES — It is not up to enforcing them because the time has not yet run out. But do I have any doubt that they will not be enforcing them? They will be absolutely enforcing them. Why? Because I am led to believe that that is the exact cost to continue to house the residents whilst waiting to bring them into the new housing.

Mr O'DONOHUE — Sure.

Mr HUGHES — I have no doubt that they will be enforced.

Mr O'DONOHUE — Just to clarify, the actual title does not transfer to Walker Corporation under the development agreement?

Mr HUGHES — No.

Mr O'DONOHUE — The title is retained by the state?

Mr HUGHES — Yes, it is not a sale in that respect; it is a development agreement. We are the development management. The title is still in the name of the state.

Mr O'DONOHUE — You do not have to take on the obligations of land tax and other obligations you would incur if you were the owner, because the owner remains, in effect, the state of Victoria?

Mr HUGHES — Correct.

The CHAIR — Just to follow on there, in your calculations you must have worked out what the cost of that would be on a normal site?

Mr HUGHES — Can I tell you, if we had to have been paying — —

The CHAIR — Holding costs?

Mr HUGHES — I think we would have a very accurate knowledge of it, but because we do not have to pay it, I do not think we would know?

Mr RANDALL — No, it was always cut out of the equations.

Mr O'DONOHUE — When was the project called in by the Minister for Planning?

Mr HUGHES — I have no idea.

Mr RANDALL — I am sorry, I can't — —

Mr HUGHES — I have no idea about that.

Mr RANDALL — I cannot give you a date.

Mr HUGHES — That would be a matter of public record, though, would it not?

Mr O'DONOHUE — It is. I just wanted to clarify it in terms of this timetable we are talking about.

Mr HUGHES — Let me see if I can help.

Mr VINEY — Are we turning this into a general knowledge test, are we?

Mr HUGHES — I can, if I can help.

Mr VINEY — Where we ask questions of witnesses when it is on the public record?

Mr HUGHES — No, I was not trying to be difficult; I just do not know.

Mr VINEY — No, I think they are.

The CHAIR — We are allowing people to answer those questions. You will get your turn.

Mr O'DONOHUE — As you say, it is a matter of public record and we can refer to it later.

Mr HUGHES — I am sorry, my notes do not tell me.

Mr O'DONOHUE — I just wanted to fill it in in relation to the timing. Just getting back to the issue of Graham Richardson, again just so I have got what you have said accurate: Mr Richardson was not involved — you did not retain him at all at any stage throughout this project, whether during the expression of interest period, during the contract negotiation period, and subsequent to the execution of the development agreement and then the potential on-sale to Mirvac?

Mr HUGHES — We did not employ him in relation to the expressions of interest nor in relation to winning the — the development bid and becoming the preferred developer. We did ask for his assistance in the final negotiation of one clause in the development agreement. That related to the key personnel provisions.

Mr O'DONOHUE — Right.

Mr HUGHES — The Department of Major Projects wanted us to guarantee the employment of a particular key person. I said, 'Slavery went out in the 17th century. We can't guarantee the employment of somebody'. They were adamant about it.

The CHAIR — Who was that person?

Mr HUGHES — Kevin Hunt. The key personnel chap?

The CHAIR — Yes.

Mr HUGHES — He assisted in having that clause changed to — not ‘best in’ — what is it now? Just give me 30 seconds. What it means is we could replace the key personnel as long as we found somebody who was competent and had the same abilities and same experience.

Mr RANDALL — That is effectively it.

Mr HUGHES — That is the import of what the clause was, that was agreed, and that was his only involvement.

Mr O’DONOHUE — So his involvement led to that change or facilitated that change?

Mr HUGHES — Facilitated that change. Because we just could not — and I was involved with that, so I have some knowledge about that. There was just — I had a complete blank wall.

Mr O’DONOHUE — Is that when Minister Theophanous met with Mr Richardson?

Mr HUGHES — I do not believe he ever met with him. But I cannot tell you that because I was not privy to it. In relation to this issue.

Mr O’DONOHUE — There have been reports in the press that Minister Theophanous met with Mr Richardson. At this stage I suppose we are seeking clarification on whether that is true or not. You cannot clarify that for us?

Mr HUGHES — I cannot. My best guess is, no, because I do not think it was that difficult, that big a matter. I think he met — I think he met, but I could be wrong — with the chap in charge of major projects.

Mr O’DONOHUE — Right.

Mr HUGHES — But I was not privy to it, so I do not know.

Mr O’DONOHUE — Were Mr Richardson’s services retained because of his relationship with Mr Bracks’s then chief of staff, who is now the Minister for Roads and Ports, Tim Pallas?

Mr HUGHES — No, he was not engaged for that or any other specific reason. We have been using him in New South Wales for some years.

Mr O’DONOHUE — He is obviously from New South Wales and he was a member of Parliament representing New South Wales. You must have thought he has significant links to the ALP or the government in Victoria to make that commercial decision to engage his services?

Mr HUGHES — I think it is fair to say that we thought he could facilitate this change. That is why we asked him to do it.

Mr O’DONOHUE — Would it be fair to say that, based on his success in facilitating that change, that is why you recommended his services to Mirvac?

Mr HUGHES — Yes, that is probably not unfair to say that. I am not sure that we recommended his services particularly or — —

The CHAIR — Suggested?

Mr O’DONOHUE — Suggested?

Mr HUGHES — Maybe we suggested it. Oh no, he already well knew Mirvac.

Mr O'DONOHUE — Were you involved with the discussions he had on behalf of Mirvac? Were there meetings with Walker Corporation, Mirvac, Mr Richardson and either Minister Theophanous or members of his department?

Mr HUGHES — No. I will make it easy for you. There were no meetings with Mirvac and Richardson ever that I was present at or that any Walker person was present at. It was just done between them; I do not know.

Mr O'DONOHUE — Just to go to the issue of the contract briefly — —

Mr HUGHES — I am sorry, which contract?

Mr O'DONOHUE — Your development agreement.

Mr HUGHES — Yes.

Mr O'DONOHUE — There was a base payment to the government of \$30.9 million, which is indexed at 8 per cent, plus penalty payments if delivery does not occur to — —

Mr HUGHES — Plus 8 per cent if the milestone payments are not made.

Mr O'DONOHUE — The milestone payments are not made. And then there is a profit share once you have taken the 18 per cent return?

Mr HUGHES — Yes.

Mr O'DONOHUE — Once all that is factored in there is a 50 per cent profit share, and that profit share goes to Major Projects Victoria?

Mr HUGHES — I believe it ends up with KRS.

Mr O'DONOHUE — KRS?

Mr HUGHES — But the document — in fact the document is actually with KRS, so it goes to KRS.

Mr O'DONOHUE — And the responsible authority for determining — —

Mr HUGHES — I beg your pardon, I mislead you there. The contract is actually with the Department of Infrastructure.

Mr O'DONOHUE — So you have got the Department of Infrastructure collecting the profits and you have got the Minister for Planning being the responsible authority for the development. Do you see a conflict of interest between two different ministers being responsible for the one — —

Mr HUGHES — I do not agree with your proposition, as a threshold issue.

Mr O'DONOHUE — You do not see any potential conflict that the Minister for Planning makes — —

Mr HUGHES — No, no, I am sorry; I do not agree with your threshold position, which is that the minister gets this and a profit. What he gets is a purchase price; he gets a sale price. He has sold this development, if you like — not the land but the development — to Walkers for a sum of money. The sum of money is made up of a base price with an upside, plus it has been preserved by interest rates if moneys are not paid on time et cetera. What he has done is he has sold the development contract for a sum of money made up of a number of sides. That price has been determined not by any minister but by the Valuer-General's department, with the Land Monitor and probity officer. The major projects department negotiated on behalf of their client a pretty tough deal, I think.

Mr O'DONOHUE — But it is fair to say — —

Mr HUGHES — But it does not tie back, I do not think, to the minister or the Minister for Planning.

Mr O'DONOHUE — So what you are saying is the ultimate amount of money paid to the government does not depend on decisions made by the Minister for Planning?

Mr HUGHES — I do not believe it does.

Mr O'DONOHUE — So if, for example, you determine at subsequent stages — stage 5 or stage 6 of the project — that you think a five-storey apartment building would be appropriate, that would deliver a greater yield on the site and potentially greater profits, would not, as a result of that, additional revenue go back to the government?

Mr HUGHES — It is speculation, but let me answer it this way. On the other hand, instead of having 530 units we are only doing 380; if we dropped that down to 300, would the government — as you call it; I call it KRS — lose money? The answer is we do not know, because the way it has been cleverly structured by major projects and KRS is that there is a base amount of money of \$31 million plus upside in terms of interest, plus keeping them whole in relation to liquidator damages if they do not get their residents into the residences, into the houses, and on top of that they get some profit. This, I do not believe, is being driven per se by the department of planning or eventually the minister. I think this entire development was driven by KRS for the integration of its residents from Kew Cottages to stay there — the 100 residences. That was what was driving, I believe, from my involvement, this entire development.

Mr O'DONOHUE — I do not dispute that, but once the KRS units are built then it is at least open to the government to pursue the maximum it is capable of pursuing pursuant to the development agreement, and surely an increase in lot yield or yield of dwellings would help the government achieve the maximum available pursuant to the development agreement?

Mr HUGHES — Sometimes more is less in terms of development. Secondly, can I say, that heritage had an enormous impact on the site.

Mr O'DONOHUE — Just going to the proposition I just put to you — —

Mr HUGHES — Yes, but that is what I am saying — more is sometimes less. This common concept that you can put 5000 home units on a block of land and it is going to make you more money, does not necessarily follow. If the development has the wrong balance, is not spaced properly, if you like, has not got the amenity necessary, you cannot get the prices. In fact you can end up losing money, because the cost does not return the purchase price. So I do not necessarily agree with your proposition.

Mr O'DONOHUE — I understand that commercial decision, but I think the fundamental proposition for the government still holds.

Just one last question. In its submission the City of Boroondara expressed disappointment that a developer contribution scheme was not a part of a condition of this project, and of course that decision was taken out of its hands because the decision was taken out of the city council's hands and put with the Minister for Planning. Did you have any discussions with the Minister for Planning or the City of Boroondara about developer contribution schemes or the removal of any developer contribution scheme from the development agreement or contract?

Mr HUGHES — Just excuse me.

Mr RANDALL — No.

Mr HUGHES — The answer to that question is no, but can I add this rider — because I saw that in the transcripts. Little, in fact nothing, was said by Boroondara about the rates that are going to be generated from these houses. Nothing has been said about the \$19 million in roads or the 2.7 in electricity going underground. More to the point, nothing has been said about the \$8 million in terms of the beautification of the public space. We are working with Boroondara in relation to coming up with proper designs because there is a cost factor ongoing in relation to all of that public open space. The road systems will allow, according to VicRoads — and we have a letter from them — 550 residences; I remind the committee we are doing 380. There was no amplification needed for water or sewerage because the present situation was under capacity, so there was no need for that. So whilst I hear what Boroondara are saying, I am not sure that if they did not sit down and work out the math in relation to the recoupment of rates over the next lifetime that they will not be too disadvantaged.

Mr O'DONOHUE — Fair enough.

Mr VINEY — In relation to all of your negotiations with Major Projects Victoria as the authority representing KRS, how would you rate their concern about the KRS requirements in there? Was that a major part of these negotiations? How would you rate that? Was there a very high level of concern about the project?

Mr HUGHES — My colleague, who was there, says — —

Mr RANDALL — Absolutely critical.

Mr HUGHES — Absolutely critical. My experience was that they considered then and they consider now KRS to be their client. They are there to facilitate their client's wishes. That is dominant in their entire approach to this.

Mr VINEY — In all of the negotiations on what you call stage 1 and MPV call stages 1 and 2, the driving concern was about providing appropriate housing for these 100-odd residents to return to that site in new housing integrated into the development. That would be a critical factor in all of the negotiations?

Mr HUGHES — Yes. The designs are their designs. We were designing in accordance with their requirements. As I said earlier, I believe this entire development has been done at the behest and at the direction of KRS for those residents.

Mr VINEY — Despite the Chair having advised this committee at the outset that it was not political, we have heard a lot of stuff and colour and light about political donations in the last public hearing and now today, I want to follow through on that because we have heard lots of generic comments like 'Why do you give political donations to both parties' or to the major parties, as you said. In relation to this project was there any favourable treatment to your company as a result of the supposed donation of \$55 000 four years before the project to the Labor Party of Victoria.

Mr HUGHES — No. Can I go back one step? You know that this was referred to as a 550-page document?

Mr VINEY — Yes.

Mr HUGHES — This is the KRS housing specification. That is how much it forms of the document. Would I be unfair to say it is a third? More than a third of the entire document is given over to the design of KRS housing. To finish the other question — absolutely not.

Furthermore, I do not believe they had anything to do with the final selection. I believe KRS decided that we were the preferred developer because we addressed their design concerns. We addressed the integration of the houses into a residential community. Is that right?

Mr RANDALL — Yes.

Mr HUGHES — There is absolutely no question about that.

Mr VINEY — Was any special access given to your company in the whole period of the negotiations — to ministers or people in the executive?

Mr HUGHES — No. Absolutely not. It was never done by the ministers. It was done by the department. It was done by the people whose names I read out: KRS, OMP, the probity officer.

Mr VINEY — Just for the record because there has been a lot of talk about the donations, since 1999 the public records show that there was a \$55 000 donation to the Victorian branch of the Australian Labor Party and over that same period, since 1998, \$348 750 to the federal branch of the Liberal Party. Those figures would be roughly correct in your recollection and knowledge?

Mr HUGHES — I cannot answer that because I do not really pay a lot of attention to those figures. But they are a matter of public record, and if that is what the record says I do not have any reason to disagree with it.

Mr VINEY — Just to get it clear, in relation to your engagement of Mr Richardson and in relation to the clause you are concerned about in the contract — because there was some confusion in the rate when I was

listening to the questions and what you I think were answering — that engagement of Richardson by your company in relation to this project was purely, completely and totally only on that clause?

Mr HUGHES — Absolutely.

Mr VINEY — And to your knowledge his discussions were with people in Major Projects Victoria, not with any minister or member of the executive of the government.

Mr HUGHES — I believe he met with Sean Sweeney. I do not know who else was present. I do not believe it would have been the minister.

Mr VINEY — Just to make it clear, there was no relationship between your company and Mr Richardson in relation to the Mirvac bid for taking over that part of the project. Your company was not involved in that engagement with Mr Richardson?

Mr HUGHES — We were not engaged with Richardson and Mirvac.

Mr VINEY — Richardson was a separate engagement.

Mr HUGHES — Richardson was already working for us but not on this job, if I can put it to you that way.

Mr VINEY — When you were being asked questions by Mr Kavanagh you were being asked a couple of questions that related to both things. I thought you were answering the first and not the second, and I just wanted to make that clear.

Mr HUGHES — We were not involved in the Mirvac-Richardson stage 1 consent, other than we were the other side, if you like, of the deal. But we were not at any meetings; we did not have any meetings with the government. I have never had any meetings with the government, except the officers.

Mr VINEY — Just by way of clarification, I take it that — whilst I have a great deal of respect for Mr Richardson's capacity to get things done — in this particular instance in relation to the Mirvac thing it was a failed one.

Mr HUGHES — It was a failed one; and to be fair, for the reasons I outlined — KRS's absolute requirement that the people they chose for the reasons they chose them finish the job — it was doomed to failure in one respect. KRS is the client; the office of major projects represents them, and represents them in my view well and aggressively, and it was knocked back.

Mr VINEY — This is a question I have asked in a different forum, but I will ask it directly of you: in relation to this project and the arrangements of your company and all of the negotiations is there any reason for this committee or members of the public to be concerned about the probity, the processes or the favourable treatment that may or may not have been given in relation to this project?

Mr HUGHES — We have not had any favourable treatment whatsoever. If you read the document you will see it is a robust commercial agreement. The department, KRS and major projects, for whom I do not necessarily carry a banner, should be congratulated. It is a tough agreement with very strict time lines and being administrated very strictly. There are absolutely no advantages to us.

Mr VINEY — Thank you for your frankness in relation to that.

Mr HUGHES — Not a problem.

The CHAIR — I have a couple of further brief questions. The first relates to the development plan.

Mr HUGHES — Yes.

The CHAIR — On page 15 it talks about the KRS urban design framework. I am quite familiar with the process that occurred at a local level, indeed in my area. I am correct, I think, in presuming that the clause which says 'designates a maximum building height envelope of between two and five storeys on each part of the subject

land' means that it is still open to Walker Corporation, subject to approval by the planning minister, for a specific set of proposals in later stages, and that units or apartments up to five storeys may be built on the site.

Mr HUGHES — If that is what it says then you are right.

The CHAIR — I am interested to know what your plans or proposals are for such developments.

Mr HUGHES — We have not designed stage 2 yet — what we call stage 2.

The CHAIR — What you call stage 2? That is everything beyond stage 1, in effect.

Mr HUGHES — Everything beyond KRS, if I can put it that way.

The CHAIR — I understand your terminology. So I am absolutely correct in presuming that, in subsequent tranches of development, it is quite plausible and possible — and indeed likely, given it is explicitly stated — that units and apartments up to five storeys may form part of those plans.

Mr HUGHES — My colleague has some comments on that.

Mr RANDALL — I just want to talk about the development plan. The development plans are pretty prescriptive in terms of where the mass and height can be determined, where public open space is, where various roads and access ways work. The document is reasonably robust in its controls. In terms of future approvals, future approvals have to comply with the development plan, and the development plan actually predicts where various things will actually happen. As has been pointed out, this actually allows up to a 520-dwelling capacity on the site. Our current plans are for 380, and that is a mixture of houses and apartments. That is what actually forms part of our proposal as it stands at the moment. As market conditions change over time the plans can be varied, but within the controls of the development plan. That development plan took some years to actually get approved. There are a whole heap of consultation processes and further things that would need to be done if we wanted to move away from that development plan. The development plan really would control the future development.

The CHAIR — My presumption, I think, is correct to the extent that that is what is in there.

Mr RANDALL — It is a pretty robust control.

Mr VINEY — The presumption is that it is possible.

The CHAIR — And allowed.

Mr RANDALL — In terms of market conditions, market conditions will determine whether we build apartments on the site or not.

The CHAIR — My other point relates to schedule 9 of the document — the financial models, some of which you have laid out for us today, which I think has been of some assistance to the committee, because that set of steps has not been publicly open or easily understood by the committee to date.

Mr HUGHES — I read that in the transcript. Apparently it has been blanked out on the web.

The CHAIR — That is what I am about to talk about. Schedule 9, the financial model, is indeed a blank page — so much for openness and transparency. I wonder if you might make that available to the committee.

Mr HUGHES — Just turn the page. We have no objection to you having a look it.

The CHAIR — We would appreciate a copy of that. That would be very helpful for us; thank you.

Mr VINEY — I am assume there are two parties to the agreement.

The CHAIR — It is a matter for the parliamentary committee, and we would certainly appreciate the assistance of the firm.

Mr HUGHES — I think from a commercial point of view I would ask it to be restricted to the members of the committee though.

The CHAIR — Sure.

Mr VINEY — The experience of politics is that you cannot rely on that.

Mr HUGHES — They are not my words.

Mr VINEY — I am telling you the reality; that is the fact of it.

The CHAIR — Thank you.

Mr HALL — Chair, I have a couple more questions. Who audit the financial arrangements between the Walker Corporation and the government? I particularly ask the question because there is a profit-sharing arrangement, as you have outlined. What is the audit process to ensure that both government and the Walker Corporation get their fair share of those profits?

Mr HUGHES — Good question.

Mr RANDALL — The office of major projects is at liberty to inspect the accounts of the project. It can appoint whoever it likes. I think it was proposing to use a quantity surveying firm to keep an eye on everything and review the numbers as it goes through.

Mr HALL — Would the Auditor-General have any responsibility in that regard?

Mr RANDALL — I am not sure. You would have to ask the office of major projects.

Mr HALL — My other question is: during the period from 2001 when the project was first proposed to the end of 27 October 2006 when the development agreement was signed, did the Walker Corporation employ any former state or federal MP other than Graham Richardson to assist them with this particular project?

Mr HUGHES — Not to my knowledge.

Ms PENNICUIK — I have a couple more questions. During the hearing that we had at Kew the Boroondara City Council mentioned that it had an amendment C53 for the site. That amendment, if I understand correctly from my notes and the transcript, was looking for 50 per cent public open space, and it had height limitations. That was overridden by another amendment, C65, which appeared to coincide with the lodgement of the development plan. My question is: did Walker Corporation make any representations to the Minister for Planning regarding the planning scheme amendments for the site?

Mr HUGHES — Not to my knowledge. Interestingly enough, the original requirement was 28 per cent public open space. We went in with 30 per cent but the reality is road reserves take 4 per cent. You are all immediately thinking that road reserves are roads and you are partly right. They are not only roads, though. Besides the bitumen and the kerb there is verge, and the verge is quite extensive in this particular development, which really adds to the public open space. In real terms the developable area is only 48 per cent which mathematically is really giving you 52 per cent public open space, including roads, but keep in mind the area of road reserve which is quite extensive.

Ms PENNICUIK — Can I just clarify that? You are saying Walker made no representations to the Minister for Planning or anybody else regarding Boroondara planning scheme amendments?

Mr HUGHES — Not to my knowledge.

Mr RANDALL — We do not believe so.

Ms PENNICUIK — Can I just go back to the back to the Mirvac — —

Mr HUGHES — Sorry, can I tell you why, because in our plan we had 30 per cent and it ended up at 30 per cent. It was a larger area than was called for by the documentation.

Ms PENNICUIK — Thank you. With the transfer to Mirvac, can I just clarify again that if lots are being transferred to Mirvac, do they become the developer of those lots?

Mr HUGHES — I am sorry. Lots are not being transferred to Mirvac.

Ms PENNICUIK — Hypothetically they were going to be?

Mr HUGHES — No, hypothetically they are not. Let me try and restate it. What this is a development management document. It does not give us any land. What it does is hire us as the development manager to go out and develop and, if you like, we get a fee for doing that — that is, everything over and above the money we have to pay to get the job.

To get the job as manager, in simplistic terms, we have to pay \$31 million plus a percentage plus the interest and all those things. The rest we get to keep. We have to pay all of the bills, that is our obligation, in order to make a profit. What was mooted as going to be sold to Mirvac was the balance of the site after KRS had been complied with and they took on all those obligations — to pay profit share, everything that was in what they take over except they do not build the KRS housing community centre et cetera. They build the balance of the site.

Ms PENNICUIK — So that is what they mean by 301 where they have claimed that they have 301 lots? Is the balance of the site the part you were saying is stage 1? Is that correct?

Mr HUGHES — Is that mathematically correct? If there are 75 in stage 1 and we are doing 380, doesn't that make it more than 301?

Mr RANDALL — They have taken out the four in stage 2.

Mr HUGHES — They have taken the four in stage 2? I guess that is what they are talking about, yes. But they have not got it. It has not been consented to.

The CHAIR — Your point is that it appears to be in their documents.

Ms PENNICUIK — It appears to be in their documents, yes.

Mr VINEY — In whose documents?

Ms PENNICUIK — Mirvac's.

Mr HUGHES — They do not own it. They have not got the necessary consents. They have been knocked back already.

Ms PENNICUIK — Can I ask one more general question? Mr Hughes, you were saying people make political donations in order to get favourable access. If you are in the situation where you are in partnership with the office of major projects, I would have thought you would have had access to that department. You are in partnership with them. Why is it necessary to employ a lobbyist when you already have that favourable access?

Mr HUGHES — First of all, I did not say you make political donations to get favourable access. What I said was — in answer to the question, 'Why do people make public donations to Labor parties?' and, 'Why did Walker do it?' — because at best it gets you access. There is a large difference between what you are saying to me and what I was saying and I think that should be clarified. At best it gets you access.

In relation to your question, there is not any need to use a lobbyist in those situations and we didn't. When we needed to use a lobbyist, because of the issue that I outlined, we did. Reason? Because common sense does prevail. That is the answer to it. There is no more nor less to it than that and no matter how many times you ask the question, it does not change. Political donations do not get you favours. Not in our experience and not for anyone else I have spoken to. At best you get an appointment to put your case fairly and squarely. If it makes sense, it gets approved; and if it does not make sense, it gets rejected in exactly the same way as the department of major projects and KRS rejected the application for consent in this instance notwithstanding Richardson's meetings whatever they may have been.

Mr KAVANAGH — Mr Hughes, you told Mr Viney, in response to a question from him, that you did not get favourable treatment in exchange for your political donations. You also told Mr Viney that political donations do not bring you 'favours', that they do not bring you 'special access'. You have just told Ms Pennicuik that political donations do not get you favours but in response to a question from me earlier on you said that

political donations 'favourably get you access' although you disputed that a moment later. So which is true? Your answers to Mr Viney and Ms Pennicuik or your answer earlier to me?

Mr VINEY — On a point of order, Chair, the witness answered my question which was specifically in relation to this project. It was, 'Did that donation gain you any favourable access?'. That was the specific question I was asking and the answer was no. All we have had up until now — —

The CHAIR — Your point of order is?

Mr VINEY — I am clarifying the question that is being asked. All that is being talked through now is the general terms of political donations up until my question. My question was specifically in relation to this project, which is what this committee is charged with investigating — not investigating political donations from corporations. That is not our brief.

Mr KAVANAGH — Excuse me a moment. My response to that, Mr Viney, is that you actually asked about two things, and I did specifically refer to the answer in relation to this case, and Mr Hughes said that he had no favourable treatment in this case; Walker Corporation did not, but you did also talk generally about political donations, not only to the ALP but to the Liberal Party, for example, and the response was that there were no favours and no special access as a result from political donations.

In response to my question earlier, you said that political donations favourably get you access. They are different things.

Mr HUGHES — You keep saying that because that is what you wrote down. The transcript, in due course, will reveal if that was accurately transcribed; and if I said that, what I was trying to say, what I meant by it, was that at best it gets you access. That is, it might be quicker to get an appointment than otherwise — no more, no less.

Mr KAVANAGH — It puts you ahead of the queue. You can queue-jump when you make a political donation.

Mr HUGHES — They are your words, they are not mine. What I am saying simply is that at best it gets you an appointment.

Mr KAVANAGH — And my words, are they correct? Are my words fair or not fair, that the political donations allow you to jump the queue?

Mr HUGHES — I do not think that that is necessarily correct.

Mr KAVANAGH — Thank you.

Mr O'DONOHUE — One last question. You often have, in commercial arrangements, what they call Chinese walls. You know, a merchant bank may be raising capital for a company to list — —

Mr HUGHES — I understand the expression.

Mr O'DONOHUE — Are you aware of any such arrangement between the office of major projects and the Minister for Planning and his office?

Mr HUGHES — No. Are you?

Mr RANDALL — No.

Mr O'DONOHUE — Not aware of any such arrangement? No?

Mr HUGHES — No.

Mr VINEY — That does not mean they do not exist. I would not expect him to know it. Can I just ask a question in relation to the evidence you gave about the details of the contract?

Mr HUGHES — Yes.

Mr VINEY — Is it fair to say that what is being done in that contract is the transfer of risk for this project from the public sector to your corporation? In other words, you have got it?

Mr HUGHES — Amongst other things, yes, that is true. If you are speaking about properly integrating KRS residents into the community; yes.

Mr VINEY — And a financial risk essentially moves from the state to the private sector; to your company essentially. You have got to guarantee not only development but certain payments?

Mr HUGHES — Yes.

Mr O'DONOHUE — One final question: in your opinion what financial risk lies with the state when it owns the land, the land is not rateable, and it does not have to pay land tax on that land?

Mr HUGHES — In relation to?

Mr O'DONOHUE — The question asked previously.

Mr HUGHES — What risk is there? The risks are myriad and many.

It has to first of all get the design that is commercially acceptable in relation to the balance of the KRS housing; the KRS houses themselves were specified by the KRS so there would be no risk there, but there would be certain expense.

Secondly, it has got to organise on a commercial and commercially viable basis the cost of producing all of the houses, not only the KRS houses, but also all of the civil engineering works, and develop the entire site; and then beyond that, it has to finish the balance of the development which is the balance, if you like, of the 380 units, and it has to do them in a commercially viable and expedient way. It has to get the design correct so it can be marketed. It has then got to organise the marketing and it has got to do it all in a timely fashion because if it took too long and missed the market, it would be sitting there with properties not returning any money.

True it is, that all this time, it would be saving the rates and the land tax, but those savings would pale into insignificance compared to the cost of the money to do the development.

Ms PENNICUIK — I asked about the City of Boroondara and I am still trying to clarify what happened with the planning scheme amendments. Was Walker aware that there was a different planning scheme amendment being developed, either by the government or by office of major projects or Department of Infrastructure, or somebody, to override the existing planning scheme amendment in the City of Boroondara?

Mr RANDALL — I could not be 100 per cent sure of that.

Mr HUGHES — We do not know.

Ms PENNICUIK — So you were not aware of that happening at the time.

Mr HUGHES — I certainly was not aware and my colleague said he cannot be sure.

Mr RANDALL — I was not involved in the project at those stages.

Ms PENNICUIK — You were not involved then; when were you first involved?

Mr RANDALL — April 2006.

Mr HUGHES — What we know is that the department took the planning out of council into its offices.

Ms PENNICUIK — So you had no discussions with the department or the Minister for Planning or anybody about that?

Mr HUGHES — Certainly not the Minister for Planning. We did have a number of discussions in relation to the development plan with the department of planning and indeed we ended up talking with council in relation to

the matter. We think, certainly at the officer level, the relationship on site particularly is very workable, very worthwhile. It is a very professional council, from our observations.

Ms PENNICUIK — Thank you.

The CHAIR — Thank you. I thank your firm for providing evidence today, a transcript will follow in the next few days and if you could return that, it would be appreciated.

Mr HUGHES — It would assist me if it could come before Wednesday night, because on Thursday I am going overseas and I will be away for 10 days. If that is not an inconvenience, then it is okay.

The CHAIR — Hansard indicates that is achievable. Thank you, the hearing is closed.

Committee adjourned.