

Kew Cottages Coalition AGM 2014

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By Kenneth Davidson

I attended the Kew Cottages Coalition AGM in 2012 and 2013. The objective was to get government ministers to answer two questions: how the redevelopment could lose money, what was in the Public Private Partnership contract that could allow this loss making continue and why the developer could apparently break the contract with impunity by bulldozing the Hamer Recreational Centre in 2009 without supplying equivalent facilities.

The 2012 meeting was attended by the Parliamentary secretary for Families and Community Services Andrea Coote and the Minister for Health, David Davis, as well as the local member and then Minister for Corrections and the corruption commission, Andrew McIntosh.

Coote told us that no-one was more concerned about the intellectually disabled than she was and invited a mother of a disabled resident in the audience to confirm this.

Both Davis and McIntosh used the 'sovereign risk' excuse for not discussing cancelling the contract and for not answering contract related questions.

At the 2013 meeting McIntosh continued to stonewall and it was clear that the Government wouldn't or couldn't refer the issue to IBAC, even though McIntosh had said as a Liberal frontbencher in opposition –who set up IBAC – that he would refer the matter to the Commission as one of its first tasks.

As everybody now knows, IBAC is a toothless tiger. Its weaknesses are so manifest, that a reasonable suspicion must be that they were built into the legislation deliberately rather than inadvertently.

The claim that the government couldn't vary (or cancel) the contract public because it would create 'sovereign risk' must be seen as a lie. It is a matter of record that the contract was varied in June 2012 and April 2013.

Sovereign risk is a convenient excuse for governments on both side of politics. The Coalition said the Wonthaggi desalination 28 year PPP

contract couldn't be renegotiated by refinancing the debt at 4 per cent instead of an effective rate of 11.5 per cent. This would reduce annual repayments by \$270 million a year – enough to finance the Doncaster Railway and replace 50 suburban level crossings with grade separations and still leave money to spare.

In February 2012 the government said it would “vigorously” fight \$1.1 billion compensation claims to cover construction delays totalling 290 days lost time due to bad weather and strikes. (Rainfall records show rainfall in Wonthaggi was about average during construction and only 11 days when strikes disrupted construction).

In October 2013 it was announced that Aquasure had been permitted by the government to renegotiate its bank debt at a more favourable rate of interest so that its claims for \$1.1 billion could be met without higher debt repayments under the PPP agreement.

The fact is there is no such thing as a commercial contract which can't be broken. The question is the amount of compensation which can be determined by the courts, rather than negotiation, if that is necessary. Sovereign risk is only involved when governments default and deny the creditor recourse to the courts for remedy.

Now Labor is in on the act. It says it opposes the EWL but it will not cancel the contract if the government signs a PPP for the link before the election. Wink, Wink, Wink! The banksters which are driving another onerous PPP are being told they have nothing to fear from a Labor government.

While the scale of the loss may be small by comparison to the multibillion dollar waste of taxpayer and community resources involving the big Public Private Partnerships, the Kew Cottages loss is the most mind-boggling of the lot. How could the government lose on a real estate development where its contribution to the PPP is 27 hectares of unencumbered prime real estate?

How did the money disappear? Who is responsible? Why was Department of Human Services - which is supposed to be the repository of the professional wisdom and which should have resisted the project from the start - actually a proponent of the closure of the Kew Cottages and the

dispersal of the people whose interests it was supposedly supposed to protect? How could Major Projects Victoria get away with two lines (income and expenditure) in its annual accounts announcing the cumulative losses without either the minister or the department being brought to account?

We still have no answers to these questions. What we do know is the Kew Cottages fiasco is part of a long line of financial rorts. I think it is fair to say that they have been designed with the interest of greedy rent-seekers in mind, that than the interests of the community.

Commitment to public process was never a feature of the Kennett Government. The Three most notorious examples were City Link, the Grand Prix and issuing rail and tram franchises.

City Link should never been built. A rail connection to the airport would have provided a greater benefit to Melbourne at a fraction of the cost. Even so, the tolls could be a half to a third the present rate if the road had been financed by public debt rather than a PPP. The then Treasurer who negotiated the generous deal with the principals led by Macquarie Bank actually announced his decision to join the bank as a director even before he handed in his commission to the governor as Treasurer after the 1999 election.

The Grand Prix alienates public park land for a third of the year. The benefits of the GP claimed by the government are phoney.

The original five franchises for the public transport system earned its architects \$120 million in advisory fees. It fell over within two years. Victoria had two opportunities to scrap the franchises without cost to the community so that the state could put together a public transport network. Instead of the privatisation reducing the public subsidy to the system, the subsidy doubled.

Instead of abandoning the privatisation process, the Bracks/Brumby government refined and extended the PPP system of financing public infrastructure by using it to finance more roads, hospitals, courts, police stations and the Wonthaggi desalination plant.

What all these projects had in common was the complete lack of credible, public, cost benefit analysis or Environmental Impact Statements. The cost

of all these projects was based on an effective cost of capital to the government of between 10 to 12 per cent, when the government could have borrowed directly to finance the projects at between 6 per cent in the early 1990s down to about 4 per cent now.

The investment banks and superannuation funds which are the major beneficiaries of these PPPs are well connected to government: as we have seen, Macquarie bank (the millionaires factory) via Alan Stockdale and the industry (union) superannuation funds, CBus and Motor Traders Association Australia through Steve Bracks and John Brumby respectively. Stockdale was reputed to earn \$500,000 a year with Macquarie and Brumby and Bracks both earn in excess of \$100,000 a year as chairmen of trustees.

The justification for the usurious rates of interest mentioned earlier was that 'risk' would be transferred from the government to private partner. But as soon as losses began to appear, governments were persuaded to take back the 'risks' in the form of 'take or pay' contracts. In the case of the desalination plant and peninsular link these are 'availability charges' instead of tolls, and will be the method of payment if the EWL goes ahead. (The availability charge means that providing the road is 'fit for purpose' the private partners will be paid a fixed amount irrespective of the traffic.)

Former Prime Minister, Paul Keating and former federal Finance Minister and Member for Melbourne, Lindsay Tanner both have lucrative roles as advisors to international investment bank, Lazard, which is involved in the bid for the EWL PPP.

The Kew Cottages clearance has all the characteristics of bad government characterised by financial rorts.

But the Cottage Clearance is particularly hypocritical. The Bracks government ignored the opposition of the parents of the 400 intellectually disabled residents who wanted the 27 hectare site retained and expanded to accommodate some of the 3000 intellectually disabled on the urgent waiting list for government accommodation.

Even if the deal had made money, the \$80 million the government was expected to get for the site from the developer was to be used to rehouse

Kew residents in the community. This sounds nice, except that geographic dispersal to the suburbs where housing for the disabled is resented by neighbours is not the same as social integration.

The parents who opposed the redevelopment of the site had the support of local residents because, after all, the residents of the cottages and Willsmere been on the site before the local residents and, as residents already knew, getting out onto Princess St as a prelude to getting onto the Freeway was already a nightmare during the morning peak. The Boroondara Council also understood that the redevelopment of the site as a housing estate would undermine the amenity of the area. It was badmouthed by the government and sidelined.

The development was at variance with the Melbourne 2030 plan which said that concentrated development should occur in activity centres with access to public transport. Now the bottleneck at the end of the Eastern freeway at Hoddle St. is being used to justify the expenditure of a further \$6-8 Billion (more than the desalination plant) on the EWL. This will kick the bottleneck eight kilometres down the track to a spaghetti junction at the western end of Royal Park.

The fig leaf for Kew Cottage land grab was the argument that the intellectually disabled should be re-integrated with the community.

In a paper published in the *Journal of Applied Research in Intellectual Disabilities* in 2003, the authors (Cummins and Lau) show that other population groups, when given a free choice, tend to prefer integrating with their own kind rather than with the community generally.

The authors point out that Disabilities Victoria's own research show that top of the list of aspirations of people with disability was not community integration, but having an intimate friend.

I believe that even if the cottage clearance had gone ahead as planned, produced a profit, which was spent on cluster housing in in the suburbs, it would still be a wicked policy because there was no real commitment to reducing the crisis backlog of 3,000 intellectually disabled people

But the Kew Cottage clearance was part of a larger assault on the shelter needs of the most vulnerable Victorians. For a long time the Kennett

government had a dream of selling inner-city public housing and pushing its tenants into the cheaper outer suburbs. It commissioned a report in 2006 from Arthur Andersen, which recommended the “outright sale of ...the most sort after estates” in Prahran, South Melbourne, Williamstown and St. Kilda.

The Kennett government sat on the report for three years, presumably to spring it on the electorate after the 1999 election. Instead, the incoming Minister for Housing and Aged Care, Bronwyn Pike, used the report to occupy the high moral ground on behalf of the Bracks government.

In a statement April 2000 she contrasted “the Kennett government’s wholesale disregard for public tenants and the need for quality inner-city public housing” with the Bracks government commitment to “increased funding for public housing by \$90 million over the next three years”.

But in May 2000 Pike’s Office of Housing in the DHS commissioned a report which became public in 2001. The report proposed to give away 18,200 public housing units to Housing Associations who operate affordable housing.

The report was commissioned at the same time as the government announced \$94.5 million additional funds for welfare housing would be diverted away from public housing to community and local government groups.

The money diverted from public housing is used to subsidise capital grants for community housing for up to 75 per cent. Thus, on the basis that government can borrow at 4 per cent, for every \$100 million put into community housing, the government supplies \$75 million gratis.

The Department of Human Services and KPMG, which has played a major role in advising DHS and cabinet on this diversion of resources away from public housing and the proposal to redevelop the Kew Cottage site, have argued that investment in public housing is unsustainable and, despite the capital grant, the government is saving money by diverting funds from public to community housing.

The actual report on which this is based has not been released on the grounds that it is a cabinet document, despite requests from public housing tenants and others. The government argues public housing tenant rents do

not cover the expense of maintaining the existing stock of public housing. But the only public study by the then Industry Commission in 1993 found that public housing was the most cost-effective long-term means for financing public housing.

But the current figures on the costs of public housing appear to be ‘sandbagged’ by including questionable estimates of expenses. For instance, in 2013 a contractual payable called “Housing debt liability to the Department of Treasury and Finance” was \$345 million (\$350 million in 2012). This liability is apparently an estimate of the notional interest expense on the value of capital tied up in the stock of public housing.

Based on an interest expense of 5 per cent, the value of the present 65,000 stock of public housing is more than \$7 billion. The interest expense attributable to each housing unit is about \$5,400.

Surely, what’s good for the goose is good for the gander? What is the opportunity cost of taxpayer capital tied up in community housing? But that is the wrong question. The community housing money is a grant. It no longer belongs to the taxpayer.