



VICTORIA

**SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL
ON THE
URBAN AND REGIONAL LAND CORPORATION
MANAGING DIRECTOR**

**FIRST INTERIM REPORT
UPON THE
URBAN AND REGIONAL LAND CORPORATION
MANAGING DIRECTOR**

MARCH 2002

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REPORT

The Select Committee on the Urban and Regional Land Corporation has the honour to report as follows:

Background

- 1 On 5 December 2001 the Legislative Council adopted the following Resolution:
 - (a) That a Select Committee of five members be appointed to enquire into and report upon any matters relating to the selection, appointment and resignation of Mr. Jim Reeves as Managing Director of the Urban and Regional Land Corporation, together with any involvement of external agencies and consultants.
 - (b) That the Committee shall consist of two members nominated by the Leader of the Government, two members nominated by the Leader of the Opposition and one member nominated by the Leader of the National Party.
 - (c) That the members shall be appointed by lodgement of the names with the President by the Leaders no later than 4.00 p.m. on Thursday, 6 December 2001.
 - (d) That the first meeting of the Committee shall be held at 10.30 a.m. on Friday, 7 December 2001.
 - (e) That the Committee may proceed to the despatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.
 - (f) That the Committee shall elect a Deputy Chairman to act as Chairman at any time when the Chairman is not present at a meeting of the Committee.
 - (g) That three members of the Committee shall constitute a quorum.
 - (h) That the Committee may send for persons, papers and records.
 - (i) That the Committee may authorise the publication of any evidence taken by it in public and any documents presented to it.
 - (j) That reports of the Committee may be presented to the Council from time to time and that the Committee present its final report to the Council on or before 31 May 2002.
 - (k) That the presentation of a report or an interim report of the Committee shall not be deemed to terminate the Committee's appointment, powers or functions.
 - (l) That the Committee shall, unless it otherwise resolves, take all evidence in public and may otherwise sit in public at anytime if it so decides.
 - (m) That the foregoing provisions of this resolution, so far as they are inconsistent with the Standing Orders and practice of the Council, shall have effect notwithstanding anything contained in the Standing Orders.
- 2 Pursuant to paragraph (c) of the Resolution, the Leader of the Government lodged with Mr President the names of the Honourables G W Jennings and T C Theophanous, the Leader of the Opposition lodged the names of the Honourables N B Lucas and G K Rich-Phillips, and the Leader of the National Party lodged the name of the Honourable R M Hallam for appointment to the Committee.
- 3 Pursuant to paragraph (d) of the Resolution, the Committee held its first meeting on Friday, 7 December 2001. At that meeting the Honourable N B Lucas was elected Chairman and the Honourable R M Hallam was elected Deputy Chairman.

- 4 Between Friday, 7 December 2001 and Friday, 15 March 2002, the Committee has held eight meetings, five of which were public hearings.
- 5 On 12 and 13 December 2001, the Committee wrote to a number of individuals, government agencies and private organisations inviting them to provide information and documents relevant to the Terms of Reference. The following individuals, government agencies and private organisations provided information and documents:
- Mr M Petrovs, Chairman, Urban and Regional Land Corporation;
 - Mr F Davis, Mr J Reilly and Mr O Lennie, Board Members, Urban and Regional Land Corporation;
 - Ms A Dickshen, Partner, Freehills;
 - Mr J L B Hayman, Partner, Heidrick and Struggles;
 - Mr M Henesey-Smith;
 - The Honourable J W Thwaites, MP, Acting Premier — on behalf of the Honourable S P Bracks, MP, Premier; the Honourable J R Brumby, MP, Treasurer; the Honourable J W Thwaites, MP, Minister for Planning; the Honourable J M Madden, MLC, Minister Assisting the Minister for Planning; the Honourable G W Jennings, MLC, Cabinet Secretary; relevant parliamentary secretaries; and ministerial offices ("Ministerial Response");
 - Mr T F Moran, Secretary, Department of Premier and Cabinet — on behalf of the Department of Premier and Cabinet; Mr I Little, Secretary, Department of Treasury and Finance; Mr G Hehir, Deputy Secretary, Department of Treasury and Finance; Professor L Neilson, Secretary, Department of Infrastructure; senior officers of the departments of Premier and Cabinet, and Treasury and Finance ("Public Service Response");
 - Mr M W Sibree; and
 - Mr D J Glynn.
- 6 Mr James ("Jim") Reeves, a resident of Queensland, has declined to respond to the Committee's invitations to provide information and documents.
- 7 The Committee had conducted five public hearings and heard evidence from:
- Mr G R Tabe, Manager — Governance, Department of Treasury and Finance;
 - Mr A J Hawkes, Director, Commercial Management, Department of Treasury and Finance;
 - Mr D J Glynn;
 - Mr R A Carr, Senior Associate, Heidrick and Struggles;
 - Ms K Spinley, Heidrick and Struggles;
 - Mr F Davis, Board Member, Urban and Regional Land Corporation;
 - Ms A Dickshen, Partner, Freehills;
 - Mr M Petrovs, Chairman, Urban and Regional Land Corporation;
 - Mr P Jerome, Executive Director, Planning, Heritage and Building Division, Department of Infrastructure;
 - Mr B A Moore, Acting Chief Executive Officer, Urban and Regional Land Corporation;
 - Mr T F Moran, Secretary, Department of Premier and Cabinet;
 - Mr O S Lennie, Board Member, Urban and Regional Land Corporation;
 - Mr R O'Halloran Cabinet Liaison Officer Department of Infrastructure;
 - Mr G Hesketh, Financial Analyst — Governance, Department of Treasury and Finance;
 - Mr W J Heywood, Secretary, Government Sector Executive Remuneration Board, Department of Premier and Cabinet;
 - Mr G Hehir, Deputy Secretary, Department of Treasury and Finance; and
 - Professor L Neilson, Secretary, Department of Infrastructure.

8 This First Interim Report does not canvass issues referred to either in information and documents provided to the Committee or in evidence presented by witnesses at public hearings but instead reports to the Legislative Council certain matters that have arisen during the course of the inquiry thus far.

8A The Committee reports that it has received a substantive body of evidence from the Executive, Public Service and other agencies, and has received overwhelming compliance from witnesses that have appeared before it.

Intervention of the Honourable R J Hulls, MP, Attorney-General

9 Between 24 December 2001 and 18 March 2002 the Committee has received seven letters from the Honourable R J Hulls, MP, Attorney-General, and one letter from the Honourable R G Cameron, MP, Acting Attorney-General (Appendices A to G; Appendix N).

10 The Committee reports that two of the seven letters (Appendices C and F) were responses to Committee correspondence addressed to the Attorney-General. The remainder were neither invited nor requested by the Committee.

11 Following the Committee's invitation to individuals, government agencies and private organisations to provide information and documents, the Acting Attorney-General and Attorney-General made the release of certain documents requested by the Committee conditional on the Committee meeting with the Attorney-General (Appendices B; C; D; and F).

12 Further, the Attorney-General has instructed witnesses summonsed to present evidence to the Committee in public hearings not to appear (Appendices G to L; Appendix N).

13 The Committee considers that as a result of the Attorney-General's and Acting Attorney-General's interventions, the work of the Committee is being frustrated and the autonomy of the Committee to fulfil its Terms of Reference is being compromised.

14 On 21 February 2002 and on 7 March 2002, the Committee wrote to the Honourable B A Chamberlain, MLC, President of the Legislative Council, expressing its concerns over the Attorney-General's interference and of various actions it had taken in response to the correspondence it had received from the Attorney-General.

15 The Committee draws to the attention of the Legislative Council three consequences that are direct results of the Attorney-General's and Acting Attorney-General's interventions.

Delay in the Provision of Information

16 First, the Attorney-General has consistently insisted that the release of information selectively withheld from the Committee in the "Public Service Response" of 18 January 2002 was conditional on the Committee meeting with him. This position in turn obliged the Department of Premier and Cabinet to delay the provision of the withheld information and documents to the Committee.

17 The Committee notes that despite two invitations to provide information (12 December 2001; 31 January 2002), and despite the provision of confidentiality assurances both to the Attorney-General and to Mr T F Moran, Secretary, Department of Premier and Cabinet (31 January 2002), the material sought was only supplied to the Committee following the issuing of a summons on 12 February 2002. The Committee received all outstanding "Public Service Response" material on 13 February 2002, 26 days after the due date set by the Committee for the receipt of information and documents.

Ministerial Breach of Summons

- 18 Second, the Attorney-General's insistence that the release of information selectively withheld from the Committee in the "Ministerial Response" of 18 January 2002 was conditional on the Committee meeting with him has resulted in the Committee not being provided with all material relevant to its Terms of Reference.
- 19 As with the "Public Service Response", the Committee has issued two invitations to the Office of the Premier (12 December 2001; 31 January 2002) to provide documents relevant to the Terms of Reference, and has provided confidentiality assurances to the Premier and to the Attorney-General (31 January 2002).
- 20 On 12 February 2002, the Committee summonsed the outstanding documents from the Honourable S P Bracks, MP, Premier, the Honourable J M Brumby, MP, Treasurer, and the Honourable J W Thwaites, Minister for Planning. The Committee notes that Cabinet documents and documents already provided were specifically excluded from the summons.
- 21 In response to the Committee's summons of 12 February 2002 to the Premier, Treasurer, and Minister for Planning, the Attorney-General wrote that he was in receipt of "legal advice that a Select Committee of the Legislative Council lacks power to summons a member, including a Minister of the Legislative Assembly, to produce documents" (Appendix D). This assertion is disputed by the Committee. As a result, the documents sought by summons have not been provided to the Committee.
- 22 A list of the documents withheld from the Committee or provided with deletions may be found in Appendix M.
- 23 The Attorney-General's insistence that the Committee meet with him pending the release of withheld material (Appendices B; C; D; and F), now sees the Premier, Deputy Premier and Treasurer in breach of summons and the Committee hampered in its inquiry by the failure of the Ministers to provide all relevant documentation.
- 24 The Committee duly reports to the Legislative Council this breach of summons for documents by the three Ministers on the advice given to them by the Attorney-General.
- 25 The Committee further reports to the Legislative Council that it has sought, but has not been provided with, the "legal advice" referred to by the Attorney-General relating to the Committee's powers to summons documents from Ministers (Appendices D and F).

Ministerial Advisers' Breach of Summons

- 26 Third, on 6 March 2002, the Attorney-General advised the Committee that he had issued instructions to five ministerial advisers summonsed to appear before the Committee at public hearings scheduled to be held on 6 and 15 March 2002, not to appear (Appendix G; see also Appendix N).
- 27 Letters from the five ministerial advisers confirming the Attorney-General's instruction are reproduced in Appendices H to L.
- 28 In issuing this instruction, Mr Hulls acted upon legal advice provided by "Mr P Hanks QC and Mr A Thomas of counsel". Accordingly, the Committee was unable to take evidence from the five ministerial advisers. The Committee wrote to the ministerial staff advising them that they were in breach of summons, that there are potential consequences for being in breach of summons, and asking them to reconsider their decision. On 15 March 2002, the Attorney-

General wrote to the Committee confirming his original instruction that the witnesses not appear before the Committee (Appendix N).

- 29 On 6 March 2002, and pursuant to Term of Reference (i), the Committee authorised the release of all correspondence received from the Attorney-General and Acting Attorney-General (Appendices A to G), and from four of the five ministerial advisers (Appendices H to K; the Committee did not receive advice of non-attendance before the Committee from the fifth ministerial adviser until 8 March 2002 (Appendix L).
- 30 The Committee now turns to two other matters.

Failure to Provide Transcripts

- 31 In Ministerial and Departmental responses to the Committee's invitation for information and documents, a number of hand-written diary extracts were duplicated for the Committee. A number of these copies were illegible. On 31 January 2002, the Committee therefore sought from the Honourable S P Bracks, MP, Premier, and from Mr T F Moran, Secretary, Department of Premier and Cabinet, typewritten transcripts of hand-written, illegible extracts found in the "Ministerial" and "Public Service" responses.
- 32 The Committee is pleased to report that typewritten extracts of illegible material were provided to the Committee by the Department of Premier and Cabinet on Friday, 15 February 2002.
- 33 On 28 February 2002, the Deputy Premier advised the Committee that "My office is extremely busy with numerous important priority tasks and I regret that we do not have the resources to allocate to this request at this time". The Committee observes that it was seeking assistance with the legibility of only two notebook entries in Mr Thwaites' hand.
- 34 The Committee finds such a response indicative of the Government's determination to inhibit the inquiry process of a legitimately constituted Committee of the Legislative Council.

Pre-emptive Ministerial Responses

- 35 The Committee notes with interest public statements by the Hon S P Bracks, MP, Premier, that he and his fellow Ministers have no intention of appearing before a public hearing of the Committee (see, for example, AAP, 12 February 2002; *Herald Sun*, 13 February 2002, 31; AAP, 19 February 2002).
- 36 The Committee notes that the Premier's attendance depends upon the granting of leave by the Legislative Assembly, and that no such leave has yet been sought by the Legislative Council.

Conclusion

- 37 Delays in the provision of information, the placement of conditions on the release of information, the breach of summonses by Ministers and ministerial staff, the failure to provide the Committee with any tangible "legal advice" in support of the many assertions made in the correspondence of the Attorney-General, the failure to provide type-written transcripts of illegible material, and the responses of the Premier that pre-empt the deliberations both of the Legislative Council and the Legislative Assembly, are evidence of a systematic attempt to divert the Select Committee on the Urban and Regional Land Corporation Managing Director from meeting its obligations under the Terms of Reference given to it by the Legislative Council.
- 38 The Committee believes that such responses represent direct Executive interference in the affairs of one House of the Parliament of Victoria.

39 The Committee therefore formally reports to the Legislative Council its dissatisfaction at these matters and seeks direction from the House on how the Committee might now fully discharge the responsibilities conferred on it under the Terms of Reference.

Committee Room
19 March 2002



Attorney-General

APPENDIX A

55 St. Andrews Place
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Our Ref:

Mr Neil Bedford Lucas, PSM
115 Gloucester Avenue
Berwick, 3806

December 22, 2001

Dear Mr Lucas,

I write to you as chair of the Liberal-National dominated Legislative Council committee which is inquiring into the appointment process of the former Managing Director of the Urban and Regional Land Corporation.

It has come to my attention that your committee has requested a number of public servants and others from outside government to provide a series of documents, including:

- Cabinet documents;
- Advice to Ministers, and
- Documents containing personal and professional information about the candidates for the position, which these candidates would have expected to remain private and confidential.

It has also come to my attention that your Liberal-National dominated committee has said that (a) any legal costs incurred in producing the requested documents remain the responsibility of the provider, and (b) any legal costs incurred by a person called as a witness be borne by that witness.

In relation to the issue of the Cabinet and other documents sought by your Liberal-National dominated committee, I am seeking urgent advice on a range of matters including the powers the committee has (and those which it should exercise) to obtain such material and what obligations public servants have to provide such material. In addition, I am also seeking advice on (a) whether or not any candidates for the position of managing director of the URLC have any rights in relation to the handing over and public release of personal and professionally sensitive information, and (b) whether your Liberal-National Party committee in calling for and then later releasing this information could be in breach of the principles of Victoria's privacy legislation approved by the both houses of Parliament and which came into force this year.



In relation to legal costs, I note that the brief given to your committee is unlike other committees of the Parliament, which investigate and report on policy issues and the performance of government. It seems from transcripts of media interviews that the Leader of the Opposition in the Legislative Assembly, Mr Napthine, has given your committee a clear brief, namely to find people "guilty of circumventing a proper process".

Given the clear political nature of this inquiry, and in the interests of justice, it is entirely appropriate that anyone called on to either provide documents or be a witness before your inquiry will be entitled to seek legal advice. I am currently seeking advice in respect of how the costs of such legal advice should be met. I am sure you would agree that it would be unfortunate if such costs had to be met at the expense of essential programs and services for the Victorian community.

Whilst I am awaiting receipt of this advice I would be pleased if you would give consideration to such costs being met by your committee. It may be that your committee will also want to get its own legal advice in relation to the responsibility for costs concerning any potential legal challenge to any of your committee's rulings.

I look forward your response.

Yours sincerely

A handwritten signature in black ink, appearing to read "Rob Hulls". The signature is written in a cursive, flowing style with a long, sweeping underline that extends to the right.

Rob Hulls Attorney-General



16 JAN 2002

The Hon. N.B. Lucas

Chairman, Select Committee on URLC
Managing Director
Dept of Legislative Council Parliament
of Victoria Spring Street MELBOURNE
Vic. 3 002

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Dear Mr Lucas,

Legislative Council Select Committee inquiring into the selection appointment and resignation of Mr Jim Reeves as Managing Director of the Urban and Regional Land Corporation

I refer to the Attorney-General's letter of December 22 last as to several matters in relation to the function and powers of the Committee.

I have been informed that in reviewing the documents that are within the description of those sought by the Committee from a number of public servants and others, it is apparent that many of these documents contain personal and professionally sensitive information. For example, confidential information supplied by the candidates for the position of Managing Director. This information was supplied by the individuals concerned in circumstances where they were entitled to assume the information would remain confidential. There is also information which can properly be regarded as confidential to individuals including referees' reports and assessments of candidates.

I am sure you would agree that the public release of these documents through the Committee would be unfair to the individuals concerned.

In the absence of the Attorney-General on leave, I propose that in schedules of documents to be forwarded to the Committee later this week, documents containing personal confidential information will be identified but not provided. I then suggest that discussions be held between the Committee and the Attorney-General as to whether or not the Committee is prepared to excuse production of these documents or to agree that they will be received on the basis that the documents and the contents will be kept confidential. The Attorney-General returns from leave in late January 2002 and the discussions can be held at that time.

Yours sincerely,

BOB CAMERON, M.P.
Acting Attorney-General





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The Hon. N. B. Lucas
Chairman, Select Committee on URLC
Managing Director
Department of Legislative Council
Parliament of Victoria
Spring Street
MELBOURNE VIC 3002

Dear Mr Lucas

**Select Committee on the Urban and Regional Land Corporation
Managing Director**

I refer to letters from the Secretary of the Committee, Mr Ray Wright, to myself and the Secretary of the Department of Premier and Cabinet, Mr Terry Moran, dated January 31 and to the letter to you from the Acting Attorney-General dated January 16 on issues associated with confidential material sought by the Committee.

The resolutions of the Committee detailed in Mr Wright's letter go some way in addressing the concerns raised in relation to private, personal and confidential information contained in the documents. I note that neither the resolutions nor the letter touched on the issue of Cabinet documents and public interest immunity.

I believe it would be appropriate to now meet with the Committee to conclude our understanding of these matters and pave the way for the release of the relevant documents to the Committee as soon as possible.

Yours sincerely

ROB HYLLS MP
Attorney-General



12 FEB 2002

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Dr R Wright
Secretary
Legislative Council Select Committee
Parliament House

Spring Street
MELBOURNE VIC 3000

Dear Dr Wright

LEGISLATIVE COUNCIL SELECT COMMITTEE

On 12 February 2002, you issued summonses to the following Ministers on behalf of the Select Committee on the Urban and Regional Land Corporation Managing Director ('the Committee'):

- a) The Premier, The Hon S Bracks MP;
- b) The Treasurer, The Hon J Brumby MP; and
- c) The Minister for Planning, The Hon J Thwaites MP.

I am responding on behalf of the above Ministers to the issuing of the summonses. I have received legal advice that a Select Committee of the Legislative Council lacks power to summons a member, including a Minister of the Legislative Assembly, to produce documents.

However, as you are aware, the Government has sought to co-operate with the Committee in relation to the request for documents. The documents requested by the Committee were provided on January 18, 2002 with personal and confidential material deleted pending discussions on how this material would be used and treated by the Committee. Invitations to meet with the Committee to finalise these issues were extended in previous correspondence by the then Acting Attorney General and also by myself. These invitations have not been taken up by the Committee.

I again extend an invitation to meet with the Committee to finalise these outstanding issues and pave the way for the full release of relevant material.

Yours sincerely

A handwritten signature in black ink that reads "Rob Hull". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Rob Hull
Attorney-General



19 FEB 2002

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Mr Neil Bedford Lucas, PSM
Chairman
Select Committee on the Urban and Regional
Land Corporation Managing Director
Department of the Legislative Council
Parliament House
MELBOURNE VICTORIA 3002

Our Ref:

Recd 4.50pm

Dear Mr Lucas

**Select Committee on the Urban and Regional Land Corporation
Managing Director**

It has come to my attention that the Liberal-National dominated Legislative Council Committee on the Urban and Regional Land Corporation Managing Director has summonsed a number of public servants and others from outside government to attend to give evidence at hearings on February 20, 21, and 22.

The issuing of these summonses as well as the limited information and timelines provided to witnesses is a clear breach of the Parliament's Guidelines for the Protection of Witnesses. The failure of the Committee to abide by the Guidelines it has provided in official correspondence is yet another example of the abuse of process the Liberal and National parties have been willing to undertake to achieve a pre-determined political outcome.

As you are no doubt aware, Paragraph 1 of the Guidelines says that a witness `shall be invited to attend a Committee meeting to give evidence. A witness shall be summoned to appear (whether or not the witness was previously invited to appear) only where the Committee has made a decision that the circumstances warrant the issue of a summons.' In issuing the summonses in the way that it has, the Committee has breached this guideline by firstly not issuing an invitation and secondly by failing to explain what circumstances required the issuing of a summons rather than an invitation.

Paragraph 2 of the Guidelines requires that a witness shall be given adequate notice and shall be supplied not only with a copy of the Terms of Reference, but a statement of matters expected to be dealt with during their appearance. On the basis of legal advice provided to me, the Committee has failed to provide `adequate notice' (adequate notice should be at least 3-4 weeks). It has also failed to provide a statement of the matters expected to be dealt with during the

witness's appearance. The failure to give adequate notice and sufficient detail also undermines the intent of Paragraphs 6, 7 and 9 of the Guidelines.

These failures will have the effect of denying procedural fairness to those individuals required to give evidence. In many cases it will preclude individuals from obtaining appropriate legal advice, further denying them natural justice. I note at this point the fact that your Liberal-National dominated committee has refused to meet the costs of legal advice.

While the numerous abuses of process confirm that your Liberal-National dominated committee has embarked on little more than a political witch hunt, the above matters need to be addressed urgently if you have any intention of giving your inquiry even a modicum of integrity.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Hulls', written in a cursive style.

Rob Hulls MP
ATTOIKNEY GENERAL



Attorney-General

APPENDIX F

26 FEB 2002

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Our Ref:

Dr R Wright
Secretary
Select Committee on the Urban and Regional Land
Corporation Managing Director
Parliament House
Spring Street
MELBOURNE VIC 3002

Dear Dr Wright

LEGISLATIVE COUNCIL SELECT COMMITTEE

I refer to your letter of 20 February 2002 seeking a copy of the legal advice which I referred to in my letter of 12 February 2002.

I am surprised at this request in view of my repeated advice that I am willing to meet with the Committee to finalise outstanding issues. Such a resolution will allow Ministers to voluntarily provide full copies of documents already provided to the Committee.

Should this approach not be acceptable to the Committee, I would be pleased to receive the Committee's advice as to the basis for its view that it holds powers that allow it to compel Members of the Assembly to provide documents.

Yours sincerely

ROB HULLS MP
Attorney-General





Attorney-General

APPENDIX G

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- 6 MAR 2002

Dr R Wright
Secretary
Select Committee on the Urban and Regional Land
Corporation Managing Director
Parliament House
Spring Street
MELBOURNE VIC 3002

Dear Dr Wright

I note that your Committee has summoned a number of Ministerial advisers to attend and give evidence on either the 6th or the 15th of March 2002.

I have, however, received advice from Mr P Hanks QC and Mr A Thomas of counsel that your Committee does not have the power to summons advisers to Ministers who are members of the Legislative Assembly.

I also note that as Ministerial advisers are engaged to advise and assist in their political --- not Executive --- capacity, they would not be able to give any evidence other than in relation to matters protected by public interest immunity.

Legal advice provided to me, based on the Guidelines for the Protection of Witnesses and the Guidelines on the Provision of Information and Evidence to Victorian Parliamentary Committees, which are provided with the summonses issued by your committee, is that witnesses are not:

- to reveal the existence or content of communications with a Minister, communications with other ministerial staff members or cabinet documents;
- to reveal the existence or content of communications on behalf of a Minister with an officer of the Victorian public service;
- to reveal information about a private individual in public session;
- to answer any question which seeks his or her opinion of a government policy or action or, at the very least, restrict his or her answer to the contents of any document which is directly on point and which has already been provided to the Committee;
- to answer any question which relates to a matter falling outside the Terms of Reference.

Accordingly, the advisers, if they appeared, would be obliged to claim privilege and immunity immediately. In such cases, it is the norm for witnesses not to attend. In this regard you are referred to the advice by Sir Robert Menzies in relation to the Senate Select Committee on National Service in 1950 and the direction of the then Federal Government to witnesses not to attend.

I also note that by issuing the summonses to the advisers, your Committee has breached conventions concerning Ministerial advisers as well as continued to breach the conventions and clear procedures regarding witnesses detailed in the Parliament's Committees Manual.

The conventions concerning Ministerial advisers are well established and acknowledged in all Australian Parliaments. The convention, to put it simply, is that such advisers are not summonsed by Committees. This convention is currently being applied and acknowledged by the Senate Estimates Committee and by the Federal Government.

As to the conventions and procedures which the Committee is breaching, the Manual makes it clear that the use of a summons only occurs when an invitation has been refused. You are referred to para 7.3 which reads as follows:

A formal summons to a witness is issued as a means of last resort when an invitation to present evidence or produce papers and records has been firmly refused or not responded to [emphasis added].

Whilst I understand the purely political nature of your Committee's inquiry, and the urgent need of the Liberal and National parties to get some political mileage out of its proceedings, I do not believe it is appropriate to abandon the principles of procedural fairness as well as the principles and conventions relating to the conduct of parliamentary committees.

Indeed, there is a critical principle of public importance involved here - the public interest in the security of communications between Ministers and their advisers. I do not believe that the principle should be sacrificed at the whim of the Committee.

Therefore, in view of your Committee's lack of power, continual breaches of conventions and the privilege and immunity claimed by the witnesses in line with long-standing principles and conventions, as well as the Committee's refusal to meet with me to discuss issues in dispute, I have no option but to issue directions to the advisers not to attend upon the Committee.

I have issued that direction to the advisers. Accordingly, there will be no appearance by the Ministerial advisers summonsed by the Committee.

Yours sincerely



Rob Hull MP
Attorney-General



6 March 2002

Dr Ray Wright Secretary Select Committee on the URLC
Managing Director Department of the Legislative Council
Parliament of Victoria
Spring Street
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Our Ref:

Dear Dr Wright

LEGISLATIVE COUNCIL SELECT COMMITTEE

I refer to the summons recently issued by the Select Committee on the Urban and Regional Land Corporation Managing Director ('the Committee') to attend on 6 March 2002.

I understand that the Attorney-General has received legal advice that the Select Committee does not possess power to summons Ministerial advisers to Ministers who are Members of the Legislative Assembly.

I also understand that the doctrine of public interest immunity would, if I did appear, limit the evidence I could give and I consider that I would not be able to disclose to the Committee any information other than that which is already available to it from:

- the documents that have been provided to the Committee by the Government and the public sector, and
- the evidence that has been given to the Committee at its public hearings.

Accordingly, I advise that I will not be appearing before the committee as I have been directed by the Attorney-General, Hon R Hulls MP, not to appear.

Yours sincerely

TIM PALLAS
Chief of Staff



6 March 2002

Dr Ray Wright
Secretary
Select Committee on the URLC Managing Director
Department of the Legislative Council
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Our Ref:

Dear Dr Wright

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- the documents that have been provided to the Committee by the Government and the public sector, and
- the evidence that has been given to the Committee at its public hearings.

Accordingly, I advise that I will not be appearing before the committee as I have been directed by the Attorney-General, Hon R Hulls MP, not to appear.

Yours sincerely


SANDRA MCKAY



Office of the Deputy Premier of Victoria

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Facsimile: (03) 9651 1188
DX210753

Dr Ray Wright
Secretary to the Committee
Urban & Regional Land Corporation
Parliament House
MELBOURNE VIC 3002

Our Ref:

Dear Dr Wright

LEGISLATIVE COUNCIL SELECT COMMITTEE

I refer to the summons recently issued by the Select Committee on the Urban and Regional Land Corporation Managing Director ('the Committee') to attend on 6 March 2002.

I understand that the Attorney-General has received legal advice that the Select Committee does not possess power to summons Ministerial advisers to Ministers who are Members of the Legislative Assembly.

I also understand that the doctrine of public interest immunity would, if I did appear, limit the evidence I could give and I consider that I would not be able to disclose to the Committee any information other than that which is already available to it from:

- the documents that have been provided to the Committee by the Government and the public sector, and
- the evidence that has been given to the Committee at its public hearings.

Accordingly, I advise that I will not be appearing before the committee as I have been directed by the Attorney-General, Hon R Hulls MP, not to appear.

Yours sincerely

ANDREJS ZAMURS
Chief of Staff

6.03.02



Office of the Deputy Premier of Victoria

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Dr Ray Wright
Secretary to the Committee
Urban & Regional Land Corporation
Parliament House
MELBOURNE VIC 3002

Our Ref:

Dear Dr Wright

LEGISLATIVE COUNCIL SELECT COMMITTEE

I refer to the summons recently issued by the Select Committee on the Urban and Regional Land Corporation Managing Director ('the Committee') to attend on 6 March 2002.

I understand that the Attorney-General has received legal advice that the Select Committee does not possess power to summons. Ministerial advisers to Ministers who are Members of the Legislative Assembly.

I also understand that the doctrine of public interest immunity would, if I did appear, limit the evidence I could give and I consider that I would not be able to disclose to the Committee any information other than that which is already available to it from:

- the documents that have been provided to the Committee by the Government and the public sector, and
- the evidence that has been given to the Committee at its public hearings.

Accordingly, I advise that I will not be appearing before the committee as I have been directed by the Attorney-General, Hon R Hulls MP, not to appear.

Yours sincerely

MARIA MARSHALL
Senior Advisor



Office of the Treasurer of Victoria

APPENDIX L

1 Treasury Place
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Telephone: (03) 9651 1222
Facsimile: (03) 9651 1188
DX210753

Dr Ray Wright
Secretary
Select Committee on the URLC Managing Director
Department of the Legislative Council
Parliament of Victoria
Spring St
MELBOURNE VIC 3002

Dear Dr Wright

LEGISLATIVE COUNCIL SELECT COMMITTEE

I refer to the summons recently issued by the Select Committee on the Urban and Regional Land Corporation Managing Director ('the Committee') to attend on 15 March 2002.

I understand that the Attorney-General has received legal advice that the Select Committee does not possess power to summons Ministerial advisers to Ministers who are Members of the Legislative Assembly.

I also understand that the doctrine of public interest immunity would, if I did appear, limit the evidence I could give and I consider that I would not be able to disclose to the Committee any information other than that which is already available to it from:

- the documents that have been provided to the Committee by the Government and the public sector, and
- the evidence that has been given to the Committee at its public hearings.

Accordingly, I advise that I will not be appearing before the committee as I have been directed by the Attorney-General, Hon R Hulls MP, not to appear.

Yours sincerely


CRAIG COOK
Chief of Staff

Schedule of Ministerial Response Documents Withheld from the Committee

No *	Date:	Status	Description	Reason provided for retention of whole or part of document
12	27 Aug 01	Whole document withheld from Committee.	Referee report about Mr Reeves.	Committee has not met with the Attorney General to discuss confidentiality and privacy issues.
15	No date provided	Sections of document withheld from Committee.	Speaking notes concerning the appointment of Mr Reeves.	Committee has not met to with the Attorney General to discuss confidentiality and privacy issues.
32	4 Dec 01	Sections of document withheld from Committee.	Email from Ms Maria Marshall to Mr James Higgins, with draft chronology attached.	Identifiers of candidates retained pending Committee meeting with the Attorney-General to discuss confidentiality and privacy issues.
5	3 Dec 01	Sections of document withheld from Committee.	Ms Maria Marshall's notes of meeting with URLC Board members. Minister for Planning, ministerial advisors and DOI staff.	Identifiers of candidates retained pending Committee meeting with the Attorney-General to discuss confidentiality and privacy issues.

* Corresponding to numbers as allocated in Ministerial Response



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DX 210077

Dr R Wright
Secretary,
Select Committee on the Urban and
Regional Land Corporation Managing Director
Department of the Legislative Council
Parliament House
Melbourne 3002

Dear Dr Wright

I refer to your letters of 7 March to a number of Ministerial advisers requesting that they reconsider their decisions not to appear before the Select Committee on the Urban and Regional Land Corporation Managing Director and inviting them to appear.

As you will appreciate from my last letter, I have received legal advice in relation to this matter and I have also advised you of the relevant precedents and conventions concerning Ministerial advisers. On the basis of this I have issued directions that Ministerial advisers should not appear at your Committee's inquiry.

Accordingly, the Ministerial advisers will not be appearing before the Committee.

Yours sincerely

Rob Hulls
ATTORNEY-GENERAL



SELECT COMMITTEE ON THE URBAN AND REGIONAL LAND CORPORATION MANAGING DIRECTOR

**MINUTES NO. 9
TUESDAY, 19 MARCH 2002**

**Speaker's Side Dining Room
Level 1
Parliament House, Melbourne**

Present: The Hons N B Lucas (Chairman)
 R M Hallam (Deputy Chairman)
 G W Jennings
 G K Rich-Phillips
 T C Theophanous

Also in Attendance Dr R Wright
 Usher of the Black Rod, and Secretary to the
 Committee
 Ms S Davey, Procedure Officer

1. Opening

The meeting was declared open at 8.03 am by the Chairman.

2. Correspondence

The Committee noted the following correspondence:

- Hon Rob Hulls MP, Attorney-General to Select Committee, 15 March 2000.
- Committee to Mr C Cook, Chief of Staff, Office of the Treasurer,
- Committee to Ms Valerie Kay,

3. Adoption of Draft First Interim Report

The Committee considered the draft First Interim Report. The resolutions of the Committee were:

Front Cover

Mr Hallam moved, seconded by Mr Rich-Phillips — That, the Front Cover stand part of the Report.

Question put and carried.

Paragraph 1

Mr Theo

EXTRACTS FROM THE PROCEEDINGS

The following extracts from the Minutes of the Proceedings of the Committee show Divisions which took place during the consideration of the Draft Report.

The Committee divided on the respective questions —

- (1) That paragraphs 1, 4, 5, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, 21, 25, 28, 33, 34, 35, 36, 37, 38 and 39 stand part of the Report.
- (2) That paragraphs 22 and 24, as amended, stand part of the Report.
- (3) Draft First Interim Report — That the Draft First Interim Report (including Appendices), as amended, be the Report of the Committee.

In each case the result of the Division was:

Ayes 2	Noes 2
The Hon R M Hallam	The Hon G W Jennings
G K Rich-Phillips	T C Theophanous

There being an equality of votes, the Chairman (Hon N B Lucas) gave his casting vote with the Ayes.

Severally resolved in the affirmative.

* * * *

Paragraph 1

On 5 December 2001 the Legislative Council adopted the following Resolution:

- (a) That a Select Committee of five members be appointed to enquire into and report upon any matters relating to the selection, appointment and resignation of Mr. Jim Reeves as Managing Director of the Urban and Regional Land Corporation, together with any involvement of external agencies and consultants.
- (b) That the Committee shall consist of two members nominated by the Leader of the Government, two members nominated by the Leader of the Opposition and one member nominated by the Leader of the National Party.
- (c) That the members shall be appointed by lodgement of the names with the President by the Leaders no later than 4.00 p.m. on Thursday, 6 December 2001.
- (d) That the first meeting of the Committee shall be held at 10.30 a.m. on Friday, 7 December 2001.
- (e) That the Committee may proceed to the despatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.
- (f) That the Committee shall elect a Deputy Chairman to act as Chairman at any time when the Chairman is not present at a meeting of the Committee.
- (g) That three members of the Committee shall constitute a quorum.
- (h) That the Committee may send for persons, papers and records.
- (i) That the Committee may authorise the publication of any evidence taken by it in public and any documents presented to it.
- (j) That reports of the Committee may be presented to the Council from time to time and that the Committee present its final report to the Council on or before 31 May 2002.
- (k) That the presentation of a report or an interim report of the Committee shall not be deemed to terminate the Committee's appointment, powers or functions.
- (l) That the Committee shall, unless it otherwise resolves, take all evidence in public and may otherwise sit in public at anytime if it so decides.
- (m) That the foregoing provisions of this resolution, so far as they are inconsistent with the Standing Orders and practice of the Council, shall have effect notwithstanding anything contained in the Standing Orders.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That the following new paragraph be inserted before the first clause of Paragraph 1 —

That prior to December 5, 2001, the real terms of reference and intention of the Liberal-National dominated committee were set by the Leader of the Opposition, Dr Naphine, in a series of comments in the media prior to its establishment and namely that the aim of the committee is to find someone guilty of circumventing a proper process.

Question — That the paragraph proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2
The Hon G W Jennings
T C Theophanous

Noes 2
The Hon R M Hallam
G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That the following new paragraphs be inserted after (m) —

That the resolution represented the Liberal-National members of the Council using their numbers to provide terms of reference in turn to a Liberal-National dominated Select Committee and that in adopting the resolution, Liberal and National members refused to agree to the following amendments:

- (i) That the expression "and the circumstances surrounding contracts entered into between the Urban Land Authority (now known as the URLC) and KNF Advertising Pty Ltd since 1992." be inserted at the end of paragraph (a).
- (ii) That the expression "two" — which relates to the number of government members — (where first occurring) be omitted in paragraph (b) with the view of inserting in place thereof "three".
- (iii) That the expression "three" in paragraph (g), be omitted with the view of inserting in place thereof "four".
- (iv) That the expression '31 May 2002' in paragraph (j) be omitted with the view of inserting in place thereof '31 January 2002'.

Question — That the paragraphs proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon G W Jennings	The Hon R M Hallam
T C Theophanous	G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

* * * *

Paragraph 4

Between Friday, 7 December 2001 and Friday, 15 March 2002, the Committee has held eight meetings, five of which were public hearings.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That the following paragraphs be inserted after "public hearings." —

The first of numerous abuses of process by Liberal-National members began at the Committee meeting of December 7, 2002, when they used their numbers to ensure that they retained control of the deputy chairman's position and refused to allow the media to cover its deliberations.

At the same meeting the Liberal and National Party members of the Committee used their numbers to refuse to seek information from the former Premier Mr Kennett and the former Treasurer, Mr Stockdale, concerning the process of appointment of the previous managing director, Mr Des Glynn.

In resolving at the meeting on Monday February 11, to invite the Legislative Council to in turn invite the Legislative Assembly to invite the Premier, the Treasurer and the Minister for Planning to appear before the Committee, the Liberal-National members of the Committee rejected a request to include an invitation to the former Minister for Planning Mr Robert Maclellan in their motion.

At the same meeting the Liberal-National members of the Committee refused to add the former Premier Mr Kennett and the former Treasurer Mr Stockdale to the witness list.

Liberal-National members of the Committee have agreed to numerous abuses of process including (a) the failure to provide for any legal costs incurred by witnesses, (b) the decision to breach long-standing protocols to summons rather than invite witnesses to produce documents and to attend, (c) failure to provide witnesses with 'adequate notice' to attend.

Question — That the paragraphs proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon G W Jennings	The Hon R M Hallam
T C Theophanous	G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That the following paragraphs be inserted after "public hearings". —

At the meeting of January 29, 2002, in a clear case of conflict of interest, the Committee chairman, Mr Lucas and deputy chairman, Mr Hallam voted down the following motions:

- (i) That in light of documents and public statements made by Mr Lucas which clearly show that the Hon Neil Lucas was awarded a \$100,000 taxpayer funded consultancy immediately after joining the Liberal Party and covering the time he was campaigning as a Liberal candidate, such consultancy bypassing normal tender processes and awarded by the then Minister the Hon Roger Hallam; and such consultancy not requiring any written reports thereby failing to demonstrate any accountability for the use of taxpayer funds, the committee calls on Mr Lucas to stand aside as Chair until such time as he can demonstrate to the Legislative Council that he is a fit and proper person to apply reasonable and consistent standards to the inquiry of this Select Committee.
- (ii) That this Committee calls on the Hon Neil Lucas and the Hon Roger Hallam to provide all documents relevant to the \$100,000 taxpayer funded consultancy to Mr Lucas in May 1995 so this committee can be satisfied that:
 - Taxpayers received value for money;
 - The consultancy did not involve inappropriate practices; and
 - The contract was more than an attempt to prop up the salary of Mr Lucas while he was running as a Liberal candidate so that the Committee can assess whether the membership of the Select Committee of Mr Lucas and Hallam is appropriate.

Question — That the paragraphs proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2

The Hon G W Jennings
T C Theophanous

Noes 2

The Hon R M Hallam
G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

* * * *

Paragraph 5

On 12 and 13 December 2001, the Committee wrote to a number of individuals, government agencies and private organisations inviting them to provide information and documents relevant to the Terms of Reference. The following individuals, government agencies and private organisations provided information and documents:

- Mr M Petrovs, Chairman, Urban and Regional Land Corporation;
- Mr F Davis, Mr J Reilly and Mr O Lennie, Board Members, Urban and Regional Land Corporation;
- Ms A Dickshen, Partner, Freehills;
- Mr J L B Hayman, Partner, Heidrick and Struggles;
- Mr M Henesey-Smith;
- The Honourable J W Thwaites, MP, Acting Premier — on behalf of the Honourable S P Bracks, MP, Premier; the Honourable J R Brumby, MP, Treasurer; the Honourable J W Thwaites, MP, Minister for Planning; the Honourable J M Madden, MLC, Minister Assisting the Minister for Planning; the Honourable G W Jennings, MLC, Cabinet Secretary; relevant parliamentary secretaries; and ministerial offices ("Ministerial Response");
- Mr T F Moran, Secretary, Department of Premier and Cabinet — on behalf of the Department of Premier and Cabinet; Mr I Little, Secretary, Department of Treasury and Finance; Mr G Hehir, Deputy Secretary, Department of Treasury and Finance; Professor L Neilson, Secretary, Department of Infrastructure; senior officers of the departments of Premier and Cabinet, and Treasury and Finance ("Public Service Response");
- Mr M W Sibree; and
- Mr D J Glynn.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That the following paragraph be inserted after the final dot point of Paragraph 5 —

The Committee acknowledges that the Government produced a full list of documents and provided all relevant documents requested by the Committee by the nominated date. That in providing the documents, the Committee was asked to meet with the Attorney-General to resolve any outstanding issues in relation to confidential material contained in some of the documents. The Committee to this day has refused to meet with the Attorney-General to resolve these outstanding issues.

Question — That the paragraph proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2

The Hon G W Jennings
T C Theophanous

Noes 2

The Hon R M Hallam
G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

* * * *

Paragraph 7

The Committee had conducted five public hearings and heard evidence from:

- Mr G R Tabe, Manager — Governance, Department of Treasury and Finance;
- Mr A J Hawkes, Director, Commercial Management, Department of Treasury and Finance;
- Mr D J Glynn;
- Mr R A Carr, Senior Associate, Heidrick and Struggles;
- Ms K Spinley, Heidrick and Struggles;
- Mr F Davis, Board Member, Urban and Regional Land Corporation;
- Ms A Dickshen, Partner, Freehills;
- Mr M Petrovs, Chairman, Urban and Regional Land Corporation;
- Mr P Jerome, Executive Director, Planning, Heritage and Building Division, Department of Infrastructure;
- Mr B A Moore, Acting Chief Executive Officer, Urban and Regional Land Corporation;
- Mr T F Moran, Secretary, Department of Premier and Cabinet;
- Mr O S Lennie, Board Member, Urban and Regional Land Corporation;
- Mr R O'Halloran Cabinet Liaison Officer Department of Infrastructure;
- Mr G Hesketh, Financial Analyst — Governance, Department of Treasury and Finance;
- Mr W J Heywood, Secretary, Government Sector Executive Remuneration Board, Department of Premier and Cabinet;
- Mr G Hehir, Deputy Secretary, Department of Treasury and Finance; and
- Professor L Neilson, Secretary, Department of Infrastructure.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That the following paragraph be inserted after the final dot point of Paragraph 7 —

The Committee broke with long-standing practices and conventions in all Parliaments of Australia by (a) summonses rather than inviting witnesses to attend in the first instance and (b) by not giving adequate notice for a number of witnesses.

Question — That the paragraph proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon G W Jennings	The Hon R M Hallam
T C Theophanous	G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

* * * *

Paragraph 8

This First Interim Report does not canvass issues referred to either in information and documents provided to the Committee or in evidence presented by witnesses at public hearings but instead

reports to the Legislative Council certain matters that have arisen during the course of the inquiry thus far.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That all words after "but instead reports" be omitted with the view to inserting in place thereof "on the politically-biased nature of the Committee's conduct and deliberations and its numerous abuses of process."

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2

The Hon R M Hallam
G K Rich-Phillips

Noes 2

The Hon G W Jennings
T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negatived.

* * * *

Paragraph 10

The Committee reports that two of the seven letters (Appendices C and F) were responses to Committee correspondence addressed to the Attorney-General. The remainder were neither invited nor requested by the Committee.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That the words "but raised a range of legitimate concerns about the conduct and breaches of proper process." be inserted after "requested by the Committee" —

Question — That the words proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon G W Jennings	The Hon R M Hallam
T C Theophanous	G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

* * * *

Paragraph 11

Following the Committee's invitation to individuals, government agencies and private organisations to provide information and documents, the Acting Attorney-General and Attorney-General made the release of certain documents requested by the Committee conditional on the Committee meeting with the Attorney-General (Appendices B; C; D; and F).

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That the following words be inserted after the expression "(Appendices B; C; D; and F)"—

to resolve outstanding issues in relation to confidentiality. The letters repeated the Attorney-General's desire to pave the way for the quick release of information once these issues were resolved. However, to this day the Committee has refused to meet the Attorney-General.

Question — That the words proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon G W Jennings	The Hon R M Hallam
T C Theophanous	G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

* * * *

Paragraph 12

Further, the Attorney-General has instructed witnesses summonsed to present evidence to the Committee in public hearings not to appear (Appendices G to L).

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That all words after "Further" be omitted with the view to inserting in place thereof "the Attorney, acting on legal advice and long-held practices and conventions of all Australian Parliaments, has instructed witnesses summonsed to present evidence to the Committee in public hearings not to appear (Appendices G to L).".

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

* * * *

Paragraph 13

The Committee considers that as a result of the Attorney-General's and Acting Attorney-General's interventions, the work of the Committee is being frustrated and the autonomy of the Committee to fulfil its Terms of Reference is being compromised.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That all words after "The Committee considers" be omitted with the view to inserting in place thereof "that its failure to meet with the Attorney-General is the sole reason for any sense of frustration felt by the Liberal and National members of the Committee".

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

* * * *

Paragraph 15

The Committee draws to the attention of the Legislative Council three consequences that are direct results of the Attorney-General's and Acting Attorney-General's interventions.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That all words after "Legislative Council" be omitted with the view to inserting in place thereof "the failure of the Committee to follow proper processes and to work co-operatively to resolve the matters on which the Attorney-Generally properly intervened."

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2		Noes 2	
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

* * * *

Paragraph 16

First, the Attorney-General has consistently insisted that the release of information selectively withheld from the Committee in the "Public Service Response" (Paragraph 5) of 18 January 2002 was conditional on the Committee meeting with him. This position in turn obliged the Department of Premier and Cabinet to delay the provision of the withheld information and documents to the Committee.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That the paragraph be omitted with the view to inserting in place thereof "The Committee acknowledges the Attorney-General was right in seeking assurances in relation to any confidential and personal material contained in the documents. The Committee also acknowledges that the failure of the Committee to accept the invitation to meet and resolve these outstanding issues in turn obliged the Department of Premier and Cabinet to delay the provision of the withheld information and documents to the Committee."

Question — That the paragraph proposed to be omitted stand part of the report — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2		Noes 2	
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

* * * *

Paragraph 17

The Committee notes that despite two invitations to provide information (12 December 2001; 31 January 2002), and despite the provision of confidentiality assurances both to the Attorney-General and to Mr T F Moran, Secretary, Department of Premier and Cabinet (31 January 2002), the material sought was only supplied to the Committee following the issuing of a summons on

12 February 2002. The Committee received all outstanding "Public Service Response" material on 13 February 2002, 26 days after the due date set by the Committee for the receipt of information and documents.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That all words and expressions after "The Committee notes" be omitted with the view to inserting in place thereof "that if it had have taken up the initial invitation to meet and resolve these issues with the Attorney-General, all relevant material would have been supplied on time and without the need for a summons."

Question — That the words and expressions proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

* * * *

Paragraph 18

Second, the Attorney-General's insistence that the release of information selectively withheld from the Committee in the "Ministerial Response" of 18 January 2002 was conditional on the Committee meeting with him has resulted in the Committee not being provided with all material relevant to its Terms of Reference.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That the paragraph be omitted with the view to inserting in place thereof "The Committee acknowledges that despite the fact that it does not have the power to summons documents from members of the Legislative Assembly, the Government has sought to co-operate fully with the Committee in relation to documents and witnesses, consistent with well held and long-established parliamentary principles and guidelines. The Committee acknowledges that any delay in the provision of complete documentation, including confidential material, is the fault of the Committee."

Question — That the paragraph proposed to be omitted stand part of the report — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

* * * *

Paragraph 21

In response to the Committee's summons of 12 February 2002 to the Premier, Treasurer, and Minister for Planning, the Attorney-General wrote that he was in receipt of "legal advice that a Select Committee of the Legislative Council lacks power to summons a member, including a Minister of the Legislative Assembly, to produce documents" (Appendix D). This assertion is disputed by the Committee. As a result, the documents sought by summons have not been provided to the Committee.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That the words "This assertion is disputed by the Committee" be omitted with the view to inserting in place thereof "This lack of power is acknowledged by the Committee and the Committee regrets not taking up the invitation again contained in the letter to meet with the Attorney-General."

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

* * * *

Paragraph 22

A list of the documents withheld from the Committee may be found in Appendix M.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That the paragraph be omitted with the view to inserting in place thereof "The list containing one document withheld and three incomplete on the basis of concerns of the Attorney-General in relation to confidentiality matters is contained in Appendix M".

Question — That the paragraph proposed to be omitted stand part of the report — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

Amendment moved by Mr Hallam, seconded by Mr Rich-Phillips — That the following words "or provided with deletions" be inserted after "Committee".

Question — That the words proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes.

* * * *

Paragraph 24

The Committee duly reports to the Legislative Council this breach of summons by the three Ministers on the advice given to them by the Attorney-General.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That the paragraph be omitted with the view to inserting in place thereof "The Committee duly reports to the Legislative Council that it erred in issuing the summons for documents from Ministers in the Legislative Assembly."

Question — That the paragraph proposed to be omitted stand part of the report — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

Amendment moved by Mr Hallam, seconded by Mr Rich-Phillips — That the words "for documents" be inserted after "summons" and before "by".

Question — That the words proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes.

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Paragraph 25

The Committee further reports to the Legislative Council that it has sought, but has not been provided with, the "legal advice" referred to by the Attorney-General relating to the Committee's powers to summons documents from Ministers (Appendices D and F).

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That all words after "The Committee further reports" be omitted with the view to inserting in place thereof "that it erred in seeking the legal advice provided to the Attorney-General and now acknowledges that it, like all legal advice, is subject to legal professional privilege."

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

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Paragraph 28

In issuing this instruction, Mr Hulls acted upon legal advice provided by "Mr P Hanks QC and Mr A Thomas of counsel". Accordingly, the Committee was unable to take evidence from the five ministerial advisers. The Committee wrote to the ministerial staff advising them that they were in breach of summons, that there are potential consequences for being in breach of summons, and asking them to reconsider their decision. At the time of the adoption of this Interim Report, the ministerial advisers had not responded to the Committee.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That all words after "reconsider their decision." be omitted with the view to inserting in place thereof "The Committee acknowledges that the decision by the Attorney-General to direct advisers not to attend to give evidence was in line with long-standing practices and conventions of all Australian Parliaments."

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That the following paragraph be inserted after "not responded to the Committee." —

The Committee acknowledges that the summonses to advisers was an attempt to circumvent the well known and understood principle that the Legislative Council does not have power to summons members of the Legislative Assembly and so apologises to the advisers concerned.

Question — That the paragraph proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon G W Jennings	The Hon R M Hallam
T C Theophanous	G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

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Paragraph 33

On 28 February 2002, the Deputy Premier advised the Committee that "My office is extremely busy with numerous important priority tasks and I regret that we do not have the resources to allocate to this request at this time". The Committee observes that it was seeking assistance with the legibility of only two notebook entries in Mr Thwaites' hand.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That all words after "this request at this time. The Committee" be omitted with the view to inserting in place thereof "The Committee accepts the Ministers' decisions.".

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon R M Hallam	The Hon G W Jennings
G K Rich-Phillips	T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

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Paragraph 34

The Committee finds such a response indicative of the Government's determination to inhibit the inquiry process of a legitimately constituted Committee of the Legislative Council.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That all words after "The Committee" be omitted with the view to inserting in place thereof "acknowledges that despite the fact that it does not have the power to summons documents from members of the Legislative Assembly, the Government has sought to co-operate fully with the Committee in relation to documents and witnesses, consistent with well held and long-established parliamentary principles and guidelines.".

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon R M Hallam	The Hon G W Jennings
G K Rich-Phillips	T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

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Paragraph 36

The Committee notes that the Premier's attendance depends upon the granting of leave by the Legislative Assembly, and that no such leave has yet been sought by the Legislative Council.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That the words "The Committee also notes that the Premier is not required to attend even if leave is granted." be inserted after "the Legislative Council." —

Question — That the words proposed to be inserted be so inserted — put.

The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon G W Jennings	The Hon R M Hallam
T C Theophanous	G K Rich-Phillips

There being an equality of votes, the Chairman gave his casting vote with the Noes.

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Paragraph 37

Delays in the provision of information, the placement of conditions on the release of information, the breach of summonses by Ministers and ministerial staff, the failure to provide the Committee with any tangible "legal advice" in support of the many assertions made in the correspondence of the Attorney-General, the failure to provide type-written transcripts of illegible material, and the responses of the Premier that pre-empt the deliberations both of the Legislative Council and the Legislative Assembly, are evidence of a systematic attempt to divert the Select Committee on the Urban and Regional Land Corporation Managing Director from meeting its obligations under the Terms of

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That the paragraph be omitted with the view to inserting in place thereof "The Committee acknowledges that much of its conduct so far has been inappropriate and at times has resembled a 'kangaroo court' ".

Question — That the paragraph proposed to be omitted stand part of the report — put.
The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2	Noes 2
The Hon R M Hallam	The Hon G W Jennings
G K Rich-Phillips	T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

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Paragraph 38

The Committee believes that such responses represent direct Executive interference in the affairs of one House of the Parliament of Victoria.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That all words after "The Committee" be omitted with the view to inserting in place thereof "is concerned that some material has been withheld and acknowledges that efforts should be made in a cooperative manner with the Attorney-General to have this material provided".

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

Amendment moved by Mr Theophanous, seconded by Mr Jennings — That all words after "The Committee believes" be omitted with the view to inserting in place thereof "that the outcomes of the inquiry have already been pre-determined by the Leader of the Opposition, Dr Napthine."

Question — That the words proposed to be omitted stand part of the paragraph — put.

The Committee divided — The Hon N B Lucas in the Chair.

	Ayes 2		Noes 2
The Hon	R M Hallam	The Hon	G W Jennings
	G K Rich-Phillips		T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes — Amendment negated.

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Paragraph 39

The Committee therefore formally reports to the Legislative Council its dissatisfaction at these matters and seeks direction from the House on how the Committee might now fully discharge the responsibilities conferred on it under the Terms of Reference.

Amendment moved by Mr Jennings, seconded by Mr Theophanous — That all words after "The Committee" be omitted with the view to inserting in place thereof "notes that the appearance of Ministers from the Legislative Assembly is dependent upon leave being granted and subsequently their voluntary decision to appear before the Committee and further that the appearance of advisers before this Committee continues to be a contested issue between the Committee and the Attorney-General.

Question — That the words proposed to be omitted stand part of the paragraph — put.
The Committee divided — The Hon N B Lucas in the Chair.

Ayes 2
The Hon R M Hallam
G K Rich-Phillips

Noes 2
The Hon G W Jennings
T C Theophanous

There being an equality of votes, the Chairman gave his casting vote with the Ayes —
Amendment negatived.

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