

SUBMISSION TO THE SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Department of the Legislative Council  
Parliament House - East Melbourne, 3002

Dear Mr. Willis,

I am presenting this Submission on behalf of Unchain St Kilda. This group was established to represent the St Kilda and wider community on the development of the St Kilda Triangle site.

This inquiry is concerned with

- (a) the sale or alienation of public land for development;
- (b) the sale or alienation of public open space for the purposes of private development; and
- (c) the sale and development of public land and the relationship to the Melbourne 2030 policy and Green Wedges.

A major concern with the Triangle development is the alienation of public land and public open space for inappropriate private development. In addition the proposal can provide lessons on the 2030 policy: The government, through Melbourne 2030, has targets for increasing urban density and it wants to add another million people to Melbourne. St Kilda is the most densely populated community and provides green and blue lungs for the whole of the metropolis.

A decision could be made very soon on the future of this unique piece of public land and we believe wide attention should be drawn to the current proposal by the city of Port Phillip to alienate it forever from public recreational use.

Yours faithfully, *Anna Griffiths*

Anna Griffiths, Spokesperson for Unchain St Kilda

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### **1. Location and description of the public land**

The public land which is the subject of this submission is known as the St Kilda Triangle which is bounded by Jacka Boulevard, the Upper Esplanade and Cavell Street, St Kilda.

Jacka Boulevard runs between this public land and the beach front and is at the base of a gentle slope, the natural topography of the St Kilda hill dropping down to the sea. The Upper Esplanade provides a magnificent promenade at the top edge of the slope, so that walkers can see down and across to the sea, a view punctuated by some buildings, large palm trees and grass areas flanking the sand. Cavell Street runs between the large structure of the heritage listed Palais Theatre and Luna Park, both of which have great historical and nostalgic significance for millions of present and past Melburnians, who have visited St Kilda for recreation and entertainment for more than a century.

### **2. Current use of the public land**

For some decades, the site has been occupied by the run down Palais Theatre, the Palace Live music venue and its forerunners and a large and ugly bitumen car park serving the local area including the beach and restaurants opposite. The Palace was recently destroyed by fire.

### **3. The Promise: the St Kilda Urban Design Framework**

The St Kilda triangle site provides a once in a century opportunity. A major concern with the Triangle development is the formal approvals process which can produce an outcome which will blight the community for another century.

In 2003 the St Kilda Urban Design Framework was prepared to provide an integrated approach for the future development of St Kilda Foreshore. It focused on improving the public domain and the interface of the public domain and private realm. This was approved by the state government in 2004. The St Kilda Foreshore Urban Design Framework was incorporated as a document in the *Port Phillip Planning Scheme*. One of the key sites considered by the UDF was the Triangle site. Subsequently the **Land (St Kilda Triangle) Act 2006** appointed the City of Port Phillip the committee of management for the Triangle site.

On the Triangle site, the St Kilda Urban Design Framework envisaged 'A new public space to the west of a reinvigorated Palais Theatre, supported by a variety of indoor and outdoor entertainment and cultural venues envisaged in a new contemporary building. The feasibility of retaining and improving the existing Palace should be assessed as an option'. (Opportunity 9: St Kilda Triangle site).

The relevant part of the St Kilda Urban Design Framework is attached as an appendix. It clearly envisages development of the Triangle site as an entertainment and cultural area. Commercial shopping is only a minor part of this vision, at most. What is an 'entertainment' area? Luna Park is, but so is the King St nightclub strip. Which is promised in the UDF?

#### 4. The Proposal

On May 25, 2007 the Council announced that the BBC consortium comprising Babcock & Brown and its subsidiaries, Citta Property Group, has been selected for the future development of the St Kilda 'triangle' site. The developers would be offered a 50 year lease with options up to 99 years. The key features of the proposed development included:

- A \$20 million refurbishment of the Palais Theatre
- 15,000 square metres of public areas including streets and lanes, an urban square, The Rambles and new grassy slopes
- Big event spaces including The Palais Forecourt and Catani Steps
- Linden II, a new St Kilda Centre for Contemporary Arts
- William Angliss Institute of TAFE - Port Phillip Academy for hospitality training
- Terzini Hotel – a boutique hotel operated by Maurice Terzini
- A Vertical Garden by the Bay developed by internationally famous botanist Patrick Blanc
- Eating & drinking spaces – majority targeted to the mid to affordable range
- Entertainment spaces including multiple live music venues and Dendy Cinemas
- Sidney Nolan's 1940 Luna Park sketch "Abstract" reproduced as a giant 'wrought iron' lace work pinned to the cinemas building opposite the park itself
- Special events calendar
- 1150 car parking spaces in two basement levels
- 181 retail tenancies: 50 percent independents with a maximum of 20 percent national chains
- Basement supermarket
- Fitness centre

The outcome is in direct contradiction to what was promised. The replacement of one club has turned into a cluster of major clubs, minimal shopping turned into dominant shopping, 'St Kilda-ness' interpreted to mean chain stores, There are numerous concerns with the proposal. It does not fulfil the promises made in the Urban Design Framework. However there is not a proper process to voice these concerns and to provide a better Triangle development for the next one hundred years.

Our concerns:

1. The size of the commercial development: there will be more shops than in the existing nineteenth-century shopping street scapes combined - Acland, Fitzroy and Carlisle Streets. The effect could be either to drag activity away from these streets to their detriment, or the new development could be a white elephant, poorly serving the needs of any group and creating problems where none exist at present.
2. Up to six late-licensed club and music venues are inappropriate for the edges of a dense mixed residential area and completely inappropriate use for public land. A recent report by the Victoria Police into the amount of violence emanating from clusters of such venues underscores this point.
3. The development abuts one of Melbourne's most popular foreshores, separated by Jacka Boulevard which carries heavy traffic particularly at daily peak times and during holiday periods, day and night. As there is no planned underpass or overpass to the foreshore, dangerous pedestrian conditions. The beach is not an appropriate place for night club patrons in various stages of intoxication and/or drug influence as their presence may bring violence .

#### **5. The process**

As discussed above, Land (St Kilda Triangle) Act 2006 appointed the City of Port Phillip the committee of management for the 'triangle' site. Section 12(1) of the Land (St Kilda Triangle) Act 2006 empowered the City of Port Phillip to 'grant a lease of that land for the purpose of the construction or use of buildings, works, facilities or public open space for retail, tourism, entertainment, commercial or cultural purposes'. However section 12(2) provides that the City 'must not grant a lease under subsection (1) unless the Minister has, in writing to the committee, approved the granting of the lease'.

In approving the granting of a lease, the Minister must take account of various qualitative matters. This consideration can only be improved if there is a full opportunity for interested parties to make informed submissions about the appropriateness of the development. In particular Section 12(3)(a) states the

Minister must be satisfied that 'if the lease is granted before the buildings, works or facilities proposed for the land are built, the lease includes a covenant requiring the construction of buildings, works and facilities for retail, tourism, entertainment, commercial or cultural purpose that the buildings, works or facilities are of such a substantial nature and value as to justify the term of the lease'.

Cr Bolitho has said the next step is to introduce the successful proposal to the community and conduct the subsequent planning process. She said "We'll be introducing the new 'triangle' to the community over the coming months. Everyone will have a chance to see the designs and appreciate the detail. During the formal planning application phase, everybody will have the ability to lodge submissions. These submissions will be independently assessed and advice will be provided to the council," she said. (News Release 25 May 2007.)

There are numerous problems with this process:

1. The community consultation has been at the very general level of the UDF process. There are but constipated rights to participate in the consideration of the specific BBC consortium proposal.
2. The council, not an independent body, is the decision maker.
3. The council has an inherent conflict of interest in that it will benefit from the increased rate revenue from any overdevelopment and commercialisation of the site. Further the ability of councillors and staff to impartially assess the merits of the proposal has been tainted by the close association of the Council with the developer. One small example is the cocktail party hosted by the developer for Council with individual cocktails named after Councillors and senior staff.
4. The council has shown before that it does not understand its role in the planning process where it has two hats – as an applicant and an adjudicator. (See the skate park proposal for Albert Park: Regal Hotel Pty Ltd v Port Phillip CC [2007] VCAT 1526 (17 August 2007))
5. There are limited grounds on which submissions will be considered and the council has a track record of refusing to consider proper grounds of objections to proposals. (See the skate park proposal where the council wrongly refused to consider submissions on matters other than heritage)
6. Third party submissions have been hamstrung by the delay of council releasing relevant information. In particular community

members have requested for many weeks the detailed technical analysis on traffic, economics etc which attempt to justify the grossly oversized development proposed by the successful BBC consortium. The Council has not yet released such reports.

7. The State Government has removed the opportunity for third party appeals from the council decision, whereas the developer has been given such rights. There is therefore no opportunity either at first instance or on appeal for an expert independent third party to decide whether the proposal satisfies the aspirations of the UDF.

8. The Planning Minister, in letters to members of our group, has shown that he has already made up his mind. He has shown that he has abrogated his responsibility under Section 12(3)(a) of the Land (St Kilda Triangle) Act 2006 to vet proposed leases of the site and to consider the nature and value of such leases.

#### **6. An alternative vision**

A cultural site which is a precinct for the visual and performing arts which will complement Melbourne's other significant art and culture sites such as the Arts Centre, Federation Square the NGV International, Southbank Boulevard and the proposed NGV extension. The iconic Palais Theatre already on the site forms the nucleus of such a precinct.

Such a precinct will affirm and enhance the cultural narrative of St Kilda by placing a multi- function arts/performing arts complex separated from the Palais by a landscaped public square. This includes spaces such as a children's play area, family picnic areas, an amphitheatre for public concerts that will preserve for generations to come St Kilda's diverse and eclectic 150 years of history and her long-held reputation for innovative, original incubation of ideas and creative endeavour.

It will be an environmentally sustainable development, built in forms that aim for zero carbon emission, solar power and water recycling. Gardens will be planted with drought resistant species to limit the use of fresh water on the site.

The Upper esplanade remains as an important promenade which preserves view lines, thus protecting its unique topography.

By integrating the open public spaces of the triangle site with the new boardwalk along the foreshore, a continuum of landscaped spaces will be formed from the lighthouse to the historically significant Catani Gardens.

Shopping areas will complement these functions, not serve as a destination in themselves.

### **Conclusion**

While there are many good aspects in the current Triangle site proposal, there are significant issues of concern. It can demonstrably be argued that the proposal does not satisfy the requirements of the Urban Design Framework. However the process does not allow a full and independent consideration of these issues. There must be a better system to develop the sites like the Triangle site. This is literally a once in a century development of an iconic site. Let's not waste this great opportunity and let's learn how to get a better process for the development of a whole range of other important sites. We have noted that the Committee may wish to discuss matters raised in submissions. We would welcome the opportunity to give evidence in a Public Hearing to go further into these issues.

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### **APPENDIX: EXTRACT FROM ST KILDA FORESHORE URBAN DESIGN FRAMEWORK 2003**

St Kilda Urban Design Framework presents an integrated approach for the future development of St Kilda Foreshore. It focuses on improving the public domain and the interface of the public domain and private realm.

#### **Opportunity 9 St Kilda Triangle site**

A new public space to the west of a reinvigorated Palais Theatre, supported by a variety of indoor and outdoor entertainment and cultural venues envisaged in a new contemporary building. The feasibility of retaining and improving the existing Palace should be assessed as an option.

The objectives and strategies section outlined general approaches to improving the public realm. It also identified a number of **specific design principles** for St Kilda Triangle site:

- Define and strengthen the visual and spatial qualities of public open space with sympathetic new development, specifically on the St Kilda Triangle site.
- Ensure the continued viability of existing landmarks and attractions including Palais Theatre.

- Improve the attractiveness of places that embody the cultural heritage of St Kilda and ensure the continued viability of existing landmarks and attractions including Palais Theatre.
- Encourage new uses that will support existing attractions and assets including Palais Theatre.
- Ensure that iconic buildings, items and places, such as Palais Theatre, are maintained and that any development around them is co-ordinated with them.
- Maximise the identifying and visually organising potential of existing vista termination points and create new ones at key locations, such as the St Kilda Triangle site.
- Recover 'lost space'—spaces that are dominated by vehicles or are unkempt—by creating new attractive and interesting places particularly along Shakespeare Grove and next to Palais Theatre.
- Implement standardised, controlled, at grade intersections, where possible, and minimise the distance pedestrians need to cross.

How can the design principles be achieved?

**The St Kilda Triangle site is a public asset that should be improved and maintained for future generations to enjoy. Maintenance of the Palais Theatre building and improvements to surrounding public space require substantial financial investments to ensure long term use and viability, which depends on a mix of private and public investment. It is imperative that public benefit is maximised by private investment in facilities that maintain the traditional, cultural use of this site.**

Framework recommendations for the site emerge from a number of considerations: There is a need for backstage space for Palais Theatre, which can only be achieved by a new building at its rear. The land west of the Palais needs to be kept relatively open to preserve views from Upper Esplanade. The Palace Entertainment Complex building does not currently provide sufficient flexibility for cultural activities. Consequently, there is a need to include more floorspace on the site to get the right mix of complementary activities and to provide future space.

The Framework envisages a new building at the western end of the site, which would repeat the Foreshore pattern of a pavilion building in open space and complement the Palais Theatre building. It further recommends the creation of a new public plaza on the site to inter link existing and proposed buildings and associated activities, as well as to provide durable space for festivities. This space needs to be protected from the elements and, to make it attractive, shops or studios are proposed under a terrace extension of Upper Esplanade.



In the development of the St Kilda Triangle site, the feasibility of retaining and improving the existing Palace Entertainment Complex should also be assessed as an option, applying the proposed design principles for the Triangle site and the Foreshore as a whole.

In any development of the St Kilda Triangle site, it will be important to:

- provide security of leases and allocation of additional space where required,
- set design parameters for future improvements including three-dimensional relationships and maintenance of views and vistas from Upper Esplanade,
- develop complementary activities on the site,

#### OPPORTUNITIES AND PROPOSALS

- ensure that the shape and fabric of any additional buildings improve the visual amenity of the site in keeping with its setting, and
- ensure that any new development is constructed to minimise noise transference through high quality facility design, landscaping and buffer zones.

Is a western building a good idea?

The vision to include a building on the western end of the St Kilda Triangle site was made for a number of reasons:

Leases on Palais Theatre and the Palace Entertainment Complex building are due for renewal in the near future and need to be considered in the context of viability. A new building and (or) improvements to the existing building would allow floorspace for activities that support cultural heritage. Without increased floorspace, opportunities will be lost. Furthermore, new and (or) improved development will help define and strengthen the proposed creation of public open space on the St Kilda Triangle site, providing activities which increase its attractiveness and sense of security in the way Vineyard Restaurant contributes to O'Donnell Gardens and Kirby's Café to the end of St Kilda Pier. Importantly, it will provide pedestrian activity along Jacka Boulevard.

Community consultation revealed an alternative desire to develop the site as a quiet contemplative space. The Framework recognises the need for contemplative spaces along the Foreshore, but proposes that these are already provided in Alfred Square and Catani Gardens. It is not envisaged, however, that any new public space at the St Kilda Triangle site would always be buzzing with activity. For the most, it is likely to be a relatively quiet space due to protection from traffic and the provision of ample room for users.

How high should new buildings be?

Before determining the height, layout, or design of any new building on the site, there is a need for detailed analysis. New buildings need to be carefully sited and kept relatively low so as not to block views to Palais Theatre, or important seascape views from Upper Esplanade.

It is particularly important to retain the serial seascape and beachfront views and glimpsed vignettes across the St Kilda Triangle site from locations, such as the Jesse Fairchild Memorial on Upper Esplanade to:

- Williamstown,
- the Sea Baths domes,
- Marina Lighthouse,
- Stoke House restaurant,
- Catani Arch, and
- the horizon.

Decisions on any new built forms on this site must also take into consideration the views towards the Luna Park entrance—Mr Moon—and St Kilda Hill from the view arch at the lower Foreshore level between Upper Esplanade and the Beach.

Any building on this site will be visible in places from Upper Esplanade, but overall, with the recommended improvements including the removal of the existing three-storey Palace Nightclub building, it is certainly possible to retain the views.

What about car parking?

While it is important to provide better public transport access to St Kilda Foreshore, there will still be a need to provide for car parking, as well as to reduce the impacts of on street parking. The St Kilda Triangle site currently accommodates approximately 300 parking spaces. This number will need to be retained and additional spaces provided for any new uses and to retain and enhance the attractiveness of Palais Theatre as a venue. There is also an opportunity on this site to replace surface parking currently existing elsewhere on the Foreshore and provide car spaces for St Kilda Harbour and other uses. These can be provided underground. The final number of car spaces provided needs to be determined in association with final plans for the site, but it appears from the Framework investigations that a total of approximately 900 spaces could be possible.

## Proposals

P9.1 Construct a new building at the rear of Palais Theatre to provide for backstage facilities. Preferred supporting uses for this building would relate strongly to the precinct's cultural and entertainment heritage, and could comprise dance and entertainment venues, cinemas, galleries, a bar or nightclub. Other possible uses may include a small hotel, reception and conference centre, restaurant, artists' studios or retail.

P9.2 Investigate the opportunity to remove surface car parking and replace with underground parking in association with new development.

P9.3 Create a forecourt space to Palais Theatre incorporating Lower Esplanade and with steps leading to Upper Esplanade.

P9.4 Improve the forecourts to both Luna Park and Palais Theatre, using complementary surface treatments and improving pedestrian interconnectivity.

P9.5 Create a predominant new public plaza west of Palais Theatre, incorporating some structures for shops, studios and activities to front it. Some of these can be located under a viewing platform extension to Upper Esplanade.

P9.6 Replace the Palace Entertainment Complex building with an improved, contemporary building adjoining a new plaza, which retains views from Upper Esplanade to the horizon and which creates a sense of visual connection to the beach and with other key destinations. The Framework envisages replacement of the Palace Entertainment Complex, but the retention and improvement of the existing building is also an option. Any new building(s) should retain the use of the Palace Entertainment Complex, be publicly accessible and provide for cultural and entertainment uses, such as a dance venue, cinema, ice skating rink, and artists' studios, craft shops and gallery space. The new and (or) improved building(s) could incorporate basement car parking and an upper level pedestrian link across Jacka Boulevard.

P9.7 Construct a sound shell/performance space in association with the new plaza and provide high quality landscape treatment, including both hard surfaces and parklike spaces.

P9.8 Improve landscaping in Cavell Street and investigate its use for bus parking

P9.9 Create active frontages to buildings that face Jacka Boulevard, where possible and appropriate.

P9.10 Protect views to the entrance of Luna Park, including unobstructed views from Upper Esplanade.

P9.11 Consider the siting and height of any new built forms on the St Kilda Triangle site in relation to:

- the range of distances from which the various parts of the development and important features of its surrounding context can be seen,
- the relative number of people likely to see views such as the Luna Park entrance—  
Mr Moon— from South Beach and approaching vehicles on Jacka Boulevard,
- the length of time during which each view can be experienced, and
- the quality of the view experience.

*Refer to Fig. 23: Proposed statutory boundaries of the St Kilda Triangle site. See also: Opportunities and proposals—Fig. 19: Spatial clusters —Proposed boundaries,*

*Appendix 3/1—Fig. 29: Illustration, Appendix 3/2—Fig. 30: Framework concepts.*

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