23rd April, 2010

Legislative Council Standing Committee on
Finance and Public Administration,
Inquiry into Victorian Government
Decision Making, Consultation and Approval Processes,
Parliament of Victoria,
Spring Street,
EAST MELBOURNE, Vic. 3002

Attention: Mr. Richard Willis, Secretary

Dear Mr. Willis,

Please find below our submission to the Legislative Council Standing Committee on Finance and Public Administration. I have sent a hard copy in the mail including the attachments.

If the Committee requires further information, please contact me on Ph. 51 27 3790.

Yours sincerely,

Cheryl Wragg
Secretary
MADRA Inc.
Email: petergib@westnet.com.au

Correspondence to:
Secretary,
MADRA Inc.
10 Dwyer Street
MOE, Vic. 3825
Submission

About Moe and District Residents Association Inc. (MADRA Inc.)

Moe and District Residents Association Inc. (MADRA Inc.) is an incorporated not-for-profit community organization, run on a volunteer basis by residents of Moe district. MADRA was formed in September, 2008. A copy of our Statement of Purpose appears as Appendix A. Currently, MADRA has around 60 financial members. The MADRA Committee of Management meets on a monthly basis tending to the ongoing business of the organization. Current details of the MADRA CoM are also found on Appendix A. MADRA member meetings are held quarterly. MADRA produces a quarterly newsletter for members. Our organization actively encourages member participation in issues of local concern and interest

Inquiry into Victorian Government Decision Making, Consultation and Approval Processes: Term of Reference

To inquire into and report on Victorian Government decision making, consultation and approval processes, and any knowledge and/or involvement of Ministers, Ministerial staff and/or Victorian Government officers since 1 December 2006 and in particular issues arising from media plans prepared within the Victorian Government since 1 December 2006.

About Moe District

Moe and district has a population of 17,000 approx. people. It includes the township of Moe and the adjoining suburb of Newborough, and the smaller rural centres of Tanjil South, Willow Grove, Rawson, Walhalla, Westbury, Hernes Oak, Narracan, Coalville, and Moe South. Moe/Newborough services these smaller areas being the closest major shopping and service centre, as well as the main access point to the Melbourne-Bairnsdale railway.

The main economic activities of the region are agriculture, retail and services, the Yallourn ‘W’ power station and mine, and some metals manufacturing. The region was hard hit by the SEC privatisation, related job loss, significant loss of apprenticeship opportunities, and economic contraction. During the same period, the Latrobe Valley Community Hospital, Moe was closed. Sunicrust Bakery, and various TCF manufactories also closed their operations and moved away.

As a result, double digit unemployment has endured over the last ten-fifteen year period. Moe also witnessed the withdrawal of Commonwealth provision of services with the closure of the Medicare office, the winding back of local government services, and the sale of community and Council assets including the City of Moe Council building and various reserves and public lands in the area. An air of neglect and abandonment developed in and around Moe/Newborough.

This combination of factors together with the Ministry of Housing’s continued practice of selling off social housing in the Latrobe Valley at cheap prices has had the effect of suppressing home and land prices in the district. Low property and land prices have, in turn, created both interest and activity by speculative investors in property acquisition and development. As our submission describes (below) this activity, where it involves the sale of public assets to private interests, is seeing the formulation and implementation of town planning and public asset disbursement at the expense of the local community and in spite of express opposition from substantial sections of the community.
Over the last four or so years, we have seen the operation of quite elaborate schemes designed to give the appearance of public support, that have sought to manipulate public opinion, and that have been used to justify asset sales and public/private projects agreed in secret but executed publicly. The most strident example of this is the Moe Activity Centre Plan – a project that has and is being facilitated and funded by the State government, including senior government officers and Ministerial level involvement in conjunction with Latrobe City Council.

**List of Persons and Organisations Involved in this Matter**

**Minister Justin Madden (Planning)**

**Ex-Minister John Brumby (Regional Development), Minister Jacinta Allen**

**Ex-Minister Lynne Kosky, (Transport), Minister Martin Pakula**

**Minister Richard Wynne, (Local Government)**

**Mr. Paul Buckley** – CEO Latrobe City Council; Chair, MACP Project Control Group; Member of DPCD/RDV Gippsland Regional Managers Forum; Chair, RDV Regional Exchange Forum; Host, Regional Planning Forum of Latrobe City

**Ms Jane Burton** – Transit Cities Manager, employed by DPCD and located at LCC overseeing the MACP process within LCC

**MACP Project Control Group** – membership includes Paul Buckley, Paul Crozier (DoT), Cameron Martyn (DPCD), Leon Yates (DPCD), and representatives from VicTrack, VLine, VicRoads, and RDV. MADRA requested to meet with the MACP Project Control Group in 2010 and was refused. Information about the Group and its deliberations have not been made publicly available.

**Mr. Hirem Bhatt** – LCC MACP Project Manager

**Tract Consulting** – Melbourne based town planning, architect and urban design company. Awarded the contract by tender to prepare the Moe Activity Centre Plan. The head consultant for Tract was Mr. Hirem Bhatt

**Red Road Consulting** – Melbourne based consultancy subcontracted to conduct ‘community consultation processes’ for the MACP. Conducted the initial ‘Search Conference’ (March, 2007), the ‘Speak Out’ (August, 2007) and the ‘Design In’ (May, 2009).

**SJB Urban** – Melbourne based town planning and architect firm engaged to develop the MACP Train Station Precinct Revitalisation Masterplan document.

**Mr. Brendan Jenkins** – ex Mayor of Latrobe City; ex-Councillor, Latrobe City; ex-MLA for Morwell; current President, ALP Branch, Moe; co-founder and member of ‘Invest Moe’ network of business interests and property speculators; husband of Dr. Susan Clarke

**Dr. Susan Clarke** – co-owner of Tanjil Place Medical Centre, Albert Street, Moe with Drs. Speck and Forge; wife of Brendan Jenkins
Mr. Brad Law – public spokesperson of ‘Invest Moe’ property speculators network and owner of Law Somerville Industries construction company. Secretary of Committee for Moe

Mr. Tony Flynn – President of Committee for Moe; ALP Gippsland Organiser funded as electorate officer from parliamentary funds; ALP candidate for state seat of Narracan 2010; candidate for Farley Ward (Moe) in LCC election 2008 and running partner of Cr. Lisa Price

Cr. Lisa Price – Councillor for Farley Ward (Moe), successor to Brendan Jenkins as Ward Councillor for Moe, member of Moe ALP branch, Mayor of LCC - 2009

Cr. Sharon Gibson – Councillor for Merton Ward (Moe-Newborough) 2008-; ex-Secretary of Merton Ward Residents Association; ex-Secretary of Moe Traders Association Inc.; head petitioner – Moe community petition opposing relocation of the Moe Library/Council Service Centre and supporting improvements/extension onsite; initiated successful FOI request including a VCAT FOI appeal to obtain documents from LCC about the Moe Library/Council Service Centre and TPMC

Cr. Sandy Kam – Councillor for Galbraith Ward (Traralgon) 2006-; opposed MACP proposed relocation of the Moe Library/Council Service Centre when considered by Council in December, 2007

Pearce Morgan – director and co-owner of RGM Group Accountants. RGM are the business agent of Tanjil Place Medical Centre negotiating on their behalf with LCC regarding the TPMC purchase of Moe Library and Council Service Centre. Member of ‘Invest Moe’. Mr. Morgan was head petitioner of the so-called ‘community petition’ to LCC in December, 2007 supporting relocation of Moe Library/Council Service Centre as per the MACP. Despite calls for the petition to be investigated by LCC, it was accepted as a bona fide community petition.

Cheryl Wragg – Moe resident, submitter to LCC on draft MACP in 2007. Foundation member of Moe and District Residents Association inc. (MADRA Inc. established October 2008), elected Secretary, MADRA 2009-2010. With nine other residents petitioned the Municipal Electoral Tribunal (MET) concerning the 2008 LCC election alleging a s55D breach of the Local Government Act by LCC and Code of Conduct breaches by Cr. Lisa Price.

Craig McIver – Moe resident, President of the Moe Traders Association, candidate in 2008 LCC election for Farley Ward (Moe) running against Cr. Lisa Price in protest at the sell-off of the Hinkler Kingsford Street Reserve. Petitioner in the MET hearing against LCC and Cr. Price. Following the disallowment of the original application by petition, Mr. McIver was allowed by the Magistrate to take over the MET application on the basis of his status as a candidate in the election. The LCC was found to have breached s55D.

‘Invest Moe’ – network of speculative property investors located in Moe district including Brendan Jenkins, Brad Law, Pearce Morgan, Dr. Vaughan Speck, and a range of real estate agents, lawyers, building and construction interests and other business people from Moe district. Membership is on an ‘invite only’ basis. This network is not an incorporated association and has no legal standing. It exists by its own declaration to “influence Council to release property/land for development”.

Committee for Moe – established in 2008 on the request of Cr. Price so that she might have “only one organization to deal with in Moe”. Tony Flynn is the President, and Brad
Law, Secretary. The organization currently has around 12 members. An incorporated association, membership was initially on the basis of ‘invite only’ to other organisations given its status as a self-appointed ‘peak body’. It was forced to change its membership eligibility as a result of lack of interest and now allows individual members of which it has around 5 members.

**Moe Activity Centre Plan (MACP)**

In its Transit Cities policy, the State government designated Moe (as well as Morwell and Traralgon) to be a transit city precinct. This is part of the State government’s Melbourne 2030 urban planning strategy which envisages

> 'new development within existing regional centres, to protect the valued qualities of established urban areas and [to] ensure the liveability of new development areas'.

In 2006, the Latrobe Transit Centred Precincts report was published in support of this vision. Its preparation was funded by the Department of Regional Development (DPCD). It proposed a reconfiguration of the area around the Moe railway station and the residential area immediately south of the station precinct that would have seen medium density town house style accommodation built in and spreading out from the current retail and commercial area of Moe. The report anticipated the redevelopment being funded, in the main, by private investment.

However, without any private investors coming forward to activate the plan, its shortcomings became readily evident. As a consequence, the plan was rethought into a ‘second generation’ proposal for the redevelopment of the area in and around the Moe railway station and railway corridor area. In August, 2006 the then Minister for Regional Development the Hon. John Brumby visited Moe to announce allocation of $50,000 for the development of a new town plan for Moe. This was matched with a $50,000 contribution from LCC. Known as the Moe Activity Centre Plan (MACP) the original focus of the plan was to deliver significant improvements to Moe’s transport infrastructure.

Moe does not have adequate commuter carparking, and/or bus transit bays and facilities near the railway station. Nor does it have clearly defined pedestrian and cyclist access in and around the railway station. The Moe taxi rank is not visible from the railway station. The railway corridor area around Moe’s railway station is run down and neglected. Although visited at least three times a week by large tourist coaches traveling north to the alpine region, Moe lacks facilities to service tourist coaches in and around the railway station. In short, Moe lacks an integrated transport interchange, crucial infrastructure for Moe to achieve anything like transit city status now and into the future. This need was recognized by the State government and preparation of the MACP was funded in response.

It should also be noted that, Moe’s population is spread both to the north and south of the Melbourne-Bairnsdale railway line. Road vehicle access across the railway line is limited to one overhead bridge and one level crossing. The road level crossing to the west of the railway station is the designated route for heavy vehicle transport although the crossing cannot accommodate long semi-trailers and b-doubles turning to the south west without blocking the railway line. Pedestrian access is limited to three crossing points: on the road

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2. Vic Roads - *Tabulation of Summary AM Peak Hour, PM Peak Hour, 12 OD Movements*: Moe-Glengarry Rd & Waterloo Rd Thursday, 29th November 2007 found in that 12 hour period 12,054 cars passed over the level crossing, along with 463 trucks and commercial vehicles.
bridge, at the road level crossing, and via a stand alone pedestrian crossing ‘at grade’ just east of the Moe railway station.

Improving the north-south road transport connection in Moe would require a new, additional overpass to be built over the railway corridor, a little to the west of the existing Moe railway station. MADRA has argued consistently that in addition to delivering an integrated transport interchange, any sensible plan to improve Moe’s transport infrastructure in and around the Moe railway station must also make future provision for an additional road overpass to the immediate west of the station and associated interchange.

In September-October, 2006 LCC let the tender for preparation of the MACP document to Tract Town Planning Consultants. The focus of the specification is utilization of the rail corridor to achieve an:

‘optimal mix of transport support services, commercial development and community facilities meeting the commercial expectations of the property owner, Victrack…connectivity is a further key issue in Moe, which must be addressed by the Contractor in the review with the aim of enhancing and strengthening the functionality of transport within the precinct…land tenure /ownership and potential for land exchanges between authorities, transport connectivity and integration which considers car, bus, train, pedestrian and cyclists, aged and disabled access’ (LCC, Invitation to Tender No: 12263, Development of a Moe Activity Centre Plan, 2006)

The Contractor was also required to organize community consultation to facilitate community input into development of the plan, to provide opportunity for community feedback to the draft plan, and to provide input from DSE, DoI, Gippsland Water, SPI Electricity, Victrack, VLine, Regional Development Victoria, Department of Victorian Communities, VicRoads and, Latrobe Valley Bus Lines.

It is important to introduce at this point that LCC had just finished a separate and distinct process at almost the same time as the letting of the MACP development contract in August, 2006. In June, 2006 LCC had commissioned an internal, confidential report to consider the state of the Moe Library and Council Service Centre, located in Albert and Kirk Streets, Moe and to compare onsite and offsite improvement options. This was part of Council’s larger consideration of library provision across Latrobe City detailed within the LCC Library Plan. The report on the Moe Library and Council Service Centre was not available to the public and was for internal purposes only. The report was only made public, (partial release) after a successful FOI appeals case initiated by a resident in early 2008 (See Appendix B).

The report showed that the Moe Library and the adjacent Council Service Centre could be feasibly integrated into one facility on site enabling extension of the library, and provision of a new maternal child health centre and family room. A larger configuration of this facility was also considered offsite in a new building located in the railway corridor. It should be noted that the existing Moe library building was designed and built to accommodate future expansion with foundations suitable to bear a first floor extension, a first floor slab already in place under the roof, and adequate land at the rear for a ground floor extension. These features were not considered in the report.

The tender specification for preparation of the MACP document did not mention the Moe Library/Council Service Centre. It does not ask the successful tenderer to consider, investigate, or make recommendations about the future of the Library/Council Service Centre in any way. The contract specification was not officially altered or amended after

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3 LCC Moe Precinct Concept Plan, 2006
Council let the tender to include consideration of the Moe Library/Council Service Centre. The preparation of the MACP document was undertaken during the latter months of 2006 and throughout 2007. The draft document would be presented to Council for public exhibition in November, 2007.

In February, 2007 LCC convened a committee of Moe businesses and organisations to provide input into development of the MACP document. The committee was known variously as the MACP Reference Group and the Moe Town Centre Committee. Cr. Lisa Price (Moe) convened the meeting. After the meeting, the Secretary of the Moe Traders Association who had attended the meeting wrote to Cr. Price seeking further information about the Committee including its proposed meeting schedule, anticipated consultation sessions and to request minutes. While Cr. Price responded she did not provide the information sought and the Committee never met again.

In March, 2007 the first community consultation event about the MACP was held in Moe. Around sixty individuals and representatives of community groups were invited to the half day conference. During the event, a participant ‘leaked’ publicly to the conference his enthusiastic support for the sale of the Moe Library and Council Service Centre to the adjacent medical practice (Tanjil Place Medical Centre), happily declaring this would enable the extension of the practice. His announcement caused a deal of concern to community members amongst the conference participants with some of them vocalizing their opposition to the proposal from the conference floor. This was the first public news of Council’s now apparent plans to sell off the Moe Library/Council Service Centre.

This ‘leak’ led to the development and circulation of a community petition opposing any plans to relocate the Moe Library/Council Service Centre and supporting their improvement and extension on site. The petition was of particular importance to elderly residents living in accommodation a short walk from the Moe Library fearful of losing access to their main leisure activity. Within a month or so, the petition was signed by more than 1400 residents representing more than 8% of Moe’s total population and more than 10% of its adult population.

The next event of the MACP public consultation process was a so-called ‘Speak out’ held in August, 2007. Residents were invited to drop in to the Moe town hall on a Saturday morning to look at information about Moe, talk with council officers and consultants, and register their details for follow up. One of the co-owners of Tanjil Place Medical Centre, Dr. Susan Clarke and her husband, Mr. Brendan Jenkins, were witnessed staffing one of the tables at the event encouraging participants to support relocation of the Moe Library/Council Service Centre.

Although MADRA CoM members Cheryl Wragg and Peter Gibbons attended the ‘Speak Out’ they were not aware before, while at the event or afterwards that the ‘Speak Out’ was about the MACP. It was a confusing, slightly chaotic, unstructured ‘drop in and say something about Moe’ activity with tables displaying information across a range of issues in the hall foyer, and a band and a barbeque outside.

In November, 2007 Tract presented LCC with the draft MACP report which Council then released for a 4 week public exhibition and submission period. The draft document included a relocated library/Council Service Centre in the railway corridor, nominating this as the ‘catalyst’ project for the whole plan. At this Council meeting, it was disconcerting to hear Cr. Lisa Price when speaking to the draft MACP document say that of the 300 or so people who attended the March conference and the August ‘Speak out’ “all supported the MACP”. This was not the case, in fact.
Over the next four weeks, to assist in the preparation of their submission\(^4\), Cheryl Wragg contacted LCC to get a copy of the internal Moe Library report considering onsite and offsite redevelopment options. The request was refused by LCC senior management (CEO Paul Buckley and Julie Kyriacou – Library Manager) on the basis that the report was confidential and for internal use only. Cheryl also sought a glossary of terms to help decipher the specialist terminology used in the draft MACP document. This was refused by LCC Transit Cities Manager, Jane Burton.

Cheryl contacted the head consultant working on the MACP for Tract Town Planners (Mr. Orlando Harrison) to ask for a glossary and, if possible, to get clarification about the document’s specialist terminology and to talk more generally about the document. During their discussion, Cheryl commented to Mr. Harrison that the draft MACP document suggested the idea to relocate the Moe Library/Council Service Centre had originated from Council rather than Tract. Mr. Harrison agreed, saying that Council had instructed them to relocate the Moe Library/Council Service Centre into the railway corridor although Tract agreed with LCC’s view.

Some thirty-two or so public submissions were received by LCC. Of these, 20 approx. were brief, single page letters supporting the draft MACP without amendment. Most of these were from businesses located in and around Moe and associated, we understand, with the ‘Invest Moe’ network. Three of these submissions were word for word identical.

Twelve other submissions were longer and more considered and most opposed the relocation of the Moe Library/Council Service Centre. Of these dissenting voices, some made public presentation of their submissions at the December, 2007 Council meeting. Councillors. It was notable that most submitters didn’t receive any questions about the content of their submissions.

At the same meeting, the 1400+ community petition opposing relocation of the Moe Library/Council Service Centre was heard by Council. A second petition was also submitted supporting relocation of the Library/Council Service Centre. Councillors decided to table both petitions and hear them at the next meeting of Council to be held in February, 2008.

The Councillors then dealt with the draft MACP document. On the stated basis that the majority of written submissions had supported the draft without amendment, the majority of Councillors endorsed the document without amendment. At the end of the meeting, the only Councillor who had opposed adoption of the draft MACP document, Cr. Sandy Kam, moved a recission motion to undo the decision. This caused a special meeting of Council to be held three days later (20\(^\text{th}\) December, 2007) to consider the recission motion.

At that special meeting, Cr. Price attacked Cr. Kam and then went onto attack the credibility of the 1400+ strong community petition. Cr. Price supported a criticism of the petition made by another Councillor that the petition was a ‘cruel hoax’ which deliberately misinformed people who did not understand what they were signing\(^5\). The public accusation of the community petition as a ‘cruel hoax’ received prominent coverage in the *Latrobe Valley Express* on 27\(^\text{th}\) December.

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\(^4\) Cheryl Wragg, Peter Gibbons, Craig McIver and Sharon Gibson made a joint submission. MADRA did not exist at this stage. A number of people who would go on to become MADRA members made submission to the November 2007 MACP public submission process including Cheryl and Peter, Tony Paul, and Peter Aboltins.

\(^5\) The petition read: ‘We, the undersigned citizens of Moe, call upon the Latrobe City Council to reject any proposal to relocate the Moe Library and Council Service Centre. Given the close proximity of the current Library site to aged care facilities, we are strongly of the view that the needs of Library users, particularly those who are frail and aged, are best served by the redevelopment of the Library on the existing site. We also note the current Library was designed for future extension’.
At its 4th February, 2008 meeting, Council considered the ‘for’ and ‘against’ petitions regarding the Moe Library/Council Service Centre. The petition supporting relocation of the Moe Library/Council Service Centre had 18 signatories. Five of these shared the same surname being family members of the head petitioner. The head petitioner, Mr. Pearce Morgan, is a director of RGM Group Accountants. Of the thirteen remaining signatories, five signed the petition using either 31-33 Kirk Street, Moe or 3 Church Street, Morwell as their address. Both these addresses are business offices of RGM. Two of these five petitioners are directors of RGM. Of the eight remaining petitioners, seven were either employees or very recent ex-employees of RGM. In summary, all but one of the signatories was closely associated with RGM. **RGM is the business agent of Tanjil Place Medical Centre representing it in discussions with LCC about TPMC’s purchase of the Moe Library/Council Service Centre.**

Cheryl Wragg made public presentation on the night about the RGM petition revealing these facts. She requested that Council investigate the petition given that it had tried to pass itself off as a community petition but was, in fact, a petition from a business with a direct interest in the sale of the Moe Library/Council Service Centre to TPMC. No such investigation was ever undertaken by Council. Instead, the Council treated it as a bona fide community petition.

In February-March 2008, TPMC circulated a letter via the waiting rooms of its Moe practice advising that:

‘some months ago we became aware that Latrobe City Council was investigating improved Library and Community facilities in Moe and that they considered their present facilities unsuitable for redevelopment. Advice to Council had been that the present library site is too small to adequately cater for new buildings, increase services, parking, and open space. We subsequently approached the Council indicating that, should they pursue their plans for improved community facilities elsewhere in the Moe CBD, Tanjil Place would consider purchasing the adjacent properties...let’s be absolutely clear. Tanjil Place contacted Council only after Council had begun to explore alternative sites for future Community facilities in Moe CBD.’ *(See Appendix C)*

That is, TPMC was in receipt of information considered in the confidential ‘for internal use only’ report about the future of the Moe Library/Council Service Centre commissioned by Council back in mid 2006. No-one else, no other business, group or resident had access to that information. Interestingly, TPMC circulated this letter at the time the FOI appeals case initiated by Moe district resident, Mrs. Sharon Gibson, was on track to be heard at VCAT. Mrs. Gibson had sought a range of documentation concerning Council’s plans for the Moe Library/Council Service Centre. Mrs. Gibson was also the head petitioner for the 1400+ community petition against relocation of the Moe Library/Council Service Centre.

Prior to the matter arriving at VCAT, LCC partially released its ‘for internal use only’ 2006 library redevelopment report, the *Moe Precinct Concept Plan*. But it persisted in withholding three documents including a letter of offer from RGM to LCC to purchase the Moe Library/Council Service Centre dated 26th March, 2007.

The VCAT FOI appeals case was heard in June, 2008 and was partially successful. The RGM letter of offer was released by the VCAT member on the basis that TPMC had already made known to the public its interest in the matter by circulating its open letter to patients *(See Appendix D)*. At the hearing, Mrs. Gibson also tabled a document that had been left on her doorstep by person/s unknown to her.
The document appeared to be an official LCC document, (dated 26th March, 2007) reporting to Councillors an expression of interest made by TPMC to Council to purchase the Moe Library/Council Service Centre, a meeting held between TPMC and Council officers, and details of the TPMC offer including interim relocation options for the Moe Library/Council Service Centre (See Appendix E).

It is important to introduce at this point that in June, 2002 the Victorian Auditor General’s Office (VAGO) undertook a special investigation of the property management practices at LCC. LCC was found to have breached its statutory obligations in 1998-9 by mismanaging the sale of the ex-City of Moe Council building. (This building is now owned and occupied by TPMC having been sold onto them after the initial purchaser, Federation Health, went broke.)

The Victorian Auditor General investigated the initial sale and found that LCC ‘had not established or approved a property management strategy or supporting policies and procedures’ (See Appendix F).

After identifying breaches of LCC’s statutory obligations, VAGO directed that:

‘the Council should review, and if necessary amend, its processes to ensure that it fully complies with all legislative requirements relating to land sale transactions’.  (Excerpt from the VAGO Special Investigation PROPERTY MANAGEMENT PRACTICES AT LATROBE CITY COUNCIL, June 2002).

Council’s development and adoption of GEN-COS 010 Sale of Council Owned Property Policy Version 2 and Sale of Council Owned Property Procedure V1 were in response to the VAGO’s findings. (These appear as Appendix G.)

Section 1 ‘Requests Made to Council’ of the Policy states:

Where individuals make direct approaches to Council to purchase occupied or improved Council owned property then the Sale of Council Owned Property Procedure shall apply only after the application of this policy, particularly in respect as to whether the asset is surplus to Council or community requirements. (p1)

Sections 4 and 5 of the Policy detail the process by which Council must ascertain whether a Council owned property is surplus to Council and community requirements. The trigger for this is either by requests from individuals to purchase the property (Section 1) or a potential or actual sale initiated by Council (Section 2). In both cases, Council is required to adhere to the Policy in determining whether the property is surplus to Council and community requirements.

In the case of the MACP, instead of complying with the Policy requirements, LCC hid its meetings and correspondence with TPMC/RGM, including the EOI to purchase the Moe Library/Council Service Centre. Since the beginning of 2007, most then Councillors, LCC CEO Mr. Paul Buckley and other LCC senior management have consistently and publicly denied any decision to sell the Moe Library/Council Service Centre. The MACP document was adopted by Council in December, 2007 accompanied by these denials yet with the document showing a relocated library/Council Service Centre.

The more recent MACP Railway Precinct Masterplan, the next level of detailed project description of the MACP, has been accompanied by similar denials and obfuscations until very recently. In November-December, 2009 Council summarized public responses to the MACP Masterplan in the agenda for its 7th December Council meeting, thus:
‘Council resolved at its Ordinary Meeting of 21 September 2009 to include Library Services within the Moe Rail Precinct Masterplan’.

Scrutiny of the Council Minutes for 21 September, 2009 shows no such decision being taken. The Minutes do, however, refer to adoption of a (Public) Consultation Findings Report by Council in July, 2009 where that report referred to the inclusion of library services in the proposed MACP Train Station Precinct Project.

We provide this as a further example of the deliberate tactics used by Council and the MACP Project Control Group to muddle the decision making process about the Moe Library and Council Service Centre and to circumvent adherence to GEN-COS 010 Sale of Council Owned Property Policy Version 2.

The MACP and the MACP Railway Station Precinct Revitalisation Masterplan are central to Council’s construction. Underpinning those projects are the various State government funded consultation processes which have failed to meet the requirement of GEN-COS 010 Sale of Council Owned Property Policy Version 2. In short, Council has never asked Moe’s community whether it considers the Moe Library and Council Service Centre properties to be surplus to community requirements. MADRA has now written to the VAGO requesting that they reopen the special investigation into LCC’s property management practices.

To complete this assembly of ‘sham’ public consultation processes for the MACP, there were two final steps undertaken in 2009 used to endorse the MACP Railway Station Precinct Revitalisation Masterplan. These were the ‘design in’ event held in May, 2009 and its related ‘ideas Shop’ (June, 2009), and the LCC public exhibition and submission process during October, 2009 for the MACP Railway Station Revitalisation Masterplan draft document concluding in the Council meeting of 7th December, 2009. We believe it is worth relating in some detail the process of manipulating the outcome of these events to reveal the conduct of these ‘sham’ processes.

The ‘design in’ was a State government/LCC funded event held on the evening of Friday 1st May evening and the morning of 2nd May, 2009. In addition to community and business representatives, it was attended by representatives of the Department of Planning & Community Development, Regional Development Victoria, Department of Transport, VicRoads, VicTrack, VLine as well as six or more LCC staff and two-three Councillors. Despite a formal written request beforehand from MADRA that the names and organisations (where applicable) of all the attendees be circulated at the event, this was refused by LCC CEO, Paul Buckley.

All participants were seated at tables with 5-6 other participants and a facilitator on each table. Seating arrangements were decided beforehand by the LCC/consultant organizers. The conduct of the discussion at each table was tightly controlled.

On the first evening, a plenary exercise was conducted requiring participants to identify agreed ‘must have’ infrastructure and services to be located in the Moe railway corridor. Without exception, all the ‘must have’ items were transport related. This list also included the announcement that night of a DoT requirement for a 13 metre easement to be held in reserve on the south side of the existing railway line. It was explained that this was for the purpose of duplicating the railway line between Moe and Traralgon at some unspecified future date.

A second list was compiled of ‘could haves’. This was a ‘wish list’ of items that one or more participants thought might be a good idea for inclusion in the rail corridor. A relocated Moe
Library/Council Service Centre was nominated to this list along with a whole range of other services, buildings and infrastructure, parks and open spaces. A third category allowed for nomination of ‘must not have’ items.

These lists were for use in the session the following day when participants were asked to draw up a physical design for the Moe railway corridor around the Moe railway station. To this purpose, each table of participants was provided with a very large sheet of paper. The paper was ‘watermarked’ all over with a picture of a relocated Library/Council Service Centre ‘hub’ in the Moe railway corridor making it impossible to draw a legible diagram over the top. Participants from across the room requested an alternate blank piece of paper showing street and rail corridor outlines in scaled dimension minus the watermark. It took almost three and a half hours for the organizers to provide the paper which arrived just 20 minutes before the end of the timetabled drawing process. As a result, most tables did not bother trying to draw a design that was informed by realities such as the size of available land, whether buildings would fit on that land, or the southern railway easement reserve preferring instead to be ‘creative’ on the back of the watermarked sheet.

In contrast to the approach of the event organisers, one participant, a professional civil engineer resident in Moe with 30 years local government experience, had drawn up prior to the event a to-scale design showing how the Moe railway corridor might be utilized as a transport interchange, including an additional north-south road transport overpass. He brought multiple copies to the event and sought permission to supply each table in order to share his ideas with participants. Permission was sought from the LCC senior manager at the event who refused to allow copies to be distributed around the tables only allowing the copies to be placed on an information table without alerting participants to their availability.

There was also a marked change in the participants from the night before. Around 8-10 additional participants arrived at the Saturday morning session. In consultation with LCC officers and the facilitators, the additional participants were co-located on all but one of the existing work groups.

Mr. Pearce Morgan (RGM/TPMC) was one such late arrival who was situated at a table without introduction to the others. At the same time he arrived, the two LCC officers (in-house legal counsel and library manager) were removed and situated to another table without discussion or explanation to the other participants. Mr. Morgan proceeded to assert that the table change the design priorities negotiated by participants during the previous evening’s session. He demanded a library/council service centre in the railway corridor at the centre of the design. At no stage did he provide his name or state his financial interest in the matter. Afterwards we compared notes with participants on other tables to find that the process of prioritising the location of a library/council service centre in the railway corridor over the previous night’s agreed support for transport infrastructure had been replicated across the room.

The designs coming out of this process were destined to be exhibited publicly in the LCC ‘Ideas Shop’ opened specially in George Street, Moe over a four week period. Residents were invited to vote on and comment about the design they liked best without being informed about the design ‘process’, or whether the designs were realistic or not relative to land size, space and other issues of utility or budget. MADRA had formally requested beforehand that a formal plebiscite be conducted from the ‘Ideas Shop’ about the Moe Library/Council Service Centre relocation issue including independent oversight of the vote. This was refused by LCC CEO, Paul Buckley.

LCC officers staffing the ‘Ideas Shop’ did not keep a record of residents visiting the shop and/or how many times they visited. If people wanted to ‘vote early and vote often’ they
could and did. Approximately 180 visits were reported as being made to the ‘Ideas Shop’. The actual number is unknown.

The outcome of the ‘design in’/Ideas Shop was reported in the *(Public) Consultation Findings Report, July 2009* submitted to Council and used for publicity purposes. It reported that:

‘while contested…our consultations have demonstrated a majority view favouring the relocation and redevelopment of the library, particularly as articulated by the wider community participating in the Ideas Shop.”  p 18

To provide an independent assessment of community opinion about these same matters, during May and June, 2009 MADRA surveyed Moe residents about transport infrastructure provision in the town and relocation of the Moe Library/Council Service Centre. A summary of the survey results and the full report are attached as Appendix H. Of 154 respondents, 128 respondents (83%) said they were not satisfied with the existing transport facilities around Moe’s railway station, 135 respondents (88%) agreed that the George and Lloyd Street area abutting the Moe railway station should be used for upgraded transport facilities, 122 respondents (79%) wanted the existing shops in George street to be upgraded and integrated into a transport hub rather than demolished and replaced with the library/council service centre, and 133 respondents (88%) would like Latrobe Council to release the comparative cost of upgrading the library/council service centre on site and shifting them to the rail corridor.

The number of respondents was comparable to the number of people cited as visiting the LCC ‘Ideas Shop’. Unlike the Ideas Shop process, no one completed the survey more than once, almost all surveys included name and address details of the respondents which, when tracked, showed a random geographical spread across Moe district. While the number of respondents was too small to be considered representative (as per the unrepresentative number coming through the ‘Ideas Shop and design in’), it was random and large enough to be considered indicative with an integrity the ‘Ideas shop and design in’ process lacked. The survey results were clearly contrary to the results published in the *(Public) Consultation Findings Report, July 2009* yet the survey was taken amongst the same population at the same time as the LCC ‘design in-Ideas Shop’ process. MADRA did not try to manipulate the results of our survey, unlike the process used by LCC and the State government. We believe this difference accounts for the starkly different outcomes.

After the *(Public) Consultation Findings Report, July 2009* was presented to Council at its 20th July, 2009 meeting and despite MADRA presenting the results of our independent survey at the same meeting, the majority of Councillors endorsed their consultants Report and its findings. The Report was then referred to design consultants SJB Urban, engaged by LCC, to inform their drafting of the MACP Train Station Precinct Revitalisation Masterplan.

After completing a draft of the Masterplan, they and LCC conducted two public seminars to introduce the Masterplan to Moe residents. At both sessions, held in September-October, 2009 a majority of the 100 or so attendees expressed multiple concerns with the Masterplan and opposed the relocation of the Moe Library/Council Service Centre into the railway corridor. To MADRA’s knowledge, the overwhelming majority of attendees were not MADRA members on in anyway associated with our organization. Rather, they were Moe residents who turned up on the day because of their interest in learning more about the MACP Masterplan and who became dismayed at what they were told. Towards the end of the first session, a young mother asked the SLB Urban consultants and the LCC
officers ‘why won’t you listen to the people of Moe?’ She received a loud round of applause from most in the audience clearly expressing the frustration in the room.

Consistent widespread opposition to selling off Moe Library/Council Service Centre to TPMC and relocating these facilities into the Moe railway corridor, coupled with significant support for using the Moe railway corridor to improve Moe’s transport infrastructure has been expressed unequivocally since early 2007 and constantly to present.

At the 7th December, 2009 Council considered the draft MACP Train Station Precinct Revitalisation Masterplan together with the 60 approx. written submissions made in response to its public exhibition.

Of these submissions, around 40 (forty) sought changes to the MACP Train Station Precinct Revitalisation Masterplan. Eight organisations: MADRA, Moe Apex, Rotary, Lions, Moe Traders Association, Committee for Moe⁶, Mid-Gippsland Family History Society, Friends of the Library opposed the design in its proposed format. The majority of these opposed relocating the Moe Library/Council Service Centre into the railway corridor and all supported utilising the space to upgrade Moe’s transport infrastructure. These organisations were strongly supported by a range of businesses and individuals, including professionals with local government, professional library, and civil engineering expertise.

Numerous deficiencies in the MACP Train Station Precinct Revitalisation Masterplan were highlighted. For example, the Masterplan fails to provide certainty about the location of the Moe Railway Station being in the middle of the 13 metre southern railway easement. There is no land allocation on the northern side to allow for future relocation of the Moe Railway Station. The MACP Masterplan intends filling the northern side of the railway easement with the library/service centre ‘community hub’ building, a skatepark and new commercial buildings that displace transport infrastructure (bus transit facilities, commuter parking) and dis-integrate any notion of a transport interchange. There is no dedicated provision for V-Line buses, and there is no provision for tourist coaches. The anticipated location of large privately owned commercial premises on what is now public land, to the west of the proposed library/service centre ‘community hub’ building, will rob Moe of the any future opportunity to have an additional north-south road traffic overpass across the railway line at the only place an overpass could be built.⁷

The Masterplan does not meet the stated requirements of the Department of Transport’s ‘Guidelines for Land Use and Development’. This is not surprising given the DoT specialist land use planners who designed the guidelines and provide specialist advice on such projects to Councils, government departments and others were never consulted about the MACP and its related Masterplan.⁸

After three hours of public submissions, the Council endorsed the MACP Masterplan without amendment.

Since December, 2009 we have learned that compulsory acquisition notices were issued against 12 shop owners in George Street, Moe by the Department of Transport and more recently, that the State government’s acquisition process requiring Ministerial approval has

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⁶ At the 7th December, 2009 Council meeting, Committee for Moe President Tony Flynn rescinded concerns expressed in the Committee’s written submission about the MACP Masterplan instead asserting strong support for the project.

⁷ For the purposes of brevity, we have not provided a comprehensive list of problems with the Masterplan presented by submitters. However, we note here that library professionals expressed particular concern about the design of the library/council service centre community hub building, the problems it will cause for young families and elderly people to access the collection split over two levels, and staffing and security problems inherent to a three storey building.

⁸ The DoT Land Use Plan team was contacted on 7th December, 2007 for their views about the MACP Masterplan. No-one in the team was consulted about the design, nor had the team heard of the project.
transferred ownership of these shops to LCC. The acquisition of these shops is to enable their demolition for the MACP Masterplan’s library/council service centre ‘community hub’. We believe that Minister Justin Madden was involved in authorising the acquisition process and land swap but we do not have access to the documentary evidence. We request that the Parliamentary Committee investigate this matter further with LCC, the Minister’s office and DPCD to obtain the documentary evidence recording the basis of the land transfer details and the Minister’s involvement.

We also draw attention to a point made earlier. The MACP Masterplan provides for the development of considerable private commercial buildings on what is now public land. Some of this land is the only feasible site that could service a future north-south road transport overpass across the railway line. Instead of holding this land in reserve to enable an overpass option sometime in the future, the MACP Masterplan proposes to use this land for private commercial purposes. That is, it anticipates this strategically valuable public land in the railway corridor being sold off for commercial purposes. We ask – how much of and which public lands in the Moe railway corridor have been signed over by the Ministers for Planning and Transport to LCC for sale to private commercial interests?

The Department of Planning and Community Development/Regional Development Victoria is deeply involved in this project jointly funding the MACP and MACP Masterplan documents and the related ‘consultation’ process. Transit Cities Manager, Jane Burton, is a DPCD employee. Minister John Brumby supported the project in the first instance, then handed responsibility onto Minister Jacinta Allen. We request that the Parliamentary Committee investigate this matter further with Minister Jacinta Allen to ascertain her and her department’s involvement in the management and funding of this project.

Minister Richard Wynne has become involved in this matter following the Municipal Tribunal Hearing conducted in the Melbourne Magistrates Court in June, 2009. The MET heard allegations that LCC deliberately involved itself in the conduct of the 2008 local government election in Farley Ward (Moe) by producing and distributing electoral material during the election period. The election material was a four page colour newsletter promoting the MACP. The Magistrate found that LCC had breached s55D of the Local Government Act. The LGA does not provide penalties for a s55D breach. At the time of the decision, in August last year, Minister Wynne announced he would investigate penalties with a view to introducing amending legislation into Parliament this year. To date, and despite repeated requests from Moe residents and others about this matter, Minister Wynne has so far failed to act.

We suggest that the Department of Treasury and Finance has also recently assessed the MACP and its Masterplan. On the basis of our experience over the last three and a half years, we suspect that if the Parliamentary Committee summoned senior levels of DTF you would probably find they believed the MACP and its Masterplan project to be a positive initiative enjoying widespread Moe community support.

It is important for the Parliamentary Committee to be aware of the dollar costs of the MACP Project and its Masterplan, not including the value of the public land transfers to LCC. Implementing the MACP and its Masterplan project will require significant outlays of public monies funded by the State government and Latrobe ratepayers. Some $2 million of Federal money has also been pledged thus far. We suggest that the State government and LCC are sensitive to the appearance of the project and wish to present it in highly complimentary terms. This has required them to tightly control information about the project, to manage wherever possible public responses to the project, and to withhold financial information that might shed light on the costs and allow cost comparisons. In December, 2009 MADRA made formal written request again to LCC for indicative budget
information for the project but to date, it has been withheld\(^9\). We quote below from the public tender document for the MACP Masterplan Project purchased recently over the LCC counter for $50.00:

‘The preliminary indication of the total project costs for the MRPRP\(^{10}\) is provided below.

1. Community Hub $9,600,000
2. Pavilion $600,000
3. Plaza $1,000,009
4. Moore Street Shared Space $1,800,000
5. Skate Park $1,300,000
6. Landscape $1,000,000
7. Car Parking $2,200,000

Total $17,500,000\(^{11}\)

To conclude this submission, MADRA wrote to Premier John Brumby in January, 2010. Given its extreme relevance to this submission, below we quote from our letter to the Premier:

Almost four years ago, you visited Moe as Minister for Regional Development and promised publicly to fund a revitalization project for Moe with an emphasis on upgrading Moe’s transport infrastructure.

Moe and District Residents Association Inc. (MADRA Inc.) is fully supportive of significant improvements to Moe’s transport infrastructure, in and around the Moe railway station. However, we cannot support the original intention of the MACP being subverted in a way that is causing considerable and express concern amongst Moe’s community, including community organisations, businesses, and individuals.

Rather than improving and augmenting Moe’s transport infrastructure by providing an integrated transport interchange, the relocation of Moe’s Library and Council Service Centre into the rail corridor has become the centerpiece of the MACP.

We ask - were you aware that Latrobe City Council struck a private arrangement with Tanjil Place Medical Centre (TPMC) back in 2007, concerning the sale of the existing Moe Library and Council Service Centre to TPMC? Secondly, we understand that Mr. Brendan Jenkins, President of the Moe ALP branch, former LCC Councillor and Mayor, and former MLA for Morwell, has made a number of representations to both the State and Federal governments urging funding support for the MACP and relocation of the Moe Library and Council Service Centre. In his dealings with the State government, did Mr. Jenkins make clear that his wife, Dr. Susan Clarke, is co-owner and director of Tanjil Place Medical Centre?

We alert you to the fact of the relationship between Mr. Jenkins, Dr. Clark and TPMC being well known in Moe’s community as are the plans for TPMC to purchase the Moe Library and Council Service Centre. Furthermore, Mr. Jenkins made it very public last year, on the front page of the Moe and Narracan News, that he was actively engaged in using his ALP background and connections to lobby governments to fund the MACP and its relocated library and Council service centre.

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\(^9\) This information was also sought in 2007, and again in mid 2009. We have also asked LCC to release the estimated cost of refurbishing and extending the Moe Library/Council Service Centre on their current site for purposes of cost comparison. LCC will not release this information. We estimate the onsite improvement and extension option would be significantly cheaper, perhaps as little as a third of $9,600,000 price tag of the Masterplan proposal.

\(^{10}\) MRPRP is Moe Railway Station Precinct Revitalisation Project.

\(^{11}\) Latrobe City Council Invitation to Tender No. 12775 pg 28 of 70
While the MACP could have been a very popular project in Moe district, it’s unpopularity arises from the perception that valued community assets are being sold, on a ‘mates deal’ basis, and that ratepayer and taxpayer monies are being used to fund their replacement in the rail corridor. This is seen as occurring at the expense of a properly designed and much needed integrated transport interchange and with little regard for the damage it will cause both to Moe’s existing civic hub and library service provision.

We reiterate that we are not opposed to State government assistance to substantially improve Moe’s transport infrastructure in and around the Moe railway station. This is desperately required to service the needs of our community now and into the future. We are also strongly supportive of additional community infrastructure being included to help populate an integrated transport interchange. The community infrastructure needs of Moe district need to be ascertained via a properly conducted needs identification process, something that has never been done in the life of the MACP. Further, the placement of such community infrastructure needs to support not displace transport infrastructure in the interchange.

We seek your intervention in the MACP process to direct that it be refocused on delivering the properly designed integrated transport interchange, that community infrastructure needs appropriate and complimentary to the transport interchange area be identified, and that the Moe Library and Council Service Centre be removed from the MACP project and significantly upgraded and extended on their current site. (6th January, 2010)

Premier Brumby’s office responded by referring the matter to Minister Jacinta Allen who has yet to respond.

In addition to the concerns summarised in our letter to the Premier, we add this final note: the confluence of local ALP representatives, their business interests and business associates, their friends amongst LCC Councillors, LCC senior management and senior regional management of State government departments, their access to Melbourne based government departments and to State government Ministers is inflicting upon Moe a deeply flawed project with, at its core, a serious conflict of interest. In contrast to the good folk of Moe, no-one in this assembly of characters has yet shown the slightest concern about that conflict, the distortion it has created in the MACP project and the conduct of its processes, and the comment this project makes about the practice of governance in Victoria today.
Appendices

Appendix A  
MADRA Statement of Purposes

Appendix B  
LCC Moe Precinct Concept Plan (Internal use only Library report), July, 2006

Appendix C  
Tanjil Place Medical Centre open letter to patients, Feb-March 2008

Appendix D  
RGM letter of offer on behalf of Tanjil Place Medical Centre to LCC, 26 March, 2007

Appendix E  
LCC document reporting to Councillors about the TPMC purchase offer for the Moe Library/Council Service Centre, 26th March, 2007

Appendix F  
Victorian Auditor General Office special investigation report about LCC property management practices, June 2002

Appendix G  
LCC GEN-COS 010 Sale of Council Owned Property Policy Version 2 and LCC Sale of Council Owned Property Procedure V1

Appendix H  