

Protectors of Public Lands Victoria Inc.

Submission to the Parliamentary Select Committee Enquiring into Public Land Development by Protectors of Public Lands Victoria Inc. on Alienation of Carlton Gardens (World Heritage Public Gardens) for Staging the Melbourne International Flower and Garden Show (Commercial Event)

Our Interest:

I am making this submission to the Parliamentary Select Committee enquiring into Public Land Development (**Enquiry**) on behalf of Protectors of Public Lands Victoria Inc. (**PPL VIC**). We are a coalition of 79 community action, heritage and environment groups whose foundation Charter states that we were established: *to protect and preserve significant public lands in public ownership for present and future generations*. (See Attachment 1). A key principle of our organisation is as follows: *“Significant public lands do not belong to the Government of the day, they belong to the people. Governments must keep these sites in public ownership and control for present and future generations. Governments must also properly protect, conserve and manage these sites”*. Our coalition was established in 2002, incorporated in September 2004 and is allied to the Protectors of Public Lands New South Wales Inc.

Terms of Reference:

Our submission addresses the Enquiry’s terms (a) and (b) relating to the alienation of public land and public open space. We are going by the Concise Oxford Dictionary which defines “to alienate” as “*to estrange, transfer ownership of, turn away or divert (from)*.”

Other Related Submissions:

We consider that our submission complements those made to the Enquiry by Residents 3000 Inc. and by the Carlton Gardens Group and the Carlton Residents’ Association.

Major Points:

I Carlton Gardens Alienated for Commercial/Private Development Plus Public Access Denied

Our submission seeks to show that the Carlton Gardens (**Gardens**), part of the Royal Exhibition Building (**REB**) precinct (inscribed on the World Heritage Register and included on the Victorian Heritage Register), have been alienated for the purposes of private, commercial development during the six weeks when occupied as the venue for the annual Melbourne International Flower and Garden Show (**Show**). Every year the Gardens are handed over to MIFGS promoters by the City of Melbourne for the five days of the Show. They are inaccessible to the general public, including local residents, during the preparation for the event, as well as for the event itself, then during the cleanup and while restoration/remediation works are in progress. This totals about 6 weeks. The site is fenced off. While the City of Melbourne had finally decided that MIFGS find another location for the event after the 2008 Show, the Minister for Tourism, Mr Tim Holding, has recently announced that he will intervene and legislate to enable the MIFGS to be located permanently in the Gardens. Hence we are facing the prospect of permanent alienation of the Gardens and exclusion of the public for a considerable time of the year in early autumn, from March to April. This is the best time of the year with the finest weather to enjoy the Gardens.

The Gardens were set aside for the pleasure and recreation of the people of Melbourne. In its submission, Residents 3000 Inc. group has outlined the historical background and emphasised the fact that, despite claims to the contrary, the Gardens were never used for exhibitions. They were “pleasure gardens” modelled on the Gardens of the Palace of Versailles and were regarded as a great ornament to the City of Melbourne. Hence there is no historical precedent for holding events in the Gardens. Today the Gardens are used for passive recreation by local residents; by hundreds if not thousands of city workers and students in nearby institutions; and visited by interstate and international tourists. This is all year round. It is imperative that as Melbourne’s population increases that existing central city public open space be retained for recreation and not rendered inaccessible for any length of time. Retention of Melbourne parks and gardens free of development is important in the overall program of moderating climate change and for offsetting increased pollution.

II Damage Done to Gardens by MIFGS:

Our second concern is that the Show has a long term and damaging effect on the Gardens. We maintain that the Show has morphed into a Trade Fair and has departed from its original concept. The event has super-size exhibits and sees the importation of massive infrastructure onto the site. Event exhibits and infrastructure cover the whole southern Gardens. Buildings and displays made of concrete, brick, stone and timber are constructed within the Gardens on and into the lawns and around the trees. Many of the exhibits have no relationship to horticulture at all eg 4-wheel drive displays. (The groups have excellent photographic evidence of the construction and demolition phases of exhibits and the resultant damage to the Gardens.) As mentioned the periods of building and dismantling prohibit or limit public access and affect public safety in the Gardens. For months of each year large areas of gardens are not useable while under repair and still haven't recovered before the next event. The repeated impact of such damage has a visible cumulative effect especially the lawns and is exacerbated by the drought.

The fact that great damage is inflicted on the Gardens by the Show is self-evident, as the event promoters are required to pay the damage bill. The CGG and the CRA submission details the costs of repair work on lawns and infrastructure. They report that the average cost quoted of the post MIFGS event repairs for 2005, 2006 and 2007 was \$55,000 and that the total cost of lawn repairs for the time MIFGS has used the Gardens is approximately \$500,000. We also maintain that substantial damage has been done to the trees and tree root systems plus lawns and flowerbeds, not only by the heavy vehicles but also by the traffic of around 120,000 visitors over 5 days each year.

III Commonwealth Heritage Legislation and International Conventions Ignored by Local, State and Federal Governments:

Commonwealth Heritage Legislation Ignored

In June 2004, the precinct of the Carlton Gardens and the Royal Exhibition Building was included as a place on the World Heritage List, which is a register maintained under the *Environment Protection and Biodiversity Conservation Act 1999 (Act)*. In addition, the Gardens are also listed on the Victorian Heritage Register.

The Act provides that, where a person proposes to take an action in relation to a world heritage listed place, which has, or is likely to have, a significant impact on its heritage values, that person has to seek approval of the Commonwealth Minister for the Environment and Heritage before taking that action. Normally, this is done by way of a referral to the Minister to assess whether or not the proposed action will have any impact and, if so, what conditions should apply to minimise that impact. The PPL VIC is aware that in the case of the Show no referral has ever been made to the Minister for staging the event, even though it has been recognised that significant damage is done to the site. In a letter of 13 March 2006 to PPL VIC then Environment and Heritage Minister Senator Ian Campbell commented that he had not been approached by anyone. As far as we have been able to ascertain, no referral has been made to the present Minister Malcolm Turnbull. The PPL VIC considers that the Show promoters should have referred to the Commonwealth Minister not the City of Melbourne. Consequently, it cannot be said that that the staging of the Show in the Gardens is complying with the Act.

Once a place is included on the World Heritage Register, the Commonwealth in conjunction with the State of Victoria is obliged to prepare a "*World Heritage Management Plan*" for the place and a "*World Heritage Strategy Plan*" for the surrounding precinct. The PPL VIC understands that, since 2004, Heritage Victoria has been preparing these plans for the place but that they are still at a draft stage and have not yet been disclosed to the public for comment. Additionally the Council's management plan for the Gardens needs to be formulated in light of the proposed *World Heritage Management and Strategy Plans*. The event plan for the Show also needs to take account of these Plans.

As detailed above, the PPL VIC considers that the Show has a significant and detrimental impact on the health of the Gardens, which is not properly addressed in any remediation of the Gardens after the event. We maintain that the City of Melbourne is ill equipped to make a policy decision on the one of the only

two buildings (with gardens) in Australia included on the World Heritage Register. (The Sydney Opera House was recently inscribed on the List.) It is ironic that a Marketing Committee of a local government municipality should have a say in the future of the Royal Exhibition Building and Carlton Gardens and its protection or otherwise.

The background of the dispute over location of the Show in the Gardens is outlined at Attachment 2.

The PPL VIC is of the view, therefore, that due process has not been followed as the Show has not been referred to the Commonwealth Minister for a determination of its impact on the heritage values of the place; the World Heritage Management and Strategy Plans being prepared by Heritage Victoria are not in yet in place hence no consideration can be given as to how the Show would fit in with these plans; and Melbourne City Council's management and event plans can not be reviewed in the light of Heritage Victoria's plans, given they have not been completed.

Failed Observance of World Heritage Convention

One of our greatest concerns is that Australia appears to have failed to observe the World Heritage Convention to which it is a party in relation to the Royal Exhibition Building and Carlton Gardens.

Attachment 3 details relevant articles of the UNESCO World Heritage Convention.

We believe that a case could be put that approval should not be given for the use of the site by MIFGS, as it is in contravention of Article 4, and that international assistance from the Committee itself is called for under Articles 6 and 11. We consider that the undertakings to protect and conserve the Gardens expressed in the original submission seeking their World Heritage status have already been broken. The continued approval of an event that substantially damages the Gardens, and negatively impacts on conservation and public amenity, demonstrates a lack of good faith by government in its undertaking to UNESCO.

We have been advised that should UNESCO consider that a site inscribed on the World Heritage Register is in danger then it can be placed on "The Red Alert" list and the Government asked to explain why the place should not be removed from the Register. This could prove a major embarrassment to the Australian and State Governments.

In addition it appears that the use of the Gardens does not accord with the Burra Charter, which is regarded as governing Australia's heritage places. Residents 300 Inc. have commented on this.

Conclusion:

In conclusion, PPL VIC does not consider that the World Heritage Carlton Gardens is an appropriate place for a mega, commercial event such as MIFGS as it is contrary to its heritage use and damages the Gardens' significant elements. It represents permanent alienation of public land/open space of one of the world's prime heritage sites. We hope that the Committee might consider why the MIFGS should continue to be staged on the Gardens site and urge the respective levels of Government to meet their international obligations in relation to a heritage place on the World Heritage Register.

Yours sincerely

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