GREATER SHEPPARTON BOTANIC GARDENS ASSOCIATION INC.

The Secretary
Legislative Council Select Committee
On Public Land Development
Parliament of Victoria
Spring Street
Melbourne VIC 3002

Public Officer
Bill Brown
41 Colliver Road
Shepparton VIC 3630
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SUBMISSION TO THE SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

BACKGROUND TO THE SUBMISSION
Following public meetings in May and November 2000 a steering committee was formed to address many residents' concerns about the deterioration of the public land site and its future status. The 21-hectare site known as Parkside Gardens is situated on Parkside Drive in Shepparton's north. The proposed development of the site into a residential estate was first mooted by Greater Shepparton City Council in late 2000. To enable key stakeholders and the broad community to have a voice in this matter, Greater Shepparton Botanic Gardens Association was formally incorporated in February 2001.

During the period 2000 to early 2006, thousands of people became involved in the campaign to save Parkside Gardens from proposed residential development. This issue was subject to broad community objection and action from October 2000 until early 2006. (Attachment 1).

Our Committee was advised that the Select Committee had been formally established and members resolved that it is important to submit to this Parliamentary Inquiry on behalf of the broader community of Greater Shepparton. The alienation of this valued site has incurred significant loss to three generations of people who established and maintained it from the early 1970s as the site of the International Village until it was de-commissioned by the appointed Commissioners in 1996.

SUBMISSION
This submission is in relation to the residential development of public land on the site formerly known as Parkside Gardens. We believe that the particular terms to be considered by the Select Committee all apply to the public site now lost to this community forever.

- Key players in the alienation of the public land for development were primarily Greater Shepparton City Council (GSCC) in agreement with the State government's business arm Urban Regional Land Corporation, now known as VicUrban. Responsible planning processes undertaken by GSCC were totally flawed. Council decisions were made without public consultation and actions throughout the entire period lacked accountability and transparency to the community of Greater Shepparton. Requests to Council to hold public meetings and referenda were denied.

- This large established public parkland and surrounding waterways were virtually given to VicUrban without due public consultation by GSCC regarding the site's sale or disposal. Through Freedom of Information we obtained a portion of the Deed of Agreement which was signed off by the Chief Executive Officer in 2002. The Agreement with URLC included a development plan for approximately 130 residential sites. (Attachment 2)

- The local 2030 policy has only recently been signed off, however, our Committee obtained the Victorian Government's Melbourne 2030 policy and Green Wedges. We believed that the same safeguards should apply to all regional Victoria's land. Members commenced lobbying State Government Ministers and the relevant Departments of Local Government, Sustainability and Environment and Planning in relation to the proposed loss of public open space and waterways. This large green wedge site was so important to the health and well-being of our growing population. (Attachment 3)
The site was not included in the Greater Shepparton Residential Planning Framework and there was no shortage of land for such development throughout the municipality. Very little planning has been undertaken for green open public space for future population growth as you can see from the recent attached map of the City. (Attachment 4)

Our Association has amassed a huge amount of documentation, photos and archival evidence relating to the loss of our beautiful public place. Attachments to this submission (as listed) are for the Committee’s perusal. The DVD of the beautiful site as it was over several decades and the April 2005 ‘Stateline’ documentary will complete the story for all viewers.
As drought has taken its toll in this very hot environment of the Goulburn Valley residents will continue to mourn the loss of Parkside Gardens (the former International Village site) for many years to come.

RECOMMENDATIONS FOR CONSIDERATION BY THE SELECT COMMITTEE

After the loss of a six year battle to save Greater Shepparton’s major public garden known as Parkside Gardens (formerly International Village) our Association believes that it has gained a considerable amount of knowledge that could be considered by the Select Committee.

In particular we would like to offer some recommendations for the Committee to consider, based on our experience of representing a broad community view about public open space that was at odds with the view of our local council.

ONCE THE GOVERNMENT GIVES ITS APPROVAL TO LOCAL COUNCILS, ALL AVENUES OF APPEAL AVAILABLE TO THE COMMUNITY APPEAR TO HEAVILY FAVOUR THE POSITION OF DEVELOPERS AND / OR THE COUNCILS.

1. Community consultation, including public meetings, surveys, referenda etc should be mandatory when major community assets are being considered for sale or alienation. Petitions need to be acknowledged and responded to publicly.

Despite many requests by the community, not one public or private meeting of residents or stakeholders was ever convened by council, no survey or poll was ever conducted, despite local Council assuring government ministers that the community had been consulted.
A local by-law was used to disallow question time by the public at council meetings. Four thousand signatories to a petition requesting the retention of Parkside Gardens were totally ignored.

2. All dealings in relation to major community assets should be open, transparent and available for scrutiny by the public. EPA and other required compliance and certification should be timetabled and reported to the public.

Our Association had to apply for Freedom of Information several times to find out what was happening regarding the sale of Parkside Gardens to VicUrban. Some details of the Deed of Agreement were denied, as well as EPA requirements and the first stages of the VicUrban development.

3. Government exemptions excusing Councils from informing the public of the sale or alienation of public open space or other assets should not be covertly available.
(Attachment 5)

At least three State Government exemptions were sought and granted to conceal from the public Council’s dealings with VicUrban, including the granting of the government’s approval of the sale.
4. Government panels should have as broad a terms of reference as possible which should always consider all aspects of planning — social, economic, environmental. Panels should be as flexible as possible and allow for anecdotal evidence from community groups/individuals that do not have the legal and financial resources that councils, developers etc have. There should always be a right of appeal and the panel should have to clearly inform the public at directions hearings of the right of appeal process and timeline.

Four hundred and seventy six submissions were made to Panels Victoria to oppose the sale of Parkside Gardens. This was one of the largest number of objections against a proposed planning amendment in Victoria – 2003/04.

The Panels Victoria chairmen told those present at the directions hearing that they could not accept arguments based on social needs of the community. This was challenged by presenters but was strictly adhered to by the panel within the hearings. They ignored all social and environmental evidence and background history. This is confirmed in their report.

Those presenting at the Panels Victoria hearing were given very short notice. Notice occurred immediately after New Year while many were still on summer holiday with only ten days to have experts engaged before the day of the directions hearing. Our Association requested an extension of time to gather expert evidence for the proposed February Panel Hearings, which was denied even though the chairman acknowledged the timing problem in his refusal letter. Community fundraising provided legal/ town planning and expert witness costs of the Association’s submission with only a brief period to organise same. The pressure was immense as were the costs. This also greatly disadvantaged individual community presenters.

The panel refused to accept local anecdotal evidence from community submitters who were unable to afford to pay for professional reports. This is confirmed in the Panel Report. (March 2004)

5. When a council refuses a Heritage Victoria recommendation there should be a mediation process involving the relevant minister, the public, Heritage Victoria Council representatives and the council.

The whole heritage inquiry was dismissed by councillors as a waste of time. They knew that they were not bound by the recommendation to consider an overlay for the entire site and waterways of Parkside Gardens. Fortunately the Council was unable to dismiss the state registration of the Bangerang Cultural Centre despite a legal attempt to do so.

6. There must be a right of appeal mechanism for public objectors, mediated by an independent body. This should include councillors’ decisions and council officers’ actions as well as the right to challenge the validity of findings and reports of panel experts’ inquiries etc.

We requested State government Ministers’ intervention and were constantly told it was a local government matter. It was outside the scope of the Ombudsman. We were denied material even under Freedom of Information. Hansard records will indicate that local MPs raised the issue in State parliament and that 1400 petition on behalf of the Chinese community in June 2002 and other presentations to both Upper and Lower Houses were ignored. State and local planning policies were ignored. Some EPA standards were ignored by Panels Victoria. EPA requirements and recommendations of the Panel report have not as yet been fully implemented, and there are outstanding environmental issues to be resolved (flood mitigation etc.)

The amount of public money spent by council to deny the community of one of its most valuable and heritage valued assets has been a closely kept secret that no-one has been able to access. We believe that this process has been at great cost to the ratepayers who have gained nothing from the sale of public assets. The financial arrangements between council and VicUrban are still not available to the public despite a Freedom of Information request to GSCC in 2005.
CONCLUSION
We hope that this inquiry will not simply be another token gesture to appear to respond to all of Victoria’s community concern. People are increasingly feeling that they have no control over the direction of their communities and that social and environmental needs have given way to economic and corporate expansionism. We have heard that it may be possible for the Select Committee to call relevant others to attend a hearing. We respectfully suggest that the Chief Executive Officer who signed the Deed of Agreement with VicUrban in 2002 and the former Mayor who authorised the destruction or removal of many of the international buildings without due public consultation be called to enlighten the residents of Greater Shepparton why such drastic measures were undertaken. We would also appreciate the question being asked of each of those parties if they read all of the 476 submissions in objection. (Amendment C40 and C42, - 2003/04)

We the undersigned appreciate the opportunity to submit to this Inquiry and would be available to attend to give evidence at a public hearing.

Yours sincerely,

Allison Martland – Secretary
Patricia Moran – Treasurer

20 September 2007
Attachments to Submission to the Select Committee on Public Land Development:

1. Sequence of events relating to the alienation of the public land known as Parkside Gardens Parkside Drive Shepparton.
3. Overhead site map taken in 1980s.
4. City map before residential development of Parkside Gardens and 2007 map – not much public green wedge space.
   The DVD of the site re-produced courtesy of a Win TV promotion 1993 and the ABC ‘Stateline’ documentary for public viewing April 1 2005. for the Committee’s perusal.
5. List of exemptions sought by and granted to Greater Shepparton City Council 2003 and 2004 in relation to the alienation of the public land at Parkside Gardens.

Greater Shepparton Botanic Gardens Association Inc.
41 Colliver Road Shepparton Vic. 3630
PARKSIDE GARDENS 1996 - 2006

- 23 HECTARES INCLUDING SURROUNDING MOAT
- ESTIMATED COMMUNITY ASSET - $6MILLION
- IN-KIND VOLUNTARY CONTRIBUTION ESTIMATED $2MILLION
- 33,000 VISITORS IN 1994 (Documented paid entry)

PARKSIDE GARDENS- 1996
- FREE ENTRY PUBLIC OPEN SPACE - SAME SITE- PARKSIDE DRIVE SHEPPARTON

RESPONSIBILITY FOR CARE – GREATER SHEPPARTON CITY COUNCIL

6TH December 1997 Council resolution in part: The Japanese Folk Arts Museum not to be rebuilt and that any insurance payout be directed towards the development and maintenance of an enhanced Japanese Garden on the existing site at Parkside Gardens and other expenses associated with the development of Parkside Gardens as an area of public open space.

This resolution was never at any time rescinded by the GSCC.
Insurance remained in reserves unexpended.

Site degradation and demolition: - 1997 – 2005

Late 1997: Japanese Folk Museum burnt down by vandals.


Greek House demolished despite protestations.

1999: Dutch Windmill (threatened demolition) – relocated and re-established by Emerald Bank Nursery

2000: Chinese Pavilion est.1986 demolished, artifacts removed – Council consulted two people!


2000: In July Council proposes $670,000 to develop 3 hectares on the western side of the moat for housing.
GSBGA Committee registers former Village site with first Shepparton Heritage Study – June 2000

2000/01: Thousands of signatures on petitions to Council to retain Parkside Gardens site. (Unacknowledged).

“Community Project for the 21st Century” submitted by Greater Shepparton Botanic Gardens Ass’n Inc.- 28 page document including estimated costings, management, plans - $1.5million over 3 to 5 years.
Only one other: Council sought Urban & Regional Land Corporation expression of interest due to run-down condition of site. (WHY and BY WHOM?) – Council is Responsible Authority!

Late 2001: Council accepts recommendation from its appointed “independent” Community Reference Panel and decides to pursue URLC interest for 150 houses on site! (Project Brief stated that the site was to be re-developed for the MAXIMUM benefit of the Greater Shepparton community). The URLC expression of interest does not meet the stringent criteria of the COGS Project brief.

2001– 2002 – Council allows vandalism to continue unrepaired. Estimated annual site maintenance $16,000.
2002: Many community members appalled by the demolition of the Chinese pagoda, moongate and bridge. Advice given to 7 Chinese members on 22nd May – hasty demolition in the dark 28 hours later!

June: 1400 signatures collected and presented to State Parliament requesting the government “to protect this parkland for the public and to restore the historic Chinese cultural buildings of the Pagoda, Pavilion, Moongate and Bridge.” Members present concerns to the State Community Cabinet Ministerial visit to Shepparton about Council's process throughout the continuing debate about Parkside Gardens future.

2002: August – Association submits for State Community Support Fund grant – Broader Community Project. Our Association receives CSF grant response to try again later.

2002: Without any public consultation in September: Council signs Deed of Agreement with URLC to develop 150 residences on the site over a 9 year period. Estimated return - $1million. Costings still unknown to the public to this date and only minimal concept plan sighted by public in local newspapers.

October 2003 Council links this public owned parkland site to the urban redevelopment of the state owned Office of Housing Parkside Estate calling it “The Revitalisation of North Shepparton.”

2002: 2004 COGS allows site to further deteriorate and vandalism to the former international doll house culminates in a fire 29th August 2004, the same day as Parkside Gardens is awarded the municipality’s 'My Favourite Place' honour for North Eastern Victoria – Victoria’s Year of the Built Environment Award. The doll house is demolished later in the year.

2003 – 2004 Planning / rezoning time – VicUrban to undertake urban renewal of Office of Housing estate as well as residential development of Parkside Gardens. Two separate planning amendments run conjointly C39, 41 for state owned site and C40, and C42 for public owned land Parkside Gardens. 476 submissions objecting to the sale of public parklands were received by November 2003. Council later resolved to request that a Ministerial Panel hear the objections. Objectors who attended the Directions Hearing were told that social and environmental planning issues were not to be considered – only the suitability of the site (or not) for the proposed VicUrban redevelopment. Our Association engaged a town planner and legal representation to fight the issue against both City Council and VicUrban – community funds raised paid the large costs incurred.

March 2004 – Panels Victoria Report was issued. Parkside Gardens moved closer to destruction.

2004 – March Application for site registration with Heritage Victoria – Ass’n members met with the Executive Director Ray Tonkin and Planning Minister Mary Delahunty to discuss all matters. The Heritage Council’s draft recommendations publicised in May and public submissions called for – 32 received in support for those recommendations. COGS refuse to accept strong local heritage recommendation for entire site. Refuse to conduct referendum or public meeting with the Greater Shepparton broader community, stakeholders. The Heritage Council met with submitters, City Council and its legal representative in Shepparton in August 2004 to finalise the registration.

September 2004 – Heritage Council recommends State registration of the Bangerang Cultural Centre and that Greater Shepparton City Council consider an overlay for the whole of the site of the former Village As a place of significant social and cultural heritage value to the community.

March 2005 – The Committee discovers in a letter from Dept of Sustainability that City Council requested and obtained an exemption from the requirement to inform the public of the sale or disposal of the Parkside Gardens site (signed by Candy Broad and John Brumby in 2003).

GSCC ignores the heritage overlay recommendation and letters from our Association to meet with them to discuss the matter. Our pleas to meet at least with the City Council’s Heritage Committee were also ignored.

April 1, 2005 – VicUrban launches the Grove Lakeside estate on the Parkside Gardens site. ABC ‘Stateline’ researched the whole sorry issue, and attended the launch filming the large community protest at the site. This was aired on the ABC on the evening of 1st April. (DVD offered for perusal).

Late 2005: The Heritage Amendment C50 was advertised and the public once again submitted against the lack of inclusion of the heritage valued site in the Council's Heritage Scheme overlay amendments. GSCC once again called for a Ministerial Panel to hear the objections and the Panel agreed to hear those objections which local Council claimed were outside the scope of the Heritage Study Report.

November 2005: Greater Shepparton City Council election result: Four new Councillors with community stated platforms elected for the next three years. Our Vice-President Jenny Houldihan who registered the site and Bangerang Cultural Centre on behalf of the community with Heritage Victoria – received a huge majority of primary votes and in December became Mayor of the City.

Dec 2005: Panel Hearing: Once again Council had legal representation against the presenting submitters for the retention of the Bangerang Cultural Centre and the Heritage Council's overlay recommendation for the
entire Parkside Gardens site including surrounding moat. Our Association engaged a heritage planning consultant (pro-bono) who prepared an excellent presentation for the Panel. The Panel’s Report in early February 2006 reflected the Heritage Council’s recommendations were fair and should be discussed with the Association Committee. This was ignored by GSCC and the first carve-up of the site was made in April 2006. Many established trees removed and water drained from the surrounding moat without due diligence paid to the fauna living in the beautiful habitats.

June 2007: 31 house blocks advertised for sale- of 144 in all. September ‘07 – only one sold.

Cost to community: This was the largest established public garden site in this fourth largest country Victorian city. It is valued for the history of the Village and the enjoyment of several generations. Loss of: Social/cultural connection, environment, heritage, conservation of flora and fauna, education and untold Smillions for future generations.

* Once gone – this unique site will never be replaced – the cost of establishment alone would be Smillions, and there is no alternative site on offer by Greater Shepparton City Council.

Authorised by Greater Shepparton Botanic Gardens Association Inc. 41 Colliver Road Shepparton Vic 3630
GREATER SHEPPARTON CITY COUNCIL – EXEMPTIONS GRANTED DENYING PUBLIC CONSULTATION AND DUE PLANNING PROCESS

On 21st March 2005 our Association was informed by the Department of Sustainability’s Regional Manager that:

EXEMPTION 1.

On 2 June 2003 the Minister for Local Government granted the Council an exemption from sections 139(2)(a) of the Local Government Act 1989 being the requirement of Council to ensure that public notice is given before selling or exchanging the land.

How could this exemption go through legal channels without public notice when all parties concerned knew of the petitions to retain the site for public use dating back to 1995?

Broad community concern is expressed that the legal Deed of Agreement (September 2002) was resolved by Council without asking the key stakeholders – community and lessees on the site – if they would agree to 150 houses on the land mass and infilled waterways. Council has consistently refused to meet the community to discuss the issue over the past four years. There has been a total lack of Council transparency and accountability throughout the whole planning process.

Council’s exemption from statutory requirements in the sale or exchange of public land means that key stakeholders have been effectively excluded from proper planning processes. Why bother with submissions at all?

On 3 May 2005 Greater Shepparton City Council advertised a
NOTICE OF PREPARATION OF AMENDMENT C50

1. The proposed amendment C50 seeks (IN PART) to:
   - Amend the existing Heritage Overlay maps and introduce new Heritage Overlay Maps to include:
     - the 136 new heritage places and 2 new precincts, nominated in the ‘City of Greater Shepparton Heritage Study Stage Two’
       in a Heritage Overlay, to provide protection of these places from demolition and/or inappropriate development.

The notice invites inspection of the amendment, and states that any person who may be affected by the amendment may make a submission to the planning authority by Monday 4th July 2005.

EXEMPTION 2.

Please note that the Minister for Planning has approved an interim amendment (C49) that introduces the same controls that this amendment proposes to introduce. The interim amendment came into effect on 23rd December, 2004 and will remain in force unless or until Amendment C50 is approved by the Minister or abandoned by the Council.

Upon investigation of the interim amendment (C49) the following reason for lack of earlier consultation was given:

CONSULTATION

8. There has been no public consultation for this amendment. There was however a public process to prepare and adopt the heritage study that is being implemented through Amendments C49 & C50.

9. Amendment C49 has been prepared at the request of Greater Shepparton City Council as an interim heritage control while identical provisions are placed on exhibition shortly after Amendment C49 is approved. Public consultation will be provided for through the exhibition and approval process for Amendment C50 including notification to all affected landowners and the general public.

Dated 8 December 2004 – signed by Mary Delahunt MP – Minister for Planning
As this should include the Parkside Gardens' issue in relation to the Greater Shepparton Heritage Study why then the five months’ delay to give public notice of the C50 consultation process and City Council’s hasty destruction of many 30 year old healthy trees on the site in April 2005?

It goes without question that the general public who have objected to the destruction of Parkside Gardens during both the rezoning process and the Heritage Victoria recommendation submission process would also object to the non-inclusion of the former International Village site during the Heritage Study assessment period 2000 – 04.

Heritage Victoria officers asked Council why the site had not been assessed during the Study and were told that it was an “oversight”. In September 2004, Heritage Victoria’s subsequent strong recommendation that City Council consider a local heritage overlay on the precinct and this was totally ignored by Council in its November resolution to proceed with VicUrban to residentially develop the land and waterways.

Once again the lack of transparency and accountability to the Greater Shepparton community has been demonstrated by Greater Shepparton Council.

On advice from Heritage Victoria and on behalf of the broad community of objectors to the residential development of heritage recommended public space and waterways, we have written to Planning & Heritage Minister Rob Hulls to ask:

"We hereby request you to issue an Interim Order immediately to protect the Parkside Gardens precinct until the formal Planning processes for Amendment C50 are completed and the Amendment approved or abandoned." (letter dated 5 August 2005)

This did not eventuate and so the committee proceeded to the Heritage Planning Scheme Amendment Panel with many members presenting on December 5 & 6 2005.

Collated by Patricia Moran – Secretary Greater Shepparton Botanic Gardens Association Inc.