

21 September 2007

Legislative Council Select Committee on Public Land Development,
Parliament of Victoria,
Spring Street,
MELBOURNE. 3002.

Attention: The Secretary,
Mr Richard Willis.

Dear Sir,

re: Inquiry into the Sale and Development of Public Land and Open Space.

As a member of the Wantirna Heights Community Group (the Group) I am most concerned that public lands in Victoria, and in particular in the City of Knox and surrounding areas, have been diminishing over recent years.

The past eight years have seen a substantial growth of community groups. The Group has been battling throughout that period to have 7,671 m² of public land at Lot 1/#54 Kingloch Parade, Wantirna (Kingloch) - formerly a portion of a school site, and now owned by the Department of Human Services (DHS) - to be rezoned as Public Open Space. It has been used by the community for approximately 30 years as open space.

SUMMARY

Correspondence from the Knox Council (the Council) clearly illustrates the council's agenda having been set about eight years ago to reduce the areas of open space in the Collier Ward (Collier).

The Council have totally disregarded the overwhelming requests of the Kingloch community (the Community) to acquire Kingloch, although the Community is already chronically short of open space.

Also in Collier is the 26,646 m² Baudelaire Reserve (Baudelaire) which will be lost to the community for its use as public open space.

Further, the rationale of the Council's agenda is to maximise the Council's revenue through:

1. the sale of cost-incurring open space; and
2. the rates derived from housing developments thereon.

The Council, as a Responsible Authority, should have the community's best interests as its prime objective.

The Current Framework of the Planning Process is in Question

The present government policy is to involve community participation in the planning process.

In determining the outcome of planning applications, only the Acts are taken into consideration whilst the much publicised Policies are disregarded.

This was highlighted at the recent VCAT hearing of the Department of Human Services' (DHS) application to develop Kingloch for medium density housing. The VCAT decision to approve the application did not include any matter relating to Policies such as:

- community consultation at any time by the applicant (none).
- the many factors of neighbourhood character.
- accessibility (poor, to say the least) to active community centres and transport services.
- sustainability of the present community structure.

Problems under the Acts

- Government departments have special considerations under the Acts not available to others.
- Government departments are not obliged to comply with Policies.
- VCAT primarily consider the developer and not the future land usage (as required by the Act).

VCAT Hearing

- Submissions contained detailed supporting data which the chair agreed to consider. The written determination suggests that such consideration was not undertaken.
- Respondents were disadvantaged in that they did not have funding to engage counsel and expert witnesses.
- The chair relied upon the evidence of the applicant's expert witnesses whose reports, included in the respondent's detailed reporting data, had been proven to be misleading incomplete and inaccurate.
- The VCAT determination made no reference to a 2002 petition to State Legislative Council regarding retention of the site for public open space. This petition had 890 signatures representing over 80% of this Community.
 - In the determination references were made to "Setting the bar lower" which implies diminishing of the effectiveness of the present 2030 Acts.

Council Participation

- In 1999 when Council was offered the opportunity to purchase the land (for public open space) a council officer - without reference to the Council - declined the offer. This was the first of the Council's ongoing lack of support for the Community.
- The Community relied upon advices from the Council for direction. These advices largely related to policies which, as stated above, were not considered in the determination.
- When Council refused the DHS's (the applicant) permit they provided only three reasons of refusal, when they should have listed the many the reasons provided to them by the Community.
- The Council also suggested three alternatives which could have been acceptable to them. These alternatives were contrary to the Council's own planning policies.
- At the VCAT hearing the Council was represented by a consultant planner but did not provide expert witnesses.

- The only open space left at Baudelaire is:
a 9,994 m² oval - used by the adjoining Wantirna Secondary College - and
a 6,408 m² area which is zoned for future medium density development.
Thus there will be no open space for the use by the community.
- Just prior to the VCAT hearing the then Knox Mayor, Cr David Cooper, stated that the Group could never succeed in obtaining its objectives.

The Purpose of this Communication

- The Community has virtually no public open space in the our area, being the Council's Precinct 2, of 1900 residents, bordered by major roads - Mountain Highway, Stud and Boronia Roads.
- The Community's open space comprises 1.3 ha/1000 people; Knox Council area 15.3 ha/1000 people and Melbourne metro 9.3 ha/1000 people. This is the commonly accepted unit of measurement.
- The Community needs the land at 54 Kingloch Parade to be formally zoned as public open space, for which purpose it has been used for the last 30 years.
- The Community is sympathetic to the need for affordable housing for elderly persons and have recommended a land exchange with portion of the Baudelaire Reserve, which is located in the southern part of Collier, in which area there is substantially more open space, construction costs could be lower and tenants would be more readily assimilated into an environment providing more open space and better community facilities, as it is located adjoining the substantial Salford Park Retirement Village.

(The presentations should also be available to you from either VCAT or the Department of Human Services).

Yours faithfully,



John Knell,
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Wantirna. Vic. 3152.