

CORRECTED VERSION

SELECT COMMITTEE ON PUBLIC LAND DEVELOPMENT

Subcommittee

Melbourne — 3 April 2008

Members

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Mr B. Tee

Ms S. Pennicuik

Chair: Mr D. Davis

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Witnesses

Ms M. O'Brien, convener, Carlton Gardens Group; and

Ms A. Ritter, gardens representative, Carlton Residents Association.

The CHAIR — I declare open the public hearing of the Legislative Council Select Committee on Public Land Development. Today's hearing is in relation to the sale and development of public land. I welcome in particular Margaret O'Brien, convenor of Carlton Gardens Group, and Anne Ritter, gardens representative from the Carlton Residents Association. All evidence taken at the hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and is further subject to the provisions of the Legislative Council's standing orders. Any comments you make outside may not be afforded such privilege. You will get a copy of the transcript in the next few days and have the opportunity to make typographical changes. Could you perhaps lead off with a short introduction, and then we will ask some questions. Welcome.

Overheads shown.

Ms O'BRIEN — Thank you. Our position is that the flower show event is an alienation of the world heritage Carlton Gardens. It is contrary to the protection and preservation of world heritage values. World heritage values are described in particular documents relating to the citation, and the world heritage qualities and values relate to both the Royal Exhibition Building and the gardens. In the citation the gardens' description is particularly relevant in relation to the southern gardens, which are used by the flower show. The description in the citation refers to pleasure, gardenesque, avenues of trees, shrubs, linking paths, cast-iron fences and fountains, particularly the Hochgurtel fountain.

Of particular relevance is that in the evaluation in relation to the citation there was a risk analysis done by ICOMAS, and it identified pressures from development, environment, nature, visitors and tourism, the greatest pressure being from the annual flower show. The government at the time said that they repaired the show damage immediately. We consider that the alienation of the gardens for private development, although temporary, is cumulative. That can be seen in the condition of the gardens. There is an annual cycle that has been set up over the 10 years that the show has been there. There is an alienation of cultural, heritage and historic values, and also of the public good. We believe it is detrimental to Melbourne's reputation when the garden is in a state of construction and demolition or it is enclosed; it just is not available to the general public.

We also consider, in relation to the terms of reference of the committee, that there is alienation contrary to Melbourne 2030, which is intended to encourage increased population into activity centres, particularly the CBD and the inner city. To say the least, the public is alienated from the gardens at a time when more people are seeking access to the public gardens. This alienation should be seen as cumulative across the entire city of Melbourne, because the city of Melbourne suffers from large numbers of events in its public gardens all year.

Private development of the World Heritage Carlton Gardens is not appropriate, is unsuitable, is not sustainable and affects programs to improve the world heritage gardens. It is not appropriate either historically or because of the legislation that supports the protection and preservation of heritage gardens. Also, because it is world heritage, we have UNESCO obligations, and the obligations are stated in the conventions, in the citation and also in the amendments to the legislation. Private development is not suitable, because what is happening is that it is appropriated for the exclusive use and benefit of commercial business enterprise. The MIFGS is the largest and most high-impact event in the City of Melbourne's public gardens, and it is held in gardens which in fact are low impact by definition in the City of Melbourne's sustainability guidelines, and because they are world heritage, they should be protected even more than any of the other gardens and parks.

We note with concern that at the same time as council policy is restricting public access and even normal use on areas of its gardens and parks around the city that are degraded, worn and prone to damage, in the northern gardens in Carlton Gardens there are cordons around the open spaces that prevent people from even walking across, let alone playing with balls, but the southern gardens are completely enclosed, and they are currently being used for the flower show. Private

development affects programs to improve heritage gardens. It slows the improvements that the City of Melbourne plans because there is a recognition that the gardens are generally degraded. But with world heritage listing there is a commitment to further protect but also restore and preserve some of the most significant elements that are described in the citation. You will see some photos of that shortly.

We also note with concern that events, and the support of events particularly by the Victorian government and to an extent the City of Melbourne, obscures the value of heritage gardens. While they are being used for events, clearly the focus is on their value as an event venue and the commercial benefit to the event managers, not necessarily the government or the City of Melbourne. It diverts the attention to the intrinsic value of these gardens for tourism — for instance, it strikes us as ironic that the state tourism plan makes only cursory mention of the value of heritage gardens, and the tourism minister is responsible for the legislation that is currently in Parliament which is intended to transfer responsibility for this event from the City of Melbourne to the state government. Government and council provide substantial grants to major events, and yet it is notable that government has not contributed any funds for the capital improvements of the world heritage gardens or the Royal Exhibition Building.

As a demonstration, a picture tells a thousand words, and given that you are just coming from lunch, we have been taking photos of the various things that happen in the gardens in the lead-up and in the demolition of the show. Anne is going to take you through those photos.

Ms RITTER — The first few photos will just show the gardens as they were, showing their heritage value. The next section will be showing you over the period of 10 years parts of the construction and the demolition, and we believe it shows what little regard the MIFGS and the garden people have for our world heritage gardens. These are pre-1900 photos of the gardens.

The CHAIR — Fabulous!

Ms RITTER — This is an overview of the gardens

Ms O'BRIEN — That is interesting because you can see the whole site there, and you can see just how extensive the trees are.

Ms RITTER — This photo was taken in the early days of the gardens and it is a view of the plane tree avenue and the focus of the fountain.

Ms O'BRIEN — That was the most critical entry point. There would be parades — for instance, when federal Parliament opened; the carriages would come from Parliament House along Spring Street and up the plane tree avenue.

Ms RITTER — This photo is the plane tree avenue as it appears in the 2008 MIFGS. You can just barely see the top of the dome. We think this is really showing complete disregard for our world heritage garden and Exhibition Building. These are photos that were taken over several years of the sorts of construction that happen in the gardens in order to set up the various displays, the most intrusive of which of course are the landscape exhibits.

Ms O'BRIEN — The landscapers do not pay to come into the gardens. They are the attraction. The retailers — the little nurserymen — rent their tents and the tents are usually around the perimeter. Those landscapes are in the main part of the gardens.

Ms RITTER — These are the sorts of vehicles that are brought into the gardens. This in fact was the crane that was brought to erect the Stonehenge exhibit, which consisted of stones each weighing 8 tonnes. These are other sorts of construction that we consider quite inappropriate to be built in a world heritage garden. In the areas not covered by landscape or tents, we have people. It is interesting that all the food outlets are inside the gardens, so you can hardly say that

the City of Melbourne benefits in any way from increased tourism in the area. Everything is in there. The next photo shows more of the vehicles that come in.

Ms O'BRIEN — There are constantly heavy vehicles for weeks before the show, and I mean really heavy vehicles. A quarry truck is nothing in those garden paths.

Ms RITTER — This is a typical exhibit from two years ago, I think: the Ford cars rock garden. We really could not quite work out what the horticultural connection between Ford cars was, but anyway,

Ms O'BRIEN — When we objected to trenching — and the City of Melbourne prohibited trenching; trenching like suburban house trenching — they changed to the timber frame foundation. They have now changed from timber frame foundation to what you will see in a moment.

Ms RITTER — You will see it in a moment. That is just the car park.

Ms O'BRIEN — But all that still goes on.

Ms RITTER — This shows the construction.

Ms O'BRIEN — We think that completely devalues not just the world heritage gardens but also the Royal Exhibition Building.

Ms RITTER — These are examples of equipment moving in. The next is after the demolition of the exhibits — what is left.

Ms O'BRIEN — Large areas of the grassed area are completely taken off. Other areas have to be scoured, so in effect every part of the garden's lawns are degraded to a certain extent.

Ms RITTER — The next slides taken this year are the setting up of the gardens. In previous years when we have had our walk-around to take photos, we have been allowed into the gardens at the time that these exhibits were being constructed. This year our walk-around was before the gardens were fenced and we have not been allowed in to see what they are doing this year, so we have absolutely no idea of what methods of construction are underneath those landscape exhibits, and I am sure we will not be allowed in before they are completely removed. It is quite interesting that our walk-around has been moved ahead a week, so we can only show you what we can see. We can see that this was before the fence went up. This is getting ready for what they are going to put into their exhibits. These are just for the tents, too, not even the landscape. This is the sort of thing they are going to be doing. These are our heritage trees. This is a new method. Instead of digging great foundations into the tree protection zones, they consider now that large concrete blocks will achieve the same purpose. And these are the early stages of construction before the gardens were fenced.

Ms O'BRIEN — And this is permitted. So you cannot have a dog without a leash and you have to pick up after your dog, but this is permitted.

Ms RITTER — These are tree protection zones. And this is things being built, all between trees. We could not really understand why it was that the toilets had to be on the grass. It seemed to me that there was absolutely no reason why they could not be moved to the hard surfaces, but, no, they are right in the middle surrounded by heritage trees.

Ms O'BRIEN — This picture relates to the lack of sustainability. The gardens, like the other gardens and parks around Melbourne, have suffered from many years of drought and water restrictions, compounded with the fact that a lot of our heritage trees are very old and a lot of them are diseased. The City of Melbourne has a plan to replace the trees over time, but unfortunately the trees are dying faster than things can be replaced, and even when they are replaced, it is difficult to

keep the new trees alive. You will see an example. This is just one of our avenues in the southern gardens where all the heritage trees in the avenue have gone. If you look along Victoria Parade, half the heritage oaks have gone. If you are looking from the fountain towards the city on the left-hand side right along Victoria Parade, all the old heritage oaks are gone. There are still some on the right-hand side. We have lost some very big heritage trees over the last couple of years. That is not even taking into account the branches that have gone. Have a look at how deformed those trees are.

Mr TEE — But are you suggesting that that is caused by the show, or are you suggesting that that is caused by the drought, or a combination?

Ms O'BRIEN — We are saying that there is an increasingly high risk to the gardens, and the risk is so high, if common sense prevailed, you just would not do it. The City of Melbourne is doing what it can to mitigate the effects of the drought, and Rob Adams, who is the executive responsible from the City of Melbourne, is going to talk to these sorts of things. There is a difference of opinion about the extent to which the show directly degrades and affects the heritage trees, but Jillian Bell from Protectors of Public Lands is going to talk about that.

Ms RITTER — That is just an example. I do not think we need to mention those.

Ms O'BRIEN — During the windstorm yesterday, there was a lot of tree damage. This is not in the Carlton Gardens where the show is — obviously we cannot get in there — but this is an adjacent garden. That is the sort of thing that was happening. In the northern gardens, which is on the other side of the southern gardens, there were a lot of trees down. That is in the northern gardens.

Ms RITTER — We believe there have been trees down in the southern grounds, but of course we have no ability to photograph them.

Ms O'BRIEN — We consider that the risk to public safety would be extremely high. With or without storm damage, those trees are so old they lose branches all the time. This is what the show looks like. This is their plan. This is this year's plan, but it is very similar to the plan every year. You can see around the perimeter, the orange is mostly the tents, and the yellow and blue are what you would call the hard building or landscape exhibits. When you are looking at the gardens area near the Royal Exhibition Building, there are some circles around. Happily they are the new parterre beds, and we think that is a very positive step that the City of Melbourne has finally been able to lay those beds out.

The CHAIR — I thank you for your submission, and I am keen to ask a question about whether there has been any discussion with the federal government about its obligations under the heritage and EPBC acts, in particular, under its heritage obligations. What response, if any, has there been there?

Ms O'BRIEN — Over time we have talked to the heritage section — not very recently — but I think you will get some of those answers better from Julianne Bell. I know she is going to talk about that sort of thing. The commonwealth was represented in the early days of the master planning for the Carlton Gardens, but we have not been aware of its active involvement in any planning for the improvements, whether they be capital or to inject funds for recurrent. Clearly our view is that there is an additional responsibility on both state and commonwealth governments. The commonwealth government is the primary sponsor of world heritage listing, and that is very clear. UNESCO will only take a — —

The CHAIR — National government.

Ms O'BRIEN — Yes, a national government, and so it is very disappointing that it has not. It is disappointing that the state government also has not, whether it be to mitigate the drought

or whether it be to assist with the capital improvements of the site, because you can see what the site looks like now compared to what it was. The city fathers were really, really proud — —

The CHAIR — Remarkable.

Ms O'BRIEN — Yes, and had a sense of the future. But that is only one of the things they did. They have left us the library, this building and the university. We seem to be able to demolish them very quickly nowadays.

The CHAIR — A great legacy.

Ms O'BRIEN — Yes. Julianne Bell will be able to talk about that.

Mr TEE — Thank you. The photos appear reasonably dramatic. I have a concern. Obviously I am no expert on what happens there. I understand it is closed to the public for 15 days, but I do not have a sense of what happens out there. What I have had a look at, or seen extracts of, are various independent reports that have been done in relation to the impact that the show has on the gardens. I just want to refer to a number of those because, in terms of trying to weigh up from my perspective what you are saying, these reports seem to matter. As I understand it, after 2007 restrictions were placed on where high-impact material could be placed. I am not sure in terms of your photographic journey which ones were pre-2007. After that an independent report was commissioned by the Melbourne City Council's environment committee which found that the conduct of the flower and garden show has had no discernible impact on the health of vegetation in the Carlton Gardens. A separate soil impact assessment commissioned by the City of Melbourne concluded that the level of soil compaction in Melbourne gardens poses no threat to the existing trees' vegetation, and that where there are bare areas of grass, it is more likely to have been caused by a lack of rainfall and resulting dry conditions.

In addition to that, the other issue that weighs on my mind is the fact that Heritage Victoria does place restrictions on use. There is a permit that is required, and it monitors the impact of that permit. I do not have a copy of those reports, but I will try and get them from the council when they come up next, but if that stacks up, we have Heritage Victoria and a number of independent reports, all of which seem to be very conclusive. I suppose my question is: what is your response to that material?

Ms O'BRIEN — We are concerned that there is a reliance on some reports and that certain conclusions have been attributed to some reports that really are not correct. As a result of that, Julianne Bell from Protectors of Public Lands has commissioned another independent report — more up to date. The report that you will hear about is two weeks old — in fact it is probably even less; probably only one week old. I will give you an example. The report you referred to particularly, Brian, is what they call a compaction report. There has been a review of that compaction report, and it has been considered to be flawed technically and very limited in its assessment. Compaction refers just to that — particular sites. It does not actually talk about the damage done to the gardens or to the flowers. Even those reports, which have been relied upon and then been translated as being a demonstration that there has been no damage, have been considered to be not conclusive at all. I understand why you are raising that, because reference was made to those during the speeches in Parliament after the bill had been tabled. We expected that committee members would obviously be interested to hear — —

Mr TEE — I am certainly interested.

Ms O'BRIEN — You will have that opportunity. In relation to Heritage Victoria, what can you say but 'Look at the evidence'. If, in fact, a heritage permit has been given for that to happen and the heritage permit includes things like damage, there should not be damage, and there should not be star pickets used in the tree protection zone without permission — and then you see star pickets being used. We are talking about the sorts of things you saw. You see them being used in the tree protection zone, but when you inquire about that you find that approval has been given.

Ms RITTER — That was also the case with the concrete blocks — I do not know how many of these concrete blocks there were — all in tree protection zones. We said to the ranger, ‘Surely this is contrary to the regulations?’. He said, ‘No, I have given approval for that because I cannot see any danger’. This is one man’s opinion. It was just unbelievable.

Ms O’BRIEN — Ironies abound here. We were really lucky we had some good rain last week. Unfortunately the rain came after large sections of those gardens had been covered, and not just covered with tents but covered with construction.

The CHAIR — Walkways and so forth?

Ms O’BRIEN — No, they had actually started building. What you have is 14 days of enclosure when a lot of the building happens. That was the point Ann made — that we used to be able to see the holes being dug, the foundations, the marking pegs being put in, but you do not see as much now. What you saw was enough. If common sense prevailed, you would never do this to a garden, let alone to world heritage. It does not make sense. This is why the only justification for it to continue seems to be because it is there.

Mr TEE — In terms of Heritage Victoria’s role too then is — it seems to me that they have the role to protect the heritage value of that site.

Ms RITTER — We would hope they would.

Mr TEE — Is it your contention or are you asking the committee that we ought to, I suppose, conclude they are not looking after that; they are not performing their role effectively and that, it seems to me, ought to step in somehow. I am just trying to see where you would like this committee to go in terms of this issue. Is it some other body that we need to set up? I am just not clear about where you see the input. I will have a look at the reports, if they are available — I have only seen extracts of them. So my first issue is: we have got a large number of reports out there — not a large number, there are at least two that I have come across which found no impact. I just want to step back from that a second and just get a sense as to where you would like to see the committee go when, as I comprehended, we already have Heritage Victoria which is in place and provide the permits and regulation for what occurs in the garden.

Ms O’BRIEN — I really step back from telling the committee. We are providing facts, and we also provided a statement from ICOMAS, the International Council of Monuments and Sites. I put up there the values that they described. You saw the photos. Again, let us not park our common sense outside the door. Common sense should tell us that you do not do that. If in fact in the rest of the gardens, little boys and girls are not allowed to kick balls around, and in the northern gardens they are not allowed to either — and you allow that, and we are debating the fine technical points of a compaction report. We have done this for years as community reps without any resources. Our few resources can be diverted to countering a compaction report with another compaction report, but even putting that aside, do you really want the Norwegian visitor I saw on Sunday who had circled the gardens at the Royal Exhibition Building to come and have a look, along with lots of others, to have that impression? I just happened to be out walking the dog. That is what he thought about the gardens being enclosed and looking like they did.

Ms RITTER — I think also you have got to remember that the flower show was originally in the Fitzroy Gardens, but it was moved because people worried about the effect that this flower show was having on the Fitzroy Gardens. But in those days there were no landscape elements; there were simple tents and pots and people giving advice on the pruning of roses, and that is all. So that was considered too high impact for the Fitzroy Gardens; it was then moved to the Carlton Gardens. But in that time the whole show has changed. It has gone from being a simple little flower show to a high impact event. Where do you say no? Do you just allow it to get bigger and bigger because it has always been there? If someone came to you today and there had never been a flower show in the Fitzroy Gardens and said, ‘I think we will have this big event in

Carlton Gardens', no-one would consider it for a minute. You would just say, 'No, it is not an appropriate place. There are many places you could have it, but just not here'.

Ms O'BRIEN — For instance, the multi-million dollar renovation of the showgrounds, Flemington or Caulfield, Birrarung Marr along to the Yarra into Federation Square gets them there, outside and inside. I can assure you, committee members, we have stood in front of the City of Melbourne over a number of years, having all of these discussions.

Ms PENNICUIK — Thank you very much, Margaret and Ann. One of you pre-empted my remark that I was going to make, which is because it is a heritage site and it will be known as a heritage site around the world, people like your Norwegian tourist would mark it on their itinerary to come to Melbourne to have a look at it. I was wondering whether you would agree with me that — and I think you would by your comment — when such a visitor came to Melbourne they would be expecting to see the south gardens as part of the Royal Exhibition Building's heritage site in the condition they should be in and by which they have gained their heritage listing.

Ms O'BRIEN — We would have to agree.

Ms RITTER — We would have to agree. You could not imagine any country in the world — could you imagine the English allowing this in one of their heritage gardens? Sure, they will have their flower show but that is in hospital grounds, it is not in a heritage garden. People are always comparing it to the Chelsea flower show in England, but that is private land, and it is a hospital, it is not a public garden.

Ms O'BRIEN — We would call it a paddock that they use.

Ms PENNICUIK — Certainly under the heritage listing it mentions that the southern gardens have never been used for an exhibition; the northern gardens have. I would assume that under this heritage listing the expectation of the World Heritage Council is that the national government assisted by the state government and local government would preserve the gardens in the state in which they have gained their heritage listing so that at any time of the year if someone visits the royal exhibition world heritage site, they would see the site as it should be. Would you agree?

Ms O'BRIEN — Yes.

Ms RITTER — Absolutely! If you look at the early pictures of what the gardens used to be like, the expectation is that we will return them to that sort of condition. You cannot do that when every year you are repairing.

Ms O'BRIEN — Can you show that one of the total site? What you can see there is a picture of the total site. We particularly said, 'Look at all the trees', but you can see the temporary buildings there. The southern gardens were laid out a few times after the 1850s, but particularly in anticipation of the international exhibitions. The southern part of the northern gardens, which were used for some temporary buildings for a period of time, were redesigned. That is how much they respected the gardens area. You can see the beautiful layout, particularly of the northern gardens, because what you are looking at is the northern gardens there. They were as much valued as the southern gardens.

Ms PENNICUIK — Thank you for your very good picture and outline of the escalation of the flower and garden show from what it was once to what it is now. I suppose what I am trying to get to is that apart from that damage, which is obvious to anybody who walks around there despite any report to the contrary — I have certainly walked around there before and after the flower show and seen it for myself, so I do not think it is in dispute that the flower and garden show damages the gardens — the Burra charter states:

Where the use of a place is of cultural significance it should be retained.

A place should have a compatible use.

So under that charter, and from what you are saying, you would say that this is not a compatible use.

Ms RITTER — Absolutely.

Ms PENNICUIK — According to the world heritage, notwithstanding the horror of the damage that is done by the flower show.

Ms RITTER — The City of Melbourne also has said that it would not renew the licence, so even the City of Melbourne had decided that enough was enough until this bill came in. I think it is the bullying tactics of a commercial enterprise that has brought this about.

Ms PENNICUIK — We should be protecting our world heritage site. I wonder what would happen if we proposed to put it on the MCG? I do not think it would happen.

Ms O'BRIEN — It is interesting to bring that up, Sue, because we often talk about how is it that what has been happening there has not got traction — public outrage — and I think you almost have to be cynical in that you need somebody of considerable notoriety or a notable person. That is why we think Fitzroy Gardens successfully campaigned to the City of Melbourne to get it removed within two years. We have been campaigning for over 10 years.

Ms RITTER — A lot more to complain about!

Ms O'BRIEN — Yes, a lot more; and yet this is world heritage. It deserves protection more than anything else.

Ms RITTER — Would you suggest that we move this to the botanic gardens?

Ms PENNICUIK — No, I would not. I would suggest it went to the showgrounds.

Ms RITTER — Yet we are world heritage and they are not.

Ms O'BRIEN — It does not look like world heritage for the reasons that we said.

Ms RITTER — It should look like the botanic gardens.

Ms O'BRIEN — More money needs to be put into it. Where is the statement that was made in the 1850s and again in the 1880s by our city fathers, when they actually committed capital to these things that we now treasure? Yet what we are doing is demolishing it, year after year. There is some repair work, but it is never good enough.

The CHAIR — Margaret and Anne, thank you for your very detailed and pictorial presentation.

Witnesses withdrew.