

SUBMISSION TO SELECT COMMITTEE ON PUBLIC LAND FROM MEG (MALVERN EAST GROUP)

BACKGROUND

This submission is a result of initial astonishment and subsequent anger of MEG members and hundreds of members of the wider Stonnington community regarding the sale by Deakin University of Stonnington Mansion and surrounding land which we had erroneously thought Deakin held in trust for the people of Victoria.

Deakin's call for tenders for the site in 2006 came as a complete surprise to Stonnington Council and the community. Stonnington Mansion, a Victorian icon in the heart of the municipality of Stonnington, belonged to the State of Victoria...i.e. to us. It has been considered public property since it was bought by the State in 1928 for the princely sum of 35, 000 pounds.

A Public Meeting to "Save Stonnington Mansion" was held on October 12/06 at Malvern Town Hall. The meeting was addressed by the then Mayor of Stonnington, Councillor Anne O'Shea, Martin Purslow (National Trust Conservation Manager). Cr. Steve Stefanopoulos (Architectural Historian) and Di Foster, Stonnington's Local Historian.

The meeting was given a brief overview of the history of Stonnington Mansion....
1901-1931: the Governors' residence. 1931-1938: St. Margaret' Girls' School.
1938-1940: After-care centre for polio patients. After the outbreak of World War 11: Australian Red Cross convalescent hospital. 1953: Used by the Health Department. 1957-1973: Toorak Teachers' College. 1973-1981: State College of Victoria-Toorak. 1981: Toorak Campus of Victoria College. 1992: Victoria College amalgamated with Deakin University.

The meeting heard that in accordance with the Deakin University (Victoria College) Act 1991, Stonnington Mansion was vested to Deakin University. In September 1995, the Kennett Government presented Deakin University with a Certificate of Title in fee simple. No money changed hands. It appears that the Government intent was that the site be used for educational purposes. The land was zoned Public Use Zone 2 (educational purposes). The purpose of this zoning is to recognise public use for public utility and public purposes to be used by and on behalf of the Public Land Manager, the person with care and responsibility for public land.

It was never envisaged that Deakin University would take it upon itself to sell **for profit** land which, in moral terms, it did not own and then **demand** that Stonnington Council re-zone the land, but this is what Deakin did. Clearly this was a breach of trust.

The sale could have been stopped by the Bracks Government but it appeared that the Minister for Education and Training, Lynne Kosky, had given Deakin University permission to sell the site...another breach of trust. Stonnington City Council was not notified of this decision.

COMMUNITY ACTION

It was clear that community action had to be taken immediately as Deakin would consider tenders at the end of October. Subsequent to the meeting on October 12/06, a committee was formed with the purpose of organising a campaign to keep

Stonington Mansion site in public hands or, at the very least, maintain Public Access. Posters, postcards and petitions were quickly printed and distributed throughout the municipality. Media coverage was extensive.

A rally was held in the grounds of Stonington Mansion on October 20/06. Approximately 500 people attended. Stonington Councillors and politicians of all parties spoke at rally, deploring the action Deakin had taken in calling for tenders and deploring the silence from the State Government. All the effort that went into the hastily organised campaign meant nothing. Deakin accepted an offer of \$33million from Hamton JV and the Bracks Government allowed the sale to go through. This was a clear breach of trust.

It was reported that the Federal Member for Higgins, the Hon. Peter Costello, offered \$5million dollars to Council towards the price of buying the land. Apparently he had forgotten that it is the Federal Government's responsibility to fund universities adequately.

SUBSEQUENT ACTION

After the public campaign and the Bracks Government's re-election in November '06, attempts were made by Council to gather information.

On December 6/06, Council's Manager of Governance and Corporate Support lodged an FOI request with the Department of Education and Training asking for all documentation associated with sale of the subject site to Deakin University and the revocation of the temporary reservation of the land for educational purposes by notice in the Victorian Government Gazette on Sept.21/06. The request extended to documents before and post the sale of the land, including negotiations. A reply from Neil Morrow (Manager, Freedom and Information and Privacy) on December 20/06 stated '**no documents could be located in respect to your request.**' It was suggested that DSE may be able to help.

A request was then sent to DSE and the Department of Justice. The Dept of Justice transferred the request to the Dept. of Premier and Cabinet, Dept. of Education and Training, Minister for Education and Services, Minister for the Environment, Attorney General, The Premier and the Dept. of Treasury and Finance.

In the reply from the Dept. of Treasury and Finance, dated Jan.8/07, Mel Humphreys-Grey (Freedom of Information Officer) stated ...'**the subject land was not sold to Deakin University**'... and that the Dept. of Treasury and Finance '**was not responsible for the revocation of the temporary reservation of the land for education purposes (i.e. the revocation was the responsibility of the then Minister for Conservation and Environment.)**' The Hon. Mark Birrell held this portfolio in 1995.

Mr. Humphrey-Greys went on to state that Deakin University contacted the Department in March 1995 to enable it to exercise its property rights. From that time, until the 'project' file was closed in December of that year, the Department took the necessary administrative steps to **enable a Crown Grant to be issued.** He said that 13 documents had been located. I quote from his letter...

"The Department understands that Deakin University has clear title to the

property (i.e. Estate Fee Simple Sole Proprietor.)"

(A list of the above-mentioned correspondence from Government Departments and Minutes from the Meeting on Oct.12/06 is attached and copies would be made available if the Select Committee requests them.)

Included in these documents is a statement in a letter from the solicitor for Deakin to the Asset Manager of the Dept. of Finance(Mar 16/95)... "The University is now anxious to obtain titles to these lands in order that a consolidation of all titles comprising the Burwood campus may be effected. I shall be grateful if you could arrange for **Crown Grants** in respect of these lands to be issued to the University as soon as possible."

Why did Deakin want a Crown Grant to the subject land in 1995? Was this whole deal in process as early as 1995? Why did the Kennett Government agree to this?

The documents include a request from the Department of Treasury and Finance for Deakin to pay for the survey of the subject land and this is all they did pay for. The documents indicate that "the revocation of the subject Education Purposes reserves had been carried out."

Why did Deakin want a revocation of the Education Purposes Reserves as early as 1995 and why was it granted?

ACTION BY DEAKIN

Prior to Council receiving any documentation, Deakin wrote to Stonnington Council Dec. (21/06) requesting a re-zoning of the land from a Public Use Zone to a Residential Zone. Deakin was told by Council that strategic justification was required before the matter could be formally considered and that nothing could be done until Council Meeting of Fe.5/07. In a letter to Council, Contour Planning (for Deakin) asserted that strategic justification for re-zoning was not required because the Public Use Zone was redundant as it was inconsistent with the new ownership of the land which was to be transferred from Deakin University to private ownership. (Deakin was unable to lay its hands on the reported \$33million for which it sold "our" land without the re-zoning.)

COUNCIL ACTION

In the Notice Paper for Council Meeting on Feb.5/07 Item 3 is "Proposed Amendment to the Stonnington Planning Scheme-Rezoning from Public Use Zone 2 to Residential Zone 1 Zone-336 Glenferrie Road." This item outlines the Background and Discussion with options for Council to consider. There is a further item in the Notice Paper for Council Meeting on May 21/07.

The item on Feb.5/07 notes that Contour's letter "did not provide any evidence on **whether the disposal of this piece of land met with the Government's own policy on the disposal of public land and whether there was any consultation by the State Government in this case.**" (p352). The report in the Feb.5 Notice Paper indicates that the proponent was likely to ask the Minister to "call in" the amendment if Council did nothing even though Council was being asked to facilitate an amendment without full exhibition. As Ministerial intervention in such development

matters is common practice and Council wished to retain some control over the development of the site, it was literally forced into preparing an Amendment to the Planning Scheme to allow the re-zoning.

The situation now is that Hamton JV which bought the subject site for \$33million has sold the Mansion and 1.2 hectares of land to Rod Menzies for a reputed \$18million and has lodged a Planning Application with Council for...

79 dwellings and associated car parking, including buildings and works, private swimming pool, private tennis court and demolition of Deakin University buildings and partial demolition and alterations to Stonington Mansion.

The application is on exhibition now.

CONCLUSION

So we have seen one of the State's most historically significant buildings go into the hands of developers without a peep from the State Government. The three governments, those of Kirner, Kennett and Bracks, are Deakin's accomplices in this outrageous abdication of responsibility for public property. All Victorians have a right to their heritage. Stonington Mansion is a treasured part of our heritage and, as such, should have remained in public hands. Council and community concerns and appeals to stop the process should have been sufficient for the Bracks Government to take positive action and refuse permission for this historic real estate to be sold. In agreeing to the sale the Government was in breach of trust.

Our land is lost, a Victorian icon is in private hands, public access is no more, governments are not held to account and the property developers are laughing all the way to the bank. There are no benefits for the community nor the State of Victoria in this entire reprehensible process.

The final action in this sorry saga was the Bracks Government giving Deakin permission to sell the subject site in direct contravention of its M2030 document in which it seeks to protect sites of historical significance.

Finally, I thank the Select Committee for taking on the onerous task of investigating the matters dealing with the "alienation of public land." I do not wish to present this submission orally but, if necessary, I answer any questions I can in relation to this matter.

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Ann M. Reid (MEG Convenor)

Contact:
Ann Reid (MEG Convenor)
14 Chanak St.
Malvern East 3145

Ph/Fax 9572 3205

ATTACHMENT

1. Minutes..."Save Stonington Mansion"...Public Meeting...Oct.12/06

Letters from...

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|-----------------------------------------------------|------------|
| 1. Dept. of Justice to Council | Dec.14/06 |
| 2. Dept. of Education & Training to Council | Dec.20/06 |
| 3. Dept. of Treasury & Finance to Council | Jan .8/07 |
| 4. Dept. of Sustainability & Environment to Council | Jan. 15/07 |
| 5. Dept. of Sustainability & Environment to Council | Jan. 30/07 |

Documents Released to Council under FOI from...

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|------------------------------------------------------------------------------------------------|------------|
| 1. Office of Vice-President (Admin.) Deakin to Dept. of Finance | Mar.16/95 |
| 2. Fax from. Dept. of Finance to Deakin Uni
(Includes Proclamation of Commencement of Act.) | Mar 27/95 |
| 3. Office of Vice-President (Admin.) Deakin to Dept. of Finance | Mar. 27/95 |
| 4. Dept. of Finance to Office of Surveyor-General | Mar.27/95 |
| 5. Dept. of Treasury & Finance to Solicitor for Deakin | June 28/95 |
| 6. Office of Vice-President (Admin.) Deakin to
Dept of Treasury & Finance | July 6/95 |
| 7. Dept. of Treasury & Finance to
Dept. of Conservation & Natural Resources | July 11/95 |
| 8. Dept of Conservation & Natural Resources to
Dept. of Treasury & Finance | Sept.22/95 |
| 9. Dept. of Treasury & Finance to Dept. of Education | Sept.27/95 |
| 10. Education Victoria to Dept. of Treasury & Finance | Oct.4/95 |
| 11 Memo from Stephen Falzon (Tr. & Fin.) to Peter Hunt | Oct.10/95 |
| 12. Memo from Peter Hunt to Stephen Falzon (Operations Mgr.) | Dec.19/95 |

Letters from...

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|-------------------------------------------------------|------------|
| 1. Contour Planning (for Deakin) to Deakin University | Jan. 25/07 |
| 2. From Deakin University to Council | Jan. 25/07 |