

Submission on the Application by International Management Group (IMG) for Heritage Permit for the Melbourne International Flower and Garden Show (MIFGS) in the World Heritage Royal Exhibition Building and Carlton Gardens.

Heritage permit application: MIFGS 2019 (P29375)

**Submitted on behalf of the Friends of Royal Exhibition Building and Carlton Gardens (FREBCG) includes Coalition of Residents and Business Associations (CoRBA), Melbourne and Fitzroy Residents' Association (FRA).
December 29, 2018**

UNESCO obligations under the World Heritage Charter

Community consultation and public rights

It is ironic that the only time the public has opportunity to formally comment on the World Heritage Carlton Gardens and the Royal Exhibition Building (REB), is when the International Management Group (IMG), a commercial event operator, applies for a heritage permit for the annual MIFGS to be held in the Carlton Gardens (south) and the REB (including the adjacent circles and plaza). And it is a further irony that the permit is to exclude the public from access, and for 20 days with additional weeks, where the public access and amenity is reduced because of the associated event development works.

This is despite the government being signatory to the UNESCO World Heritage Charter. The fifth strategic objective of the World Heritage Charter concerns the consultation with and ongoing involvement by the communities in affirming and protecting the universal values of the site for the present and into the future.

On that basis, this submission will necessarily have a community and public oriented perspective.

First questions we ask the Executive Director to consider and answer are:

1. *Why is the MIFGS in the Carlton Gardens? And*
2. *If it was not there already would MIFGS be permitted?*

MIFGS and its Commercial use of public assets

The IMG application has the tone of assumed proprietorial right? The application is complete with self-justification and self-promotions and notable by what it includes and also excludes. The application extolls its: international credentials; market reach for retailers; first-class rental sites; economic contributions, its support to education and community. Obviously, these things would happen regardless of the location of MIFGS and therefore are extraneous to the application and should not be considered by the Executive Director or, if they are considered as second or third tier issues and not as a primary part of the application.

World Heritage citation: facts versus falsehoods

Does the MIFGS need to be at the Carlton Gardens? Ironically while IMG claim the Carlton Gardens as best location for the show because of its trees and lawns, they proceed lock out the general public and build over, cover up and obscure the views and natural ambience. Of the Gardens. Moreover, IMG justify the MIFGS in the Gardens, as continuing the tradition of the Exhibition period, by referring to a section of the WH citation.

The Royal Exhibition Building and the surrounding Carlton Gardens, as the main extant survivors of a Palace of Industry and its setting, together reflect the global influence of the international exhibition movement of the 19th and early 20th centuries. The movement showcased technological innovation and change, which helped promote a rapid increase in industrialisation and international trade through the exchange of knowledge and ideas.

IMG's misinterpretation of this movement is astounding in its ignorance and lack of historical context and they then omitted other sections of the citation, that made clear the exhibitions were in the REB and not the surrounding Gardens. (ref WHMP Section 5, World Heritage Values, page 4),

Typically, exhibition buildings were surrounded by large gardens — the common view being that these “palaces of industry” should be seen and function within formal garden settings. And

The Royal Exhibition Building in its associated Carlton Gardens landscape setting, was constructed to house the Melbourne International Exhibition of 1880. That Exhibition, together with the subsequent 1888 Melbourne Centennial International Exhibition also held on the site, was among the largest events staged in colonial Australia and helped introduce the world to Australian industry and technology. And

The site comprises three parcels of Crown Land including two Crown Land Reserves for Public Recreation (Carlton Gardens) and one for Exhibition and Museum use.

In assessing the application, the Executive Director should recognise the erroneous impression and historical revisionism that the applicant has put forward to justify their application, and, we believe bluntly point out these falsehoods. Any number of REB Trust documents relating to the 1880 and 1888 Exhibitions, describe and show, the location of the exhibition areas as being located in the buildings (including the REB) and the southern Gardens as being set aside for visitors' leisure and botanical setting for the REB. Alternatively, *Victorian Icon: The REB Melbourne* edited by David Dunstan, is an expertly researched book with a wealth of information of the exhibitions and the REB's rich varied history replete with extensive sources. And of course, there is the World Heritage Management Plan and substantive attachments from contemporary references.

It is in the remit of the Executive Director to consider whether or not there is an alternative site as well, or better, suited to the high impact commercial MIFGS event and that the heritage values losses to, and risks associated with having the MIFGS at the REB and Carlton Gardens, outway the MIFGS use of the site.

MIFGS was and is the first event and only of its type, in the Gardens. Its presence broke over 100 years of precedent. Whereas at the MIFGS, the thousands of visitors and exhibits crowd onto the lawns, walk over tree roots and surrounding flowerbeds, during the international exhibitions and for much of its history, visitors were restricted to pathways. At the MIFGS, changes have been made to diversify and popularise, with entertainments, performances, food and drink, and night time openings. We maintain that MIFGS' use of the site in such a manner is not only historically inappropriate but is a complete contradiction of the site's historical use and such, therefore, should be denied.

Is all this popular entertainment and retail really horticultural, and therefore is it appropriate in the World Heritage Carlton Gardens?

Consideration by Executive Director of Alternative sites for MIFGS

In considering these questions, the Executive Director might refer to the recent history where alternative exhibition sites were considered:

- In the 1990's the REB Trust and government discussed the limitations of the REB to mount exhibitions. From these discussions, came the decision to build a purpose-built the Exhibition Centre (Melbourne Convention and Exhibition Centre) which was subsequently built at South Warf. This eased pressure on the REB but also resulted in the Museum being built adjacent to the REB and the Trust being replaced by Museums Victoria and new legislation overseeing the REB.
- In late 1990's the Royal Horticultural Society, Victoria, sought government funding for substantial improvements to its facilities. The main reason given were that such improvements would suit the expanding MIFGS and allow it to move to the Melbourne Showgrounds. Subsequently, the Government provided money to renovate the Showgrounds.
- Since the MIFGS' initial occupation of the Gardens, the City of Melbourne (COM) has undertaken only one extremely limited review of the use of the Gardens. A thorough review is required.
 - It should be noted that the review was undertaken before the World Heritage listing and the attendant obligations that could attach to the REB and Gardens post-WH listing.
- During the 2000s and the Millennial Drought years, the City of Melbourne sought on several occasions to support the MIFGS to move out of the Gardens, or at least, to substantially lessen the amount of the Gardens that MIFGS occupied. (eg more high impact exhibits in open spaces around the REB)
 - This is reflected in formal Council motions to relocate MIFGS. (see the Parliamentary Select Committee on Public Land Development Subcommittee Report 3 April 2008, for the COM's formal statement)

Against the IMG's *fake history* of the Gardens' exhibition use and the fraught legacy the MIFGS has brought to the Carlton Gardens and the REB, it is fair to say, it is past time for change in the considerations and evidence the Executive Director applies in assessing the MIFGS permit.

The permit approval has largely been assessed against the event operator's project development plan for the site rather than against best practice for a fragile World Heritage site.

But it is exceedingly difficult to disconnect from questionable past practices and to challenge benefits from those who have assumed their rights and who have largely controlled the assessment methods and measures.

The history: The morphing of horticultural and arbor days into MIFGS

When one tracks backwards to the emergence of MIFGS, one finds a very different situation and environment. Arbor and horticultural days were public open days at Burnley Horticultural College and run internally by the staff. Then in the 1990's coinciding with the escalation of the commercial and corporate events industry, International Management Group of America, (IMG) became involved with gardens event. For 2 years the event was held in a north west section of the Fitzroy Gardens, in East Melbourne. However, in 1995, due to objections by the public, the National Trust and others, the City of Melbourne moved the event to Carlton Gardens south. One of the reasons for the move to the Carlton Gardens was that "Flowers Victoria" held their traditional annual show at the REB. With IMG assuming management of both the horticultural and flowers, the event was branded as the Melbourne International Flower and Gardens Show (MIFGS).

In the years the MIFGS has been at the Carlton Gardens south and the REB, it has evolved exponentially. Despite that, as mentioned above, there has been only one review and that review was limited. The 13 May 2003 COM report on the licence renewal and the location review are germane to understanding the MIFGS history. Only 2 alternative sites were considered; Birrarung Marr and Federation Square. 4 excerpts from this report illustrate changes of substance that have occurred since 2003 and present, that should be considered by the Executive Director in determining approval of permit and or conditions. Excerpts from the 2003 report:

- Melbourne's Parks and Gardens (Joint Trustees Reserves) Regulation 1994 [Regulations 19 (1) and 10 (2) state that the Council (as Committee of Management) "*may once in each 12 month period, approve that part of Carlton Gardens be enclosed and used for a period not exceeding 14 days for the holding of a specially mounted horticultural exhibition of flowers, plants, shrubs and trees in those Gardens.*"
- Council's Park Policy provides that it will "*facilitate events where it is consistent with the recreation and leisure role of the parks*" and that "*any commercial activity within parks must enhance the experience of park users.*"
- In July 2004, the Carlton Gardens (in its entirety) and the Royal Exhibition Building were accepted for World Heritage listing.
- Council undertakes an effective Public Consultation Plan to ensure that local residents, businesses and key stakeholders are kept informed and advised of developments. Council has also facilitated the licensee to establish strong relationship with stakeholders of the current venue. Community feedback indicates that the show is supported in its current location.
 - Note: There has been no Public consultation plan nor community consultation for some 6 years. In 2013, the Events Advisory Group was disbanded.
 - We are not aware of any survey – verifiable or otherwise - having been conducted to test the public support for the MIFGS's location at the Gardens.

Challenging the considerations applied in assessing permit application

MIFGS effect is more than physical and natural environmental damage to Gardens

Past heritage permits and associated conditions, have focussed on the physical effect of the MIFGS event on the Gardens. The measures have been limited in scope to the observable and immediate damage done to the gardens; of course, not underestimating the importance of that damage. It is essential to recognise and safeguard, the vulnerable gardens and trees and natural environments.

The community submissions have also concentrated on the high impact and observable damage done by the MIFGS. Those submissions have included photos of MIFGS that show the constructions, demolition, ground penetrations, scarring and longer-term turf damage. They included expert reports on the effect of the event on the trees and lawns. The reports contradicted the MIFGS assessment reports and the photos clearly show damage from the event. (Ref: Rob Galbraith 2008 and 2009). Again, it is ironic that although anyone walking in the gardens today can, nearly a year after MIFGS, still see evidence of the damage: Yet, still the claim by IMG is that no damage has occurred. Even the reports that IMG use, cite damage but this is ignored or glossed over. Is it that the meaning of *damage* as been reinterpreted or that there is an undefined level of damage that is considered acceptable to a World Heritage place?

It is obvious that the previous heritage permit conditions accepted that MIFGS would damage the Gardens but sought to mitigate, rather than prevent, that damage. It is a reality of the high impact event that there will be damage. While the MIFGS is in Carlton Gardens, it has become a case of accepting a degree of damage. So where is the line drawn? When is too much and how is damage measured? Moreover, after 23 years, should not the long term and incremental effect and risks to trees and natural environment be assessed?

How does the law require permit application to be assessed?

The Executive Director's assessment against the permit application is not being questioned. But in the past there has not been evidence of the extent the permit was assessed against all the lawful provisions that apply. WHMP Section 9 on *Statutory Permits*, specifies that assessment of the development permit application must consider the site's World Heritage, National Heritage and local heritage and planning laws. (Ref: World Heritage Management Plan).

Therefore, a shift is required from the highly-narrow target set by the IMG as the applicant, to the full extent of the requirements for assessing a permit that is a World Heritage site. That is a challenge, when appearances are, that the commercial event has assumed a proprietary right to the sites and assessment seems a matter of containment of the effect of the event. And again, the containment is focused on the damage to the Gardens.

Has this been a case of the responsible authority, in accepting the parameters for assessing the application, being effectively captured by the applicant?

Is the MIFGS in the Carlton Gardens horticultural?

In his assessment, the Executive Director must determine;

- If the MIFGS meets the horticultural provisions under Regulation 19 of the *Melbourne Parks and Gardens (Joint Trustee Reserves) Regulations 1994* (this even applied to the Minister if he took over the event under the *Crown Land (reserves) Act*);

- part of the delineated area, - the ‘road’ south of the REB is part of the Museum, not the CoM and which for the first time is being enclosed.
- The event plan with category colour coding shows high proportion of *other than horticultural* exhibits. And
- Whether there is lawful authority to enclose for 20 days.
 - It appears that the extension of the period of enclosure from 18 to 20 days was not gazetted and as such is unlawful and cannot be considered, much less approved, by the Executive Director. The most recent gazettal appears on 19 March 2012 when the period of enclosure was increased from 14 to 18 days. (Ref: Gazette S 92, 21 March 2012)
- Whether the applicant has demonstrated the intended use is compliant the *Melbourne Parks and Gardens (Joint Trustee Reserves) Regulations 1994* and that the sole purpose allowed for the permitted use of the Carlton Gardens, under the *Crown Lands (Reserves) Act* and the regulations, is horticultural (noting that the test is a sole purpose not “dominant” purpose test). It appears from the information provided by the applicant that the application is for a use or uses that are not horticultural even in the most generous interpretation:
 - The exhibits and activities are a mix of fabricated landscape gardens, retail, variety, entertainment, food and drink and alcohol, advertising; and involve,
 - Amplification for public announcements, music, lighting for evening events, banners for event and self-promotional, including on the perimeter fence shroud.

MIFGS’ own description of the event

The various documents included with the application are enlightening. They challenge the definition of horticultural; at least the applicant’s own account of MIFGS would get a fail in any common dictionary definition of “horticultural”.

For example, evidence of the MIFGS being increasingly high impact, is IMG’s own justification for public exclusion for 20 days; that of public safety. This reference understates the reality of the logistics involved in setting up the event.

- Moreover, a study of the large enclosed areas for logistics use, underscore the mass.
- What is not referred to though is the effect of the logistics traffic and the high volume of exhibitors’ traffic. See public interest section for more commentary.
- IMG site plan shows the range and proportions of different categories of site usage.

Another example: Does the twilight event satisfy the horticultural requirement?

It is separately ticket for additional fee, extends open hours into Friday evening and is promoted as offering a range of entertainments in a floodlit garden setting.

- There are performances, fire acts, buskers, music, food, drink and alcohol, as well as the landscape and in the REB, floral design exhibits.

And what of the effect on the protected wildlife in the Gardens?

- Has the RSPCA been asked for advice on the effects on the native fauna and bird life including during the night event and lighting?
 - What is the consequence for the possums and ducks and water hens and their babies?

Executive Director’s consideration of the extent and heritage values effect of lost access to general public.

The MIFGS states attendance for 2019 will be greater than 90,000. How does that compare with the lack of access to the general public? A comparative estimate might include;

- In 1995, the first year at Carlton Gardens, Melbourne's population was 3.2 million, (Ref: Australian Bureau of Statistics) and the Gardens were closed for 10 days. In subsequent years, MIFGS regularly reported event attendance at and over 100,000.
- In the 2003 Master Plan for the Carlton Gardens, the City of Melbourne stated 2 million people visited the Gardens.
- In 2019, with Melbourne's population over 5 million, the Gardens will be closed for 20 days. MIFGS estimates 95,000 attendance. (reflecting an apparent decline in popularity of the event)
 - Statistics show the majority of the increased population live and work in the city and inner suburbs.
 - That the eastern end of the CBD, Carlton and Fitzroy abutting and near the Gardens have seen a dramatic increase in population and users of the Gardens.
- It follows that there is increasing pressure on public open spaces by ever increasing numbers of people especially as the majority of those newcomers live in apartments.

Using those estimates, one might conservatively conclude that a minimum of 15,000 people a day now use the Gardens. Over the 20 days the southern Gardens, the REB and parts of the circles and plaza areas, are closed, a total of 300,000 people who might otherwise, cannot use, nor have quality views of at least half of the World Heritage site. It is clear from the number of people excluded from the Gardens and the World Heritage site, that their amenity has been substantially compromised.

- The proposed closure will also disadvantage cyclists by the closing of the southern promenade from Gertrude through to Rathdowne and Queensberry Streets. Cyclists will have to use the footpaths and thereby create a conflict of use between cyclists and pedestrians (noting that the closure of the Gardens means that footpath congestion will increase commensurately)

One might conclude, applying even the most conservative of estimates, that while by IMG estimates, 90,000 – 100,000 people pay to attend MIFGS, 200,000 – 300,000 of the general public, are negatively affected by the closures.

Does the MIFGS satisfy the public interest test?

Executive Director Consider: Lack of transparency and accountability in costs attributions and profits and reductions in public access and amenity

Despite use of public assets and public resources in kind, monopoly access to site and a Gardens' licence fee that is a fraction of the monetary value of the site, financial and business plans are not provided to the public.

Using the Botanical Gardens as a guideline, the Carlton Gardens' site rental at a commercial rate for the full period of occupation and use, would be more than \$1 million. That rate would not include depreciation and other on-costs.

Example of deficient public accountability: MIFGS ticket prices

Yet despite no public accountability, the ticket prices for the MIFGS have incrementally risen over the years. For 2019, MIFGS sought from the City of Melbourne, an increase from \$30.00 to \$40.00 per person over the future of the licence. – an increase substantially above the Melbourne CPI and wage grown of 2.1%. Given that MIFGS provided no supporting evidence, it is fair to make comments:

- MIFGS' rationale is that ticket prices have not increased since 2017 – one year ago, and that delivering the event has increased costs over this time and into the future.
- The mentioned sponsorships and other avenues of support whether monetary or in-kind as stated by MIFGS, are a matter for MIFGS not Council. However, where there are cost increases, a ticket increase might be reasonable (but no evidence)
- MIFGS requests an increase in ticket price that will go solely to the event itself - an increase of 25%.
- The proposed increase to the maximum daily entry fee will not impact the council's licence fees and it will not generate any additional revenue for Council.
 - To the contrary, COM is foregoing parking income by providing kerb perimeter parking to the exhibitors.
- City of Melbourne was again asked to increase private profit and to the cost of the public – specifically the ratepayers - since the council's real and in-kind resource contribution to MIFGS have also steadily increased.
 - After allowing for COM grants and resource use transfers to MIFGS, and accounting for the licence fees and sinking fund it is understood, there is a small net return to COM on recurrent costs.

**Examples of reduced local amenity and disruption to public traffic systems –
Congestion on streets, reduced public parking and increased risks to public safety.**

There is no traffic plan in the application documents. This is considerably troubling given the need for an expert traffic plan.

There is no evidence of either recognition by IMG of the public effect, nor of how the high volume and high tonnage of vehicular traffic will be managed to access the southern promenade via the single entrance through the gate off Nicholson Street. Nor is there evidence, how the same traffic will be managed to exit from the southern promenade into Rathdowne Street at the Queensberry St T junction. Experiences of previous MIFGS is that traffic congestion and disruptions from event vehicles is unavoidable:

- It is a Victorian era heritage gardens and the perimeter streets are major access routes around the inner-city suburbs and into the CBD.
- Restricted site access and egress are inherent in the heritage gardens' site.
 - IMG has relied on using Nicholson St as event entrance and with exit via Rathdowne St.
- The event is huge, and requires, heavy building and construction materials and equipment and logistics to match.
 - Turning for many industrial vehicles in city streets is problematic and considerably more so, in highly restricted spaces.
- Access is at T junction of Nicholson and Gertrude Streets. This T junction is the epicentre of converging traffic that is often at overload.
- The new superstop for the 86 and 96 trams built mid-2018, has added to congestion for vehicles and other public users. The congestion and risks will come from;

- Reduction to 1 lane for through traffic from the city. This means that event vehicles, often semitrailers, will use this same lane as public through traffic.
- Enforcement of right turning prohibitions into promenade, from T junction.
- Newly built concrete barriers to separate traffic from trams and to prevent vehicle crossing over the tram tracks (as some transport vehicles using the REB and Gardens sites were want to do)
- Access to entrance from Gertrude St, with its shared traffic and tram lane, is near impossible with pressure of vehicles behind, converging and lined up at the lights.
- The routes 86 and 96 are two of the busiest tram routes, with a tram at the T corner every few minutes for much of the day.
- Public kerb parking is reduced.
- Both Nicholson Street footpath and southern promenade are designated bicycle paths and the footpath space at the lights for cyclists and pedestrians is shared with the southern promenade's vehicles entrance.

In past years, the impost on the public from event traffic has progressively increased. For example,

- When exhibitor parking in west circle was withdrawn by upgrades to the German circle, and the Circle area was used for food and drink, the MIFGS exhibitors moved to use the kerb parking around the Gardens' perimeter at the expense of the public.
- Buses have also progressively increased use of the street perimeter kerb parking,

When the event then sets up in the REB the event traffic escalates. REB logistics and facilities vehicles enter and leave from Nicholson Street via the eastern French Circle, and only 20 metres from the T junction. The limits on circle's capacity means that vehicles often wait in line along Nicholson Street, even extending into Victoria Parade. The aggregation of all these additional vehicles, many heavy industrial, on already clogged streets, exacerbates the traffic problems. Public risk is even higher when event drivers break the law, by cutting across and blocking traffic in efforts to beat the delays.

Example of transfer of public asset to private developer: Iterative erosion of public amenity and access by increased demands on public assets by commercial profit taker

The net result is that the public, and not the MIFGS, carries the consequences of the limitations of the site and the iterative increases in use of the WH site. In reality, the MIFGS increases its private benefits and access to public assets.

So another question to the Executive director is,

What loss to heritage values does the Executive Director attribute to such systemic negative public interest and amenity costs? Might not there be reputational costs to be calculated when the public must be understandably sorely aggrieved?

In 2019, an additional area, the eastern section of the southern promenade is proposed to be enclosed and used for retail. Each time the event's space expands, and larger areas are enclosed, the cost, that is the loss of the public space, is borne by the wider general public.

What are the components of world heritage values?

It is our contention that there are many more considerations to be assessed in determining the permit, than direct damage to the Gardens. Our position is that the Executive Director should consider anything that devalues the site including public interest and reputation; and the various factors therein. Not a small part is the public goodwill required to support and recognise, the significance of the WH site. For we all share the legacy and the responsibility as custodians to value and protect the site, now and for the future.

It is our view that Executive Director must consider the public interest and in no small way, consider the effect on World Heritage and other heritage values.

Example: World Heritage site closed to public; REB views obscured, and Gardens degraded.

What is the likely reaction of visitors who come to visit the World Heritage site and leave having had a series of negatives experiences, including closure of the REB and surrounds and half the Gardens? Predictably some of these visitors will be from overseas: They will have high expectations of sites with WH listing. And, as we are very aware, the WH REB already suffers public recognition problems from the REB's very limited public openings.

Executive Director consider: Net community benefit and the total value of world heritage

Reviews and audits of use of public assets and assessment of net community benefits.

When there is a transfer of public resources or assets to the private sector, there is usually lawful requirement that funds and/or benefits transfers, be public accountability. This often takes place through parliamentary committees and is the principal responsibility of the auditor general. In the case of the World Heritage site there is an additional specific accountability requirement; that as required in Commonwealth and State heritage laws and laid out in the World Heritage Management Plan (WHMP). Since 2004 and its World Heritage listing there has not been a review, but one is proposed for 2020. (– having heard the same for 2015 and 2017).

Setting aside the WH requirement, there is a very strong case that the MIFGS should be reviewed and that the review applies the standards of, and comparable terms of references to, public sector audits.

It is disappointing, no, negligent, that there has never been a review or public audit of the MIFGS. The public has never seen an accurate and comprehensive costing of the event, nor of the profits to private MIFGS event nor losses to public.

Both State government and council support the MIFGS

Yet in their support for the MIFGS both government and council rely on unsubstantiated advice largely provided by MIFGS; such as attendance numbers, (no audited attendance numbers have been provided) tourism numbers (again no substantiation from any person much less an acknowledged tourism economist). We note that this fails the most basic tests outlined by the Victorian Auditor General for assessing major events. (Ref: *State Investment in Major Events* VAGO 2007)

At the very least, Government and council are open to criticism of not meeting minimum standards of public probity and accountability. And without a review or audit, there is no hard data or evidence, only assumptions, as to the economic benefits, can be made. Similarly, the net community benefit in this case should include an assessment of the total value of the World Heritage site and the off-set costs of having the MIFGS at the site.

For example, comprehensive a cost benefit analysis has never been provided to the community. Neither the City of Melbourne nor IMG has been made to account for the economic viability of the event. COM persists in expressing concern to protect the commercial viability of the event without actually factoring in the various subsidies provided to IMG; on the other hand, it actively discounts its responsibilities to the Gardens. For example;

- The annual degradation of the World Heritage Gardens may well contravene custodial guidelines delegated from the Federal government.
- There is ample evidence that the Carlton Gardens' site is degraded and does not recover between events, to the extent it might, if more protective measures and 'make-good' funding was made available.
 - Photographs included in previous submissions on MIFGS have shown extensive damage and scouring, including long term, degradation. (Ref. photos available on request)
 - Aerial photographs allow a comparison between the North and South areas of the Carlton Gardens are evidence of this lop-sided degradation. And there is also documented loss of heritage trees.
 - Council compliance reports do show attempts to prevent transgressions by IMG, and council reports, although limited, also do record some tree root compaction. And,
 - Community commissioned reports on the effect of the MIFGS on the heritage trees and gardens, concluded there was tree and gardens damage. (Ref Rob Galbraith reports 2008 and 2009, that are available on request)

Consideration of Monetary Compensation to public for some of the losses incurred by MIFGS

Example of cost calculations: there seems to be no interest from COM nor Government in cost attribution. The most obvious areas for cost attribution would be the depreciation to the heritage gardens natural assets and the public material infrastructure and assets. Since the public is denied access to their entitlement of public open space for an extended period during the event, this loss might also be translated into dollar amounts; that is, the opportunity costs. Such a methodology could also be applied to added imposts and resources used by the City of Melbourne and also the City of Yarra, as they take action to mitigate against the public consequences of the MIFGS in their municipalities.

So, all the previous arguments and possibilities for action notwithstanding, the decisions by the Executive Director on the permit and conditions have turned on the degree of damage that is considered acceptable. But if all the laws pertaining were applied, would that limited measure be determined as acceptable?

Should there be referral to the Australian Government?

Neither, we say, have obligations to UNESCO nor all the lawful requirements, arising from World Heritage citation, been comprehensively tested.

A referral notice should be made to the Commonwealth Government under the Commonwealth's *Environment Protection and Biodiversity Conservation Act*, 1999.

Reasons for referral include:

- Commercial high impact event that among other changes to WH site,
 - obscures the entire southern gardens and half the REB external walls from the general public,
 - builds constructions on top of horticultural areas, involves heavy industrial infrastructure, and
 - uses prolific commercial promotion within and outside the WH site.
- Huge size, of the event, means closing half of the entire World Heritage site for 20 days, and reduced public amenity for additional weeks, and that
- The event has evolved from horticultural base in efforts by the event operatives, to attract different interests' groups.
 - These changes made without the responsible authorities reviewing event's ongoing compliance with laws relating to horticulture and crown lands use.
- Despite having monopoly access to WH public asset, the MIFGS does not provide certifiable financial accounts nor attendance records.
- No review of WHMP has yet been done as required by the UNESCO, WH Charter obligations.

We maintain that the Executive Director should instruct the IMG to submit a Referral Notice to the Commonwealth in accord with the *Environment Protection and Biodiversity Conservation Act*, 1999. Such a step would be a stop gap while waiting for the full WHMP review and would in part fill the deficit missing from the lack of Government or council audits and reviews.

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