

Standing Committee for Environment and Public Affairs
Parliament House, Perth, WA, 6000
FAO: Hon Matthew Swinbourn, MLC, Chairman,
Dear Sir,

Petition No 002, Proposal to sell Midland Recreation Ground Reserve, ‘Midland Oval’

Thank you for your letter of 15th June. We have not taken our concerns to the Parliamentary Commissioner for Administrative Investigations, (Ombudsman). The basic points which we wish the Minister and Committee to consider are these:

- The Recreation Ground Reserve was part of the original private subdivision in 1891, granted to the residents of the Town as a Reserve in perpetuity¹. This Reserve status was confirmed by the Municipality Solicitor, and by the past Attorney General of WA, Septimus Burt, as below.
- Many significant sporting clubs and celebrated athletes are associated with the Oval. Lawn Tennis, Lawn bowls, Australian Rules, WAFL, Association Football, cycling, cricket, boxing, trotting and many other games and sports as well as training and recreation have been regularly enjoyed on the Midland Oval grounds for many generations. Midland Recreation Ground Reserve, ‘Midland Oval’ has been a focus of major community celebrations and events since it was declared a public reserve 126 years ago.
- The Shire and later City of Swan have gradually run-down the Place, demolishing or relocating sports facilities and grass courts, bowling greens etc to to ‘Swan Park’, Middle Swan, near Roe Highway, all in contravention of community wishes and despite 30 years of protests.
- Public Consultation over a twelve year period has been stage-managed, with Staff consistently pursuing an agenda to demolish the Oval and imposing their views onto and through a succession of Councillors. Swan Chamber of Commerce has also promoted the sale of this valuable Public Asset, both possibly for conflicted motives including perceived financial advantage. Community Consultation seminars saw senior staff such as Martin Richardson (Chief Planner), and Eric Lumsden (CEO), express absolute opposition to redeveloping Midland Oval as a Central Park. Such views still dominate although staff have moved on.
- City Staff and Councillors made it clear in conversation and at a subsequent Special Electors’ Meeting in Jan 2016, that they had no intention of taking the community views into account or reviewing the MORM plans for demolition other than superficially. The questionnaire issued allowed input only into aspects of the MORM Plan, with no opportunity to argue for a major Central Park, Midland’s only real Park.
- ‘Community Consultation’ on the future Midland Oval was entered into only after a MORM committee had developed over two years *in camera* a plan to subdivide and sell the Recreation Ground, and had entered into a Contract for sale to Steve de Mol for part of the land, without Public Tender, including across part of the c1937 cycling track, which defines the Midland Oval.
- Council adopted the MORM Plan in about Nov 2015 with the condition that it would undertake Public Consultation on the future of Midland Oval. This was a superficial information process whereby the community was invited to comment only on the MORM proposals, e.g.; the colour or nature of the paving.
- *The City of Swan council in early December 2015 voted against going out to tender on two blocks of land as part of the Midland Oval redevelopment in favour of a private treaty with one developer, in a move that has been criticised as not the best outcome for ratepayers. Last month, the council approved the sale of Lot 4 The Avenue, which sits within the Midland Oval precinct, to the De Mol Group of companies despite another bid for one parcel of land coming in at \$274,810 more than the original offer put forward by the De Mol Group².*
- *Steve de Mol said he was ready to go now and that he would not proceed with his offer if it went out to tender. “I won’t be interested,” Mr De Mol said. Swan Valley Gidgegannup ward Cr Rod Henderson said not going out to tender was not a good look for the council as the perception of doing this properly needed to be adhered to.³*

¹ Copy of letter & reply; Swan History Collection, Midland Library

² The Echo, 5th December, 2015

³ ³ The Echo, 5th December, 2015

- According to Local Planning Scheme No 17, 11.7.2 *The local government may deal with or dispose of land acquired by it for the purpose of a Local Reserve upon such terms and conditions as it thinks fit but the land must be used, and preserved, for a use compatible with the purpose for which it is reserved.*
- The MORM proposals fail to allow for or provide the 10% Public Open Space for Central Midland, as required under Liveable Neighbourhoods and general planning policies. Staff and Councillors were claiming 15% POS for Central Midland, under the amended MORM Plan, when the actual figure calculated was 0.87%.
- The City of Swan website under Midland shows for “Reserves and Trails” or “Parks” or “Sports grounds and pavilions” in Midland; *No results found. Please try searching again.* Is this deception or policy?

A Brief History of Midland Recreation Ground Reserve, ‘Midland Oval’

William Byers Wood, the owner of 400 acres in Section B of Helena Vale, Location 7, subdivided Section B, Plan 271, XLI/339 in 1891 and set aside a square of 5 acres for the use as a recreation ground for the Midland Junction community. The Recreation Ground designated to the Midland Junction community layer known as ‘Midland Oval’ or ‘The Rec’. The title of the Recreation Ground Reserve later came into question and Morley Alcock, the solicitor for the Municipality of Helena Vale wrote to Septimus Burt, recent Attorney General, for legal advice.

Mr Septimus Burt’s reply, inter alia, is dated 7th February 1900;

Under the circumstances set out in this case I am of opinion that the piece of ground marked “Recreation Ground” on the plans to which I am referred has been clearly dedicated for the use of the residents in the vicinity, by Mr Wood. The fee still remains in him but the use of the ground in the public.

This land being a reserve, the Council have authority to fence it and improve it under Section 138 and also Section 109 of the Municipal Institutions Act 1895..... It is quite sufficient that he has made a dedication to the public and can be restrained from any interference.⁴

That the Recreation Ground was a dedicated public reserve was confirmed by a succession of mayors over following years, for example:-

A letter was read from the council’s solicitor , stating that there need be no fear respecting the reserve, as it was already dedicated to the public. West Australian, 7th November, 1898

By 31st January, 1900, the 5 acre Recreation Ground had transferred to the Mayor, Councillors and Burgesses of Helena Vale, and was officially opened by The Mayor of Midland Junction, Dr William Elgee on October 21, 1901. £500 had been spent on purchase and improvements, levelling and fencing⁵. Further purchases increased the total area of The Recreation Ground Reserve, to about 5.1 hectares by 1992.⁶

Redevelopment of Midland Oval

The Midland Oval certainly requires redevelopment, as it has been progressively down-graded, and reduced, with sports facilities such as the Lawn Tennis and the Bowling Clubs demolished or relocated to Paterson Drive, and separated from the Midland community, over the last twenty or so years.

The opportunity exists to retain at least an essential 5 hectare Central Park in Midland which could provide 6.2% Public Open Space for Central Midland, as opposed to the 10% POS requirement under Liveable Neighbourhoods. If 60% of the whole block was developed as a 7ha park, Midland could have a Central Park approaching 10% POS. This would support the amenity of many future generations.

A petition was presented to the City c2005 with over 600 names of electors lobbying for the retention of the Oval. Snowy Bennet & Joe Corti among many others lobbied consistently to Save Midland Oval. A Heritage Assessment Plan was prepared and presented to the City in 1999, prepared gratis.

Yours sincerely,

Patrick Irwin

⁴ Copy of letter & reply, Opinion, Hon. Septimus Burt; Swan History Collection, Midland Library

⁵ ‘Swan Express’ 26/10/1901

⁶ Cert of Title Vol1937, Folio 627