

Public Land @ 5 Million – Governance and Fiscal Reform

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The Role of Public Land in the Compact City

In institutional and fiscal terms, we need to rethink and rebuild our relationship to public land. It's going to play a much bigger role in our lives, especially if you accept the proposition that a sustainable Melbourne is a much more compact Melbourne.

UGB changes notwithstanding, the Melbourne @ 5 million policy package involves a significantly more demanding consolidation challenge than did Melbourne 2030. Melbourne @ 5 million indicates a need for over 100,000 more dwellings within the established urban areas of Melbourne over the next 20 years than was planned under Melbourne 2030 (Figure 1).

Moreover, there is growing public advocacy that we need to go much further, including adoption of what I call the “Rob Adams” solution, which involves major intensification around public transport corridors and the transformation of suburban areas into “energy farms”.

Figure 1



Net Housing Additions 2006 - 2026



It's worthwhile comparing a 'New World' city like Melbourne with a similar sized counterpart in the 'Old World' and contemplate the role of public land in their respective

In the older parts of the Old World cities, like Berlin, the reverse pattern applies; private buildings are oriented towards the public domain. Public land effectively defines the structure of the city and the way we use it.

If we are to achieve the 'Rob Adams solution', we will literally have to overturn some 200 years of city building and reinvent our attitude to public land. Are we up to the task?

Current Institutional Arrangements Are Not Up to the Task

Regrettably, our current institutional arrangements are not capable of delivering this revolution.

The corridors and nodes which have been, and must continue to be, targeted for major densification are of metropolitan significance; that is, their successful transformation is critical to the sustainability of Greater Melbourne. However, to a large extent, we've put *local* governments in charge of these sites.

This is a subsidiarity mismatch of enormous consequence. Local means local; if there is any tension at all between the metropolitan community's aspirations for a compact city and the preferences of local residents and businesses, the local Council will stand up for local interests. This is natural and appropriate, given the mandate of this sphere of governance.

Of late, our solution has been to extend the power of the State into these sites of metropolitan significance, either through the PDP, the formation of DAC's or the creation of parallel institutions such as the GAA. Make no mistake, in a governance sense these agencies are an extension of the Minister's Office. Decisions taken by these Panels, Committees and Authorities are made on the mandate of the Minister, despite the semblance of arm's length operation. All these forums advise and are ultimately directly responsible to the Minister.

The problem with this is that just as local government is, in the subsidiarity sense, 'incompetent' to make decisions in relation to the metropolitan community, so is State Government, which is mandated to look after the interests of the whole Victorian community. Almost 40% of elected members in the State Parliament represent non-metropolitan interests. The State is hopelessly compromised in making decisions on behalf of the metro community.

This is not a critique of the State Government's technical capacity or its dedication to the task of long range planning, which, I would say are second to none amongst Australian governments at present. Rather, it is a recognition that, by definition, the interests of the State community subsume, but are different from, the interests of the metropolitan community.

In few other jurisdictions in the developed world do national governments or high level provincial/State governments take charge of planning and urban management for their major cities. The integrity of the metropolitan community of interest is respected and

reflected in governance arrangements. It's noteworthy that one of the first things that the Blair Government did when elected to power in 1997 was to reinstate independent metropolitan governance for London, after this was suspended during the Thatcher years. Blair did this despite the political challenge it posed for Westminster. London has never looked back.

Indeed, in Victoria's case, it has only been since the mid 1980's that the State Government has sought to directly govern Melbourne. Generally speaking it has been an unhappy result, largely because the State is conflicted in the constituencies it represents, and any decision it takes on metro planning becomes a political issue with a capital 'P'. This leaves us with another potential problem of 'short termism' and expedient governance.

To properly manage the regeneration of Melbourne as a compact city, including a dramatically changed approach to the treatment of public land, we need to reinstate real metropolitan governance. A metropolitan authority for Melbourne should;

- be democratically accountable to a clear metropolitan constituency;
- have rating powers (and hypothecation of some taxes), and the capacity to issue infrastructure bonds;
- be responsible for the creation of a metropolitan planning scheme for ratification by the State, and operation of parts of which by local Councils, under delegation;
- invest in and manage the public transport system;
- be responsible for the city's highway system;
- maintain oversight of the metropolis's water, sewer and drainage systems; and
- maintain the city's system of metropolitan parks.

You might say that such a reform cannot be achieved, even if it were a good idea. However, the Commonwealth could have a critical role in facilitating this shift – more on that later.

By the way, the formation of a metro authority operating quasi independently of the State would not leave the State Government bereft of any meaningful functions in our democracy. After all, it would still be responsible for health, education and policing (which by themselves account for around two thirds of the State budget), as well as a multitude of other functions – industry policy, social housing, ports, inter – city highways etc etc.

Stewardship of Public Land in the Compact City

We also need to rethink institutional arrangements in respect of the direct management of public land, in which category I would now include land acquired for the delivery of public benefits, for example, land held by the Education Department, VicTrack etc as well as 'publicly accessible land' such as parks.

It's now well over a decade since the 'purchaser - provider split' craze swept through our public institutions as part of a momentous micro-economic reform agenda. Essentially,

this philosophy held that replication of market incentives would generate more efficient use of resources dedicated to public service delivery.

We reformed a raft of statutory authorities into commercialized and corporatised and even privatized entities. The idea was that you expected these organizations to optimize the public's return on their assets by focusing very clearly on core objectives and "running as a business". The Government would provide Community Service Obligation (CSO) payments to bridge the gap between internally generated revenues and operating costs plus market benchmarked margins. If you (the government) wanted them to do something in the public interest that was not directly related to these statutorily defined core objectives, you would need to compensate them by way of additional CSO's.

This worked well in some cases; it did create a sharper focus on corporate objectives and made the cost of Government policy decisions more transparent and accountable. But it has proven highly problematic when it comes to the stewardship of public land. All organizations holding public land are now, in effect, required to dispose of this land (when it is no longer required) at highest and best use. They have no mandate for, nor would they be thanked for, pursuing the wider community interest in the management of their property portfolio. The likes of VicTrack are free to ignore externalities and wider policy objectives – in the absence of compensatory CSO's.

As the city becomes more compact, the \$ value of externalities associated with site disposal (impact on affordable housing, equitable access to opportunity, vehicle kilometres travelled etc) will generally become more intense and may well overshadow the 'internalities' (i.e. highest and best use principles). This gives rise to multiple missed opportunities to speed progress towards policy objectives such as those embedded in Melbourne @ 5 million.

By way of example, it strikes me as strange that VicUrban cannot routinely get hold of VicTrack land for the purposes of delivering government policy.

Given the urgency of putting Melbourne onto a sustainable footing, we perhaps need to move on to a different way of managing public land, whereby the likes of statutory authorities and line agencies do not actually own land but merely lease it (on appropriate tenures and terms) from a central land management agency. This agency would be mandated to optimize the net community benefit from surplus land, rather than simply the commercial outcome for Government.

Under this arrangement, the financial cost of pursuing wider community objectives in the management of public land could be made more transparent. Significant transaction costs would be saved.

At present, strategic use of Government land happens in an ad hoc way; indeed, I'm told it is a difficult exercise for the Government even to find out just how much land it has under its control.

Funding Investment in Public Land

What about the question of generating funds to achieve the quality of investment in public land to support the consolidated city?

To illustrate the reform agenda in this area, let me take you back to the much publicized auction earlier this year of two bathing box sites in the City of Bayside.

As it happens, contrary to popular belief, the Bayside City Council did not issue and sell additional rights to erect bathing boxes on the Port Phillip Bay foreshore. Rather there was a Council sanctioned sale of two existing bathing boxes amongst private parties.

Nevertheless, for the sake of today's discussion, let's stick with the original scenario which would have seen the Council auctioning off the rights to build and occupy additional bathing boxes.

This hypothetical sale of new bathing box rights demonstrates the distributive consequences of heavily regulated markets for development licences.

Bayside Council would have, in effect, sold exclusive 'development licences' for the bathing boxes. The Council would have been able to extract a significant price for these licences because of two factors;

- The scarcity premium stemming from the highly restricted flow of licences to develop such bathing boxes; and
- The capacity of the licence holders to extract significant rent (whether imputed or cash) by virtue of the privileged access which the sites in question have to public land and public investment.

We might be outraged by such a sell off of public land. But I dare say we would be even more outraged if the Council were to away the two development licences for bathing boxes free of charge!

Yet this is what happens day in day out in our statutory planning system. We run a licencing system for development where we give the licences away for free.

Just like the assigned rights to develop and occupy the bathing boxes in a place like Bayside, the licences that we issue every day to develop shopping centres, apartment blocks, factories and residential subdivisions carry a premium of greater or lesser amounts reflecting the same publicly created scarcity and amenity factors noted above.

The strict regulation of development licences via our planning system is warranted for reasons of allocative efficiency. If we didn't regulate them we would have dysfunctional patterns of development which would hurt us environmentally, socially and economically.

We regulate other markets for the same reasons – fisheries, TV broadcasting, liquor retailing, taxis etc, but in each of these markets we place a publicly determined price on the licences in question.

We need to move to a regime of pricing development licences, to recover some of the publicly created windfall (exactly as Bayside might have done in the scenario outlined).

If all development was covered this would be a non-distortive revenue measure – that is, it would not artificially promote or dissuade particular forms of investment in particular places.

You might think that this is radical, unheard of idea. But the fact is that it has been practiced in the ACT since the inception of the Territory. Change of Use charges apply in Canberra alongside the development approval system. Note that the ACT leasehold system is not a pre-requisite for applying such a system.

If an ACT style development licensing system were to be applied in Melbourne, and assuming the continuation (or ultimate resumption) of recent development activity, the sale of development licences would raise revenues in the hundreds of millions of dollars per year. This could be dedicated to the stewardship of public land and the development of key infrastructures which underpin the value of the licences themselves – such as public transport.

The Role of the Commonwealth

In this presentation, I have proposed what appears to be an ambitious agenda of reform, including;

- Reinstatement of a democratically mandated metropolitan authority, operating with its own governance and fiscal role separate from that of the State;
- Establishment of a central public land management agency which would manage the totality of the community's land holdings (at State / metro level) in the interests of the policy outcomes set out in strategies such as Melbourne @ 5 million; and
- Introduction of a system of fees for development licences, the proceeds of which would be ploughed back into enrichment of the public domain and infrastructure to support compact city development.

The State Government is unlikely to embrace such an agenda; not one of these items is a vote catcher, and there would be many vested interests that would resist change.

The answer to achieving the required reforms lies in fiscal incentives, and this is where the Commonwealth must show the initiative.

As I have argued in several forums of this type, delivery of a more sustainable and compact Melbourne would generate a GDP boost of some 3%. A third of GDP is collected in taxes and two thirds of these flow to the Commonwealth (excluding the

GST). So achievement of the policy goals in Melbourne @ 5 million would generate a windfall of some \$0.5 billion per year to the Commonwealth (on 2008 GDP numbers).

The Commonwealth needs to share some of this with the States, to induce them to undertake the required reforms in urban policy. We've been down this path before with National Competition Policy; the institutions and frameworks for these incentive payments are there. All we need now is the leadership.