

The Village @ 5 Million

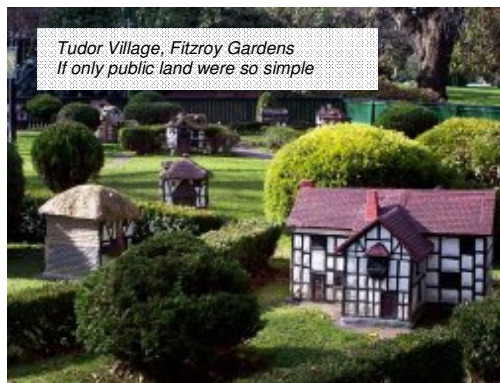
Back in 1968, when economist Garrett Hardin described the tensions between private greed and the public good, he took as his metaphor the English village. The destruction of the village common was inevitable, he argued, because individual herders, each motivated by self-interest, would overgraze it – even at the expense of its utility as a long-term shared resource. He entitled his paper ‘the Tragedy of the Commons.’

In one sense it was an apt metaphor, because many present-day policy debates are centred on public land. But Hardin’s essay presents only a partial picture of the traditional village. The marketplace, the churchyard, the mechanics’ institute and the bandstand in the town square all operate quite differently from Hardin’s village common. Here the public interest in its manifold forms is protected by cultural, social and legal institutions – embodied in the personages of the mayor, the churchwarden, and the village constable. When tested against these public lands, Hardin’s analysis would give us a different economic theory: ‘the Triumph of the Village Green.’

Nevertheless, his ‘tragedy’ analysis has been twisted by modern conservative economists to deride the very idea of public ownership. Citing Hardin, the right-wing Cato Institute has even argued that wildlife would be better protected if it were privately owned. In the light of such distortions many commentators, including Hardin himself, later restated the original proposition as the tragedy of the *unmanaged*, or *unregulated* commons. It is only unrestrained private greed which will destroy the commons – or the economy, or the planet.

John Batman foresaw a ‘village’ on the banks of the Yarra, and surveyors like Robert Hoddle laid out ‘parishes’ and ‘counties’ which survive within the cadastre to this day. Often, our colonial roots are all too evident – elsewhere in this edition, Marcus Spiller advocates overturning the ‘traditional British anti-urbanism’ which he sees embedded in our suburban city structure. But Batman and Hoddle and Charles LaTrobe were not setting out to create some antipodean Devon or Yorkshire; in their various separate ways they were revolutionaries.

For them the plains and river valleys of Victoria were a blank canvas; and without a landed aristocracy (plus the fiction of *Terra Nullius*) so were the statute book and the executive institutions. Acting in the public interest, they re-invented public land: our foreshores are all in public ownership (well, nearly all); our roads and rivers disregard the *ad medium filae* rule which in Europe attributes proprietary rights to abutting landowners; and our parks and gardens are not the enclosed demesne of some Lord of the Manor. Melbourne might have been village-sized, but it was not transposing English law onto the village’s public lands.



Tudor Village, Fitzroy Gardens
If only public land were so simple

As Melbourne becomes less village-like, the very nature of the public interest becomes far more complex. In place of a few score commoners with uniform values, a metropolis displays layers of value-systems, often contradictory: neighbourhood or micro-public interests vying for recognition alongside metropolitan or macro-public interests. Turning back to Hardin’s parable, we now have lobby groups purporting to defend the village common for the greater public good but in fact, like Hardin’s individual herders, motivated by simple self-interest. Sure, they have a place in a democracy – but let’s not imagine they are instruments of progress. Even the peak bodies are mere agglomerations of local self-interest: the very names ‘Save Our Suburbs’ and ‘Protectors of Public Lands’ identify them as negative and reactionary.

As Melbourne heads towards five million, we can expect the age-old tensions between private self-interest and the public good to persist. We constantly need to rebalance private and public interests – as so painfully demonstrated by the global financial crisis and climate change. Public land governance will not be immune – its institutions, systems, legislation, and economy must come under continual analysis, review, and reform – otherwise, we might as well be dancing around the village maypole. ■

Public Land @ 5 Million
Caption competition – see page 2



Caption
competition



Submit your
entries to Natasha
Herbert by 3:00
p.m. at the Public
Land @ 5 Million
Conference

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Plans, Protests and Public Land

It's almost inevitable: plans for public land require public consultation, consultation quickly becomes controversy, and controversy soon becomes protest.

This sequence, seemingly entrenched within our democratic system, is well-known to VEAC, fresh from its investigations of Victoria's Otways and Redgum regions.

Over the next two years, we can expect to see the same sequence run its course in Melbourne, where VEAC (that's the Victorian Environment Assessment Council) will be investigating public land in 29 metropolitan municipalities.

In the Melbourne suburbs there's plenty of public land. Measured in hectares it might not add up to a

new National Park, but in terms of value conflicts, intensity of usage, and perimeter impacts it must be bigger than anything VEAC has looked at yet. We could list a hundred dormant hot-spots – from Akoonah Park in Berwick to Campbells Cove on the Werribee South foreshore – each one a likely subject for some good old-fashioned consultation/controversy/protest.

Wherever it may be, public land attracts plans – but in the suburbs VEAC will encounter past plans on a huge scale. Consider, for instance, Melbourne's creeks: here they'll find Melbourne Water's 'Corridors of Green' (1999), Parks Victoria's 'Linking People and Spaces' (2002), and the Port Phillip & Westernport CMA's 'Living Links' (2006) – not to mention the 29 Municipal Strategic Statements, many of which have something to say on the subject.

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Public Land – Critical to Melbourne’s Success

By Marcus Spiller

Notwithstanding the redrawing of the Urban Growth Boundary, Melbourne @ 5 million poses a major urban consolidation challenge for the metropolis.

Careful management of, and investment in, public land and the public domain are critical to successful consolidation. In achieving the desired levels of densification, a significant proportion of Melbourne will need to overturn the traditional British anti-urbanism embedded in our suburban city structure and embrace public space as the central rather than residual element in organising settlement patterns.

This will require different governance / institutional arrangements, including the reinstatement of a regional planning authority, reflecting the principle of subsidiarity.

Reform of governance and institutional arrangements will also require reconsideration of the commercialisation, corporatisation and privatisation models for managing urban infrastructure, which became popular from the mid 90’s to the early part of this decade. These models have been useful in some areas of infrastructure but are now demonstrably inappropriate for key aspects of public land.

A further key challenge is raising the funds for investment in an enriched public domain. Again, radical reform needs to be on the agenda, including the introduction of development licence fees, to recover part of the uplift in land value generated by land use rationing and public provision of infrastructure. ■

Public Land @ 5 Million

MELBOURNE, THE FUTURE, AND PUBLIC LAND

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Where exactly is the seaward boundary of our municipality?

Question asked by a coastal planner

Firstly, here’s an unpaid promotion for Melway. It isn’t the Government Gazette, but for many day to day purposes it’s pretty reliable. If you get a counter inquiry about your municipal boundaries, your best initial answer is – check the yellow lines in the Melway.

But even Melway doesn’t attempt to define coastal boundaries. Turn to Map 56: it shows a yellow line down the centre of the Yarra – dividing the City of Melbourne from the City of Hobsons Bay – but it just peters out at the river’s mouth.

So the answer to our coastal planner’s question starts with section 3(3A) of the *Local Government Act 1989*. This reads:-

If the boundary of a municipal district is described by reference to the sea coast ... that boundary is to be taken to be the line for the time being of the low water mark on that sea coast.

When this definition was first inserted into the Act in 1995 (the capital letter ‘A’ in the section number flags it as a post-1989 amendment) this provision read ‘high water mark.’ The amendment to ‘low water mark’ was made in 1997 – thus giving coastal councils control over the inter-tidal zone.

But as coastal planners know, many planning schemes go well out to sea. The Mornington Peninsula Planning Scheme goes to low water mark along the ocean and Western Port coastlines, but 600m out to sea on the Port Phillip coast. It’s an example of councils exercising their functions outside their municipal boundaries – which they may be permitted to do under section 3E(2) of the *Local Government Act 1989*.

It’s the same with some other functions – councils may be authorised under the *Crown Land (Reserves) Act 1978*, the *Marine Act 1988*, or the *Port Services Act 1995*, for instance, to exercise powers outside their boundaries.

If you read section 3(3B) of the *Local Government Act*, you’ll see that it’s possible for a council’s seaward boundary to be set at some location other than low water mark. The City of Greater Geelong, for instance, extends 200 metres out to sea along most of the Corio Bay foreshore.

What are the consequences of these sometimes inconsistent boundaries? When a council is dealing with some coastal activity or development, it must know exactly how far its jurisdiction extends. Planning powers may extend 600m out to sea, but Local Laws may terminate at the municipal boundary.

And where exactly is low water mark anyway? That’s a question you’ll have to put to a surveyor. ■

Plans and Protests *Continued from Page 2*

These past plans sometimes suffer from lack of funding, or government support, or statutory backing. What's required now is something more than yet another layer of vision, but a clear set of recommendations on land status and governance.

There's at least one rural phenomenon which we hope VEAC brings to Melbourne – and that's formal community participation in land management. The further you go from Melbourne, the more likely you

are to find voluntary Landcare groups and Committees of Management taking responsibility for the local creek frontage, flora reserve, or roadside bushland.

Melbourne people surely have the same enthusiasm, resources and skills as country Victorians – so why not develop policies and administrative systems to utilise them? Perhaps we could give Melbournians something better to do than protest against the plan to ban 2 a.m. nightclub-crawling. ■

Our Training Course Schedule April-July 2009		
The Land, its Traditional Owners and the Law	Tuesday 5 May	<i>Koorie Heritage Trust Melbourne</i>
Public Land for Urban Planners	Thursday 16 April	<i>Department of Planning & Community Development, Melbourne</i>
Vegetation and the Law	Tuesday 7 July	<i>Preston</i>
Land Law for Coastal Authorities	Tuesday 23 June	<i>Sale</i>
Land Law for Managers of Roads, Streets and Lanes	Thursday 2 April Monday 27 April Tuesday 28 April Thursday 7 May Tuesday 12 May Tuesday 9 June	<i>Horsham VicRoads, Benalla Melbourne CBD Wangaratta Melbourne CBD Preston</i>
Land Law for Managers of Rivers and Lakes	Thursday 30 April Tuesday 5 May Wednesday 6 May Thursday 21 May	<i>Glenelg Hopkins CMA, Hamilton Traralgon Southern Rural Water, Maffra Ballarat or Horsham</i>
Crown Land Law, Policy & Practice	Tuesday 14 April Thursday 23 April Thursday 4 June Thursday 25 June Tuesday 28 July Thursday 30 July	<i>Parks Victoria, Bushy Park Melbourne CBD Bendigo Ballarat or Horsham Benalla or Wangaratta Traralgon or Sale</i>
Land Law for Service Utilities	Friday 24 April Tuesday 12 May Monday 18 May Tuesday 18 May Wednesday 3 June	<i>Central Highlands Water, Daylesford Barwon Water, Geelong Goulburn-Murray Water, Tatura Goulburn-Murray Water, Tatura Melbourne CBD</i>
In-house courses	Wednesday 8 April and Thursday 9 April	<i>Shire of Moira, Cobram</i>
<p style="text-align: center;"><i>No more than 10 students per course ■ Cost \$495 including course notes ■ Discounts for host organisations</i></p> <p style="text-align: center;">To register, contact Natasha Herbert on (03) 9534 5128 or email natasha@publicland.com.au</p> <p style="text-align: center;">For details of all courses go to: www.publicland.com.au/professional_development.html</p>		

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