

PUBLIC SPACES GONE WRONG

From Melbourne Docklands to Fitzroy's Atherton Gardens

Why is Docklands such a failure?

Because its public spaces don't work – empty, soulless, commercially and culturally sterile, wind-blown, and relentlessly *new*.

Good cities succeed because their public spaces succeed. The parameters of this success are complex: scale and accessibility, economics and commerce, cultural and historical diversity, and governance. Can this success-matrix be planned, or must it simply evolve?

Docklands is a failure not because it is planned, but because it is *badly* planned. The Kennett-era reliance on market forces led inevitably to Docklands becoming a showcase of private high-rise architectural statements plonked down in a residual, dysfunctional public realm. Not that some left-wing utopian vision would necessarily have done better – just take a look at the good old socialist Housing Commission of Victoria.

Atherton Gardens in Fitzroy is one of a dozen HCV high-rise estates from the 1960s which still dominate the skyline of inner Melbourne. In common with Docklands their failure is reflected in, and exacerbated by, their failed public spaces. These estates are memorials to Le Corbusier, the self-promoting French architect who dreamed of 'Radiant City' – a forest of identical residential skyscrapers set in a sea of parkland, criss-crossed by freeways.



The park setting was to be a boon, conferred on a deprived population by benevolent planners. Writing at its zenith, Jane Jacobs turned this paternalism on its head: such city parks are, she said, deprived places upon which the boon of life may be conferred or withheld by their constituencies. The Atherton Gardens constituency has given its park setting the thumbs-down.

Surveyed in 2007, residents saw the estate's external setting as a positive – mentioning public transport, community services, education, proximity to the city and shops. On the other hand the negatives: drugs, alcohol, noise, vandalism and graffiti – whose domain is the corridors, gardens, carparks and playgrounds which comprise the estate's public places. The government's response – 'private property' signs, more security guards and surveillance cameras.



Melbourne Museum model. In the background, the Le-Corbusier inspired Towers in the Park; in the foreground, the pre-1960 Brunswick Street frontage awaiting demolition.

But we can fix Atherton Gardens. There is no longer any political commitment to the social engineers of the 1960s, and Corbu himself has flown off to Radiant City in the sky. We have long recognised that the housing issue requires a more sophisticated policy response than simply herding people into the Housing Commission high-rise. We retain these estates only because they're there. So what should we do with them?

Last year Melbourne University Architecture school set its masters students the task of re-imagining Atherton Gardens. Well-acquainted with the coffee shops and galleries of Brunswick and Gertrude Streets, the students knew that if their own professional antecedents had just left it alone, central Fitzroy would have regenerated anyway. Their responses to the task involved, in various combinations, demolition of the high-rise blocks, their retention and refurbishment, and the reinstatement of the surrounding low-rise milieu which had been so comprehensively destroyed: new apartments, studios, offices, workshops and retail spaces.

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New Course – Public Land Leases and Licences

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|----------------------------|-------------|------------|
| • Leases and Licences | 6 October | Melbourne |
| • Crown Land and Freehold | 13 October | Bendigo |
| • Landlords and Tenants | 20 October | Traralgon |
| • Community and Commercial | 27 October | Wangaratta |
| • Retail and Residential | 10 November | Geelong |
| | 17 November | Melbourne |

Details – See Page 4



Public Spaces Gone Wrong ...

And interspersed within this low-rise milieu – public spaces that might actually work. Just imagine: public spaces of a scale, aspect, accessibility and diversity that they actually invite people to enjoy them.

At a time when government is desperately seeking to re-invigorate its Melbourne 2030 vision, Atherton Gardens should be elevated from *problem* to *solution*. No need to acquire the land – it's already in public ownership; no need for dispossession – residents could choose between their existing apartments and the newly reinstated low-rise; no need to retain the social ghetto; no need for new transport infrastructure – it's there on the doorstep.

Best of all, a re-built Atherton Gardens could provide a model for a new high-density inner Melbourne. It could be a tangible response to the fear-driven density-aversion of Save Our Suburbs. It could redeem planners from the stain on their profession left by the Docklands. If they had a mind to get it right (for once), they could forget about planning show-case buildings set within residual public space; they could plan instead the public spaces between the buildings.

Having fixed Atherton Gardens, how do we fix the Docklands? Sorry folks, it will be another 20 or 30 years before the private sector writes off its ill-advised investment and demands a taxpayer-funded makeover. ♦

References:

- Kate Shaw, The Age, 23 March 2009
- Neil Mitchell, Herald-Sun, 26 March 2009
- Jane Jacobs, 1961, *The Death and Life of Great American Cities*
- www.atherton.org.au
- www.abp.unimelb.edu.au/re-imagining-fitzroy/atherton-gardens.html

That Sinking Feeling

At 9:00 a.m. on 12 September 2009, HMAS Canberra will be sent to the bottom of the ocean where she will become an artificial reef to be explored by recreational divers.



Who owns and manages the seabed? How will the wreck be protected? And the environment? How will dive-tour operators be authorised?

The Public Land Consultancy has some insights into these questions, having been engaged by DSE to map out the governance regime for the underwater site, two nautical miles off Ocean Grove.

No, we don't have a sinking feeling. If we've made a small contribution to the success of a big splash and gurgle on 12 September, then we're feeling quite pleased. ♦

(The picture above shows the Canberra's sister ship, HMAS Perth, being scuttled off Albany some years ago).

FORTHCOMING PROFESSIONAL DEVELOPMENT COURSES

Public Land for Urban Planners

Many urban precincts include a large proportion of public land – roads, reserves and railway land – often under-utilised or poorly configured. This course aims to provide Strategic Planners and other Council Officers with a tool-kit for the rationalisation or adaptive re-use of these spaces.

17 September Melbourne
Early November 'PLANET'

Land Law for Coastal Authorities

For staff of councils and government authorities – including statutory planners, asset managers, environmental planners, recreation and leisure managers, compliance officers and other personnel with responsibility for the governance and management of coastal lands and waters.

5 November Docklands
25 November Geelong
29 October Sale

Registrations and Inquiries – natasha@publicland.com.au ph 9534 5128

Patches on Patches

The Crown Land Acts Amendment (Lease and Licence Terms) Act 2009

When it was first enacted, the *Crown Land (Reserves) Act 1978* had a mere 32 sections.

Following the most recent bunch of amendments, it now runs to 94 sections plus 10 pages of schedules. Perhaps this reflects real advances in policy since 1978 – or serial attempts to stick patches over policy failures.



Incorporated Committees

One section that wasn't in the original 1978 Act was 14A – which allows Committees of Management to become bodies corporate. It was thrown into the Act in 1981, in a flurry of activity aimed at rectifying the emerging problems faced by unincorporated bodies. In their haste, the legislators put together a very crude system for creating and abolishing the new bodies – a system which became much more refined over subsequent years, as evidenced by the *Cemeteries and Crematoria Act 2003*. The new patch on 14A does not fix these problems – but merely shifts responsibility for appointing a Committee Chairman from the Governor to the Minister.

Assignment of the Landlord Role

A new section 17AB (and a consequential string of minor patches) has the long-overdue effect of shifting responsibility for hospitals to the Minister responsible for hospitals. Until now, if a hospital was on Crown land, approval for the florist's shop in its foyer was given not by the Minister for Health, but by the Minister for Environment & Climate Change. There had been back-door mechanisms to overcome this bit of stupidity – the *Administrative Arrangements Act 1983* had been used, for instance, to rationalise responsibility for the Crown land portions of Traralgon and Mildura hospitals – but this amendment provides a procedure up-front in the *Crown Land (Reserves) Act*. But we do wonder why it's available only for the Health Minister.

Concurrent Lease and Licence Terms

Another sensible and overdue set of patches allows associated and abutting leases and licences (in both the *Crown Land (Reserves) Act* and the *Land Act*) to run for concurrent terms.

Ownership of Improvements

Patches on sections 14D and 17(2), and a new section 17G, all relate to the ownership of improvements held under lease. They may clarify the fact that improvements belong to the landlord – but they fail to address the real policy disaster associated with improvements on Crown leases: namely the proper division of residual interest between landlord and tenant at termination. In an attempt to evade this issue, the government has simply resorted to longer lease terms.

The 65-year lease term

As existing and prospective Crown tenants consider investing greater capital sums on leasehold land, they want greater security. We already have numerous 99-year leases granted under the *Land Act 1958* or other site-specific Acts, and we may well wonder why these sites remain as Crown land at all. If the government/landlord is going to abdicate responsibility for 99 years, why not just sell the land off as freehold?



The best solution here is to recognise tenants' residual interest. It's already done in leases for NSW marinas, and (surprisingly) at Caulfield Racecourse. Here the Melbourne Racing Club has improvements valued at \$100 million, on the basis of a mere 21-year lease. If government chose (as many Glen Eira residents advocate) to close down the racecourse at the end of the 21 years and use the land for something else, MRC would have to be reimbursed for their unamortised investment (and perhaps that's an attractive proposition – but we'll leave that for another day).

One Little Word

The 2009 bunch of amendments throw one little word into the *Land Act 1958* – 'vary.' Ever since 1961 unused road ('UR') licences have been managed by DSE – but the decision that a government road should become an unused road, and the decision that it should cease to be an unused road, are made by the local council.

It has always been open to a council to recommend to DSE that the terms of a UR licence be varied – so it beats us why the Act has now been amended to specifically state that a council may recommend that a licence be varied. It wouldn't be that government wants to burden councils with the responsibility of negotiating with their UR tenants, would it? ♦

Professional Development Program - Spring 2009

	Melbourne Metro Area	Western Victoria	North-Western Victoria	North-Eastern Victoria	Gippsland
Crown Land Law, Policy & Practice	15 October Melb CBD	21 October Warrnambool		12 November Wangaratta	30 Sept Traralgon
Land Law for Managers of Roads Streets and Lanes	26 October Melb CBD	26 November Geelong	16 September Kerang	12 October Wangaratta	28 October Traralgon
Land Law for Managers of Rivers and Riparian Land	6 October Melb CBD	22 October Warrnambool	17 September Kerang	11 November Wangaratta	29 Sept Traralgon
Land Law for Service Utilities	We are providing this course at several venues around the state by arrangement with the relevant Water Authorities				
Public Land for Urban Planners	17 September Melbourne CBD				
The Land, its Traditional Owners and the Law		13 October Hamilton			
Land Law for Coastal Authorities	5 November Docklands	25 November Geelong			29 October Sale
New Course	6 October Melbourne 17 November Melbourne	10 November Geelong	13 October Bendigo	27 October Wangaratta	20 October Traralgon
<p>Course Content</p> <ul style="list-style-type: none"> Forms of Public Land Tenure Councils' Roles and Responsibilities The Relevant Legislation Negotiating with Tenants Managing Tenures Policy Considerations 	 PUBLIC LAND LEASES AND LICENCES			<p>Your Presenter</p> <p>Karen Hayes is a property consultant with extensive experience in Melbourne's public and private property sectors.</p> <p>She holds qualifications in Property, Marketing and Psychology</p>	
<p>Inquiries and Registrations</p> <p>Natasha Herbert Training Course Coordinator Phone 9534 5128 natasha@publicland.com.au</p>	<p><i>This course is designed to map out the law governing leases and licences on both Crown and freehold public land, and to explore the policy issues and procedural requirements that must be understood for its sound administration.</i></p>			<p>Cost \$495 per person including GST, full course notes and working lunch</p> <p>Maximum Class size 10 students</p>	

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