

Mozart, Vivaldi, and Public Land-Led Urban Regeneration

Somebody in Footscray wants to deter the skate-board riders and graffiti artists who hang around the station. The deterrent – *Eine Kleine Nachtmusik* and *The Four Seasons* on the station's PA system. It doesn't work: the kids just turn up their i-pods.

According to G.B. Arrington, a visiting planner from Portland, Oregon, railway stations are the place from which to kick-start urban regeneration. They are the focus of what he terms *TOD* – Transit Oriented Development.

Quoting a dozen recent US examples to support his case, he says stations can be dynamic social and economic hubs, surrounded by high-density commercially viable accommodation.



Kick-starting Urban Regeneration?

The Public Land Consultancy is pleased to be advising the Western Bulldogs on issues relating to land status and tenure at Whitten Oval

Rod Sheard, of stadium designers HOK Sport takes a different tack. "A stadium, more than any other building type in history, has the ability to shape a town or city."

Quoting a dozen overseas examples to support his case, he argues that stadia are being transformed from unfriendly, bad-neighbour eyesores into 'dynamic cells' full of commercial and social activity, linked to high-density accommodation and providing a 'total event experience.' A new generation of sports stadia, he argues, will kick-start urban regeneration.

If either theory is to contribute to Melbourne 2030, then we could need some corresponding reforms of the regime governing public land.

Railway land is controlled by VicTrack, either as freehold which they own in fee simple, or Crown land vested in them. The form of tenure results entirely from the accidents of history, but it determines VicTrack's attitude to the land's development: if it's freehold, they're happy to sell, because they retain the proceeds; if it's vested they're reluctant to sell, because the proceeds would disappear into Treasury.

A similar problem distorts plans to rationalise road networks: when some roads are closed and sold, councils retain the proceeds; with others, the beneficiary is State Treasury.

Most of Melbourne's major sports grounds are on Crown land. They are governed by an assortment of legislation including the *Crown Land (Reserves) Act* – which works well enough for village-green recreation reserves, but isn't really suited for Rod Sheard's mega-stadia. The MCG, Princes Park, and Whitten Oval Footscray each has a history of *ad-hoc* site-specific Acts of Parliament to simultaneously allow and constrain patterns of use, development and control.

Will Footscray be transformed through G.B. Arrington's Transit Oriented Development or Rod Sheard's Stadium-led recovery?

Under Melbourne 2030 the station is the focus of a designated Transit City, with its own purple PDZ1 zone in the Maribyrnong Planning Scheme.

Further along Barkly Street, the Western Bulldogs are the beneficiary of \$17.5 million in grants from Commonwealth and State governments, each committed to deliver benefits to the Western suburbs through a make-over of the Whitten Oval.

Who knows – both strategies may succeed. Station and stadium could each end up as places where (to use Arrington's phrase) people could fall in love. Perhaps to the strains of Mozart and Vivaldi. ■

THE SALE OF PUBLIC OPEN SPACE

Jennifer Huppert, Senior Counsel, Maddocks

Council officers often ask the question 'Can Council sell freehold land which is public open space?'

This article considers the restrictions on the sale of 'public open space' contained in the *Subdivision Act 1988 (Act)*. Not all Council land used as open space is 'Public Open Space' for the purposes of the Act, but only:

land set aside in a plan or land in a plan zoned or reserved under a planning scheme—

- (a) *for public recreation or public resort; or*
- (b) *as parklands; or*
- (c) *for similar purposes* [Section 3]

Section 20(4) of the Act provides that 'public open space' may be sold only if a Council has provided for replacement public open space. That is, if a Council is to sell land which is 'public open space' as defined by the Act, it must provide an area of land as replacement 'public open space', or enter into an arrangement for the imminent provision of an area as replacement 'public open space'. In order to comply with the provisions of section 20(4), the replacement area should be equal or greater in area than the 'public open space' which is being replaced.

In addition, if a Council sells land which is 'public open space', it must use the proceeds

of that sale for one of the purposes set out in section 20(2) of the Act, that is for the purchase or improvement of land for use for public recreation or public resort, parklands or a similar purpose.

As noted above, the definition of 'public open space' in the Act includes both 'land set aside in a plan' and 'land in a plan zoned or reserved under a planning scheme' for one of the purposes set out in section 3 of the Act.

If a Council were to rezone land so that it was no longer reserved or set aside for one of those purposes, its status would change and Council would no longer be required to comply with the provisions of section 20 of the Act on the sale of that land.

However, the amendment of a planning scheme involves a public process, and a Council could expect concepts such as replacement of 'public open space', and the reasons why open space is no longer required for that purpose to play a prominent role in any planning deliberation on the amendment. Therefore, while a planning scheme amendment offers a means by which a requirement to provide replacement open space is negated, a Council would still need to present a case in support of such amendment to the planning scheme. ■

Letter to the Editor

Re your comments on Mountain Cattlemen and entitlement (Terra Publica, May 2005).

We might well say the same about Aborigines, or about human life itself. Because I was alive yesterday I am entitled to be alive tomorrow and every day after that until my body determines that it's time for me to go.

Who determines who is entitled to what? We have a self-



perpetuating form of government here that exists merely because "it always has."

I live in Victoria because, well, it's Victoria. No matter that Victoria, at least as far as the

rights of its inhabitants are concerned, starts and ends in Melbourne.

I'm a mountain cattleman and yes, I do believe I am entitled to graze the same country as my forbears. You might have a different opinion.

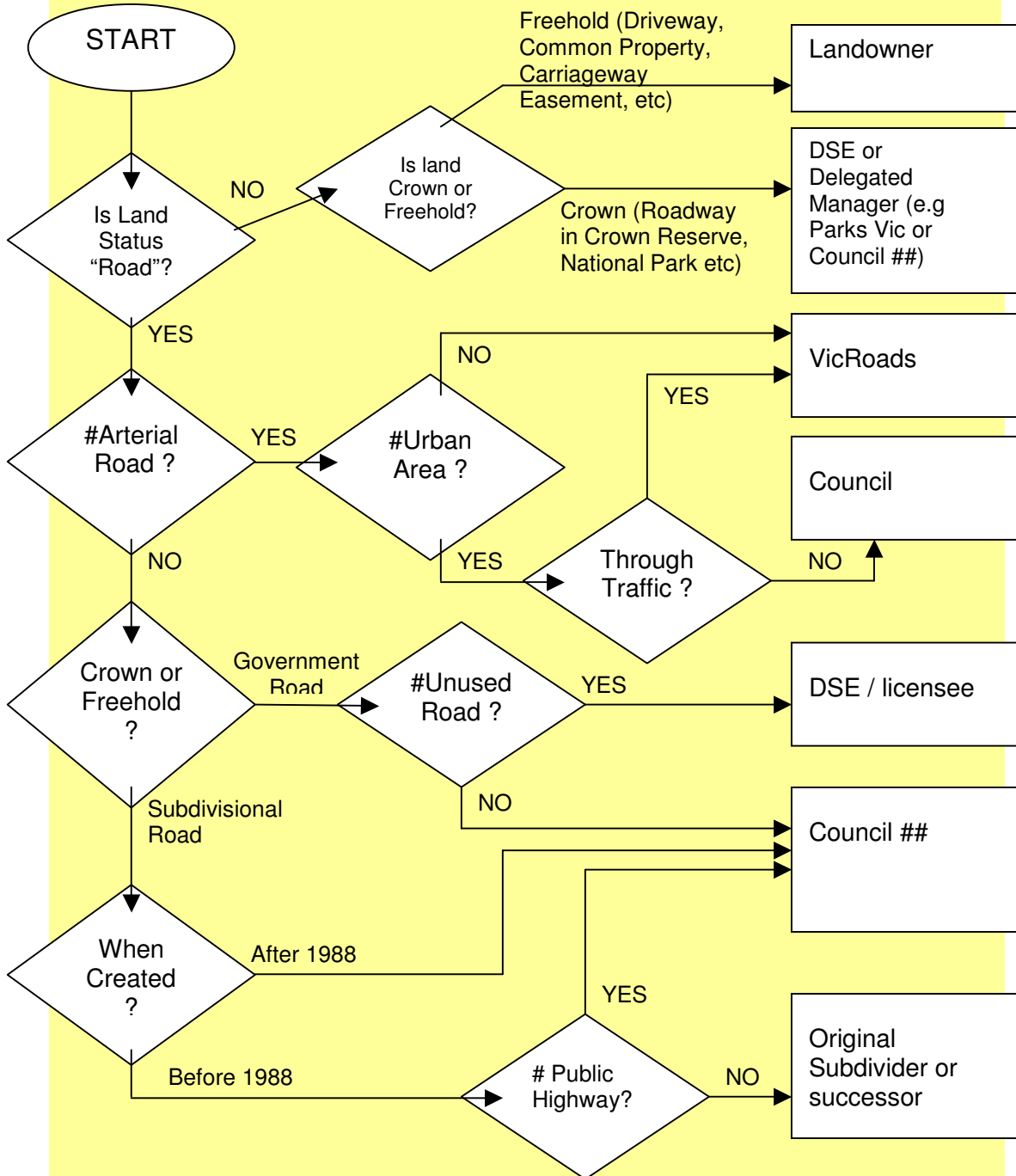
What I object to is being run out on the grounds of spurious science like the nativism nonsense espoused by Dick Williams, Henrik Wahren and Co who happen to have the ear of the Victorian government.

Philip Maguire
Bundarra

Q & A

Who is responsible for this road ?

A question often asked, and answered in detail in our Professional Development course "Land Law for Managers of Roads Streets and Lanes"

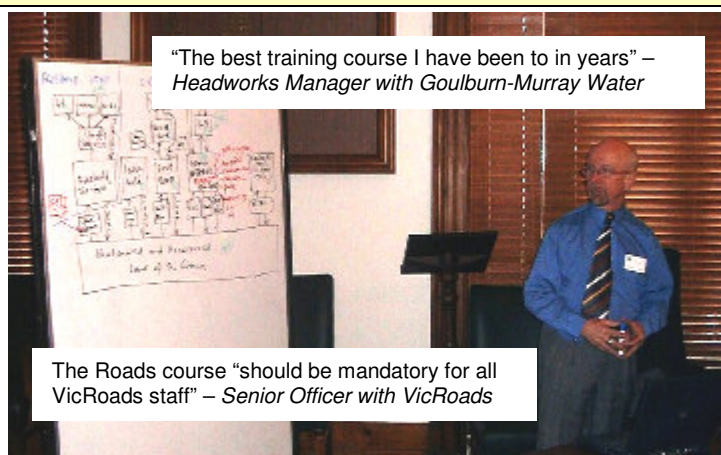


The nature of a council's responsibility depends on whether the road is a '# Public Road' under the Road Management Act
Warning: This is a Defined Term

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PROFESSIONAL DEVELOPMENT COURSES
AUGUST-OCTOBER

Thurs 4 August 9:00 am – 4:30 pm	Land Law for Managers of Parks, Gardens & Reserves	Preston <i>Darebin Arts</i>
Tues 9 August 9:00 am – 4:30 pm	Land Law for Managers of Rivers, Lakes & Catchments	Benalla <i>Benalla Rural City Council Offices</i>
Thurs 11 August 9:00 am – 4:30 pm	Land Law for Coastal Authorities	Melbourne <i>Centre for Adult Education</i>
Tues 16 August 9:00 am – 4:30 pm	Land Law for Managers of Roads, Streets & Lanes	Benalla <i>VicRoads Regional Office</i>
Thurs 18 August 9:00 am – 4:30 pm	Crown Land Law, Policy and Practice	Lakes Entrance <i>Shire of East Gippsland Offices</i>
Tues 23 August 9:00 am – 4:30 pm	Land Law for Coastal Authorities	Sale <i>South-East Aust Training Services</i>
Thurs 25 August 9:00 am – 4:30 pm	Public Land and Activity Centres	Melbourne <i>Centre for Adult Education</i>
Tues 30 August 9:00 am – 4:30 pm	Land Law for Managers of Parks, Gardens & Reserves	Bendigo <i>TAFE College, Mitchell St</i>
Thurs 1 September 9:00 am – 4:30 pm	Land Law and Service Utilities	Preston <i>Darebin Arts and Entertainment Centre</i>
Tues 6 September 9:00 am – 4:30 pm	Land Law for Managers of Parks, Gardens & Reserves	Sale <i>South-East Aust Training Services</i>
Tues 13 September 9:00 am – 4:30 pm	Land Law for Managers of Rivers, Lakes & Catchments	Ballarat <i>'BEST' Centre, 28 Victoria Street</i>
Thurs 6 October 9:00 am – 4:30 pm	Land Law for Coastal Authorities	Geelong <i>State Govt Offices</i>
Tues 11 October 9:00 am – 4:30 pm	Crown Land Law, Policy and Practice	Bendigo <i>TAFE College, Mitchell St</i>



Course Format Options

- You may enrol staff in one of the scheduled courses listed above
- We can run the course for your staff, in your own offices or off-site
- You may prefer to 'host' the course and invite staff from other agencies

**Maximum Class size:
10 students**

Cost

\$440 per person
including GST, course notes
and working lunch

Bookings

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