

# Events on Crown Land

*for the Law Institute of Victoria  
8 March 2006*

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*in association with Maddocks*

# A Clash of Cultures

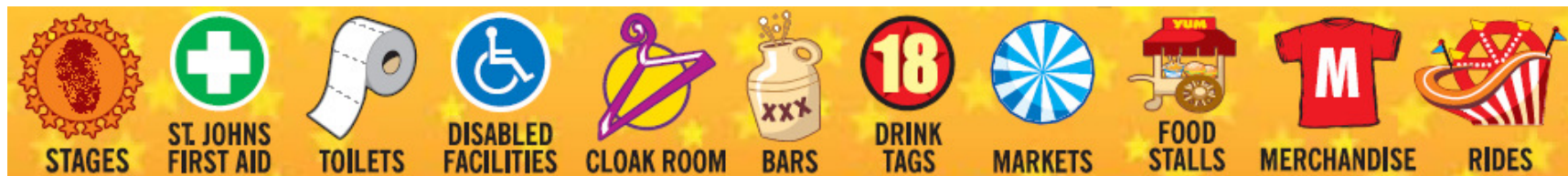
*“Protectors of Public Lands”*

*.v. Iggy and The Stooges*

- Victoria Planning Provisions – Amendment VC36 – 19 January 2006
- **62.03 Events on Public Land**  
*Planning schemes do not apply to events and related temporary buildings on public land where the event has been authorised by the public land manager or by a council under a local law*

# Big Day Out

- Princes Park, Carlton; Sunday January 29, 2006
- Princes Park: Zoned PPRZ with HO
- Questions for Statutory Planners:-
  - Does an *event* require a Planning Permit?
  - When does an *event* become a *use*?
  - When does a tent and a portaloos become *works* or *development* ?
- Answers not required! ... VC36



# The Impetus for VC36

- Melbourne City Council, Nov 2005
- “legal advice has identified that a planning permit is required for regular events and their associated temporary buildings and works...”
- “the need for a planning permit will lead to time delays, the duplication of the comprehensive permit process ... and uncertainty of outcome, mainly as a result of potential appeals to VCAT”
- “Recommend request to Minister for Planning...”

# “The Public Land Manager”

**Public land manager**      The Minister, government department, public authority or municipal council having responsibility for the care or management of public land. In relation to Crown land reserved under an Act and managed or controlled by a committee of management, other than Parks Victoria or a municipal council, it means the Minister administering that Act and does not include the committee of management.

- Clause 72...

- 36.02 – PPRZ – Permit not required for ... use / building / works ... carried out by Public Land Manager

- *“A public land manager should be able to use and develop public land for any purpose under its **relevant land management legislation** without the need for a permit”*

– Practice Note: Applying the Public Land Zones

# Beneath the Icing: The Cake

- Princes Park, Carlton...
- 1873: Crown land **permanently** reserved by Order in Council **as a site for a public park**
- 1873: Conditional Crown grant issued to “*Board of Land and Works* (i.e. Minister for Planning) *and mayor aldermen councillors and citizens of the City of Melbourne*” (the ‘Joint Trustees’)
- 1917: Joint Trustees appointed the City of Melbourne as Committee of Management

# The “relevant land management legislation”

- *Crown Land (Reserves) Act 1978*  
Section 8: reserved Crown land shall not be sold, leased or licensed except as authorised by this or any other Act, which authorisation must be given expressly and not merely by implication
- *Crown Land (Grants and Reserves) Act 1993*:-  
Section 8, CL(R) Act will “prevail over any inconsistent rule of the common law...”
- *Carlton (Recreation Ground) Land Act 1966*

# *Crown Land (Reserves) Act 1978*

- **S. 13 - Regulations**

GinC or Minister may make regs re:- works, improvements, permits, licences, fees, charges...

- **S. 17 - Powers of Trustees or CoMs**

Subject to GinC certification and any regs... CoMs may grant licences to operate services... tenancy agreements... for purposes consistent with the purpose of the reservation...

- **SS. 17A – 17DA - Leases and Licences**

Reserves may be leased or licensed for purposes whether consistent or inconsistent with, but **not** 'detrimental to' the purpose of the reservation

# Speaking of Consistency...

Queen Victoria Gardens	Permanently reserved; Crown grant to Council as sole Trustee
Princes Park (& a dozen others)	Permanently reserved; Crown grant to Joint Trustees; Council appointed as CoM
Shrine of Remembrance Gardens	Permanently reserved; Crown grant to Trustees other than Council; Council appointed as CoM
Myer Music Bowl	Permanently Reserved; No Crown grant; Arts Centre Trust appointed as CoM
Treasury Gardens (& half a dozen others)	Permanently Reserved; No Crown grant; Council appointed as CoM

# The Case for VC36

- Explanatory Memorandum: *The planning permit process duplicates other approval process (local laws, licences or contracts)*
- Local Laws: exhibition & submissions; must observe principles (Sch 8, LG Act); must be available; PINs; must be less than 10 years old
- City of Melbourne – ‘Activities Local Law’  
‘Public Place’ has same meaning as in *Summary Offences Act 1966*  
Prohibited activities; Permit required activities...
- BUT – *Local law must not be inconsistent with Acts or regulations (s.111, LG Act)*

# Some Current Regulations

made under *Crown Land (Reserves) Act 1978*

- The 'Joint Trustee' Regulations 1994...
- Apply to 18 specified parks and gardens
- *A person must not... play or operate a musical instrument... so as to interfere with the reasonable convenience of any other person*
- Penalty 2 penalty units; no PINs; no sunset date; Not available on web (or anywhere)
- Kings Domain Regulations 1936...
- *No person may lie on the grass... no fermented or intoxicating liquors... no breaking-in of wild horses*

# Vietnamese Water Puppets, Treasury Gardens, 2000

- *Crown Land (Reserves) Act 1978:*  
S 17DA, **Parliamentary Approval of Certain Approvals**  
In Crown land reserved for public park, the Minister's decision that the purpose of a proposed lease or licence is 'not detrimental' to the purpose of the reserve must lie before each House of Parliament for five sitting days where it may be the subject of disallowance...
- Problem 1: Parliament won't sit for months !  
Problem 2: Government doesn't control Upper House !
- Solution: Gazette a new Regulation

# Policies awaiting a Politician

- *Adopt a 21<sup>st</sup> century view of the functions of urban parks and gardens. Throw out the 19<sup>th</sup> century view*
- *Adopt statutory Management Plans (due process, avenues of appeal, sunset...) which govern what can and can't happen in parks and gardens*
- *Decide which land is really of State significance. Keep it*
- *Give (don't sell) Crown land of local significance to municipalities*

# The Public Land Consultancy

- Independent professional advice for managers and users of public land
- Professional Development Courses  
*Crown Land Law, Policy & Practice*
  - > Tuesday 28 March – Melbourne
  - > Tuesday 9 May – Dandenong
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