



YIMBY v NIMBY

We are all too familiar with the Not-In-My-Back-Yard syndrome. But are we ready for the Yes-In-My-Back-Yarders?

Melbourne has a problem. If suburban sprawl is to be curtailed, if road congestion is to be overcome, if we are to live in the '20-minute neighbourhood,' then we must reconfigure our middle suburbs. Watch out: here comes [YIMBY Melbourne](#).

YIMBY's answer is seductively simple: just change the rules to allow more homes, particularly Paris-style, 6-storey apartments, to be built where people want to live – near jobs, transport, bars and cafes.

The YIMBY collective has a sure strategy for gaining attention. Make the outrageous claim, knowing it to be unattainable, but at least you're starting a debate. Abolish all metropolitan Councils, says YIMBY. Dump all those heritage, neighbourhood character, and design overlays. Rework the financial apparatus which steers real estate market forces. Do we now have your attention?

YIMBY Public Places

There is a gap in YIMBY's platform. Not a defect in their vision, but merely in their enunciation of that vision. A high-density middle Melbourne would be replete with fabulous public open spaces. Not broad-acre parks and gardens, but *pocket places*.

Pocket places. With trees. Maybe grassed, maybe paved, but full of life. People, dogs, kids on skateboards, and of course, coffee. It's simple mathematics: the higher the neighbourhood density, the more customers in a business's catchment, and the better the service that business provides.

Just imagine sitting in the sun or the shade (this is Melbourne, remember), listening to a good busker, scrolling through your social media, watching the rainbow lorikeets and savouring the eggs benedict. ♦

YIMBY cops it from both directions .

From the right, Liberal planning spokesman James Newbury slams Yimby as extremists who 'do not believe in amenity, community character, or the uniqueness of our state's suburbs and towns'.

From the left, Crikey commentator Guy Rundle decries Yimby as 'nihilists' with a 'Thatcherite, neoliberal, ideological belief in small government and deregulation...'

Terra Publica has addressed urban densification before...

Feb 2011: [Bring on the Visigoths](#)

June 2010: The All-Day Breakfast (see page 2)

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The All-Day Breakfast

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Can I park on St Kilda beach? In the Fitzroy Gardens? On the river frontage?

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Our Sept-Oct 2024 Calendar of Professional Development courses

The All-Day Breakfast

Reprinted from *Terra Publica*, June 2010

Nowhere are the challenges facing city planners more tangible or more pressing than in the public domain.

Streets and lanes, forecourts and footpaths, markets and schoolyards, waterways and beaches – that's where the impacts of demographic change, economic growth and cultural shifts will be most evident; that's where Melbourne's planners must not only respond to change, but actively participate in shaping it.

Opposition will come from nimbys and troglodytes devoted to living in *status quo* neighbourhoods and cultures. They may well be reinforced by timid politicians and conservative academics, but in the end, they will be defeated by the All-Day Breakfast.



The roots of urban planning in Australia are the 18th Century fiction of *terra nullius*, and the 'garden city' reform agenda of post industrial-revolution England. The former gave us the endless-supply-of-land fiction; the latter gave us the quarter-acre block, the dormitory suburb and one of the greatest *per capita* rates of car usage on the planet. Slowly, the people of Melbourne are dragging their policy-makers out of this quagmire of unsustainability.

Despite the negativism of nimby-agglomerates like Save Our Suburbs and Protectors of Public Land, Melbourne people are celebrating an emerging twenty-first century cultural paradigm. We are redefining the boundaries between work, leisure and retirement, between weekday and weekend, between commerce, culture and recreation, and even between day and night. You'll know when your neighbourhood has entered the modern era – that's when the footpath café offers all-day breakfast.

These tectonic shifts will also, inevitably, reshape and liberate the urban public domain. The white picket fence of the mid-20th century defined not only the private world of the detached cream brick veneer house behind it, but also the public realm of the street and park outside it.

The resultant legacy is that persistent dichotomy which designates some land as 'public' and other land as 'private' – a revolutionary notion for planning pioneers like Ebenezer Howard and his followers (such as Walter Burley Griffin), but fast losing relevance in a world of profound economic, environmental and social realignments.

The public domain has for too long been on the wrong side of this white picket fence. All too often it has been the mock rural landscape to be observed from the passing car, rather than a living townscape to be actually inhabited. It has been the residual, undesigned, *negative* space lying between designed, *positive* built developments – but it deserves better.

It now falls to policy-makers, planners and architects to reposition the public domain as core business territory for councils, investors, communities, and families.

Central to this paradigm shift will be a new generation of municipal strategic planners. Their tool kit will still include familiar instruments like 173 Agreements and development contributions – reactive instruments which ride on the back of private sector investment decisions.

Added to these will be new instruments hitherto neglected at the bottom of the tool-kit: powers to pro-actively establish council-based enterprises and partnerships; powers to harvest land in superfluous roads and moribund reserves; and powers to reconfigure freehold precincts which have had the value sucked out of them by layer upon layer of subdivision. ♦

To browse the *Terra Publica* archive, [click here](#)

We Agree. But...

We agree. Victoria's ocean beaches, and major parks and gardens, are not places for hooning around on motorbikes, or even for parking the SUV. At the very least, such activities should be strictly regulated. And so they are – BUT...

What's the use of regulations which are unenforceable?

Let's look at the *Land Conservation (Vehicle Control) Act 1972*, which makes it an offence to park or hoon around on various types of public land, and authorises the making of corresponding regulations.

BUT – from 1972 right through to June of this year, those regulations were virtually unenforceable. You must not hoon around on the river frontage. You must not park in the flower bed. BUT – who is the 'you' in these cases? Enforcement officers had no way of identifying the offender.

On roads, the law is different. Offenders can be identified through their vehicle registrations. It's called 'operator onus.' The presumption of innocence has been overturned. The registered vehicle owner is presumed guilty until they prove themselves innocent.

No such apparatus applied to the LC(VC) Act – until June of this year. Today, if we look at the *Land Conservation (Vehicle Control) Regulations 2024* here's what we find:

*An offence against (this regulation) is an operator onus offence for the purposes of Part 6AA of the **Road Safety Act 1986**.*

Yes! After 50 years the offences have finally become enforceable. We agree. A long overdue reform! BUT...



Along the way, the fines have been increased. Immensely. They have gone up from \$500 to \$2000 – a bit of a technicality because such fines, in the past, never occurred. Still, a 400% increase!

That leaves us with a couple more questions. Who can do the enforcing, and why weren't we told in advance about this change?

There was a time when major changes to the law were analysed and discussed in Regulatory Impact Statements (RISs), but no longer.

It seems that overturning the presumption of innocence, and 400% increases, are deemed to be too trivial to justify public explanation. We DON'T agree. ♦

Offences and Enforcement on Roads

A one-day course from
The Public Land Consultancy

The Department of Transport and Planning (DTP) has judged this course to satisfy section 71 of the *Road Management Act 2004* which reads -

A person must not be appointed as an authorised officer under this section unless the person has completed appropriate training or qualifications as determined by the Secretary or by the relevant road authority making the appointment.

Readers of *Terra Publica* should not act on the basis of its contents which are not legal advice, are of a general nature, capable of misinterpretation and not applicable in inappropriate cases. If required, we can obtain formal legal advice from one of its legal associates.

The Public Land Consultancy acknowledges that our core work relates to the lands of Victoria's Traditional Owners. We promote recognition of Indigenous rights through study, policy and the law.



Lunchtime Conversation

Tuesday 10 September 2024 12 noon to 12:45 pm

The Spaces Between the Buildings

To enrol for this Conversation [click here](#)

Professional Development, Sept-Oct 2024

NOTE: some presentations are 3 sessions, each of 2 hours duration;
others are 2 sessions, each of 3 hours duration

	<p>Native Title and Aboriginal Heritage Presenter: Bridgid Cowling</p>	<p>Tues 10 Sept, 10am – 1pm Wed 11 Sept, 10am – 1pm</p>
	<p>Crown Land Governance Presenter: David Gabriel-Jones</p>	<p>Tues 10 Sept, 10am – 12pm Wed 11 Sept, 10am – 12pm Thurs 12 Sept 10am – 12pm</p>
	<p>Referral Authorities and the Victorian Planning System Presenter: Mark Bartley</p>	<p>Wed 18 Sept, 10am – 1pm Thurs 19 Sept, 10am – 1pm</p>
	<p>Leases and Licences of Public Land Presenter: Richard O'Byrne</p>	<p>Mon 7 Oct, 10am – 12pm Tue 8 Oct, 10am – 12pm Wed 9 Oct, 10am – 12pm</p>
	<p>Land Law and Subdivisions Presenter: Mark Bartley</p>	<p>Wed 9 Oct, 10am – 1pm Thurs 10 Oct, 10am – 1pm</p>
	<p>Working with Owners Corporations Presenter: Anthony Wilkinson</p>	<p>Mon 21 Oct, 10am – 1pm Tues 22 Oct, 10am – 1pm</p>
	<p>Roads Governance Presenter: David Gabriel-Jones</p>	<p>Tues 12 Nov, 10am – 12pm Wed 13 Nov, 10am – 12pm Thurs 14 Nov, 10am – 12pm</p>

Fully Booked!

Coming soon... Vegetation and the Law

From weeds to endangered orchids – what public land managers need to know

Cost:
\$550 including GST,
course notes and certificate
of attendance

Accreditation: These courses
are eligible for CPD points for
lawyers, planners, valuers, and
FPET for surveyors.

Enquiries and Registrations:
Fiona Sellars
(03) 9534 5128
fiona@publicland.com.au