

Submission on Investigation of Crown Land and Public Authority Land to Victorian Environmental Assessment Council, February 2009

Crown land managed by Melbourne City Council

1. Public parkland

Melbourne City Council manages large areas of urban public open space, which contribute significantly to Melbourne's liveability. These areas include an extensive network of prominent heritage gardens, parklands, contemporary landscapes, linear trails, sportsgrounds, public squares and neighbourhood parks. Most of these open spaces are Crown Land, and management responsibility is given to the Melbourne City Council by appointment as Committee of Management under the *Crown Land (Reserves) Act (1978)*.

From 1860 with the enactment of the first Land Act, the management or control of reserved Crown land was achieved by the Governor in Council issuing a grant to trustees to administer the reservation in accordance with the purpose of the reservation. Within the City of Melbourne, the trustees were generally the City of Melbourne and the Minister for Lands as joint trustees. The system of issuing titles to trustees ceased as a general practice in 1898 when statutory provision was made for the appointment of Committees of Management. A further simplification of control was achieved by a further Act passed in 1914 that enabled trustees to delegate their power to Committees of Management. Whilst the Melbourne City Council is a joint trustee of most of the major Public Parks within its municipality, we are also solely, by appointment, the Committee of Management of these Parks.

Crown land is reserved for a specific purpose. The specific purpose of the reserves that the Melbourne City Council manage as parkland ranges from Public Park and Gardens, Public Recreation, Recreation and Convenience of the People, Amusement of the People, Conservation, Ornamental Plantations, Municipal Purposes and Children's Playgrounds.

The Parks Policy (City of Melbourne 1997) articulates the aims to provide world class horticultural assets, and leisure opportunities while protecting the parks for future generations. The policy particularly states that the parks "will be maintained with no net reduction in area and new opportunities for parkland will be explored and developed where appropriate". The policy (which has been attached for your information) goes on to note that "The City's character is now defined by and its liveability largely relies upon the maintenance of the open space network."

The Melbourne municipality has a total area of 560 hectares of parks and gardens. The Melbourne City Council manages 469.5 hectares, of which 422 hectares are Crown reserve, 27 hectares are freehold and the remainder are Government roads used as Open Space and unreserved Crown land.

Council allocates an annual expenditure of approximately \$27 million, including \$10 million capital expenditure, in managing its parks. All the maintenance is funded by the Melbourne City Council and derived from rates. There is no State Government funding toward the maintenance and upkeep of the parks.

The capital city status of Melbourne means that its parks are significant for the liveability of not only residents, but the visitors and workers from regional, state, national and international catchments. There are over 10 million visitors annually to Alexandra Gardens, Batman Park, Carlton Gardens, Enterprise Park, Fitzroy Gardens, Flagstaff Gardens and Princes Park alone¹.

Many different activities take place in the City of Melbourne's parks and gardens. These are usually divided into two main types: passive, non-structured use and organised, structured use. While some exceptions exist, the use of the term "Gardens" generally indicates an area for passive use, while "Park" indicates a more active or sporting use.

The largest group of park users engage in non-structured activities such as walking, sitting, reading, picnicking, children's play, keeping fit, dog walking and cycling.

Organised users are people involved in sport (training and competition), events, personal training and corporate functions. Spaces are booked for the activities and generally a fee is payable. Many organised activities require spaces that are specifically designed for the activity, such as sports grounds. A key challenge for Council is to provide spaces which meet the diverse needs of the community.

The parks in Melbourne also provide 45 sports fields used by 70 community sports clubs, across 11 different sports. Other sports use of parkland includes 7 rowing clubs, 5 community tennis clubs and 3 bowling clubs. Seasonal and casual sport bring over 1 million visitors into the City of Melbourne's parks annually. These are significant indicators of the contribution of parks and gardens to liveability.

There are also ancillary uses, such as car parking in parks for attendance at venues such as the Melbourne Cricket Ground.

Council has prepared Master Plans for all of the major parks it manages, with the exception of Yarra Park. The Master Plans establish a vision and guide the future development and management of the parks. The development of Master Plans involves extensive public consultation in order to meet the needs of the community. The Master Plans are developed in the context of other broader policy documents, including the Parks Policy, Tree Policy, Active Melbourne Strategy, Growing Green and Melbourne Planning Scheme (MPS).

¹ Visitor Monitoring Reports for City of Melbourne, Integrated Management Information Systems Pty Ltd, January 1999 to March 2001.

The Municipal Strategic Statement (of Melbourne Planning Scheme) affirms that Melbourne's parklands, environmental and biodiversity features are valued and need to be protected and enhanced. Future Melbourne Community Plan articulates the community's goals and aspirations for the City of Melbourne for which open space, parklands and environmental attributes are identified factor for the accomplishment of:

- Liveability, quality of life and amenity,
- Inclusiveness and social cohesion,
- Physical and psychological health,
- Tourism and attractiveness for business, and;
- Ecological sustainability including sustainable water systems and climate change adaptation.

Public parkland in the City of Melbourne is highly valued. The level of use of the parks is however increasing with a growing residential population and increasing demands from a wide range of activities. Managing use, and balancing this with provision of quality horticultural assets, is an ongoing challenge for park managers. With the water restrictions and reduced rainfall, this is now a more difficult task.

2. Contribution of Crown Land to Melbourne's liveability – and opportunities for enhancement of this contribution

2.1 The vision and benefits

When thousands of acres were set aside in Melbourne with such vision by Superintendent (later Governor) Charles La Trobe, the purpose was to create areas for public purposes, including recreation. Today Melbourne is known and envied internationally, for its beautiful parks and gardens which were created as a result of these actions 160 years previously.,

Over time some of these areas have been eroded in size and accessibility by part or full conversion from an open space to a built structure (such as the Tennis centre) to use for another use entirely (The Royal Children's Hospital). While it could be argued that these changes still serve the basis of being used for a public purpose, it is worth remembering that other public purposes are always diminished or lost when these changes are made.

Public parkland has an enormous influence on Melbourne's liveability. The parks contribute through their landscapes, heritage, quality, quantity and accessibility to the public. The quality of the environment they create enhances and facilitates enjoyable experiences for all visitors.

Parks contribute in more ways than as places for recreation. The social, environmental and economic benefits are significant.

Social benefits: Recent public health research demonstrates that plants and nearby vegetation can have profound positive effects on individuals, groups and entire neighbourhoods.

A 2002 Parks Victoria study found the benefits of being around plants included: better healing outcomes among the elderly and mentally disadvantaged; improved mental capacity and productivity of office workers; improved job and life satisfaction of residents; and aiding community cohesion and identity. Nearby parks were also important for attracting consumers and tourists to shopping districts².

According to the study, the relationship between social capital and open space was still being explored. The study concluded it was likely that human interaction with nature through parks and gardens had significant, long-term social benefits.

As well as providing passive enjoyment through activities such as walking, picnicking and sitting down to read a book, parks offer a diverse range of socialisation opportunities and active recreational and sporting pursuits for individuals and groups that contribute to people's health and wellbeing. Parks and gardens are also used as the backdrop for many events, festivals and city and individual celebrations that bring diverse groups and people together. Parks and Gardens are also places that neighbourhood and friends groups can direct their attention, through activities such as voluntary programs, and as a site for neighbourhood gatherings.

Environmental benefits: A critical role of urban landscapes and vegetation is to contribute to temperature modification, air quality, hydrology, maintaining local water tables, reducing waterway pollution, soil stabilisation and biodiversity. Many of these environmental benefits are dependant on the vegetation, particularly trees, being maintained during drought.

The biodiversity value in Royal Park is particularly high given its urban setting. Flora and fauna surveys conducted by Council have provided good data on the area's environmental value. The park contains a range of bushland, grassland and wetland habitats including areas of remnant vegetation.

It is also important to recognise the critical role that parks play in total water management:

- Park landscapes play a role in groundwater replenishment (soaks), cleaning stormwater, soil stabilisation, slowing the movement of water from catchments and facilitating infiltration of the water into the soil. They contribute to cooling of buildings and reducing airborne pollutants.
- It is important that water management is considered as an essential part of the 'urban ecosystem', not in isolation.

² Maller, C, Townsend, M, Brown, P & St Leger, L (2002), *Healthy Parks Healthy People: The health benefits of contact with nature in a park context*, Report to Parks Victoria and the International Park Strategic Partners Group, Deakin University and Parks Victoria.

Economic benefits: Parks and Gardens are free and accessible to all.

The key issues here are the contribution of open space to the “liveability” and the attractiveness of the City. Melbourne’s open spaces are relied upon as desirable venues for major events, which is used as a key feature of our economic prosperity. The contribution of Melbourne’s parks and gardens to tourism is significant.

It is also important to recognise the significant **heritage** value of parks and gardens in Melbourne. The Fitzroy, Treasury, Flagstaff and Carlton Gardens (with the Royal Exhibition Buildings) and Gordon Reserve are all listed on the Victorian Heritage Register. This is a total of approximately 45 hectares and all are on Crown Land. For these parks in particular, the cultural and heritage values of the place strongly influence all considerations for future use and management.

In addition, most other crown land parks and gardens are included in a local (Melbourne) planning scheme heritage overlay.

Melbourne City Council conducts annual customer satisfaction research on visitors and non visitors to its parks and gardens. This research profiles many aspects of the contribution of parks to Melbourne’s liveability, and show how highly valued the parks are. A copy of the most recent study is attached.

2.2 The need for more parkland

The City of Melbourne has undergone significant growth in recent years which is forecast to continue. The daily population of the municipality is 716,000 (up 7.5% from 2004) whilst the residential population of 85,844 has increased approximately 70% since 2001. By 2020 the daily population is expected to reach over 1 million and the residential population 140,000.

Residential growth in the City of Melbourne has seen an increasing proportion of units and apartments compared to houses or townhouses. Currently about 79% of housing stock in the municipality comprises units or apartments, with some localities boasting almost entirely vertical living. Whilst presenting significant lifestyle advantages and a more sustainable city form it is important that this context is acknowledged in consideration of parklands and maintaining levels of amenity for residents and visitors. Residents of units and apartments commonly depend upon public parks and gardens for natural environment appreciation, outdoor enjoyment and recreation activities. Hence the supply and quality of public parks and gardens is a crucial liveability determinant for much of the City of Melbourne’s residents.

The demand for parkland reinforces the fact that with increasing population and urban density, there are more people competing for the same amount of space, particularly within our inner city areas. As a consequence, there is a need to provide further open space as parkland, to meet the needs of communities.

It is noted that while large public areas of parkland are critical to the health and well being of a community, so too are small neighbourhood spaces. It is Council's experience that in Docklands, for example, where most residents live in high rise apartments with no outdoor space, one of the major requests of the new residents is for the provision of more neighbourhood open spaces.

While there is already some form of open space provided through the Open Space contribution system, is it likely that the amount of land gained from this process will not meet demand in established urban areas.

This need to plan for future provision of more open space highlights the following points of direct relevance to this investigation:

1. *Any opportunity where crown or public authority land is not committed to a specific use, it should be considered for contribution to parkland.*
2. *The existence of large areas of public parkland should not be used as justification for sale or development of non committed land nearby, regardless of crown land or freehold land status.*
3. *The current policy of sale of uncommitted land to another public authority (such as Council) for public use needs to be reviewed. It would be a better use of public funds to appoint a Council as a Committee of Management of a new open space area, rather than organise a purchase at current market rates of public land from another public authority for another public use.*

There are opportunities for this land to make a greater contribution to Melbourne's liveability through becoming part of the park system. Crown or public authority land that could be reserved or leased as parkland could contribute to stormwater management systems, development of linear trails and pedestrian / cycle links, enhancement of biodiversity and strengthening of habitat corridors.

The environmental value of much of the public authority land is unknown, but it could generally be improved. Currently there appears to be little focus on the management of weeds, pest species, or habitat improvement.

3. The Crown Land (Reserves) Act 1978

3.1 The ‘protecting’ legislation

In Victoria, land status is conferred by or under Acts of Parliament. Currently, the principal such Acts are the *Land Act 1958* and the *Crown Land (Reserves) Act 1978*. ‘Reserved’ Crown land is land reserved from sale for some nominated public purpose. Permanent reserves may be revoked only by an Act of Parliament.

There are a number of other specific Acts relating to Crown land administered by this Council. It may be more efficient if these Acts were repealed and the matters dealt within them incorporated into the framework of the *Crown Land (Reserves) Act 1978*.

Over the years of management of these important parklands, the impact of excisions of Crown land from public parkland has been observed. Even “small” excisions can have a significant impact on a park and its function.

This can be clearly seen at Royal Park, Melbourne’s largest park. There are many challenges in trying to enhance and preserve this park for future generations. The park is broken into pieces by arterial roads, rail and tram lines. The effect of these barriers is restricted pedestrian circulation around the park. In practice, the Crown Land legislation has not ‘protected’ Royal Park from any excision. For every development in the park, an Act of Parliament changed the reservation to allow it.

Data provided earlier showed the significant use of the parks for sport. Yet the City of Melbourne has had three sports grounds removed by the Crown in the past two years (two at Gosh’s Paddock and one in Royal Park).

There is a need for strong liaison between other public authorities and Committees of Management where land is adjacent to Crown Land reserved for public parkland. This is important to protecting and retaining the natural values of the parkland. This liaison could be reflected in the legislation.

The purpose of Crown Land is important. It gives clear direction on what the land is there for. Some older purposes did not envisage some trends or new types of use that are in demand in today’s society. There is most likely a balance between allowing Crown land to respond to the needs of today while protecting it from inappropriate use. This reinforces the need for professional park management and continuity, and particularly for the importance of Master Plans.

Sections 17 D and E of the Act allow for leases to purposes other than for which the land is reserved. Many of the leases and licences are community leases for sporting and recreational activities that are more specific, such as tennis clubs, which are important focal points for the local community. There has been much discussion on optimum lengths of lease. From a management perspective, the leases do not need to be too long, to ensure changing circumstances can be identified and monitored, and to encourage clubs to be accountable.

Some legislation (such as federal communications legislation) overrides all other approvals to allow for infrastructure such as mobile phone towers to be built without any approvals or consultation. Public utilities, under other legislation, are also exempt. If these agencies were required to at least consult with public land managers on works to be undertaken in a park, many improvements can be made to design (for example for maintenance access considerations) and advice can be provided on how to minimise damage to the park during construction.

The earlier discussion highlights that there is a fundamental lack of understanding of the value of parks by many agencies. Consistently, other agencies present proposals and develop plans assuming that public parkland is ‘free land’. For example, in the recent east west road link proposal the concept design sited two tunnel exit points on parkland (one Crown, one freehold). It is understood that these sites were chosen because it was ‘cheaper’ for that project to utilize these spaces, rather than other land.

The economic value of open space is not just about purchase or sale price. This undermines the vision with which this parkland was set aside. There is a need to address this, so that the value of parks is always fully considered.

3.2. Crown Land Regulations

There are many inconsistencies between “current” regulations and other local or municipal laws for public places. For example, illegal car parking on the parkland is difficult to enforce. From an enforcement perspective, it would be preferable to simplify these and remove the inconsistencies.

The Ranger Service has particular difficulty with the parks not covered by the *Melbourne Parks and Gardens Joint Trustee Reserves Regulations 1994*. These are the Queen Victoria Gardens, Kings Domain, Royal Park, Alexandra Gardens, Treasury Gardens, Birrarung Marr, Batman Park, Enterprize Park, Parliament Gardens, Docklands Park, Point Park, Pleasance Gardens, Eades Park, Wildlife Reserve, Gardiner Reserve, Clayton Reserve, Sturt Street Reserve, Gordon Reserve, levers Reserve and the Women’s Peace Garden.

A sensible way forward would be for Local Laws to be used to generally regulate activities in public places, including relevant Crown land, and that the power to make regulations under the *Crown Land (Reserves) Act* be restricted to issues of specific relevance to the relevant Crown Land. It is also suggested that any such regulations be subject to the same rules in respect to sunsetting after 10 years, as apply to other subordinate legislation and Local Laws.

4. Docklands

Parcels of land are given to Crown Land, but are subject to existing leases and licences. These agreements are made for 99 years and present limitations for use.

Limited areas of open space have been allocated in Docklands. An area set aside for active recreation has been allocated to build the new ice skating stadium.

The lack of an overall approved master plan for Docklands means that as the precinct evolves over time, each of the major developers has an opportunity to revise their Outline Development Plans (ODP's). The result of this process is that allocations of public open space are vulnerable to change in location and scale.

5. Some specific sites for consideration as part of the investigation

There are a number of specific sites and issues in the City of Melbourne that Council wish to refer to the investigation for consideration. These are listed below. Further information can be provided on each item if required.

Yarra Park

- Removal of the disused police station (corner of Vale St and Wellington Pde) and return of the area to parkland.
- Commitment to the phased removal of car parking in the park.

Crown Land at junction Spring Street, Flinders Street & Wellington Parade

- End lease for car parking and create a pocket park on this important "gateway" location at the entry point into the CBD from the east.

Sturt Street off ramp (from City Link), Southbank

- Reconfigure off ramp and road, and upgrade to provide public space
- and a street frontage.

E-gate / Rail yards between Docklands and North West Melbourne

- Opportunity for redevelopment of a brownfield site that should include provision of public open space.

Northbank

- Opportunities to improve pedestrian and non-commuter cycle access.

Memorials

- Memorials are another issue that provides an ongoing flashpoint between a reserve purpose and the actual use. It is suggested that some new public land be set aside in the Melbourne area specifically to provide for memorials and commemorative art works for events of public interest.

Commuter cycle network

- Shared bike paths present a particular issue as they span a number of land types with a large proportion on crown land in Melbourne. There are difficulties in managing these network systems from a maintenance, development and risk management perspective as they extend beyond the City of Melbourne boundary and often entail different Committees of Management on adjoining Crown Land (eg. Other Councils and Parks Victoria) or other land managers (eg Vic Track).