

What Makes Public Places Succeed?

Theories abound: success could involve walkability, or markets, or pop-up-parks. Or something a little more complex.

Next month, the MAV will host a conference celebrating 'walkability' which, they say "... is increasingly seen as the single most important dimension to next-generation urban planning. It underpins the development of the networked, collaborative society that is rapidly evolving."

A little later in March you could attend a [conference in Barcelona](#), which will 'articulate a new global vision for public markets' which, so they say, 'are increasingly recognized for their contribution to a City's health, economy and social cohesion.' As public spaces and community destinations, markets have 'catalytic impacts.'

Then there's a pop-up group called [Park\(ing\) Day](#) which tells us the pop-up-park will 'improve the quality of urban human habitat.' They seem to be popping up all over – Dandenong, Yarraville, Albert Park, Maribyrnong, and the RMIT campus. Last year, the City of Moreland was awarded a 'Place Practice award' for converting a somewhat menacing street into a lively 'pop-up-park.'

There's a partial truth in all these analyses, but to get the full picture we need something a little more sophisticated.

[Mainstreet Australia](#) is an advocate of a specific type of public place – the retail shopping precinct. As they observe, success "...is reliant upon a complex and interrelated range of economic, cultural, social and environmental factors – managed and planned for by a range of diverse stakeholders."

Here at The Public Land Consultancy our proposition is this: a successful public place must tick three boxes: its physical characteristics, its transaction-commerce, and its governance.

By transaction-commerce we mean what goes on there – who comes and goes, and what they do or don't do. By governance we mean the regime of control, management, and regulation. It's perhaps the thing called *custodianship* in Anthony Albanese's 2011 '[Urban Design Protocol](#).'



Swanston Street Mall: a successful public place – according to New York's [Project for Public Spaces \(PPS\)](#)

And, we say, the first two are of limited value without the third. Governance (or custodianship) can make or break the success of a public place.

We say it's a proposition applicable to any public place – from Queen Victoria Market to Wyperfeld National Park, from Swanston Street Mall to a shared walking-cycling trail in the Grampians. If their governance is wrong, success will elude them.

What Makes Public Places Fail?

One type of public place facing failure is the suburban shopping mall. Reports of their death may be greatly exaggerated – but in America, there's an [emerging sub-culture](#) commemorating their decline.

One sociologist explains it like this:

"Malls don't just compete for traffic with other malls, but also with other social spaces like parks, museums, and popular main street businesses."

Continued – Page 3

Page 3 Q & A

- *What's the basis of Parks Vic's enforcement powers?*
- *What if an irrigation channel crosses a road?*

Page 4

Four P.D. Courses

- *Offences and Enforcement*
- *Parks and Gardens*
- *Roads Streets and Lanes*
- *Environmental Law*

Page 5

Our calendar of one-day courses and half-day workshops

February-April 2015

For past editions of Terra Publica go to www.publicland.com.au/terra_publica_archive.html



We were investigating
the alignment for a
shared trail from
Wartook to Zumsteins
(that's just downhill
from the Grampians)
when we saw this tree.

Too good to *not* share
with you, surely.

OK, we could have
used Instagram. Still...

What makes places succeed / fail?

“Armed with technology, consumers today are empowered to find more suitable locations to spend time with family or go on a date.

“The mall is no longer the default destination for socialization.”

So how does our three-factor proposition fit this phenomenon? Neither their physical characteristics nor their governance regime has changed, since the days when malls were full of life – and yet their transaction-commerce has collapsed.

The technological challenges to traditional retailing impact both the mall and the mainstreet – but we



have a feeling that the mainstreet, or some variation of it, will more likely survive.

Why? Because mainstreet’s multi-agency governance regime, refined through centuries of evolution, is stronger than that of the mall. In the end, public places succeed or fail on the basis of their genetics. ■

Q
&
A

Where do Parks Vic’s powers derive from?

Question asked by an officer from a coastal Council who had expected to find his answer in the PV Act

Parks Victoria (PV) is a statutory authority established under the *Parks Victoria Act 1998*. It cannot own land, but exercises various control and management roles in relation to land and waters. These roles are assigned to PV under various other Acts.

- Under the *National Parks Act 1975*, PV is engaged by the Secretary for DELWaP to manage all parks under that Act – including national parks, state parks, marine national parks and marine sanctuaries.
- Under the *Crown Land (Reserves) Act 1978* PV is Committee of Management for many Crown reserves.
- Under the *Port Management Act 1995* PV has been appointed as Local Port Manager for Port Phillip Bay, Western Port and Port Campbell.
- Under the *Marine Safety Act 2010* PV is waterway manager for Port Phillip, Western Port, Port Campbell, the HMAS Canberra Dive Site, Lake Moodemere, Albert Park Lake, and navigable reaches of the Yarra, Maribyrnong, and Patterson Rivers.

And there’s more! The Road Management Act, the Water Industry Act... ■

Q
&
A

Who is responsible for a road bridge over an irrigation channel?

Question asked by an officer from a rural Council engaged in negotiations with a Water Authority

It depends on who built the bridge (or culvert).

When it was originally enacted in 2004, the Road Management Act recognised two classes of infrastructure in road reserves:

- Road infrastructure – being the roadway itself, and pathways and shoulders and structures forming part of them. This is the responsibility of the road authority.
- Non-road infrastructure – being all infrastructure other than road infrastructure. The Act very usefully tells us that this is the responsibility of whoever is responsible for it.

So, back in 2004, it seemed that bridges over irrigation channels, being structures which form part of the roadway, were to be the responsibility of the road authority – in this case Council.

But this was a drafting mistake. It had never been the intention of the Government to reassign responsibilities between agencies. So in 2006 the Act was amended.

Road infrastructure now specifically excludes bridges and culverts over irrigation channels, unless they were constructed by the road authority. So, unless Council built the bridge, the answer is the Water Authority. ■

Readers of Terra Publica should not act solely 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.

What Makes Public Places Succeed?

One factor is sound governance. Learn about it in our one-day PD courses...

Land Law for Managers of Roads, Streets and Lanes

Whether it's an urban or a rural landscape, the road reserve is probably the most numerous and most accessible form of public land.

Roads are not just bituminised car-places; they are very much people-places and tree-places and even productive agriculture-places.

This course provides a comprehensive coverage of the law relating to governance of roads: how they are created and abolished, controlled and managed, how they may be used and occupied.

What is a...

- Government Road
- Subdivisional Road
- Unused Road
- Discontinued Road
- Arterial Road
- Road-Related Area
- Roadside
- Public Highway
- Public Road
- Carriageway Easement
- Right of Way
- Common property roadway

Page 5
forthcoming
presentations of all
these courses

Land Law for Managers of Parks, Gardens and Reserves

Land Status in Victoria

Crown land, freehold land, National Parks, Crown reserves, reserves on freehold land, gardens in road reserves,

Legislation governing Parks and Reserves

A closer look at the National Parks Act, the Crown Land (Reserves) Act, the Subdivision Act and the Road Management Act

Control and Management

The various roles of municipalities, Parks Victoria and DEPI, the various avenues for community involvement

Commercial and Private Use

Leases and Licences, Permits and Agreements, Contracts and Management Agreements

Roads in Parks, Gardens and Reserves

Roadways and carparks within parks, gardens and reserves

Controls over Use and Development

Planning Schemes, the Coastal Management Act, Management Plans, Native Title and Heritage controls

Regulating Behaviour and Activities

Local Laws, Regulations under various Acts, legal controls over car parking, dogs, camping, litter etc

Environmental Law for Councils as Land Managers

This one-day course focuses on the land which Council itself manages, and the law governing its usage and protection.

The Day's Objectives:-

- To clarify which land a Council controls and manages, including reserves, roads, and roadsides
- To explain a Council's legal powers and obligations as land manager
- To provide a clear overview of environmental legislation, regulation and enforcement
- To introduce strategies for risk identification, prioritisation and management

Our Presenters

Our presenters are either from within The Public Land Consultancy, or carefully selected senior external specialists

They are all highly qualified and very well experienced in the relevant fields

Offences and Enforcement on Public Land

Refresher: The law in Victoria: what the law regards as 'Public Land'

All about...

Legislation governing Public Land

Regulations, statutory rules and local laws

How offences and penalties are set

Offences relating to roads, parks and reserves, 'Public Places'

Enforcement – the role of authorised officers

Notices, summonses and PINs

Finding precedents and case-law; when to go to the lawyers...

When are these behaviours offences?

- Digging up a road
- Letting the dog off the lead
- Parking on the nature strip
- Cutting native vegetation
- Planting a vegetable garden
- Selling coffee on the footpath
- Burning off
- Being intoxicated
- Littering (and how about aggravated littering?)
- Protesting against logging
- Hooning around on a trail bike ?

One-Day Training Courses – February to May 2015

NEW - Offences and Enforcement on Public Land <i>Astrid Di Carlo, Lawyer</i>	Tuesday 5 May	Melbourne
Land Law for Managers of Parks and Gardens <i>Richard O'Byrne, Associate</i>	Wednesday 11 February	Melbourne
Land Law for Managers of Roads, Streets and Lanes <i>David Gabriel-Jones, Principal</i>	Monday 16 February Tuesday 24 February	Melbourne Wangaratta
Land Law and Coastal Adaptation <i>Richard O'Byrne, Associate</i>	Wednesday 18 February	Melbourne
Easements and Restrictive Covenants <i>Astrid Di Carlo, Lawyer</i>	Tuesday 24 February	Melbourne
Crown Land Law, Policy and Practice <i>David Gabriel-Jones, Principal</i>	Thursday 26 February Thursday 12 March Monday 23 March	Melbourne Wangaratta Traralgon
Environmental Law for Councils as Land Managers <i>Grant Arnold, Associate</i>	Tuesday 3 March Wednesday 18 March Thursday 23 April	Bendigo Melbourne Wangaratta
The Law and Subdivisions <i>Grant Arnold, Associate</i>	Thursday 5 March	Melbourne
Land Law for Managers of Rivers and Lakes <i>David Gabriel-Jones, Principal</i>	Thursday 5 March Thursday 19 March	Echuca Melbourne
Referral Authorities – Doing it better <i>Grant Arnold, Associate</i>	Wednesday 11 March	Melbourne
Re-Imagining Urban Public Land <i>David Gabriel-Jones, Principal</i>	Tuesday 17 March	Melbourne
Land Law for Service Utilities <i>Astrid Di Carlo, Associate</i>	Tuesday 24 March	Melbourne
Planning Law – A strategic overview <i>Grant Arnold, Associate</i>	Wednesday 25 March	Melbourne
Native Title and Aboriginal Heritage <i>David Yarrow, Victorian bar</i>	Thursday 16 April	Melbourne
Managing Volunteers and Grants Programs <i>Richard O'Byrne, Associate</i>	Tuesday 28 April	Wangaratta
Leases and Licences of Public Land <i>Karen Hayes, Property Coordinator, City of Yarra</i>	Tuesday 12 May Thursday 21 May	Melbourne Traralgon
Risk Management Law <i>Michael Beasley</i> Land Information and its Interpretation <i>Scott Jukes, LS</i> Building Law – a Strategic Overview <i>Tom Vasilopoulos</i>	Dates to be fixed	Melbourne

Half-Day Workshops

Crown Reserves: Assets or Burdens? <i>Grant Arnold, Associate</i>	Friday 13 March	Melbourne
Encroachments onto Council-Controlled Land <i>David Gabriel-Jones, Principal</i>	Friday 20 March	Melbourne
Unused, Little-Used and Discontinued Roads <i>David Gabriel-Jones, Principal</i>	Friday 27 March	Melbourne

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In addition to our scheduled presentations, you can engage us to present our training courses in-house at your own offices. Discounts for course hosts.