

# BOROONDARA

*Bicycle Users Group*

Boroondara Bicycle Users Group  
Response to:

Victorian Environmental Assessment Council  
Melbourne Metropolitan Investigation – Crown Land and public authority land

13 Feb 2009 – Rev 2

All submissions must be received by 5.00 pm Monday 16 February 2009

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## **Introduction**

Boroondara Bicycle Users Group exists to promote cycling and to advocate for improvements to cycling infrastructure in Boroondara and surrounding areas. BBUG thanks VEAC for providing us with the opportunity to reply to the investigation. BBUG will make this response available on its website. Crown Land and public authority land is may be referred to as “Crown land”, “public land” or just “land” in the following.

“Public authority land” includes land controlled by these public authorities: VicRoads, VicTrack, Melbourne Water and the Port of Melbourne Authority. It also includes land owned by the Department of Human Services (eg hospitals and public housing), the Department of Justice (eg police stations and courthouses) and the Department of Education and Early Childhood Development (eg schools).

**Referenced documents:**

<http://www.veac.vic.gov.au:80/metromelb.htm>

Metropolitan\_Melbourne\_Investigation\_Boundary\_.pdf

**Executive Summary**

- BBUG is concerned about the loss of public land over time, bit by bit, piece by piece.
- Public land should be retained as space for all and separate from monetary interests.
- Any public land which is lost for any reason should be replaced by an equal amount of new open space.
- Open space should be increased, not decreased.
- Public land often provides the opportunity to improve the permeability of the general landscape by catering for shared paths, suitable for pedestrians and cyclists.
- Public land is often highly underutilized. VicTrack land in particular could contribute to the implementation of many shared paths. Other examples include pipe and power transmission easements (if Crown land).
- Shared paths are compatible with public land and invite the public to make use of it.
- Shared paths cross many boundaries – use of public land must be fully integrated with the surrounding areas outside it.
- The implementation of shared paths is complicated by “ownership” issues

**Discussion**

“The Age” had an interesting article “Lungs of city smothered under concrete - March 9, 2008”

<http://www.theage.com.au/news/national/lungs-of-city-smothered-under-concrete/2008/03/08/1204780131667.html>

The article bemoans, in BBUG’s opinion quite rightly so, the loss of public land over the years. Royal Park is cited as a major example, now being the a third of its original size, having lost land to the Commonwealth Games village, Royal Children’s Hospital, etc over the years.

If this park were Central Park in New York this would never occur. Public space in New York is just seen as too valuable. We have now reached this same stage in Australia – public land must be maintained. Land was once there apparently for the taking, Aboriginal title being ignored at that time; now every single piece of land counts. This public land adds value to our lives and adds commercial value to areas nearby.

The sad fact is that a lot of the public land is only in existence because it can’t be easily build on for one of the following reasons:

- the area is part of a sandy foreshore and is unstable due to erosion by the sea
- it is prone to flooding, though suitable for golf courses – eg along the Yarra Valley
- the land is too steep
- the land is occupied by a cemetery – although the erection of the Victorian Market destroyed a large cemetery containing the remains of our earliest pioneers
- it serves some other purpose such as a train line easement.

We citizens own public land and it should remain available to us and to future generations. In the past, land has been taken from us by being commercialised in some fashion –often by stealth – the Commonwealth Games village being but one example. We accept that under certain circumstances public land may be privatised, so long as it is replaced with equivalent land, ie a synergistic swap that benefits both parties. However such swaps are likely to be rare and obviously open to severe abuse.

Although the public has a right to enjoy public open space, imposing some environmental restraints may at times be necessary in the interests of conservation. However passive observation by the public may assist in generating interest and familiarity with that space. We contend that shared paths are compatible with public land in most cases and promote a sense of ownership by the public and hence a belief that the land needs be cared for by the public.

From a practical point of view we note many examples where the development of newly proposed shared paths have been stifled by dealing with the many agencies that may claim control over particular pieces of land. Such agencies would include: VicRoads, VicTrack, Parks Victoria, Melbourne Water and the local Councils. Crown land is no exception.

Any small pocket of public space has merit, even if it is covered with just weeds. Just ask any guerrilla gardener!

<http://www.theage.com.au/national/gardening-guerillas-in-our-midst-20081209-6v06.html?page=-1>

**We present a few examples of land usage and problems encountered in Boroondara and other areas around Melbourne. This is certainly, by no means, an exhaustive list.**

Boroondara City Council (BCC)

1) The Anniversary Trail, a shared path in Boroondara, traverses a large tract of narrow land that was once the Outer Circle Railway Line, from East Camberwell station to High St/Harp Rd, Kew. This section of land is 3.5km long and forms a major part of the trail. Such land is ideal for shared paths.

In time past, this railway land was just a weed-infested wasteland until its worth was realised. Unfortunately in the interim pieces had been sold off or “acquired” by questionable means. BCC is now in the position of trying to have some pieces returned to their control, so that gaps in the trail can be remedied, ie on-road sections can become off-road sections, enhancing the safety of the trail for the general public. These include land to the east of Spencer St Camberwell. In fact some of this railway land became BCC’s rubbish tip at Riversdale Rd, which now occupies land that the Anniversary Trail could make good use of.

The point here is that land once considered pretty useless, in this case too narrow for most purposes, has now been found to be ideal for a shared path. All Crown land has the potential to be of use for some public purpose, although that use may not be immediately apparent. We need to retain public land for future generations, who may find worthwhile uses for it that we cannot currently envisage.

2) BCC has plans for a shared path in Markham Reserve (Markham Ave, Ashburton) and surrounds. Nearby there is a small parcel of land, which in theory could be sold off allowing the construction of a small housing unit. It appears to have little other intrinsic value. However, when integrated into BCC’s proposed shared path, it becomes a major component, allowing connectivity between the proposed path and the Anniversary Trail.

This example illustrates how Crown land should not be seen in isolation – it must be considered in its context. Opportunities may arise that have never been previously considered or even dreamt about, which will add value to the land for the public. Even tiny pockets of land have potential value to the public.

#### Stonnington City Council (SCC)

The current widening of the M1 freeway by the Monash Alliance (MA), VicRoads and others has provided the ideal opportunity for the construction of a shared path from the west end of Argyll St to the East Malvern Station footbridge, adjacent to and immediately to the north of the M1 on the Malvern Valley Public Golf Course. The following photos show the land that would be utilised:

<http://picasaweb.google.com.au/boroondarabug/MVPGCArgyllStToEastMalvernStation>

It should be noted that East Malvern Station footbridge is the hub of many shared paths in the region. The proposed path would facilitate travel from the Waverley area to inner Melbourne. Refer to the Waverley Rail Trail:

[http://en.wikipedia.org/wiki/Waverley\\_Rail\\_Trail](http://en.wikipedia.org/wiki/Waverley_Rail_Trail)

It would also benefit the Stonnington neighborhood house, local schools, the TAFE and enable multimodal travel by linking to the station. In addition it will improve golfer amenity by getting cyclists and walkers off the golf course and leave the Council less

exposed to liability issues from golf ball strike. Given the current M1 works the construction costs would be minimised. The path's projected location makes flood levels a non-issue.

Further reading:

[http://boroondarabug.org/wiki/index.php/Gardiners\\_Creek\\_Trail](http://boroondarabug.org/wiki/index.php/Gardiners_Creek_Trail)

<http://monash.yourguide.com.au/news/local/news/general/move-for-bike-path-has-been-one-bumpy-ride/772648.aspx>

However while MA has been helpful, Stonnington Council has not – it insists the path's construction is limited by MA's actions, not their own. Parts of the proposed path lie on Crown land, VicRoads land and VicTrack land. We call on the Government to implement this path, especially as it has the majority of the required land already under its control. Much of this land will effectively become wasteland if a path is not put in place.

Somewhat perversely, on the south side of the East Malvern Station, a large tract of Crown land is used for the station's car park. It has a capacity in the order of a thousand spaces. This public space is continually occupied by nothing but cars. Nearby the Gardiners Creek shared path just across the station footbridge bridge handles over eight hundred cyclists a day (VicRoads counter, 24 hr average, Feb 2008), yet we see no Crown land made available for a simple shared path in the immediate vicinity along the M1 as described above.

In their favour, Stonnington Council has pointed out two issues with which we, BBUG, are in agreement, regarding shared paths in their document: "City Of Stonnington - Submission To Legislative Council's Public Land Inquiry - September 2007" as follows:

*"... several important opportunities have been identified through Chapel Vision (Structure Plan for Prahran, South Yarra and Windsor activity centres) which incorporates the use of rail reserve land for public open space which directly relate to delivering Melbourne 2030 objectives in the centre:*

- The implementation of a regional bicycle link along the Sandringham rail line (refer to Appendix 2) ..."* (ie land immediately south of South Yarra Station and continuing along the line)

And this - (noting that Yarra Trail should read Tooronga Trail in the following)

*"4.2.2 AMENDMENT C42 TO THE STONNINGTON PLANNING SCHEME - RETAINING ADEQUATE PASSAGE FOR THE REGIONAL BIKE LINK IN KOOYONG  
A proposal from VicRoads to sell two residential lots in Talbot Crescent, Kooyong presented an issue associated with securing width and passage for the Yarra Trail bike link (located between the freeway and the sites for disposal). Adequate distance is required to ensure the retention of safe sightlines and a continuous two-way passage. An amendment to the planning scheme was proposed (however never proceeded) to provide*

*this small section of the site as public open space for the Yarra Trail. This example identifies that the sale of public land should consider adjoining public uses and their functionality now and in the future, including safety and usability.”*

#### VicTrack:

In a couple of the examples above it is clear that VicTrack is a major hindrance to the development of shared paths. Selling the airspace above a station perhaps makes sense – even though it’s a classic case of selling nothing at a price ie seigneurage. However to charge rental of VicTrack land to Councils, so that shared paths can be put in place is quite frankly a disgrace. The application process for a shared path on “VicTrack” land is ludicrous:

<http://www.victrack.com.au/downloads/2857VicTrackDLBochurePRESS.pdf>

Sadly the cyclist shown in the brochure is certainly not riding along a VicTrack associated path. It’s a VicRoads associated area – City link – near Mt Alexander Ave. VicTrack reserves land almost out of spite. If they have no use for land then they should hand it over to those who do.

#### Whitehorse City Council (WCC)

The Box Hill Cemetery at Middleborough Rd is Crown land. Many years ago the Belgrave/Lilydale train line sliced through the cemetery’s main entrance road, from Whitehorse Rd parallel to Sagoe Lane, but it appears that the Crown still owns the land including the train track at this point. Refer to the actual land titles here:

<http://services.land.vic.gov.au/landchannel/jsp/map/InteractiveMapIntro.jsp>

Cyclists in the region have been trying to have a bicycle path put in place linking the Middleborough Rd pedestrian underpass to Bishop St or better still to Bank St, on the north side of the train line for many years. It is listed in Whitehorse Council’s cycling strategy. This path would provide improved access to the Box Hill Central, a 2030 principal activity centre, and would also form part of the proposed East West Trail.

[http://boroondarabug.org/wiki/index.php/Eastern\\_Rail\\_Line\\_Trail](http://boroondarabug.org/wiki/index.php/Eastern_Rail_Line_Trail)

However, uncertainties about who owns what and who would pay for it have created problems. Is this proposed shared path on VicTrack land or Crown land? What central register do you consult to find out the answer? Governmental agencies may have no problem with this, given their GIS setups but for the average citizen, it is problematic.

VicTrack states that land 8 metres either side of their tracks cannot be used for shared paths. Access to VicTrack controlled land is further complicated by the bureaucratic hurdles in place.

<http://www.boroondarabug.org/jp/documents/2857VicTrackDLBochurePRESS.pdf>

a) The 8 metre condition is not adhered to in many locations, eg the Upfield Bike Path

[http://en.wikipedia.org/wiki/Upfield\\_Bike\\_Path](http://en.wikipedia.org/wiki/Upfield_Bike_Path)

b) Furthermore in the particular case of the Box Hill Cemetery, the land 8m from their tracks is a good 7 metres above the railway tracks, as the train line is in a deep cutting at this point.

This overall situation makes no sense. Crown land needs to be made readily available for shared paths, at no cost, to whichever agency wants to implement one. Shared paths benefit the whole community, through the reductions in greenhouse gases, road congestion, and obesity, and better general health.

Monash City Council (MCC)

The Scotchmans Creek trail:

[http://en.wikipedia.org/wiki/Scotchmans\\_Creek\\_Trail](http://en.wikipedia.org/wiki/Scotchmans_Creek_Trail)

does an on-road dogleg around the Monash Aquatic and Recreation Centre and its busy car park entrance. The centre is on Crown land, as is the Oakleigh Public Golf Course to its immediate north. The Council would like the path to be on the north side of the centre, so it is off-road and safe, but apparently Council cannot achieve this aim, for reasons we cannot fathom.

Refer Google map:

<http://tinyurl.com/75nlac>

Golf Courses in general:

Around Melbourne there are many golf courses that block the logical progression of the local shared path. We would contend there are very few courses, where a shared path cannot be accommodated when needed, and with little impact on the course itself. A few examples:

Shared paths have been built successfully at:

- Box Hill Golf Club
- Heidelberg Golf Club

They have not been implemented so far, but are needed at:

- Bundoora Park Public Golf Course – Darebin Creek Trail gap
- Latrobe Golf Club – private property – Darebin Creek Trail connection to Yarra Trail
- Malvern Valley Public Golf Course – Waverley Rail Trail connection
- Oakleigh Public Golf Course – Scotchmans Trail safety issue
- Graigieburn Public Golf Course – improved accessibility in the local area after further suburban expansion in this area occurs.

Some of the golf courses in Melbourne are located on Crown land. A prime example is the Westgate Golf Course. There is a strong and obvious need to link the multimillion dollar 23 km long Federation Trail to the city via this golf course located on Crown land. The course is sited partly in Maribyrnong and partly in Hobsons Bay municipalities, which adds to the complications. The proposed path is endorsed in Recommendation 7 of the Eddington Report, and is also promoted by Bicycle Victoria. A freeway (Westgate Freeway) can be put through the Golf Course but apparently not a shared path.

#### Banyule City Council (BCC)

In Watsonia a shared path runs from the Watsonia station down a High Voltage power line easement towards the Plenty River Trail. It would be logical to extend the trail further southeast down the easement in order to join the two trails. Unfortunately parts of the easement have been sold off over the years for housing. Room could and should have been left for an off-road shared pathway. Refer Google map Wendover Pl and south of Bimbadeen Cr:

<http://tinyurl.com/7p8z5h>

#### Finally:

Public land should not be sold or rezoned for commercial profit. Local Councils are often forced into selling off land, so they can redevelop areas. For example in Stonnington the old rubbish dump at Surrey Park was sold to finance a new Council office. The net result will be a new apartment building with a small piece of park, associated with it. Selling off your farm, to feed yourself in lean times, eventually results in poverty. Government should help Councils financially to ensure public land remains owned by the people. In this example the whole rubbish dump should have become a park – Stonnington is very short of public space. The sale of Stonnington Mansion is another example of a Government land sale gone horribly wrong. It should have remained in the hands of the people. Public land should be isolated from commercial interests.

#### **BBUG suggested recommendations**

1) Increase public space – do not diminish it. The Federal and State Governments are the only agencies wealthy enough, and with the legislative power, to do this, particularly in the inner suburbs where the cost of land is high. Think of long timeframes – a hundred



years or more. Think of the great spaces to be seen around the world - New York's Central Park, London's Hyde Park. They did not just happen – people envisaged them and then fought for them.

2) The Government does not have a mandate to make a profit from our land by its sale. The Government should not sell off land because it is “surplus to requirements” – it rarely, if ever, is.

3) Clarify ownership – the public should be able to identify what organisation is responsible for any particular piece of Crown land. This would enable the public to quickly identify the right people to speak to over land usage issues.

This information should be made available through the Land Channel website together with the existing title mapping already available:

<http://services.land.vic.gov.au/landchannel/content/>

4) Make use of public land wherever possible – and not necessarily for a profit. For example shared paths on VicTrack land should not incur a rental fee. If the land is unused, then allow its use for a peppercorn rent.

5) Consider public land in its context – not in isolation.

6) Under the current legislative regime, work with Councils to enable Crown land of all sorts to be made available for the development of shared paths for pedestrians and cyclists.

7) Regardless of 6) above, work towards cycling infrastructure development being under the control of the State Government, as in Western Australia. This would facilitate sorting out “ownership” issues for new paths and improve developmental consistency statewide.