

PARKLANDS NEWS

December 2005 Number 21

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Adelaide Parklands Preservation Association Inc
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President's letter

If you were one of the crowd to have enjoyed the Pleasant Sunday Afternoon celebration of the surviving wonder of our Parklands, you will most probably agree with me that it was truly very pleasant (see report on page 3). I must say how grateful I was that the Minister and the Lord Mayor were able to speak to the gathering. Over the 20 years I have been closely concerned with the Parklands this is the first occasion when I have felt confident that we have genuine care expressed by both the Council and Parliament in the ongoing wellbeing of the Parklands. Although not perfect, the Parklands Bill is the result of the deliberations of people who are not trying to surreptitiously gain some power to abuse the Parklands. On the contrary, I believe they are trying to extend legislative protection for the Parklands.

Now on a completely different tack. I have been contacted by two people who had cause to complain about events in Victoria Park.

Victoria Park, to quote Peter Cundell's 'the blooming obvious!', is PARKLANDS. So what are the complaints? First, at the last Clipsal

500, APPA was involved with measuring sound levels during the event in some locations, both on the Parklands and in residences on East Terrace. One resident recorded levels inside her house, with closed doors and windows to keep out as best as possible the outside noise, that were higher than legally acceptable in an industrial workplace! She rightly wonders, as must many others, what right does an event held on the Parklands, condoned by the government, have to destroy her quality of life in her own home? We are all deliberating on what action she could take for compensation. A comprehensive and obvious answer, which could obviate the need for any action, is to move the Clipsal 500 away from the Parklands and residences altogether.

The second is the case of an inoffensive chap walking along the walk-ride way across the centre of Victoria Park where he was halted by an officious fellow who said his organisation had control over that area and told him he could not proceed towards the city. There was nothing obstructing the path and no signs. With a little encouragement from me, he has sought answers from the Adelaide City Council and a



locally based Councillor but, to date, to no avail. One can conjecture what organisation was involved. There are some unacceptable activities that take place there, including the 4WD show, which would be welcomed and wonderfully well catered for in the Wayville Show Grounds. Why are such events on the Parklands at all? But to date we have no answer to the arbitrary takeover of the public path.

I share these incidents with you to highlight the effect decisions that abuse the spirit of the Parklands can have on many ordinary people trying to enjoy their Parklands.

Ian Gilfillan

ISSUES ON THE TABLE

Parklands Trust legislation

World Heritage listing

Land grab at Victoria Park Racecourse

Biodiversity survey

Heritage listing of 1889 Arbor Day plantings

Adelaide Bowling Club's activities

Hurtle Square redevelopment

Britannia intersection

General and Park Lands PAR

Dying elms

SACA car park push

Bakewell Bridge

*Front page: Himeji Garden, South Parklands, October 2003.
Photo by Gunta Groves*

Vale dear David Mead 1950–2005

David was the honorary auditor for our Association for a decade, taking over from his father Jack who had done the job from Day 1.

David's sudden death on 28 October at age 55 shocked and saddened all of us who knew him.

Thank you David for your generous service to our Association and our Parklands.

To his wife Liz, father Jack and mother Joyce, and all his family, we extend our heartfelt sympathy.

Next newsletter copy deadline: **31 January 2006**

...AND ALL HAD A GOOD TIME!



What a fine way to spend 'A Pleasant Sunday Afternoon'. Over 60 people enjoyed champagne, an excellent afternoon tea and beautiful music provided by the Aurora Strings in the marvellous setting of Goodman Building in the Parklands on Sunday 30 October.

This was the occasion of the 2005 Annual Memorial Address which this year was given by Dr Ken Marriott, a highly credentialed parks and recreation planner. He spoke eloquently on the benefits of the Adelaide Parklands using examples of good and poor parks planning (a summary of his presentation appears on page 10).

APPA President Ian Gilfillan hosted the event. Both Minister John Hill and Lord Mayor Michael Harbison attended and assured the gathering that the proposed Parklands Authority, as outlined in the Adelaide Parklands Bill before Parliament, was the start of a new era for the care, control and management of the Parklands. Jane Lomax-Smith, the Member for Adelaide and Minister for Education and Children's Services and for Tourism, also enthusiastically lent her support to the proposed Bill. Representatives from adjoining councils (Evonne Moore from Norwood and Mike Hudson from Unley) and Adelaide City councillors (Creston Magasdi and Susan Clearihan) were also present.

Ken Marriott conducted a seminar the next morning with over 30 professional planners and managers from local councils, government departments and the private sector. The seminar was arranged by APPA in conjunction with the Parks and Leisure Association.

It was encouraging to have such a good attendance of members and friends of the Parklands at the Memorial Address, which saw past friendships renewed and new connections made between people with a passion for the Parklands. This annual event is an important opportunity for the Association to show itself as an effective agency in the preservation of the Adelaide Parklands.

Jim Daly

Top photo: Aurora Strings members: Sarah McCarthy, Katerina Stevens, Bronwyn Whyatt and Neil Thompson.



Above: Ken Marriott speaking about the benefits approach to parklands planning.

Right: David Morris, foundation member and past president of APPA 1989–1996, was presented with an Honorary Life Membership of the Association by current president Ian Gilfillan. All photos taken by Gunta Groves.



BRICKBATS AND NO BOUQUETS

This newsletter is not big enough to accommodate all the dreadful things that are happening to the Adelaide Parklands. I'll start with just a few.

Syringe Avenue

The historic Elm Avenue in Tuttangga (Park 17) is the site of numerous used syringes. Similarly, Osmond Gardens, Himeji Garden and the surrounding Wita Wirra (Park 18) are polluted with discarded syringes, used condoms, and empty food and alcohol containers. No doubt other areas of the Parklands are similarly desecrated.

Nonsense in our press

On 9 October and 6 November, Kevin Naughton and the *Sunday Mail* have been responsible for publishing nonsense regarding the building of permanent multi-storey facilities in Victoria Park to further the interests of commercial entities such as the Clipsal 500 and the South Australian Jockey Club. An example of the kinds of erroneous statements made by Mr Naughton was on page 42 of the *Sunday Mail* (6 November 2005) when he claimed: 'Victoria Park racecourse is owned by Adelaide City Council and is recognised as a multi-use/event area'. Kevin Naughton should check his facts, like all responsible journalists.

In a short summary with the article, the *Sunday Mail* states 'The concept promotes extended major event use of the area to take pressure off other areas of the Adelaide Parklands'. What about the pressure on Victoria Park? And why should there be any kind of pressure on the Parklands at all? 'Bah! Humbug!' to him and the *Sunday Mail*.

Political inaction

Yes, I know there is Parklands legislation being debated in Parliament but, with a state election looming, one would have thought that opposition parties, especially the Liberal Party, would be anxious to declare policies and make statements to highlight their points of difference from the Labor government. Why haven't we heard from them regarding the Adelaide Parklands—for example, about protecting Parklands from commercial exploitation, and about improving the Adelaide Park Lands Bill 2005 currently before Parliament.

Political action

The Labor government is hell-bent on getting legislation through that allows them to do whatever they like when they have a pet project. Two recent examples are the Mile End

Underpass Bill 2005 and the Victoria Square Bill 2005. Both contain sops that claim there are benefits to the Parklands while preparing the way for permanent alienation of dedicated land for an underpass and bridge, and a tramline, respectively.

And more: Liberal and SAJC member, Angus Redford, wants to enshrine in the Adelaide Park Lands Bill a 99-year lease of Victoria Park to the SAJC—that's as good as giving it to them!

'Monkey bikes'

The miniature motorbikes known as 'monkey' or 'pocket' bikes are turning up on the bituminised sections of Victoria Park. These riders and accompanying friends have no regard for the law or for the legitimate users of the Parklands. These bikes are unregistered (because they don't comply with Australian Design Rules), and are ridden mostly by unlicensed and often very young riders. They disturb the peace of the Parklands and pollute the air. When contacted, the Adelaide City Council declined to do anything about this illegal activity.

Gunta Groves



Above and right: Alienation of Veale Gardens, and Walyo Yerta (Park 21) for car parking, during the Sunday Mail's Festival of Garden Living in October 2005.



All photos taken by Gunta Groves.

Above right: Bonython Park in October 2005, still suffering from the effect of Cirque du Soleil more than 14 weeks after the event.



The Adelaide Parklands *Creation of the 'Adelaide Park' trust, and the park purchase*

This is the third article in a series on the Adelaide Parklands and the historical basis for their creation and survival. The first article, entitled 'An historic public walk', appeared in the June 2005 issue of *Parklands News*, and the second, entitled 'Prelude to the purchase', appeared in the September issue.

The creation and dedication in 1837 of the Adelaide Park by Colonel William Light, first Surveyor-General of the new British Province of South Australia, and the establishment of an inter-generational trust protecting this land for Adelaide's inhabitants in perpetuity represent a remarkable achievement in advancing open space and public health reforms.

As a component of Light's inspirational design of the City of Adelaide and in their own right, Adelaide's Park, City Squares and Gardens¹ are expected to meet World Heritage listing criterion (ii) because they represent the culmination of an important interchange of human values on town-planning and public health. They also are expected to meet criterion (vi) because they have direct and tangible associations with South Australia's remarkable and unique foundation as an experiment in Wakefield's systematic colonisation and as an ideal society by the English Utilitarians and Philosophical Radicals.

The need for a trust

Adelaide's Park, City Squares and Gardens are a fine example of a 19th century trust for public walks and public health. This protection exemplifies John Arthur Roebuck's campaign for public trusts of such lands.

Roebuck was concerned at the loss of open and common lands throughout England due to enclosures. Between 1802–1844, 1075 Private Acts of Parliament enclosed 1 610 302 acres of Common Field and Waste land.² By establishing a trust³ it was possible to supersede a previously determined principle of English law that as a mere inhabitant 'no man can have any right in common'.⁴

At the time South Australia was being planned, T.J. Maslen suggested: '... a belt of park ... should entirely surround every town ... This would greatly contribute to the health of the inhabitants ...'⁵

A British House of Commons Select Committee⁶ appointed in February 1833 investigated ideas for securing open space in the vicinity of towns for public walks and places of exercise. This Committee's Report stated: '... provision of Public Walks and Open Places would much conduce to the comfort, health and content of the classes in question'⁷ and 'they hope that Public Walks may be gradually established in the neighbourhood of every populous Town in the Kingdom'.⁸

In 1834, Roebuck, advocate of parks for the people, was one Member of Parliament who voted for the South Australian Colonization Bill. In 1835, he continued his campaign for open spaces, denouncing English legislators for failure to hold sacred the rights of village inhabitants to common land and for having driven the people from commons and fields.⁹

Roebuck's proposal for a public trust of land for inhabitants of towns was not without precedent in Australia. In 1811, a government public notice,¹⁰ announced the grant of 1000 acres in trust for the benefit of inhabitants of Sydney:

*His Excellency the Governor ... has assigned, and caused to be marked out and measured, a large Common in the immediate Vicinity of Sydney, containing One Thousand Acres ... His Excellency ... will make a regular Grant of said Common Lands to the Judge Advocate and Magistrates of Sydney, for the Time-being, in Trust for the Benefit of the present, and of all succeeding Inhabitants of Sydney.*¹¹

No Crown lands here, Governor

In the new British Province of South Australia there were no Crown lands, and no lands which the Governor had power to grant, whether in trust or otherwise.

When the South Australian Colonization Bill was passed in 1834, empowering King William IV to establish South Australia as a British Province,¹² it conferred privileges 'such as never before had been ceded to a British dependency'.¹³

Laws, orders and statutes made elsewhere in Australia had no effect in South Australia because it was enacted

*... that all and every Person who shall at any Time hereafter inhabit or reside within His Majesty's said Province ... shall be free, and shall not be subject to or bound by any Laws, Orders, Statutes, or Constitutions which have been heretofore made, or which hereafter shall be made, ordered, or enacted by, for, or as the Laws, Orders, Statutes, or Constitutions of any other Part of Australia ...*¹⁴

Commissioners for South Australia were to be appointed to execute parts of the Act and certain powers and authorities,¹⁵ and it was enacted that they 'shall and they are hereby empowered to declare all of the Lands of the said Province ... (excepting only Roads and Footpaths) to be Public Lands open to purchase by British subjects¹⁶ ... and to make such Orders and Regulations for the surveying and Sale of such Public Lands' and provided also 'that the whole of the Funds from Time to Time received as the Purchase Money of the said Lands ... shall constitute an "Emigration Fund," and shall, without any Deduction whatever ... be employed in conveying poor Emigrants from Great Britain or Ireland to the said Province'.

‘Captain Bagot considered the Park Lands stood in a very different position from roads, which, by appropriation, became public property. They were actually purchased.’ (*The South Australian Register*, 5 September 1849)

A Commissioner of Public Lands was to be resident in South Australia ‘to act under the Orders of the said Board of Commissioners’.¹⁷

On 19 February 1836, by Letters Patent, King William IV did ‘erect and establish one Province to be called South Australia’, and an Order in Council on 23 February 1836 required making of laws, institutions or ordinances to ‘not in any wise be contrary or repugnant to any of the provisions of the ... Act’.

Therefore, the Governor had no power over the public lands, and no power to make laws contrary to the Act. The Commissioners held all powers for disposal of the public lands, including power to appoint and remove surveyors and other officers¹⁸ and to delegate.¹⁹

Colonel Light’s ‘Park Grounds’

The Rules and Regulations of the South Australian Commission stated:

*19. The Colonial Commissioner will select the spot which he may consider best suited to form the site of the first town. He will construct and publish a plan of the intended town, having reference to all local circumstances. The streets, market place, wharf, public promenade, and other places of general resort, will be reserved as public property ...*²⁰

By 14 December 1835, the Commissioners had noted Colonel Light was an experienced surveyor,²¹ and responsibility for the first town and its site was assigned to Light.

An expedition was sent out, under Light’s command ‘for the purpose of effecting such a survey of the different harbours and the adjoining land as may be necessary for the correct determination of the best site for the first town’.²²

The Commissioners’ instructions stated:

*... you will proceed to determine which of the several sites shall be selected as that for the first town; a duty which you are hereby fully authorized and required to discharge.*²³

and

When you have determined the site of the first town, you will

*proceed to lay it out in accordance with the “Regulations for the preliminary sales of colonial lands in this country” ... you will make the necessary reserves for squares, public walks and quays.*²⁴

By 15 February 1836, the Commissioners had prepared further details on the terms of disposal of the Province’s public lands:

*31. The sole condition of purchase shall be the payment of money, at the rate of 1l. sterling per acre; and nothing, whether above or below the surface of the land, will be reserved by the Crown ...*²⁵

Light’s letter to George Jones on 22 November 1836 foreshadows Light’s ideas for reserving low lying land²⁶ and by February 1837 Light’s ideas about the Adelaide Park had taken form with his drawing of ‘South Australia: The Port and Town of Adelaide on the Eastern Coast of St Vincent’s Gulf’ on which Light wrote: ‘The dark green round the Town I proposed to the Resid^t Commissioner to be reserved as Park Grounds’.²⁷

Light’s ‘Park Grounds’ were an immediate litmus test of the Commissioners’ powers, and the Governor’s lack thereof, when Governor Hindmarsh sought to extend the Government House Domain to enclose land adjoining the river. After consulting Light, the Resident Commissioner, Fisher, informed the Governor:

*... it was proposed to reserve all the Land, fronting the Town & lying between the Road intended to be formed & the River, for a Park or Public Place, for the ornament & salubrity of the Town, & the Comfort & enjoyment of the Public generally & that I was fearful the compliance with your wishes might so interfere with that arrangement as to make such compliance objectionable ... I feel I cannot do so consistently with my duty to the Public, & I am persuaded therefore I need offer no apology to you for adopting the Course I have.*²⁸

On 13 April 1836, Hindmarsh’s appeal to Lord Glenelg against the

claim of the Commissioners’ representative ‘to every inch of ground’ confirmed that reservation of the Adelaide Park had occurred:

*A considerable quantity of land near the River, and round the Town, has very properly been reserved as public walks and for other public purposes.*²⁹

Fisher’s notification to London of intentions to reserve land around secondary towns resulted in:

*... a despatch from the Colonization Commissioners, dated 1st September, 1838 ... Colonel Gawler was authorised to purchase the Park Lands around Adelaide ...*³⁰

The fee simple³¹ purchase

Colonel Gawler did not act on his instructions to purchase the Adelaide Park lands until Arthur Hardy notified him on 15 April 1839 of the intention of a group of settlers to claim the lands for private purposes.³² On 16 April 1839, Adelaide’s Park was protected by purchase at the price of £1 per acre, and thereby secured for the purpose for which Light had set the land apart.

On 13 September 1839, five Bills of Exchange were drawn upon the Commissioners ‘amounting in the aggregate to £2,300, for the purchase of the Park Lands, which bills were duly accepted, and paid at maturity’.³³ The whole sum of £2,300 was directed to be paid to the credit of the Emigration Fund, as Gawler notified the Commissioners on 26 September 1839:

On the 13th instant I drew the following bills ... No.s 86, 87, 88, 89 for £500 and No. 91 [sic] for £300 and have directed the whole sum of £2,300 to be paid into the bank of South Australia, to the credit of the Emigration Fund, for the purchase of so many acres of Park Lands around the city of Adelaide, at £1 per acre, as authorised by your despatch ... dated September 1st, 1838.

On 12 December 1839, the Colonial Secretary ‘tendered the Colonial Treasurer’s receipt for £2,300, in addition to £32 transferred from the Reserve Fund to the Land Fund on the 16th April, 1839’.³⁴

With the 'Claim admitted',³⁵ and directed to be published in the Government Gazette',³⁶ all that remained to complete the purchase of the Adelaide Park was the Commissioners' acceptance of the Bills on their arrival in London. The five Bills were duly accepted in 1840, being paid at 60 days sight.³⁷ The purchase of the Park Lands and cemetery was recorded in the 'Monthly Statement of Sales of Public Lands in South Australia', and the Commissioners acknowledged their payment of the Bills for the purchase of the Park Lands:

*With regard to ... lands in the vicinity of Adelaide, reserved for purposes of public health and recreation, as Park Lands; the Resident Commissioner was authorised, on the 1st September, 1838, to purchase these lands out of the public revenue. The sum to be laid out was not stated; but we have lately paid bills on this account to the amount of £2,300.*³⁸

As Captain Bagot stated in the Legislative Council in 1849, 'a bona fide purchase' of the Adelaide Park Lands had occurred: '... the Park Lands stood in a very different position ... they were actually purchased'.³⁹

Special status of the land was asserted by GS Kingston on 12 November 1877:

*I deny the right of the Government to interfere with or make use of any portion of the Park Lands not specially reserved or set apart for Government purposes by Colonel Light, and so described on his original plan of the city.*⁴⁰

As Thomas Worsnop, Town Clerk for the City of Adelaide, later obtained proof, 'the Park Lands and other reserves in and around the city were purchased for and in the name, and upon trust for the citizens of Adelaide'.⁴¹

Debt and reservation red herrings

Despite the evidence of completion of the purchase of Adelaide's Park Lands, simple provisions for meeting the expenses of establishing South Australia were to cause confusion about the purchase.

In July 1838, amendment of the South Australian Colonization Act conferred new powers on the Commissioners permitting funds to be borrowed from the Emigration Fund, provided always that 'the Monies so advanced shall be a

Colonial Debt, owing by the said Province to such Commissioners on account of the said Emigration Fund ...'⁴²

In late 1839, when it became apparent that the Government would have difficulty paying several claims of the public creditors, attempts were made to keep the Government solvent for fear that the inability of the Government to pay might cause severe distress to the settlers.

As Gawler explained in 1840:
... during my absence from Adelaide in December last ... The Colonial Secretary and Acting Assistant Commissioner ... considered it to be of so much importance to protect the credit of the Colonial Government by securing adequate monies for the disbursement of all claims on the Public funds that might become due on the 1st January 1840 ... and it was finally agreed that the Bank should give the Colonial Treasurer credit ... for £15,000. That £3,000 should be transferred from the Emigration Fund to pay off a portion of this loan ...

Repayment of such debts was required and Governor Grey later identified the £2,300 purchase price for the park lands as 'a debt still due from the local government to the land fund, and one which we have no means of discharging'.⁴³

Another confusion arose (which nevertheless confirmed that the Park Lands and Squares were intended for the inhabitants of Adelaide) when the Colonial Government enacted Ordinance No 11 of 1849 *To Constitute a Municipal Corporation for the City of Adelaide*. The Park Lands, Squares and open spaces within the municipal boundaries were declared to be vested in Her Majesty, her Heirs and Successors and
*... to be reserves for the public purposes to which the same have been respectively dedicated and set apart as specified in the third section of an Act of the Imperial Parliament,*⁴⁴ viz
III. ... such Lands as may be required for ... Places for the Recreation and Amusement of the Inhabitants of any Town or Village ...

Essential elements of the trust: trustee, property, beneficiaries and obligation

Official records demonstrate how the purchase of the Adelaide Park lands was authorised in 1838, commenced in 1839, and completed in 1840. When Adelaide's Park, a public walk *par excellence*, was secured from enclosure by purchase in fee simple, an historic and history-making trust was thereby confirmed.

If no trustee is appointed, the person in whom the trust property is for the time being vested will be regarded as **the trustee**.⁴⁵

The trust property comprises the land set apart by Colonel William Light in 1837 pursuant to his instructions from the Colonization Commissioners.

There may be a valid trust in favour of a class of persons, and **the beneficiaries** are the inhabitants of the City of Adelaide.

The obligation annexed to the property is that it be used for the purpose for which it was set apart and dedicated, as public walks for the use and recreation of the inhabitants of the City of Adelaide.

The fact that the land is not 'Crown land' and Governors have no power over land set apart by Colonel William Light for the use and recreation of the citizens was confirmed in 1855 by South Australia's Supreme Court when the Corporation of the City of Adelaide defended the citizens' rights to preserve Victoria Square from a Governor's grant to the Bishop of Adelaide, viz

*The jury returned a special verdict to the effect that the land had been originally set apart for the use and recreation of the citizens, thus rejecting the Bishop's claim.*⁴⁶

In accordance with this judgment, in 1858, Francis Dutton, who had been the City Commissioners' Chairman, declared:

*The City Squares are Trust property belonging to the whole of the inhabitants of the city collectively and are not to be cut up to suit the convenience of any individual body of inhabitants.*⁴⁷

Parks for the people in perpetuity?

To measure the comparative success of our Adelaide Park trust, we might look to those reserves of land established as 'Places for the Recreation and Amusement of the Inhabitants of any Town or Village' under the 1842 Waste Lands Act,⁴⁸ or ask ourselves: 'Where are the Sydney

Common trust's one thousand acres now ?'.

In comparison to other mechanisms for securing parks for the health and recreation of the inhabitants of towns, the South Australian Commissioners' Adelaide Park trust has proven to be remarkably resilient and to have far-reaching and long-lived powers of protection.

Kelly Henderson

Postscript

It is for forensic accountants to determine whether or not Government still has an unpaid debt. In any event, in addition to breaching an Act of the Imperial Parliament, retrospectively revoking the separate and prior purchase of the Adelaide Park Lands would seem tantamount to perpetrating a fraud upon the Commissioners, the founders and pioneers of South Australia, and the inhabitants of the City of Adelaide.

Regarding roads and footpaths, during a Legislative Council debate on the Road Bill in 1849 the position of such land was clarified when Captain Bagot expressed the view that if there was any doubt as to whether the roads belonged to the Queen or to the colonists, a general grant should at once be made to settle the question so that they might not be claimed as Crown land, whereupon South Australia's Advocate-General insisted such a grant was not necessary as the Crown held only highways as the trustee of the people.

Endnotes

- ¹ This article uses mostly Light's words to describe what we now call the Adelaide Parklands (or Park Lands) and squares.
- ² JL & B Hammond, *The Village Labourer*, Guild Books 1948, p 35
- ³ 'the greatest and most distinctive achievement performed by Englishmen in the field of jurisprudence' Maitland,

Selected Essays (1936) from *Jacobs' Law of Trusts in Australia*, 1977

⁴ JL & Barbara Hammond, *The Village Labourer*, Guild Books 1948, p 88

⁵ TJ Maslen, *Friend of Australia*, Hurst, Chance and Co, London, 1830, p 263

⁶ Report from the Select Committee on Public Walks ordered by the House of Commons to be Printed 27 June 1833

⁷ *Ibid*, 3rd Recommendation

⁸ *Ibid*

⁹ 'On the Amusements of the Aristocracy and of the People', *Pamphlets for the People*, edited by JA Roebuck, 1835

¹⁰ Government Notice issued by the Governor for New South Wales, dated 5 October 1811, published in *Sydney Gazette; and New South Wales Advertiser*

¹¹ *Sydney Gazette; and New South Wales Advertiser*, 12 October, 1811, p 2

¹² 4 & 5 Wm IV Cap. 95

¹³ Prospectus of the South Australian Company, 1835 as reproduced in *South Australia's Foundation Select Documents* Edited and Introduced by Brian Dickey and Peter Howell, p 53

¹⁴ 4 & 5 Wm IV Cap. 95

¹⁵ *Ibid*, Clause III

¹⁶ *Ibid*, Clause VI

¹⁷ *Ibid*, Clause VIII

¹⁸ *Ibid*, Clause IX

¹⁹ *Ibid*, Clause X

²⁰ South Australia Colonization Commission, Rules and Regulations, 1835 as reproduced in *South Australia's Foundation Select Documents* Edited and Introduced by Brian Dickey and Peter Howell, p 57

²¹ Letter of R Torrens Esq to Lord Glenelg, dated 14 December 1835

²² Letter of Instructions, 9 March 1836, by the Colonization Commissioners for *South Australia* to Colonel *William Light*, Surveyor-general for the Colony of South Australia, as printed in Appendix No 9 Appendix to the First Report of Commissioners on Colonization of South Australia, p 33

²³ *Ibid*, p 34

²⁴ *Ibid*, Instruction No 17

²⁵ New Colony in South Australia. Colonization Commissioners for South Australia, 16 February 1836 as reproduced in *South Australia's Foundation Select Documents* Edited and Introduced by Brian Dickey and Peter Howell, p 68

²⁶ Letter from W Light, Gulf St Vincent to G Jones Esq, dated 22 November 1836, State Library of South Australia

²⁷ *South Australia: The Port and Town of Adelaide on the Eastern Coast of St Vincent's Gulf* from a drawing by Colonel William Light Surveyor-General, published in the annual report of the Colonization Commissioners

²⁸ Fisher to Hindmarsh, 11 March 1837

²⁹ Hindmarsh to Glenelg, 13 April 1837

³⁰ *Report on the Purchase of the Adelaide Park Lands*, p 15

³¹ The estate in fee simple is the largest most comprehensive estate in land which the law recognises, the most extensive in quantum and the most absolute in respect to the rights which it confers, *Land Law*, Peter Butt, The Law Book Company Limited 1988, p 90

³² As stated by Hon William Smillie in the Legislative Council reported in the *South Australian Register*, 5 September 1849 and referred to by Thomas Worsnop, *Are the City Park Lands Waste Lands of the Crown?* Adelaide, 1879, p 8

³³ *Report on the Purchase of the Adelaide Park Lands*, p 15

³⁴ *Ibid*, p 16

³⁵ *South Australian Register* Wednesday 29 August 1849, 3c

³⁶ Thomas Worsnop, *Are the City Park Lands Waste Lands of the Crown?* Adelaide, 1879, p 8

³⁷ *Report on the Purchase of the Adelaide Park Lands*, p 17, Elliott and Villiers to James Stephen Esq, dated 31 May 1842

³⁸ *Ibid*, p 16, Colonization Commissioners for South Australia to Lord John Russell, 7 July 1840

³⁹ *South Australian Register*, 5 September 1849

⁴⁰ *Advertiser*, 12 November 1877

⁴¹ Worsnop to City Solicitors, Messrs Wilkins, Blyth & Dutton, 19 April 1884

⁴² 1 & 2 Vic Cap. 60, Clause III

⁴³ *Report on the Purchase of the Adelaide Park Lands*, p 16, Grey, 11 September 1841

⁴⁴ 5 & 6 Victoria Cap. XXXVI

⁴⁵ *Jacobs' Law of Trusts in Australia*, p 5

⁴⁶ Thomas Worsnop, *History of the City of Adelaide from the foundation of the Province of South Australia in 1836, to the end of the Municipal Year 1877*, Adelaide, 1878, pp 125–126

⁴⁷ Letters received, 27 August 1858 from Francis S Dutton to Town Clerk

⁴⁸ 5 & 6 Victoria Cap. XXXVI

Kelly Henderson to present paper at London conference

Kelly Henderson has devoted a significant part of her life to research about Adelaide and its Parklands. Recently, she has been accepted as a presenter at an international conference in London.

The Ninth Conference of the International Society for Utilitarian Studies: 'The John Stuart Mill

Bicentennial Conference, 1806–2006' is scheduled for 5–7 April 2006 to mark the occasion of the bicentenary of the birth of John Stuart Mill (1806–1873), philosopher and author.

Kelly's paper is entitled 'Adelaide: The ideal city of the Philosophic Radicals, and the great experiment in the art of colonization'. It examines

the remarkable synthesis of 19th century advances in economics, philosophy, science and religion in the founding of South Australia and how this provided an exemplar for 'Garden City' town planning, Benthamite democracy and the formation of a modern Commonwealth.

Gunta Groves

Poor Victoria Park!



This last year has seen the Adelaide City Council put one of its more repugnant intentions for Victoria Park into operation.

The ACC had decided that Victoria Park was to be a 'major events arena'. Previously, the ACC had allowed several major events to disrupt the amenity of this area but there had always been weeks and sometimes months between the 'shanty towns' with accompanying restrictions to community use.

This year, however, was different. This year Victoria Park became a full-time major and minor events arena, with no let-up in sight. Just in the last 6 months, 16 events occupied the northern end and spilled often into the southern part of Victoria Park.

The backlash from city residents is already occurring. During September the residents of south-east Adelaide decided enough was enough. They could see that the quality of their life in the city was falling along with their property values, especially along East Terrace. A group of worried

residents set up a new South-East City Residents Association and are organising themselves for a fight.

The main issue was and still is that commercial events should not occur in the Parklands, but, if they do, they should pay a commercial rate for the equivalent prime CBD land and compensation for loss of normal amenity for the community. This would put the hiring and leasing of the Parklands into a more realistic perspective for those with ambitions to exploit a community asset. It would also highlight the greater attractiveness of places such as the Wayville Show Grounds and the Entertainment Centre which have facilities and accommodation designed specifically for catering for large crowds without the need to erect 'shanty towns'.

However, this issue is now joined with another: if events in Victoria Park are scheduled to follow (or even overlap) one another, what rehabilitation can take place? Current attempts at rehabilitation are cursory, to say the least. After the last V8 Supercar event, there was not even a token effort to regenerate

bare areas that used to be grass—de facto roads for cars and trucks and depots for site works. Even the more benign activities such as the three-day horse trials take their toll. This year's event has required a very large tent to be erected in the northern end of the racecourse loop to provide additional stabling facilities, and the extra motor traffic within the racecourse loop is not only noticeable, but it is churning some areas into mud flats. Who is going to rehabilitate that area?

Perhaps it will all end when the costs of rehabilitation exceed the income derived. Or will everyone put up with muddy ground in winter and bare earth in summer? But then, of course, we all know what the likely proposal will be: 'Let's pave the area so that it can be used "sustainably"'. Another 'Bah! Humbug!' to this.

Gunta Groves

Top: Victoria Park used as a carpark, again, during the 4WD show in October 2005. Photos taken by Gunta Groves.

Below: 'Shanty town syndrome' in the Adelaide Parklands, October 2005.



A BENEFITS APPROACH TO VALUING THE ADELAIDE PARKLANDS

Dr Ken Marriott of HM Leisure Planning Pty Ltd gave the 2005 Memorial Address 'A benefits approach to valuing the Adelaide Parklands' on 30 October in the Goodman Building. A brief summary of his background paper to the Address is provided below.

A benefit is an improved condition, prevention of a worse condition or the realisation of a specific satisfying psychological experience (Driver & Bruns 1999). 'Benefits' research in connection with recreation and leisure management is a shift of focus from 'inputs' (such as investment and maintenance capital, personnel and skills and physical resources) to outcomes (such as personal health benefits and community benefits). The Benefits Approach to Leisure (BAL) (Driver & Bruns 1999) is a new mainstream approach to recreation planning and management and provides a stronger and more philosophical and academic framework for it. Management and planning using BAL raises the fundamental question of why a particular leisure service should be provided, the answer being formulated in terms of clearly defined positive and negative consequences of delivering that service (Driver & Bruns 1999, p 350). This approach views the delivery of leisure services as a production system (Driver & Bruns 1999, p 356).

The benefits catalogue (Canadian Parks/Recreation Association 1997)

gives eight areas of benefit:

- Personal health
- Human development
- Quality of life
- Anti-social behaviour
- Families and communities
- Pay now or pay more later
- Economic generators
- Ecological survival.

The measurement of benefits such as those above need to go through qualitative, quantitative and valuation phases. Up to now, much of the benefits research has emanated from North America and therefore survey instruments need to be modified to suit Australian culture and lifestyles.

Despite this, the use of the benefits approach to planning, management and use of the Adelaide Parklands would have immediate relevance in that more sustainable outcomes would result. The first question in the process is 'What are the beneficial outcomes we wish to achieve?'. Subsequent questions need to explore the specific personal, social, economic and environmental benefits; resource units and their capacities to deliver the desired benefits; positive and negative consequences and the net beneficial outcomes; management strategies to deliver the benefits; and the magnitude and value of the improved conditions.

The benefits approach allows us to determine a wide range of benefits from the personal to the social, economic and environmental, and

allows links to be made with other areas of human endeavour on a like basis. In addition, by measuring the extent of the outcomes and the value of the changes, we gain the tools and data to fight off unwanted, negative uses and impacts.

To achieve this requires a management agency with a Parklands-only focus, a comprehensive asset data base, detailed decision making, long-term use and development planning, and a strong capacity for the agency to monitor outcomes and change uses.

References

Canadian Parks/Recreation Association (1997) *The benefits catalogue*. Canadian Parks/Recreation Association, Gloucester, ON

Driver BL & Bruns DH (1999) 'Concepts and uses of the Benefits Approach to Leisure' in Edgar L Jackson & Thomas L Burton (eds) *Leisure studies, Prospects for the 21st century*, pp 349-369. Venture Publishing Inc, State College, PA

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Parklands or Park Lands?

Discerning readers of this newsletter may have noticed that the parks surrounding the Adelaide CBD are described as the 'Adelaide Parklands' in this publication. Sometimes, when quotes are used from other publications or when historical material is used, the description becomes 'Adelaide Park Lands'. Why the difference?

This newsletter has its own 'house style', as do most other publications. The style is mostly set by the editor and by previous editions. The Adelaide Parklands Preservation Association Inc has used the one word 'Parklands' in its title and, for consistency, in its newsletter. If the word parklands is used in a general way to describe an area of parks, it takes a lower case 'p'.

However, the historical nomenclature applied to Light's 'Park Grounds' or 'Adelaide Park' is Adelaide Park Lands. The Adelaide City Council and the Bill for the protection of the Parklands retain the historical word use of 'Park Lands'. Should APPA change? What do you think?

Gunta Groves

USE OUR NEW E-MAIL SERVICE

Some people have already seen the light (pun intended) and sent in their e-mail addresses. If you would like to receive the *Parklands News* by e-mail as a PDF, and other APPA notices by e-mail, fill in the form below and mail it to:

Adelaide Parklands Preservation
Association Inc
PO Box 3040 Rundle Mall
Adelaide 5000.

E-mailing newsletters to members
saves us printing and mailing costs.

You can also download PDFs of the current and immediate past nine newsletters from our Web site at <www.adelaide-parklands.org>.

Gunta Groves

I would like to receive the following by e-mail instead of in the post:

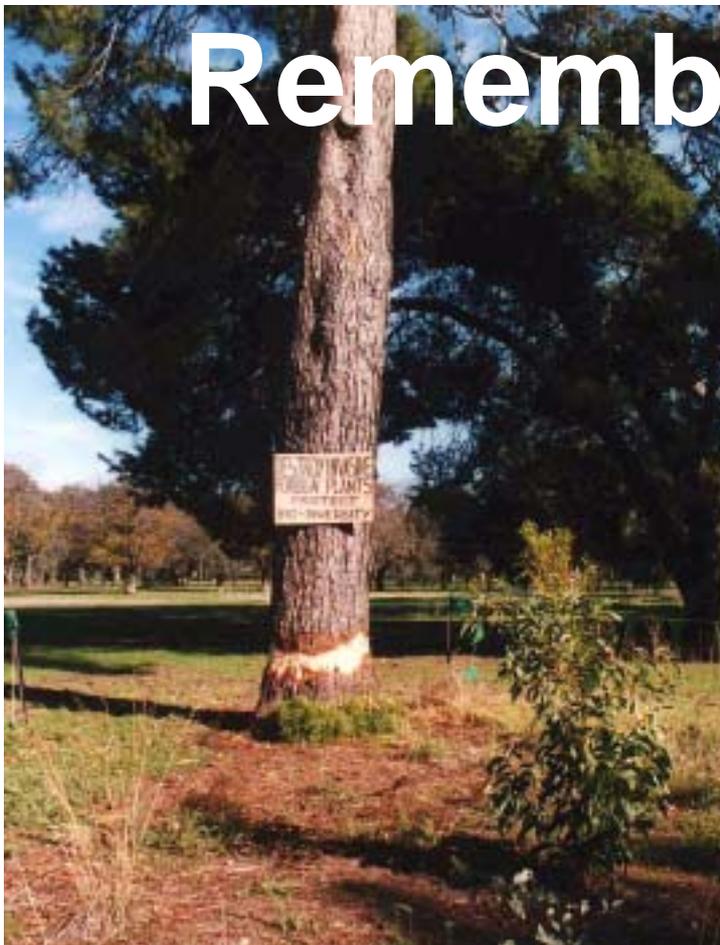
***Parklands News* OR**

***Parklands News* and other APPA notices including notice of AGM**

My e-mail address is: _____

Name _____ **Signature** _____

Address _____



Remember this?

Well, that's all it will be shortly—a memory. This Aleppo Pine was ringbarked on 5 June 2004, World Environment Day (see *Parklands News*, September 2004, page 5). The perpetrators may have been misguided supporters of the Bush for Life group cultivating native grasses in the area or protesters against the cutting down of old growth forests in Tasmania or, on the other hand, just mindless idiots. The SA Police made enquiries but never arrested anyone.

It now appears that this pine, one of three damaged at the time, is not going to survive despite the efforts of the botanist Dean Nicolle. He is reported recently as saying that the Aleppo Pine will soon be a danger and needs to be cut down and that one of the other pines, a Canary Island Pine, is showing stress (*City Messenger*, 10 November 2005, page 9).

The cutting down of these three pines was the cause of some dispute between the Bush for Life group and the Adelaide City Council. The ACC wisely decided that significant trees should not be cut down willy-nilly and the Bush for Life people withdrew their application, but then the ringbarkers struck. I hope they are all happy now with the result. I don't think I am.

Gunta Groves

MEMBERSHIP APPLICATION FORM

Adelaide Parklands Preservation Assoc Inc PO Box 3040 Rundle Mall Adelaide SA 5000

Name
Address
Telephone E-mail Date

- \$15 single (full rate) Renew
- \$25 corporate New
- \$20 family (full rate) Send *Parklands News* via e-mail, OR
- \$15 family (concession) Send *Parklands News* and other notices via e-mail
- \$10 single (concession) Donation \$.....

Method of payment

- Cheque attached Money order attached

OBJECTIVES OF THE ASSOCIATION ARE TO ENSURE THAT:

- the Parklands be available for use by the general public
- the public should so far as practicable, have free and unrestricted access to the Parklands
- the Parklands should be reserved as a place for public recreation, leisure and enjoyment
- alienated areas of the Parklands are restored for recreational use, preferably as open space
- the character of the Parklands as a place dividing the City of Adelaide from the suburbs should be preserved
- the Parklands should be preserved and maintained in a manner that enhances their special place in the design of the City of Adelaide
- the amenity of the Parklands is not impaired by inappropriate development of nearby lands.

I agree to be bound by the Constitution of the Association. Signature

Please make cheque/money order payable to: Adelaide Parklands Preservation Association Inc (*not 'APPA'*)
Send to: Adelaide Parklands Preservation Assoc Inc, PO Box 3040 Rundle Mall Adelaide SA 5000 12/05

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Wishing you
 ☆ ***all the*** ☆
merriest of
Christmases
and a New
Year packed
with good
 ☆ ***fortune*** ☆

**APPA Committee thanks
 all supporters of the
 Adelaide Parklands for
 another year of
 contributing to the
 good fight**

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Membership:

Membership of the Association is open to all who support the objectives of the Association. Members receive the *Parklands News* four times a year.