



All about the **Adelaide**
park lands

A guide for 21st century novices

All about the Adelaide park lands
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Linking to website research:

Pastures of plenty

Public land and public spaces: Management and exploitation of the Adelaide park lands in the new century

As located on: www.adelaideparklandssecrets.com

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Adelaide park lands management 1998 to 2018; the *Adelaide Park Lands Act 2005* and interacting legislation and policy instruments; Adelaide Park Lands Plan; Colonel William Light, Surveyor General 1837; Corporation of the City of Adelaide; South Australian planning legislation, policy and procedures; custodianship of community land; Adelaide park lands operational administration, funding and management, and related state political history, 1998 to 2022.

John Bridgland

Email contact via website: www.adelaideparklandssecrets.com

Note to readers

This is a privately funded publication. The author is not a member of the Adelaide Park Lands Association, and this is not an Association publication. However, the author applauds the Association's passion and principles in seeking to protect the green open spaces of the Adelaide park lands from exploitation and alienation.

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“Until change occurs, the disputes, raids, ruses, larks and lurks that have characterised the management of Adelaide’s park lands since the enactment of the *Adelaide Park Lands Act 2005* will continue. The Act was supposed to signal the end of the reign of alienation and exploitation of this great state asset. But if nothing changes, South Australia will reach the 200th anniversary of Colonel Light’s Adelaide City Plan in 2037 still shackled by a flawed system, suffocated by layers of multi-level, legal and administrative complexity and secrecy. This has benefited state bodies and commercial sport and other recreation cliques, highlighting a development model that cannot wean itself of an enduring desire to capitalise on the existence of free, city edge land.”

– Extract from this book’s chapter
‘What *can* be done?’



Construction of Adelaide Botanic High School, Adelaide park lands, 2018. State government planners were so confident of the \$100m development application's legitimacy that they did not bother to properly rezone the land for the school purpose until early 2022. The day that *Planning and Design Code* sub-zone rezoning came into operation, the state government announced a new, \$98m, seven-storey tower as an expansion of the site, using adjacent land previously zoned as 'green open space'. An architect's concept illustration of the proposed new building appears in Appendix 1.

1 | About this book

This book throws light on something that is mostly baffling to many South Australians – the rules that can lead to the alienation from temporary or permanent public access to Adelaide’s park lands, and the rules that allow exploitation of this public asset.

South Australians in the 21st century are the beneficiaries of a unique open-space asset surrounding their capital city, created more than 185 years ago by Adelaide’s first Surveyor-General, Colonel William Light. Since then, these park lands have been the site of many successful raids by state and commercial interests, encroaching on various sections and diminishing the overall open-space character of the estate. Some particularly egregious raids occurred over the two decades following the late 1990s, and into the early 2020s when this book was published.



That two-decade period is explored in detail in an administrative and political study accessible online, the basis for this book.¹ It explores a number of themes illustrating that the integrity of Adelaide’s park lands was, and remains, easily vulnerable to exploitation and alienation.

At the time of each land grab, it often took a while for the public to comprehend what was going on, and to explore the myriad complex pathways of park lands management which made the alienation possible. To do this those curious enough to explore the trail had to penetrate an administrative jungle thick with legal complexities influencing administrative approaches, featuring policies and guidelines open to manipulation. The jungle edge commenced in the houses of state parliament and spread luxuriantly to the offices of city local government in which most of the rules, policies and guidelines were created and maintained.

Once you better understand how Adelaide’s world-famous belt of public park lands has been managed in recent times your fresh understanding of related South Australian park lands political history since 1998 at both local and state government levels may allow you to put many past events into perspective. You may ask yourself: “Why in a world so digitally saturated didn’t I know about this at the time?” There are three explanations.

- Firstly, no-one has explored this period in a way similar to this before.
- Secondly, understanding the complexities of public land-use management determinations takes significant effort because the planning and development laws and procedures are complicated. So your knowledge until now may have been handicapped simply because of the complexity of the material.
- Thirdly, and perhaps the most telling, is that no-one in charge of Adelaide’s park lands management – especially the politicians and the senior bureaucrats – has any interest in simplifying the park lands complexities for you. In many cases, the exploitation of the Adelaide park lands for major construction projects has relied on an organisational ‘culture of confidence’ of benefit to administrators in the critical early decision-making phases, leading in some cases to incomplete paper trails, making it difficult for many South Australians to later pursue and interrogate.

¹ *Pastures of plenty*, www.adelaideparklandssecrets.com
 A print version is also available from the State Library of South Australia, or the National Library of Australia (Canberra).

It also has not helped that much Adelaide park lands management has occurred under a superstructure of administrative complexity. It has been accompanied by a general denial by some of an obligation to maintain and respect a culture of public transparency and accountability to explore origins of some park lands determinations, and how and in what way they were ultimately progressed. Research behind this book illustrates that the state's politicians – with a few notable exceptions – have capitalised on traditional mechanisms, policies and procedures long claimed to be reasonable by public land managers and their political masters. However, once you better understand recent park lands management history, you may be tempted to conclude that in many cases they were not at all reasonable.

Paradoxically, as the research reveals, the late 1990s had seen commencement of an administrative period during which those in charge of the Adelaide City Council's large portion of the park lands endeavoured to review all aspects of their management. In a brief period of apparent enlightenment the old management habits of the past were identified and scrutinised, and a new vision was proposed. But as the research illustrates, the best of intentions were fairly quickly overwhelmed by that most commonly occurring phenomenon in South Australian history, political expediency.

You might have believed that Adelaide park lands management has always been of the highest standard and that planning and development functions affecting them were openly and transparently coordinated. This is the view that was encouraged at both state and local government tiers throughout the two-decade study period, and rarely challenged by the media. But once you dig deeper you will discover that many aspects have not been particularly well run, were not comprehensively transparent and, behind the scenes, were often open to manipulation. Moreover, many of the politicians of the period knew all about these features. For the state bureaucrats and administrators there were, and remain, major benefits in the fact that the rules allowing Adelaide park lands exploitation and alienation are complicated to understand. In land-use planning terms many procedures are driven by myriad interacting laws, regulations and procedures devised to ensure compliance with park lands legislation.

A fundamental theme is that South Australia's executive government has been able to influence and initiate development proposals across the park lands. And for commercial bodies, getting long-term, built-form access to the Adelaide park lands has sometimes been made possible by not much more than how much an applicant could afford to pay to hire the best planners and lawyers to capitalise on the procedural features. For those beneficiaries, Adelaide's park lands have represented accessible public real estate, and the premises they built in recent decades, occupied under sometimes generously discounted city council lease fees, today represent a triumph of preferential occupation.

Similarly, the short-term occupation of park lands sites made possible under multi-year events licences has allowed some to operate profitably, while the Adelaide City Council, the custodian of much of the park lands, put nothing in place under the licence terms to ensure public transparency about the gain extracted, relative to the cost of the licence.

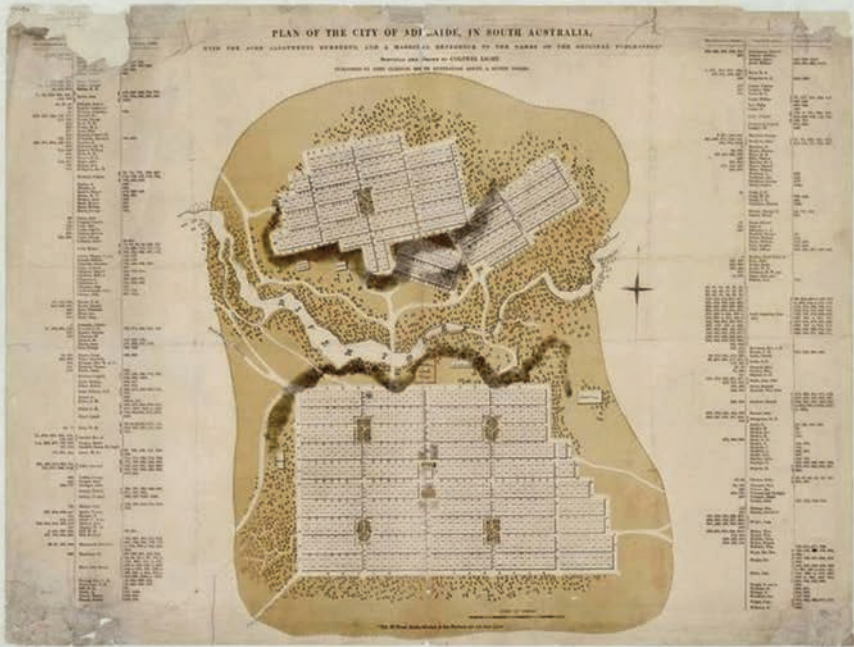
During the period of study, there was a saying in public circulation – 'the Adelaide park lands are not cheap land, they're priceless'. Among those who objected to developments on this public land it reflected a resolute resistance to a management culture that has enabled park lands exploitation to endure. But the confronting reality is that park lands management and development determinations, which some believe should be subject to a rigorous and unrelenting scrutiny by state parliament, are more commonly subject to the whims of politicians, their senior planning bureaucrats, and unelected administrators within the city council.

Is now the time for a review? A looming state milestone, an anniversary in 2037, may be a reasonable prompt. But the initiative will have to come from you. Otherwise, as demonstrated over the past two decades, it will be too convenient for the usual suspects in any given government term to continue to allow the old habits to continue.



Progressive state government assumption between 2011 and 2017 of former rail yard land north of North Terrace, as seen on the right side of these images, for construction of state medical research infrastructure. This occurred on former alienated land identified in the 1999 *Park Lands Management Strategy Report 2000–2037* to be returned to park lands, free of future development.

Photos courtesy of Aussie Kanck



The Adelaide City Plan (this illustration dated 1840) which includes the Adelaide park lands, reflecting Colonel William Light's 1837 vision for the new settlement of the South Australian capital. At the time, Light did not envisage much built form in the park lands. This drawing features a hospital, a school, a storehouse, a cemetery, a residence for the state governor and an adjacent barracks. It was a naive assumption, and wouldn't last. The park lands fatal feature was that they were seen by some settlers as free land, open to exploitation and built-form development.

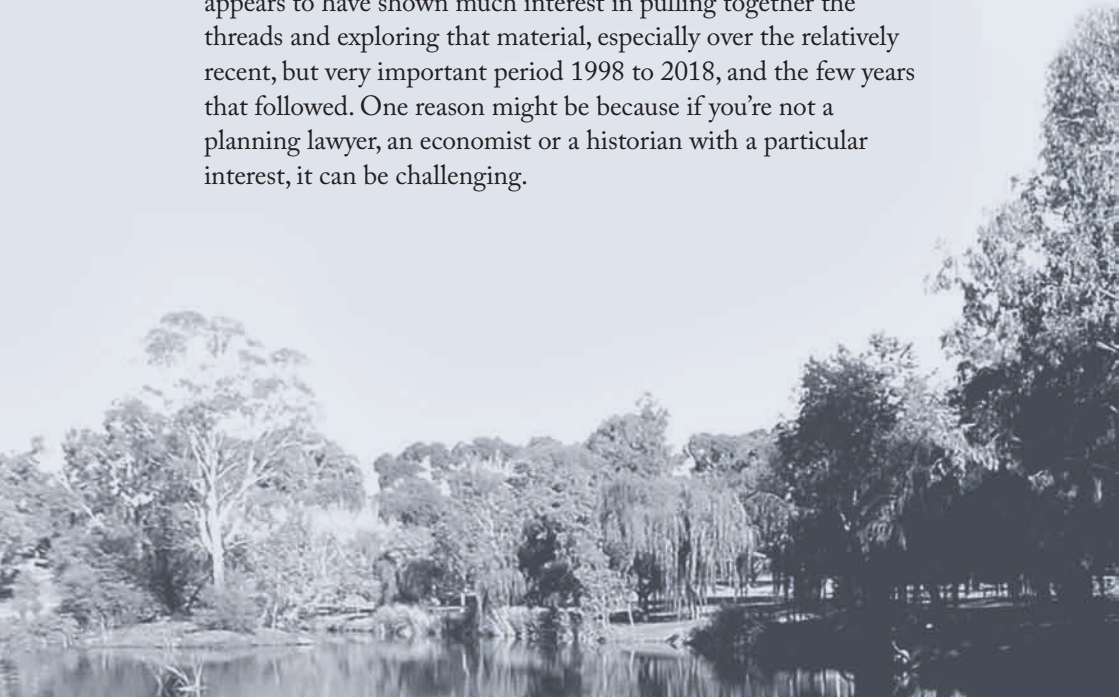
One of Adelaide's park lands narratives is about the buildings and other facilities that began creeping across the open spaces in the decades following Light's death in 1839. The land uses he didn't anticipate were introduced mostly between the years 1850 to about 1920, and then in the decades following 1950. By 2022 they included (not in historical order and not exhaustively) a parliament house; railway corridors and railway stations; the state art gallery, a library and a museum; two university campuses; two high schools; two hospitals; an aquatic centre; the Adelaide Festival Centre and adjacent high-rise commercial office buildings; several large convention centres; a national wine centre; a commercial gym; a big sports stadium; a tennis stadium and associated functions buildings; a casino; and a park lands hotel.

2

This work – in contemporary context

In 2022 there was no published study covering Adelaide park lands management and administrative aspects over the recent past – the first two decades of the 21st century. This is the first. Until now, no-one had catalogued the very difficult challenges faced by the public in their attempts in recent decades to participate in park lands management determinations.

There's no suggestion that there have never been investigations into the post-1998 management of Adelaide's park lands from a recreational, planning or economic perspective. There is material available, much of which is gathering dust in archives. But no-one appears to have shown much interest in pulling together the threads and exploring that material, especially over the relatively recent, but very important period 1998 to 2018, and the few years that followed. One reason might be because if you're not a planning lawyer, an economist or a historian with a particular interest, it can be challenging.



Despite that challenge, many South Australians are keenly interested in the management of Adelaide’s park lands, some passionately so. That passion can be especially stirred when those in charge seek to implement change about which the passionate ones disagree. It is at those times that those committed to confront controversial determinations about the park lands wish to better comprehend the legal, administrative and political machinery that enables those determinations to be implemented.



Throughout Adelaide’s history there has always been a passionate cohort of the population prepared to publicly protest against park lands projects that infringed on the public’s right to retain full access to the city fringe park lands. This passion was reflected in many state parliamentary debates. For example, 26 years after Colonel William Light drew up his plan for the city, which included a belt of open space surrounding it, MP Joseph Peacock stood up in the SA House of Assembly one day in 1863 and reminded his colleagues of how “... the inhabitants manifested extreme jealousy at any attempts to deprive them of the entire use of the park lands ...”

3

Why 2036 could be a pivotal South Australian anniversary

In 2036 – not far away – the state of South Australia will celebrate its 200th birthday, the anniversary of settlement of a new colony and the City of Adelaide’s survey and design by Colonel William Light. One year later, in 2037, South Australians will celebrate Light’s 1837 creation of the Adelaide City Plan, with its encirclement of park lands surrounding the settlement, sometimes titled ‘Light’s Plan’. These park lands survive today, despite a history of many attempts to alienate the open spaces of the plan. There has been a long struggle to protect the pastures and woodlands from exploitation, especially the acreage placed under the custodianship and care and control of the Adelaide City Council in the state’s early years.² The presence of the park lands endows Adelaide with a special character among the world’s capitals. This asset affords it special status, and draws global visitors to it.

² *The Municipal Corporations Act 1849* placed the park lands under the care, control and management of the Adelaide City Council, excepting six government reserves.



In 2010 city administrators observed that “The Adelaide park lands and city layout is widely regarded as a masterwork of urban design and signifies a turning point in the settlement of Australia”.³

In the years leading up to 2037 there is an opportunity for South Australians to again explore and reflect on the state’s recent past management of this unique asset and to consider the park lands’ vulnerable future. The political and administrative flaws of the past have been many, the management complexities at times overwhelming. Of greatest concern is the Adelaide communities’ broad incomprehension of these complexities, and how those in charge have at times capitalised on this lack of knowledge.

An opportunity arises as a result of a fresh perspective on a recent (and historically very brief) two-decade period, between 1998 and 2018, during which there evolved political views about the way in which the park lands should contribute to state development. There was also significant legislative and administrative change to the management machinery influencing recreational activity and built-form development across the park lands.

The research period of study began observing preparations for the 1999 publication of the *Park Lands Management Strategy Report 2000–2037*, a new and ground-breaking park lands ‘action plan’ that aimed to guide management decisions across the subsequent 37 years to the 200th anniversary. At year-end 2018 that Strategy and its visions were long abandoned, and there had been significant amendment to the policy superstructure of park lands management. By 2022, the metaphorical political and management landscape was so different that a former Adelaide resident who might have left home in 1998 and on return more than 20 years later observed only one enduring aspect similar to what prevailed in 1998 – the capacity by the state to exploit this unique city asset for short-term political expediency.

³ Adelaide City Council, *Adelaide Park Lands Draft Master Plan*, ‘Guiding principles’, Chapter 1, ‘City in a park’, October 2010, page 18.

Information presented in this book is further explored in significantly greater detail online.⁴ It should go some way to providing at least three benefits to South Australians concerned about the future management and control of Adelaide's park lands as they anticipate celebrating the green estate's 200th anniversary in 2037.

- **Firstly**, they will benefit from a detailed understanding of a very recent period of change in the political and administrative management of Adelaide's park lands.
- **Secondly**, they will enjoy a better comprehension of how and why the change occurred, often with the best of intentions, but sometimes with less than ideal outcomes.
- **Thirdly**, because this work has been published well ahead of 2037, they will be better informed in order to contribute to how the park lands legislative and policy elements might be more accountably, transparently and equitably managed ahead of that anniversary. It might encourage readers to confront the view held by the major decision makers over the period of study that political expediency should continue to be the principal basis for future determinations about the management of Adelaide's priceless asset.

⁴ Search: www.adelaideparklandssecrets.com *Pastures of plenty*. A print version is also available from the State Library of South Australia, or the National Library of Australia (Canberra).

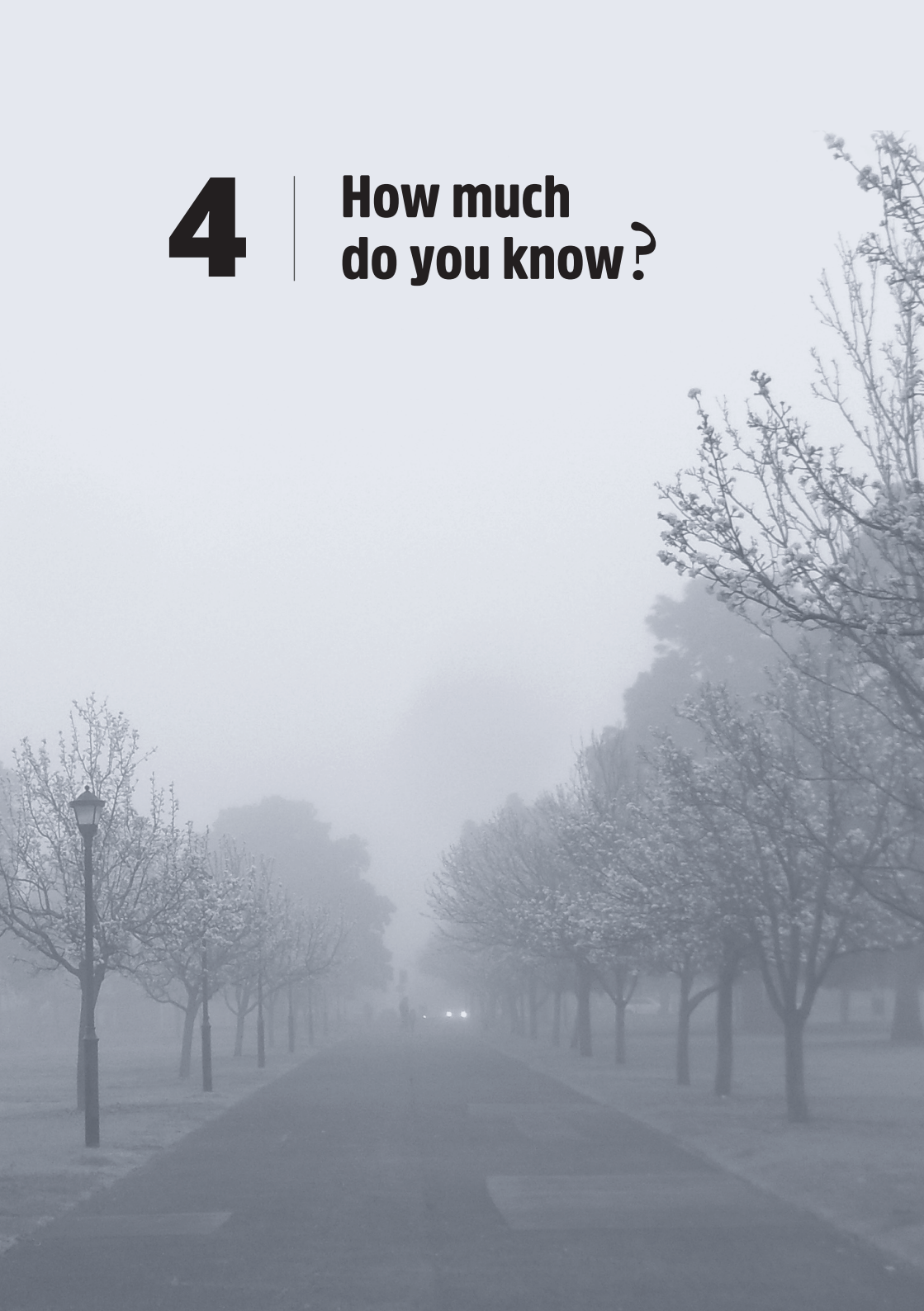


Adelaide's \$2.4b Royal Adelaide Hospital (RAH), overlooking rail yards adjacent to Torrens Lake, part of the Adelaide park lands.

In 2021, the Liberal state government revised the *Planning and Design Code* to rezone land near the new hospital. It was approved in January 2022, to allow construction of a new Women's and Children's Hospital nearby. The new hospital would require a multi-storey car park, to be sited on park lands, previously not zoned to allow for it. This illustrated the classic manifestation of 'development creep' further into the park lands. There was significant public opposition to the rezoning of the park lands for this purpose, but the state government ignored the protest. Government policy to locate new major state health infrastructure in the Adelaide park lands illustrates that even as recently as 2022 political expediency remained the driving principle behind its management of its globally renowned park lands.

4

**How much
do you know?**



FACT or FICTION?

QUESTION

How many of these statements about the Adelaide park lands were true in 2023?

- The loss to Adelaide's park lands through construction of state infrastructure and expansion of sports buildings, courts, kiosks, paths and car parks has been reversed and the park lands feature much less development than in the past.
- The values under the 2008 National Heritage listing of the Adelaide park lands represent a major hurdle to authorisation of new development project proposals for the park lands.
- The National Heritage listing includes the whole of Adelaide's 930ha of park lands surrounding the city, so every hectare is protected.
- The *Adelaide Park Lands Act 2005* protects the park lands from exploitation and alienation of park sections from public access.
- The Act makes it impossible for the government to change the planning rules to allow new major developments and infrastructure construction on the park lands.
- The *Adelaide Park Lands Management Strategy*, created under the Act, comprises a strictly monitored set of rules to ensure that commercial or state government interests can't exploit the park lands or restrict public access.
- There is an Adelaide Park Lands Authority that, under the Act, controls all park-lands-related activities and approvals.

- The state government cannot over-rule the Authority, because it is a statutory authority under the *Adelaide Park Lands Act 2005*, which means it makes all the final decisions – and has the power to enforce them.
- Adelaide City Council park lands management policy papers and guidelines are legally enforceable documents because the *Adelaide Park Lands Act 2005* says so.
- The Capital City Committee, which often discusses park lands proposals and development of long-term policy for the park lands, must have open meetings, table its deliberations online and keep detailed minutes for public inspection.
- Under South Australian law, city council and state government deliberations about, or proposals for, the park lands must occur in a transparent way, so that everyone knows what is going on.
- The city council has the power to over-rule the state government about park lands proposals because it has had custodianship, care and control of most of the park lands since 1849 state legislation.
- The city council gets generous state government funding to fulfil this role and the local government councils surrounding the perimeter of Adelaide's park lands also contribute generously to those costs.
- All park lands lease agreements are disclosed in full on one internet database.
- You cannot get a lease or renew a lease on a park lands site if you are planning to build or redevelop something permanent in any of the parks.
- If you get a licence to access a park lands site for not-for-profit or commercial event purposes you must apply every year to renew it, disclose to the city council your financial statements (including any profit made) for the previous licence period, and table your business plan and revenue forecasts for any future licence period.
- Recent new rules have banned all car parking on the park lands.

ANSWER | Not one of these statements is true.

If you're surprised, it only illustrates that 'protection' of the integrity of Adelaide's park lands is managed in ways most South Australians do not comprehend, and yet the land is a public asset – land first identified in Colonel William Light's Adelaide City Plan of 1837.⁵



⁵ An additional list of myths highlighting several procedural issues appears in the detailed research behind this book, *Pastures of plenty*, at www.adelaideparklandssecrets.com. See: Appendix 30: ‘10 popular myths about the rules regarding Adelaide’s park lands’. This includes two myths about the efficacy of the National Heritage listing of the Adelaide park lands.

5

Why a recent period of study delivers a sound basis for a review

A quick summary of recent park lands management influences

The two-decade period explored in research behind this book observed a clustering of South Australian events, political circumstances, new legislation and new park lands documentation that now appears unlikely to be repeated on the same scale and to the same extent for some time. Consider the extent of change between 1998 and 2018.

- The new *City of Adelaide Act 1998* created the Capital City Committee, which would later play a key (but obscured) role in park lands matters during the study period.
- The first *Park Lands Management Strategy Report* was published in 1999.
- A major park lands bill failed, an early sign of Adelaide's restlessness about park lands management. It preceded the electoral victory in 2002 of a new state Labor government administration that over the next 16 years would win four consecutive elections to 2018.



- Amendments to the *Local Government Act 1999* required the creation of *Community Land Management Plans* for the park lands.
- New park lands legislation, the *Adelaide Park Lands Act 2005*, was proclaimed and brought into operation. It gradually influenced the shape and operation of a new management framework, under the advisory guidance of a new Adelaide Park Lands Authority (board meetings commenced in 2007).
- Over the years between commencement of the Authority’s operations and the end of the study period, a vast array of park lands strategic, policy and guideline documentation emerged. It reframed the way in which park lands land managers – the Adelaide City Council, but effectively, the state government – pursued their priorities. By year-end 2018, the state Labor government had ended its four-term incumbency and was back on the opposition benches. This allowed contemplation by historians of four consecutive terms of the application of one South Australian state administration’s park lands policy and administrative priorities.
- In 2018 the state Liberal party won office, and its park lands determinations over the four years that followed to 2022 now allows a comparison between the two parties’ approaches. In terms of exploitation, and the application of recently updated planning law that encouraged further alienation of sections of the park lands, it appears that there is not much ideological difference between the state parties in terms of development project activity on the park lands. It is clear that both sides of the South Australian parliament remain committed to allowing the Adelaide park lands to be further exploited and alienated, despite how vigorously and how regularly many South Australians object to this approach.
- During the two-decade study period the effect of the central statute influencing development matters across the park lands, the *Development Act 1993*, was exploited through amendments to its instrument, the *Adelaide (City) Development Plan*, in relation to various park lands zone policy areas. This plan played a central role in almost all park lands development determinations. The Act and the instrument have been replaced since, but as the old saying goes, ‘the more things change, the more things stay the same’.

At the conclusion of the research period, at the end of 2018, it was too early to comprehend how profoundly the new state *Planning, Development and Infrastructure Act 2016* and its instrument, the *Planning and Design Code*, would influence the political and administrative trends and directions of the previous 16-year period. But within four years, by early 2022, the picture was becoming much clearer. Another state-executive-driven park lands rezoning campaign, capitalising on the 2016 legislation and the new code, would exploit the availability of the open spaces for development project purposes. This was prosecuted by the state Liberal Party, as it neared the conclusion of its first term. The code had come into operation in March 2021; the amendments to the code for the park lands rezoning came formally into operation in January 2022. This is further discussed in an appendix at the end of this book.⁶

The policy and planning themes briefly described in this book, and more thoroughly explored in the research on the website⁷, will be a useful template on which to base a study of future park lands exploitation.

The research that led to this book was not intended to be an exclusive *planning-focused* study. However, as readers will quickly realise, the complicated politics of planning underscore everything in any study of land-use management, including the management of Adelaide's park lands. Big events in history always draw on at least some aspects of what went before to fuel subsequent new directions. There remains one particular historical feature that has been continually energised. That is the capacity by those in power to manipulate rules and procedures to get what they want. In light of this, it could be said that the 1998–2018 research presents a study of how some influential people in a small southern Australian mainland capital city exploited the product of an early 2000s policy superstructure for the management of public land to suit state or commercial priorities. Much of the funding for administration and maintenance came from City of Adelaide ratepaying or taxpaying

⁶ Please refer to: 'The "crisis of 2021" and a test case' – illustrating that the state's political expediency imperative remains unchanged.

⁷ Search: www.adelaideparklandssecrets.com
A print version is also available from the State Library of South Australia, or the National Library of Australia (Canberra).

communities whose members had a sneaking suspicion about what was going on, but neither a clear comprehension of how the complicated procedures worked nor an understanding of the scale and complexity of some of the raids, rorts, ruses, larks and lurks that contributed to Adelaide park lands history over the period of study.

One theme of this book is that change is possible if people have a clear understanding of land-use law, the fundamental policies and procedures at play, and what happens if the powers of executive government are allowed to be exercised about the management of public land without reasonable checks and balances. This awareness may not stop every Adelaide park lands ruse and rort, but the next generation maturing in the 2030s could put a brake on the most exploitative ones.

The next generation includes South Australian parliamentarians and the planners and bureaucrats who will be advising them. It is they who could be crucial to the creation of a more accountable, transparent and equitable framework for the management of Adelaide's park lands that, in practical terms, delivers on that long-held aspiration of candidates in state and local government elections – 'protection'. Incidentally, neither the word 'protect' nor the word 'enhance' is defined in the *Adelaide Park Lands Act 2005*. Don't you find this curious?

6

A ‘snapshot’ of Adelaide’s park lands

(Surprise your friends with your new comprehension of the global relevance of this unique asset.)

Although many readers are aware of the Adelaide park lands, few are aware of their historical, cultural and landscape significance.

Significance internationally

“Other early planned cities such as Philadelphia (1687), Savannah (1733) and Toronto (1788) included squares and ‘common ground’ but these plans either didn’t eventuate or didn’t survive. ... Krakow in Poland has an almost intact ring of park lands but only by virtue of the removal of the medieval town walls. It was not planned as such. Other parks such as Moor Park in Preston, England, and Boston Common in the US, started life around the same time but evolved out of degraded common ground, entering the public domain by accident. So it seems that Adelaide was probably the first city that included a planned, public system of parks which, importantly, has survived, largely intact and in public ownership.”

– Adelaide Lord Mayor, Martin Haese, 2018.⁸

⁸ Adelaide Park Lands Authority (APLA), Agenda, ‘Message from the presiding member’, 18 October 2018, page 10.



Significance to Australia

In November 2008, Adelaide's park lands and city layout were entered into the National Heritage List. Recognising its "outstanding heritage value to the nation", this listing acknowledged its "design excellence in the way it accommodated topography, provided a ring of park lands and a hierarchy of streets interspersed with regular squares." It also recognised that the park lands had survived "remarkably intact", consistent with the vision of the city's surveyor and designer, Colonel William Light, in 1837. At year-end 2018 city administrators were also exploring the potential of establishing World Heritage status.⁹ A subsequent Adelaide Park Lands Authority (APLA) workshop in May 2019 observed:

"What differentiates the Adelaide plan from all other cities, in the World Heritage context, is that: [a] The design is an expression of the ideals of the early 19th century social reform movement and represents a culmination of colonial town planning exercises and theories from that period; [b] The settlement of the City and hinterland is the first manifestation of Edward Gibbon Wakefield's systematic colonisation model (selection, containment, sale) and represents a turning point in the expansion of the British Empire; and [c] The originally planned combination of public park lands, squares and formal, gridded street layout has survived, substantially intact."¹⁰

⁹ Scoping in 2021 concluded that significant research would be required.

¹⁰ Source: APLA board meeting, Minutes, Item 7.2, 'Presentation: World Heritage nomination', 23 May 2019, page 32.

Significance to South Australia



Jay Weatherill

In 2009, the South Australian Premier told state parliament: “What we need to remember about the park lands and their relationship to this city is that modern regions ... compete on the attractiveness of their capital cities, and one of the critical elements that makes South Australia attractive and Adelaide an incredibly attractive city is those park lands. Very difficult debates have occurred ever since this colony was established about the future of those park lands. There were deep debates, even around the establishment of rail yards on those park lands. Every inch of that turf has been analysed and subject to a deep public policy debate in this state, because the South Australian citizens have always understood the importance of the park lands not only for their enjoyment of their city but also because of the attractiveness of the state.”¹¹

Heritage assessments between the years 2007 and 2018 to explore the potential to achieve State Heritage listing under state heritage legislation have recommended that most of the compliance criteria could be satisfied to justify listing. However, no listing had been achieved as at the conclusion of the period of study, year-end 2018.¹²

Attributes

Size and boundaries

The Adelaide park lands are defined by the *Adelaide Park Lands Plan* as specified in the *Adelaide Park Lands Act 2005*. Every part of the park lands is included except for Government House and the state parliament

¹¹ Hon Jay Weatherill, Labor Minister for the Environment, Parliament of South Australia, *Hansard*, House of Assembly, 1 December 2009, page 4879.

¹² Indeed, listing still had not been achieved at year-end 2022. The reasons why can be explored by searching for www.adelaideparklandssecrets.com and referring to *Pastures of plenty*, Chapter 53: ‘A frustration of listings leverage’.

building, and a small area of railway land owned by the Australian commonwealth government.

Compared to parks in other major global cities, Adelaide's 930ha of park lands are expansive. New York's Central Park is only 341ha and London's Olympic Park is only 200ha.¹³

The extent of the park lands was calculated in a 2018 study as 930ha.¹⁴ Of this, the area managed by the City of Adelaide was 728.5ha, as recorded in June 2018.¹⁵ However, in November 2019 (after the close of the study period of this work) this figure was recalculated as 690ha.¹⁶

The natural landscape

The park lands are acknowledged globally as an exemplar of city planning surrounding Adelaide, South Australia's capital. However, there is nothing particularly original remaining in today's park lands landscapes. As an expert wrote in a park lands biodiversity study in 2003: "The destruction of flora and fauna over the Adelaide Plains has been extensive since European settlement [1836]. Land clearance by the first European settlers was staggering, with native vegetation felled for house construction, agriculture and stock grazing."¹⁷

¹³ Adelaide Park Lands Authority, Board meeting, Minutes, 28 February 2013, page 24: 'Place shaping framework', 5000+ partnership, three tiers of government.

¹⁴ Adelaide Park Lands Authority, Board meeting, Agenda, Item 7.2, 'State of the park lands', 21 June 2018, pages 2–4.

¹⁵ Adelaide Park Lands Authority, Board meeting, Agenda, Item 7.2, 'State of the park lands', 21 June 2018, Link 1, 'Relevant decisions', page 2. "Managed by City of Adelaide, Category 'Green/effective park lands', 728.5ha, 'Includes squares and river'. However, this was then recalculated and slightly re-adjusted to 723.5ha – but as noted above, 17 months later it was recalculated again, to 690ha. The contracted council staff member who made the calculations noted in an email communication to this work's author on 12 November 2019: "It's such a complex calculation that involves a number of subjective decisions ..."

¹⁶ As found in: Adelaide City Council, The Committee, Agenda, Item 5.3, 'Adelaide park lands expenditure and income', 12 November 2019, page 38.

¹⁷ M Long, *A biodiversity survey of the Adelaide park lands South Australia*, Biological survey and monitoring, Science and Conservation Directorate, Department for Environment and Heritage, South Australia, 2003, page 4, funded by Adelaide City Council.

At 2018, the landscape was notable for its mix of exotic and native flora. As that 2003 biodiversity survey concluded, of 514 plant taxa recorded, 309 are introduced. There were 33 mammal species (of which nine were extinct and six introduced); as well as 150 bird species.¹⁸ Although not significant biologically, the landscapes are deemed significant for their potential for habitat reconstruction, environmental education, conspicuous bird populations (especially parrots) and large trees. “The River Torrens and some of the more natural areas have a locally high diversity of species ...” wrote that expert in 2003.¹⁹

As far as many of the park lands management staff and maintenance workers are concerned, the acreage under the Corporation of the City of Adelaide’s care, control and custodianship comprises just another city asset that has to be maintained. It is a landscape ranging from small, tall-timber pockets of serenity (adjacent to water courses), to sun-blasted, dry stubble stretches of bush far from the central business district. But there are other sites closer to the city and North Adelaide streets that are manicured into exquisite, but quite uncharacteristic, garden condition, compared to the way the South Australian flora (‘the bush’) usually appears.

The built landscape

There has been much construction on park lands since settlement. Built-form intentions began as a very conservative vision. A 2013 city council document noted: “[Colonel] Light originally only allocated approximately 1.3 per cent of the park lands to built form [in 1837].” One hundred and seventy six years later (in 2013) city council calculations concluded that, of the original 930ha of park lands, 77.4ha (8.3 per cent) was then occupied by buildings.²⁰

¹⁸ M Long, *ibid.*, page v.

¹⁹ M Long, *ibid.*, page 6.

²⁰ Adelaide City Council, City Planning and Development Committee Meeting, Agenda, ‘Council submission on Riverbank Health and Entertainment Areas Development Plan Amendment’, Item 8, 3 September 2013, page 81.

But a subsequent 2018 study recorded that 138ha of the park lands was “occupied predominantly by built form and/or not normally publicly accessible.”²¹ This left 792ha – but even that area was in dispute at year-end 2018.

Management

The money

During financial year 2019–20 the City of Adelaide (population about 26,000 of a total state population of 1.8m) spent 12.2 per cent of its budget on its management portion (74 per cent) of Adelaide's park lands. The amount (without grant money) totalled \$25.6m.²²

Shared management

At 2018 the city council claimed to manage about 80 per cent of the total area, including the six squares and River Torrens, and the state government the remaining 20 per cent. However, in November 2019, these figures were recalculated as 74 and 26 per cent respectively.

“The state government has responsibility for managing approximately 26 per cent of the Adelaide park lands, which mostly consists of the institutional, education and biomedical precincts along north of North Terrace, but also includes the Adelaide Botanic Garden (and [Botanic Park] and West Terrace cemetery.”²³

²¹ Adelaide Park Lands Authority, Board meeting, Agenda, Item 7.2, ‘State of the park lands’, 21 June 2018, Link 3: unnumbered table, ‘Areas of park lands occupied predominantly by built form and/or not normally publicly accessible’, page 6 of that link.

²² Non-capital spending totalled \$17.4m (2017–18); \$16.7m (2018–19) and \$17m (2019–20). (2019–20 amounts were based on forecasts.) Total spending for these periods (including grants) was \$37.5m, \$26m and \$33.1m respectively. Spending less grant monies totalled \$25.8m, \$23.5m, and \$25.6m respectively. Source: Adelaide City Council, The Committee, Agenda, Item 5.3, ‘Adelaide park lands expenditure and income’, 12 November 2019, page 38.

²³ Adelaide City Council, *ibid.*, 12 November 2019, point 4, page 38.

(Pictured left) The Adelaide Park Lands Plan

This was a product of section 14 of *Adelaide Park Lands Act 2005*, clarifying the boundaries, the precise extent of the park lands, and registered proprietor or custodian (Corporation of the City of Adelaide, or state ministerial portfolio(s)), or other agencies (universities, state authorities or Australian commonwealth government). The city squares are included.

Previously, there had been concerns that until a proper survey had been completed, sections of the park lands could be 'lost' via development or annexation proposals. This plan contributed to a collective Adelaide delusion that the park lands were henceforth 'safe' from such incursions and losses. But some people confused 'loss' with 'loss of access'. The plan had no influence over subsequent granting of long-term lease agreements for land under the custodianship of the city council, under which construction of permanent buildings sometimes followed, or issuing of event licences, which sometimes saw park lands sites temporarily fenced. Leases and licences could define access – or not – to sites across the park lands and led to myriad instances of alienation of the public from full access to formerly open spaces. This plan, which is dated 2014, is an amendment of the original 2006 plan. Future variations will be prompted by changes in registered ownership of land parcels.



7

The controversial 'lost park lands' debate

“Every definition is dangerous.”

(Proverbial, translation from the Latin)

In a 2018 Adelaide Park Lands Authority study, area calculated as “green, publicly accessible Adelaide park lands” was measured at 728.5ha, but soon after recalculated as 723.5ha.²⁴ What portion is green? What is ‘publicly accessible’? This has long been a subject of dispute because some argue that if it’s not green, and not publicly accessible, it’s ‘lost’ to park lands.

²⁴ Adelaide Park Lands Authority, Board meeting, Agenda, Item 7.2, ‘State of the park lands’, 21 June 2018, page 36. A recalculation to 690ha occurred in November 2019, as found in: Adelaide City Council, The Committee meeting, Agenda, Item 5.3, ‘Adelaide park lands expenditure and income’, 12 November 2019, page 38.



The perceived loss of green, publicly accessible park lands is a matter of great sensitivity to both the South Australian state government and the Adelaide City Council. Each has made determinations that have led to alienation of the park lands. There has been an enduring culture of public protest about this. The routine call to 'protect' the park lands is often interpreted as a bid to cease further 'loss', but of all the verbs applying to management of Adelaide's park lands, while 'protect' may be the most used it is the least clear.

Two definitive city council analyses examined this controversial topic, one in 2012 and a second in 2018. Each was created by the council's subsidiary, the Adelaide Park Lands Authority. Perhaps reflecting the land manager's sensitivity about the topic, the latter study arose only because of a specific request by a city councillor. It was intended to be updated annually.

It is widely perceived in Adelaide that there has been substantial loss of access to park lands over the past 40 years, especially during the decades leading up to 2018, as major construction projects and other development increasingly left their mark. This loss was confirmed in the first study in 2012²⁵ but six years later the second analysis, using a different method, claimed the opposite.²⁶

The second (2018) study noted that 138ha of the park lands was "occupied predominantly by built form and/or not normally publicly accessible".²⁷ Some of that built form was historic, some was on what was termed 'government reserve' land built on in the 19th century, and some on other land which had been built on in the early years of the 20th century. Those categories totalled 94.2ha, leaving a balance (from 138ha) of 43.8ha of land 'lost' to post-WW2 buildings and other structures. Many had been built

²⁵ Adelaide Park Lands Authority, Board meeting, Agenda, Item 7, 'Park lands – extent of an occupation by buildings and hard surfaces', 7 June 2012.

²⁶ Adelaide Park Lands Authority, Board meeting, Agenda, Item 7.2, 'State of the park lands', 21 June 2018.

²⁷ Adelaide Park Lands Authority, Board meeting, Agenda, Item 7.2, 'State of the park lands', 21 June 2018, Link 3: unnumbered table, 'Areas of park lands occupied predominantly by built form and/or not normally publicly accessible', page 6 of that link.

after 1980. This became a decade benchmark for the 2018 study, which chose 1983 as the base year. The challenge was to address the complicated task of assessing which land had been lost, and which land resumed as open space, as the years progressed and developments or land assumptions commenced or concluded.

‘Net gain’ claimed

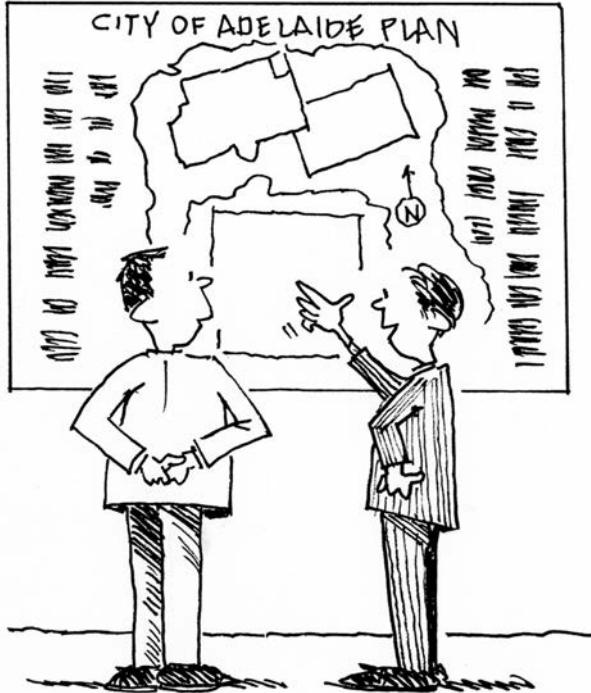
Surprisingly, the Adelaide Park Lands Authority concluded in its 2018 analysis that, between 1983 and 2018 there had been a “net gain in park lands of 21.1ha”.²⁸ The ‘net gain’ figure suggested that the Authority had adopted a new method by comparison to the 2012 analysis, but this would prove to be misleading.

What did ‘loss’ mean?

The matter turned on the meaning of the word ‘loss’. For the Authority analyst: “... loss or alienation of park lands is defined as a loss of publicly accessible space, including, generally, permanent car parks.” He then added a significant qualifier: “Sports buildings, courts and other sporting facilities, restaurants, kiosks and paths are not considered as a loss of park lands”.²⁹ This distinction was crucial, and would have skewed the 2018 result significantly. Regular users of Adelaide’s park lands – especially repeatedly over decades, such that they can observe the changes – have observed a gradual creep of buildings, other structures and hard surfaces, as well as temporary infrastructures. Users and visitors also experienced the very real sense of alienation that occurs when sites leased by various park lands lessees make access difficult, because buildings are locked or hours of access are restricted, or because access to playing fields is restricted to sub-lessee access, or when sites licensed to various parties for summer events are fenced off, sometimes for months, restricting traditional ‘open space’ freedoms that otherwise existed. Are these open park lands?

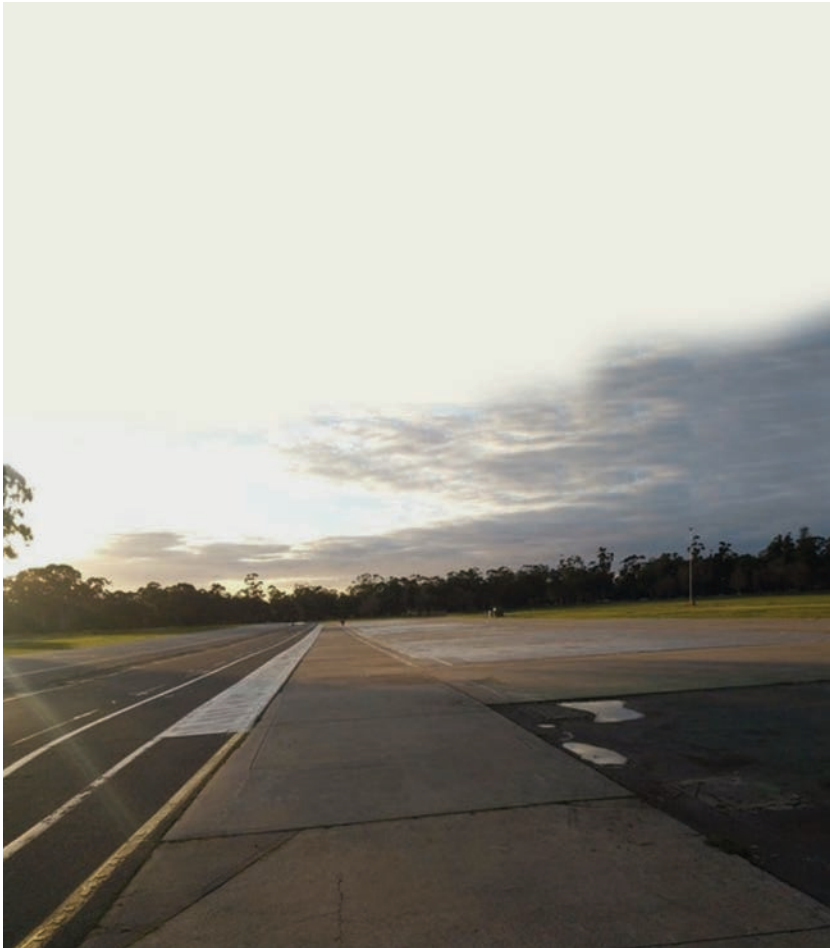
²⁸ Adelaide Park Lands Authority (APLA), Board meeting, op. cit., 21 June 2018, page 31.

²⁹ APLA, *ibid.*



"NOW, WHICH PART OF THE PARK LANDS CAN WE GRAB FOR THIS NEW DEVELOPMENT?"

"...WELL, WHATEVER WE NEED,,, THE PARK LANDS COST NOTHING...!"



Open space – but not green space. A large section of Park 16 (Victoria Park) is maintained solely for a major motor race whose enabling 1984 legislation allowed for annexation by fencing for months annually (commencing in 1985). Hard-stand (concreted, special purpose) areas were not defined as 'lost' park lands by the Adelaide City Council, the custodian of much of the Adelaide park lands.

The community view

It is generally agreed among the Adelaide community that any loss of green space to other forms of space is perceived as a loss.

Then there have been all of the buildings related to a growing post-1836 settlement that became a city over the subsequent 180 years. These include hospitals and schools and government or council buildings, including a university, convention centre, community swimming pool and other recreational structures, plus commercial gym and sports areas, as well as a casino, among others. Park lands historians exploring 19th and 20th century records have noted periods when the alienation of original 'open space' land through these means progressed quickly.



Fenced sporting facilities such as those used for a motor race in Park 16, Victoria Park, which occupied the eastern park lands for many months in the years it was held. The required temporary infrastructure – grandstands, race buildings, pits and spectator facilities – took months to bring in and be erected, and months to deconstruct and remove, while locked gates and perimeter fencing blocked the public from accessing a substantial area of the park.

8

The mystery of the politics of planning

There is a common public misconception that management of the Adelaide park lands is a purely administrative function. But they are also subject to a planning function, which is not the same.

Planning is about land use and who controls it. It can be about managing a development plan or about applying *Planning and Design Code* rules to that land for rezoning purposes. It can also be about assessing and consenting to development applications for that land. Land-use proposals for public land are coordinated and processed in conformity with South Australia's planning legislation and associated procedures. Once planning legislation is passed to the satisfaction of state parliament, the planning process is conducted separately from day-to-day parliamentary participation, unless there arises a requirement, or simply a request, for parliament to amend the legislation or regulations.



Planning is a profession that requires specialist training. But in the final analysis it is a political function controlled by executive government, especially in regard to big developments on public land, including the Adelaide park lands. Influences can lead to the exploitation of that public land for purposes to which some Adelaide communities object.

The long history of planning in regard to the park lands has seen some determinations made under highly charged, politically sensitive circumstances. Volatile public distemper has occasionally followed.

Some South Australians are concerned about the extent to which executive government controls planning decisions for the park lands, arguing that if parliament does not get involved, especially regarding decisions likely to be highly controversial, then too much power is vested in the hands of government bureaucrats and their political masters. But the ministers, bureaucrats and planning professionals would argue that parliament has participated already, debating and passing the legislation that allows the bureaucracy to legally initiate planning instrument amendments, which lead to approval of new park lands projects, including major rezoning projects.

Many South Australians today believe that the Adelaide park lands are unreasonably exploited for state or commercial purposes. To more fully comprehend the laws, policies and methods that allow this, one needs to understand how planners work, and how their work is often key to the alienation of the public from the park lands green, open spaces that many believe ought to remain accessible at all times.

Unfortunately, the complexities and the politics of planning – who does what, where and how – remain a baffling process to many observers. The fact that much of it occurs away from public scrutiny, and is influenced by unelected officials, does not help in penetrating the opaque nature of the function.³⁰ It also has not been helped by a contemporary indifference by those in control to explain planning complexities and to throw light on the options put before senior planners and their political masters, and how they respond to them, often in the initial stages behind closed doors.

³⁰ Further detailed exploration: search: www.adelaideparklandssecrets.com and refer to *Pastures of plenty*, Chapter 12: 'The governance of public space and the politics of planning'.

Some observers naively believe that decisions about major park lands developments are made locally, by the Adelaide City Council (see Figure A). In reality, most are made mostly at state government level (see Figure B). This is where real determination power resides.

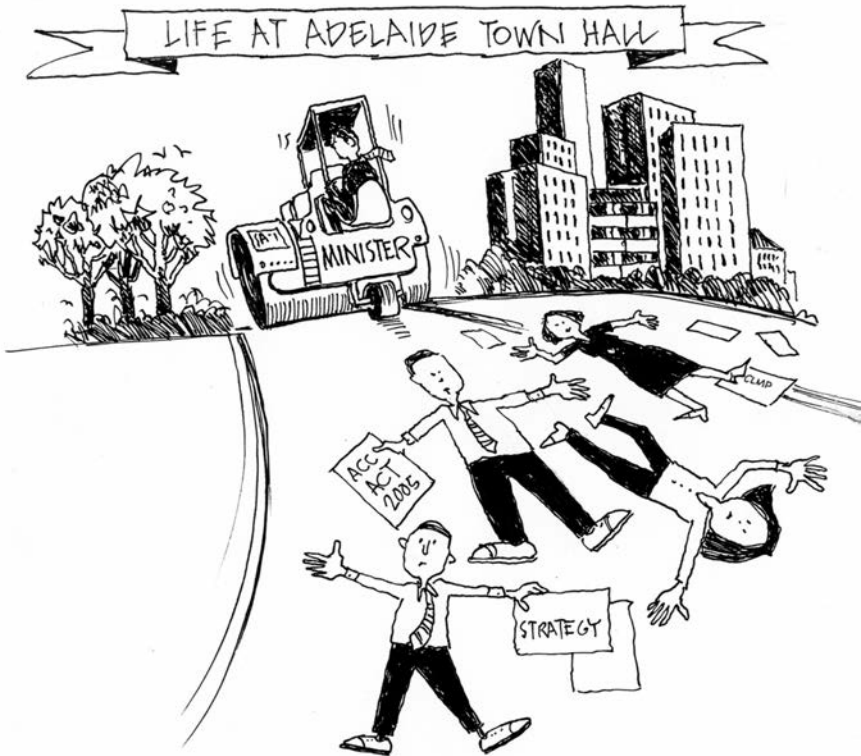


Figure A

The popular illusion LOCAL park lands decision-making



Bases for decisions:

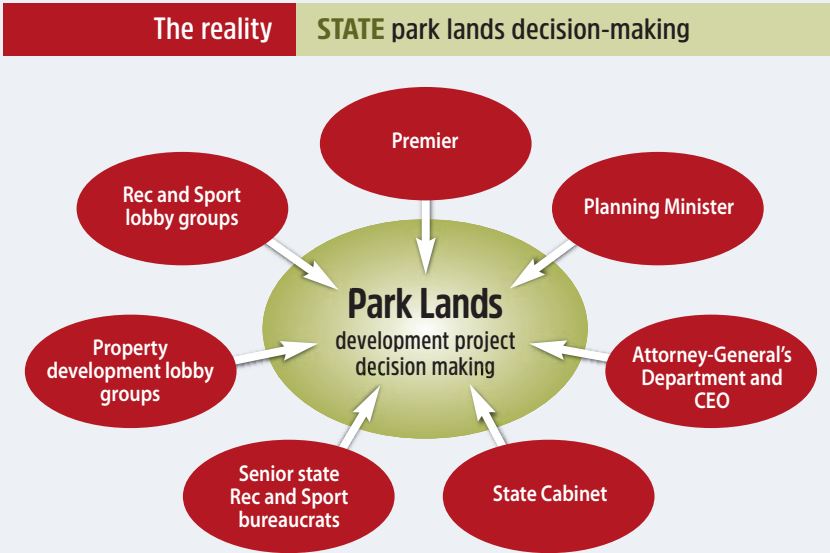
- *Adelaide Park Lands Act 2005*
- *Environment, Protection and Biodiversity Conservation Act 1999 (Cwth)*
- *Planning, Development and Infrastructure Act 2016 (SA)*
- *Local Government Act 1999 (Confidentiality provisions)*

Decision-makers and influences:

- The Corporation of the City of Adelaide (the city council)
- Adelaide Park Lands Authority (a council subsidiary committee)
- Council Assessment Panel
- *Adelaide Park Lands Management Strategy*
- *Community Land Management Plan*
- Guidelines, strategies and policy documentation

The popular comprehension arises from the most visible administrative functions (procedures, policies and operating guidelines commonly directing park lands access matters and events management), coordinated by the park lands custodian, the Adelaide City Council. This perception endures because the city council not only has 'care and control' of much of the park lands but also because some key procedural mechanisms are actioned at local government level (city council and other bodies). Their outcomes are generally publicly visible and most commonly reported in local media.

Figure B



Bases for decisions:

- *City of Adelaide Act 1998* (Capital City Committee)
- *Planning, Development and Infrastructure Act 2016* (*Planning and Design Code*)
- Other interacting statutes (various)

Decision-makers and influences:

- Capital City Committee
- State executive
- State Planning Commission
- State Commission Assessment Panel

This is the domain in which the big park lands development project decisions are made, sometimes amid controversy. Executive government controls park lands planning and development policy and originates many proposals. Ministers are influenced by planning bureaucrats’ advice in state government departments and planning-related agencies. Except for some local government assessments valued under a certain dollar threshold (assessed by the city council’s Council Assessment Panel), most major development proposals are assessed under procedures overseen by the State Planning Commission, in hearings of the State Commission Assessment Panel. Many policy influences can operate out of sight of the general public via a long-established ‘culture of confidence’ that begins with the Capital City Committee and, if so, cascades to lower-order administrative levels. Determinations can be made via complicated pathways, influenced by decision makers whose park lands land-use policy work is rarely scrutinised in public hearings. For this reason, details rarely appear in the media and public comprehension is therefore poor.

After the *Adelaide Park Lands Act 2005* came into operation, all major park lands decisions relating to the City of Adelaide’s ‘protection’ management regime had to be endorsed by a government minister. This quiet coup by the Rann Labor government, formalising a process that until then had been less procedurally rigid, was a political masterstroke. The city council was left with the administrative burden and the funding challenge (reaching \$25.6m in 2019–20), but the state still retained the power to control every decision.

Who explains?

The South Australian state government has never invested much effort in creating and disseminating coherent explanations about how, why and for what purpose a planning system controls park lands initiatives and development assessments. It is perceived by many bureaucrats that such a specialist field is too hard to explain, and they assume no obligation to explain. Some public figures don't understand much of it themselves. For example, back in 2001, such incomprehension was evident among a group of state MPs. They were conducting a select committee review into certain park lands matters.³¹ They were so baffled by the principles and 'rules' of planning and the best way to write effective development plans that they invited a planning specialist to explain. The committee transcript revealed that he had some difficulty getting these MPs to comprehend the key elements of the then planning instrument. Today, few state MPs would be any better informed. In fact, the new 2021 version of that instrument, the *Planning and Design Code*, is seen by some long experienced and highly qualified observers, including architects and planners, as worse than the park lands plan it replaced. This view arose from a 2021 parliamentary inquiry that received 103 submissions. Findings contained claims that the code "failed to offer adequate protection for the park lands".³²

In a way similar to the state government, the Adelaide City Council, the traditional custodian of a significant portion of the park lands, has not invested much time or money into making available coherent explanations of the rules determining the planning and development function relating to the Adelaide park lands.

³¹ Parliament of South Australia, Adelaide Park Lands Select Committee on 'Adelaide Park Lands Protection', October 2001. (The story is told in a research chapter on the website linked to this book. Search: www.adelaideparklandssecrets.com and refer to *Pastures of plenty*: Chapter 15: 'The parliamentary Select Committee 2001 that never concluded'.

³² Parliament of South Australia, Legislative Review Committee, Report on: Legislative Council Petition No 2 of 2020: Planning reform, second session, 54th parliament, Parliamentary Paper 398, 17 November 2021. (See park lands section 6.1.2) page 124.

One of the most common myths about the park lands is that the *Adelaide Park Lands Act 2005* gives guidance on planning matters such as the assessment of development proposals for land identified in the Adelaide Park Lands Plan, the map recording the boundaries and the land tenure and ownership of land contained within the park lands. But the Act is not preoccupied with the planning function or procedures. All it does is refer to interacting statutes relating to development law, in particular, the *Planning, Development and Infrastructure Act 2016*. That Act guides what planners addressing park lands matters should refer to, and how development applicants' submissions are to be managed and their applications processed and assessed.

You can understand why a non-expert public, with no access to simple explanatory facilities, has difficulties comprehending the planning complexities.

Legislative councillor protests

In 2013 South Australian Greens SA Parliamentary Legislative Councillor, Mark Parnell, reflected on the state's planning system and the habits of government administrations, as endorsed by state parliamentarians.³³



Mark Parnell

Parnell was a planning lawyer, and widely respected for his knowledge of planning complexities. He also had long experience in exploring the often Machiavellian tricks and tactics practised, both inside and outside of state parliament, in relation to Adelaide's park lands. His 2013 summary focused mainly on town planning and city and metropolitan development, but he did note that some of the critiqued elements had been evident in park lands planning uproars over that period. The deeply embedded mechanisms and procedures highlighted how South Australia's state governments' corporate approach to planning had influenced land-use determinations – including those applying to the park lands.

³³ Mark Parnell MLC, *The Dirty Dozen: 12 things wrong with the planning system in South Australia and how to fix them*. Pamphlet: July 2013.

Particularly telling was how state administrations frustrated public resistance to the government's exploitative habits. Some of his observations are now outdated, but they illustrate contentious issues that existed during the period of study, as explored in the research material on the website linked to this book.³⁴

Quoting from Parnell's pamphlet:

- “Governments introduce planning changes before public consultation. This means that binding development approvals can be given before the community has had a say. SOLUTION: Legislate to stop the abuse of ‘interim operation’ provision.³⁵ These tools should only be used to stop inappropriate development (such as demolition of local heritage) and not to fast-track the government's favoured developments.” [and ...]
- “Ministers ride roughshod over communities by imposing unpopular planning changes against the wishes of local councils.”³⁶

Such approaches highlight how keenly state governments in the past explored and pursued ways to frustrate public resistance to certain approaches used to exploit public land use, especially the Adelaide park lands, even if it alienated the public from that land.

³⁴ Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*.

³⁵ Some rules have now changed about development plan amendments (DPAs; now known as *Planning and Design Code Amendments*). Rules once allowed the amendment to be immediately put into ‘interim’ operation, effectively giving the go-ahead to parties with development intentions to immediately lodge applications consistent with the amendment, and have them promptly approved.

³⁶ Under the *Planning, Development and Infrastructure Act 2016*, (which came fully into effect in metropolitan *Planning and Design Code* terms in March 2021), an Engagement Charter now stipulates minimum performance indicators to guide how planners are to effectively, transparently and respectfully consult with the public. Unfortunately, however, at 2022 there was no requirement that an assessment of that engagement process (after the event) be conducted by an independent entity in a transparent and appealable way. This highlights a flaw in the legislation.

Lack of scrutiny ‘with teeth’

Parnell also cited other abuses relating to the park lands:

“Parliamentary scrutiny of planning changes [via development plan amendments (DPAs), made under the *Development Act 1993*] is a joke. The responsible parliamentary committee is government-controlled and does not get to consider DPAs until after they have come into operation.³⁷ Even if parliament were to throw out any planning changes (which it never has), it would not affect any development approvals already granted. SOLUTION: Reform the *Parliamentary Committees Act [1991]* to ensure that the Environment, Resources and Development Committee is not government controlled, but reflects the diversity within parliament. Transferring responsibility to the Legislative Council [the upper house of the SA parliament] would achieve this ... [and further ...] Amend the *Development Act [1993]* to ensure that no changes to zoning or other planning rules can come into effect until after parliamentary scrutiny.”³⁸

Parnell’s suggestion that “no changes to zoning or other planning rules [be put] into effect until after parliamentary scrutiny” made particular sense, and he was not the only parliamentarian to make that suggestion. Others had pursued it. One suggestion had been made as long ago as 1999 by a House of Assembly MP, Peter Lewis. He attempted to pass legislation. His proposal was innovative and practical and featured a radical idea – give the people, through the parliament, better control of planning determinations regarding development proposals for the Adelaide park lands.

Parliamentarians in 1999 were aghast, and reacted as if Lewis was preaching revolution. But he was simply advocating an idea well ahead of its time. More discussion appears later in this book.

³⁷ After 19 March 2021 the new procedure became a *Planning and Design Code* amendment.

³⁸ Mark Parnell MLC, ‘*The Dirty Dozen*’, op. cit.; page not numbered, July 2013.



Commonwealth and state-funded infrastructure on land north of the CBD in 2020. In 1999 it had been identified in the first *Park Lands Management Strategy Report 2000–2037* to be returned to the park lands, but it was never returned. The rail yard reflects a long-past park lands infrastructure construction period of controversy commencing in the 1850s. Even then, only two decades after settlement, South Australians opposed the use of park lands for infrastructure construction purposes.

9

The park lands rules – a vast web of complexity

Perhaps the most intriguing aspect about Adelaide's park lands today is that behind the imagery of colourful entertainment events and playing fields of recreational pleasure exists a web of rules whose complexity can be so challenging that only well experienced park lands administrators and planning lawyers can tease it out.

For many South Australians, the experience of probing the complexities behind the legal, policy and procedural rules prescribing how Adelaide's park lands are managed is a little like enquiring into how a machine works without understanding anything about machinery technology. At first glance it all looks fairly simple. Indeed, except for certain special park lands events, which are fenced off for periods, there appear to be no metaphorical signs that say 'Keep off the grass'.



The lure of superficial simplicity is enhanced by a vista that is generally attractive and accessible, sometimes meticulously landscaped and mostly serene. But every park pasture, playing field, roadway, pathway, car park, shed, pavilion, grandstand, fence, sign and tree, and every event site licence or long-term lease, is subject to an intricate matrix of laws and bylaws, regulations, policies, guidelines and procedures that legitimise their presence.

This matrix is most commonly only fully understood by specialist experts and certain employees of, and contractors to, the Adelaide City Council whose trustee care and control role over the park lands dates back to 1849.³⁹

An Authority without management authority

The Adelaide Park Lands Authority in operation since 2007 advises the city council that determines the answers to most detailed enquiries, but it has no power to enforce the rules. This illustrates the first paradox – an Authority without any authority. That authority instead exists with a state government minister and, in some cases, a miscellany of other ministers as well because of the myriad other interacting statutes that relate to the park lands.

It should not be surprising that the Adelaide City Council employs a number of staff highly knowledgeable in park lands details. They are well paid. Others assisting in the determination of park lands management decisions within the council are also well paid to encourage them to stay in a job that few others could do without training under long-term advisory guidance, and detailed advice from lawyers when things get complicated. Theirs is a highly skilled advisory role. But except for a handful of dedicated South Australian park lands observers and a few parliamentarians per generation, the work of these advisors is practised unseen – and almost never acknowledged, let alone seen as vital to ensure that the complex web of rules and procedures work in operational synchrony that delivers at least some sense of order. This need to maintain the order is perhaps the greatest challenge, as aspects of the web of complexity constantly mutate.

³⁹ The *Municipal Corporations Act 1849* – placing the park lands under the ‘care, control and management’ of the Adelaide City Council, apart from six government reserves. The City Commissioners managed this responsibility until the Act was proclaimed on 1 June 1852, after which the council assumed the responsibility.

Fourteen agencies; 26 land-use state services

A small number of highly skilled people working for the state government also have some knowledge of the park lands rules and what they determine, especially about those that affect the state organisational areas in which they are employed. For example, at the time of the proclamation of the *Adelaide Park Lands Act 2005*, in 2006 these people were scattered across up to 14 state agencies managing arrangements across the gamut of government services, including water, the arts, education, employment and training, energy, science, history bodies, police, transport – and even the burying of the dead at Adelaide’s West Terrace Cemetery.⁴⁰

By 2018 the titles and structural links between these state agencies had changed, but the complexity had remained. These agencies were monitoring activities linked to sections of the parks that make up the Adelaide Park Lands Plan. This is the plan of the whole of the park lands, defined under the *Adelaide Park Lands Act 2005*. In 2006, for example, the land-use issues connecting this web of agencies totalled 24 and added up to roughly the same 12 years later in 2018 (noting some deletions and some controversial additions).

Most land uses tell a story. In reality, the story is about the buildings or man-made sites across the park lands that began creeping across Colonel Light’s original 1837 plan for open park lands, excepting his allowance for a few government buildings, in the decades following his death in 1839. The land uses he didn’t anticipate were introduced mostly between the years 1850 to about 1920, then constructed in the decades following 1950.

The principal law – interacting with eight other Acts

If observers are not already confused by the detail so far, here is some more. The principal law relating to the park lands (as at the date of publication of this little book) is the *Adelaide Park Lands Act 2005*. Its proclamation in January 2006 immediately prompted the suspension of many of its sections

⁴⁰ Government of South Australia, ‘Adelaide Park Lands Regulations’, Minutes, Hon Gail Gago: correspondence to Minister for Education and Children’s Services, Hon Jane Lomax-Smith, 12 June 2006.

until the provisions of eight other Acts had been amended so as to make the 2005 Act workable. This avoided risk of disorder in the enforcement of related park lands laws. In 2005 they included the *City of Adelaide Act 1998*, the *Development Act 1993*, the *Highways Act 1926*, the *Local Government Act 1999*, the *National Wine Centre (Restructuring and Leasing Arrangements) Act 2002*, the *Roads (Opening and Closing) Act 1991*, the *South Australian Motor Sport Act 1984* and the *Waterworks Act 1932*. The amendment of these interacting statutes took most of 2006 to be completed. For the administrators and parliamentarians it was a major effort.

Perhaps the biggest handicap of the *Adelaide Park Lands Act 2005*, which many observers naively assume is the most comprehensive statute ‘protecting’ Adelaide’s park lands, is that it is not ‘peak’ or head legislation. It could only have been such had it been written soon after the settlement of South Australia in 1836, or once the city council began operating in 1840, or once legislation allowed the council to become the park lands trustee custodian in 1852. That way, all other relevant subsequent laws relating to the park lands would have had to defer to and interact with that Act. But by the time the 2005 Act had been proclaimed, 170 years had passed, and many other statutes had been proclaimed that potentially or literally captured and determined legal circumstances relating to Adelaide’s park lands. Here emerges a lawyer’s picnic and a parliamentary counsel’s nightmare – ensuring that one law relating to the park lands is consistent with another.

When the 2005 Act was passed, it included a clause to allow flexibility to, as was said at the time, “... ensure consistency with the operation of another Act (including an Act amending another Act) enacted after the commencement of this Act”.⁴¹ This acknowledged that the 2005 Act is rather late in South Australia’s history, and must join the statutes queue and factor in many that came before it, as well as allow for others that might follow. You can see that in the complicated matrix comprising levels of government, and agencies within state government, as well as a multitude of statutes, there is a high likelihood of rules chaos arising. But that is not the sum of it.

⁴¹ South Australian Parliament, *Hansard*, Legislative Council, ‘Adelaide Park Lands Bill’, 22 November 2005, (as highlighted by) Hon Ian Gilfillan, page 3158.

In the website research text linked to this book there is an appendix that notes an updated (2016) list of commonwealth and state legislation (which would include state regulations) totalling 18 other statutes that make up the legislative framework behind park lands management and operations, in particular, activities by the city council in managing its assets (which include its 74 per cent portion of the park lands).⁴² Of course, since that 2016 list was compiled other amendments and/or new statutes have emerged. The parliamentary process never ceases.

Vital cogs in the local machine: 17 strategies, policies and guidelines

At the lowest tier (local government in the city, manifesting as the City of Adelaide) there is an administrative requirement to ensure that park lands policy and procedure keeps abreast of statute amendment. Accidental breaches of state law remain an enduring terror in the minds of city council administrators, and to this end no expense is spared in maintaining documentation that tries to reflect the park lands legal arrangements that state parliament desires.

In the years following the passing of the *Adelaide Park Lands Act 2005*, the Adelaide Park Lands Authority advisors and board members spent their early years deliberating on and creating an avalanche of advisory policy in various documented forms. As a result, a mountain of paper grew. Ultimately, the council determined to identify redundancies, throw out dated documents, and monitor any further growth. In September 2017, a policy clean-out followed, but what remained continued to highlight a high level of complexity. Park lands documentation, or at least documentation critical to inform policy at Authority level, as well as to inform the public's enquiries into park lands matters, comprised 17 references.⁴³ The City Council's segmentation illustrated categories across those 17 key papers, covering strategic issues, policy, operating guidelines, action plans and register (charter) documents.

⁴² Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*: Appendix 2: '18 other laws relating to activity on the park lands'.

⁴³ Adelaide City Council, Council Meeting, Agenda, Item 7.10, 'Council policy reform', 12 September 2017, pages 141–154.

- **Key strategic documents included:**

the *Adelaide Park Lands Management Strategy 2015–2025* (current in late 2022 but likely soon to be updated); *Asset Management Plan – Park Lands and Open Space*; and *Park Land Olive Management Plan*.

- **Policy documents:**

Community Land Management Plan (a document that contains the community land plans for all of the park lands parks); *Liquor Licensing Policy*; *Park Lands Leasing and Licensing Policy*; *Referral of Park Lands Matters to the Adelaide Park Lands Authority (APLA) Operating Guidelines*; and a *Site Contamination Policy*.

- **Operating guidelines documents included:**

Site Contamination Operating Guidelines; *Noise Management Incentive Scheme*, *Operating Guidelines and Acoustic Advisory Service*; and *Park Lands Leasing and Licensing Operating Guidelines*.

- **Action Plan and other documents:**

the *Adelaide Park Lands Events Management Plan*; *Adelaide (City) Development Plan* (which, after March 2021, became the *Planning and Design Code*); *Biodiversity and Water Quality Action Plan 2011–16*; and a *Tree Management Framework*.

- **Register documents, including:**

the *Adelaide Park Lands Authority Charter*. This features the 2006 rules under which the Authority operates. It was significantly amended in 2018.

Figure C

Adelaide City Council's administrative burden

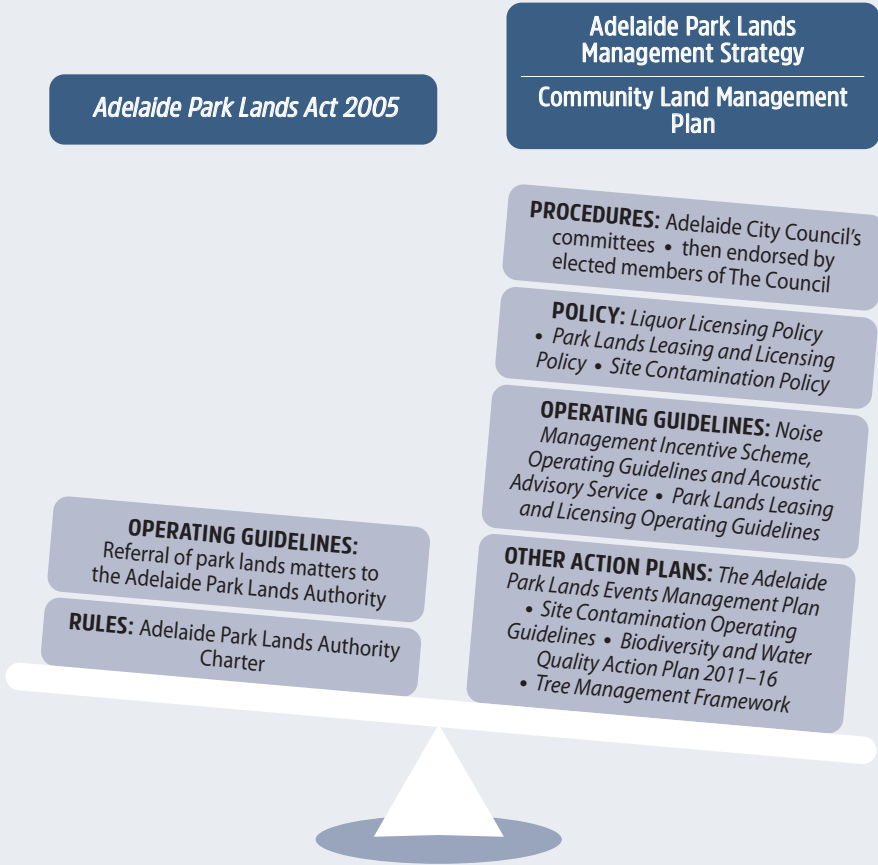


Figure highlighting the Adelaide City Council's administrative burden to manage its 74 per cent portion of the park lands. This is illustrative only, based on 2017 information and, since then, in some respects out of date because policy and action plan reference documents have further evolved in number and content since. Public attempts to monitor the council's management activities rely on access to agendas and minutes of the council's three-stage discussion model: firstly, the Adelaide Park Lands Authority (if the Authority is asked to comment), various council committees, followed by The Council. However, at any of these stages, a confidentiality order about the subject matter can be triggered. In this way, Authority or Council records of deliberations can remain secret for years, leaving major gaps in the paper trail. Confidentiality orders cannot be appealed by the public.

Other policy and guidelines documentation exists today. After September 2017 a number of these key documents had to be amended. As each amendment progressed, detailed checks had to be made as to whether the amendments aligned with the contents of other, related strategic documents, policies and guidelines. They sometimes did not.⁴⁴

As a result of this enduring mountain of paper, South Australians tempted to ask simple questions about the park lands rules in pursuit of simple answers have since 2007 often been surprised at the complicated responses they have sometimes received.

Put simply, a vast web of management complexity metaphorically stretches across the park lands under the custodianship ‘care and control’ of the city council. It has the potential to snare every request to get formal access to the parks, in an administrative glue that can be sticky with detail. Lease applicants are warned by their lawyers that the process can be long, tedious and costly, and sometimes unsuccessful. But for the winners, there are rewards aplenty, including long-term occupation of sites, capitalising on large, permanent, privately owned sports pavilions erected under long-term leases (often 21+21 years) that allow the lessee to profit from events and sub-lessee revenues. In other words, making money out of park lands occupation.

⁴⁴ The practical challenge to link park lands management operations with policy is further explored in website research text.

Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*: Chapter 52, ‘A quagmire of policy connection and coherence’. At 2018 it was clearly disorderly. At 2022 it was doubtful that much had improved. The council’s reluctance to conduct regular, public documentation audits is not helpful.

10

The enduring 'raids' tradition

The history of the Adelaide park lands is characterised by a record of raids to occupy its open spaces for state or commercial economic purpose. The construction of built form has been widespread, despite the original 1837 vision to maintain a landscape comprising mostly open spaces. But development of city edge land perceived to be free land has been just too tempting to resist, especially for local and state government administrations. That the estate is adjacent to the city has not helped.

Historians have widely explored the tactics used to legitimise park lands raids, as well as the ways used to obscure transparency about the activity. Over more than 180 years there have been many creative strategies used by state and local government administrators, lawyers and planners to get what their political or commercial masters wanted.



Park lands raids have not always been as a dictionary suggests: sudden, predatory incursions. Most commonly the raids have been incremental, but predatory nonetheless. Generations of South Australians have perceived the land as 'open' and therefore available for various uses but the raids have most often resulted in construction of built forms that have been destructive of the original landscape character. This has been the cause of much social irritation and disputes between the South Australian residential and parliamentary communities, as well as within them. The consequences could be significant.



SA government hoarding announcing another park lands raid. In 2016, when the state Labor government determined to build a six-storey school on park lands where its zoning did not support it, the development plan was quietly changed to allow it. There was no public consultation to explore the views of South Australians about use of the park lands to build infrastructure such as this. In late 2021, a subsequent state administration (Liberal) rezoned the park lands adjacent to the school, ostensibly to protect the existing 'green open space', described in a concept plan. But only after the rezoning formally became operational in January 2022 did it reveal plans to expand the school into that space. This approach is likely to be repeated in the future, on the basis that if government administrations do not flag new park lands construction projects ahead of time, and do not publicly consult, the potential for protest and public resistance is minimised.

A comprehensive source of historical research into park lands raids that occurred over the period 1836 to the 1980s is contained in the book, *Decisions and disasters*, by South Australian author Jim Daly.⁴⁵ It is a record that might shock you. It should remove any doubt that some people in South Australia's early years saw the park lands as 'waste land' which, to realise its best potential, ought to be developed.

The earliest raids took as much firewood as could be cut and chopped up to support the early city settlement. Tanneries and dumps appeared. In the 19th century, people lived illegally across the park lands. A railway system began to appear. North-west of the city, large areas were taken up with rail corridors. In the 20th century, in the post-WW1 Great Depression (1930s), homeless men found sites along the River Torrens for places to camp, for long periods. But the really ambitious raids featured the construction of buildings resulting in the permanent alienation of areas of park lands. Many of these buildings were constructed by the state in the 19th and early 20th century.⁴⁶

A notable post-WW2 raid was triggered by the Playford state government when it built a new high school in the west park lands in 1950. Multiple other park lands raids, mostly directed by the state, followed in the 1980s, and later in the 1990s. The extent and scale of raids by the state significantly increased in the second decade of the 21st century. Many chapters of the website research linked to this book explore those details, the various causes, and the rationales that the state used to justify raiding the 'free land' of Adelaide's park lands.

⁴⁵ Jim Daly, *Decisions and disasters, Alienation of the Adelaide Parklands*, Bland House, 1987. Jim's book is explored on the website. Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*, Chapter 8: 'That 1987 Daly book – why it matters more than ever'.

⁴⁶ The extent of park lands development between 1836 and 1996 is succinctly catalogued in a five-page chronology in: Hassell, *Park Lands Management Strategy Issues Report*, 23 February 1998: Appendix: Rob Brookman, Steve Brown and Ian Scobie, (Arts Projects Australia), *Parklands Management Strategy*, 'The cultural heritage of the Adelaide Park Lands, A preliminary assessment', Donovan and Associates, History and Historic Preservation Consultants, February 1998, pages 6–10.

The notion of a 'tension of views', occasionally observed by administrators in the city council, arises in relation to the way South Australians have felt about raids on the park lands, and especially about the parks' vulnerability under legislation, and instruments of that legislation, open to manipulation by the state executive, government ministers and their advisors. The park lands at 2011 became even more vulnerable through the state's rediscovery of the potential of new, project-oriented development legislation, if parliament could be prompted to agree. The first legislation of this type had emerged decades earlier, with the *South Australian Motor Sport Act 1984*, enabling an annual motor race and associated temporary infrastructure construction at Victoria Park (park lands: Park 16), east of the city. Alienation of the public from the site over the months leading up to and after the annual event was a major feature.

Further legislation of this type was the *Adelaide Oval Redevelopment and Management Act 2011*. This allowed the construction of a huge sports stadium in Park 26, near Pinky Flat, in walking distance from Torrens Lake. Seven years later, in December 2018 the South Australian Cricket Association (SACA) announced a proposal to construct a hotel on the eastern wall of the stadium, capitalising on ambiguous wording in that 2011 legislation, as well as the terms of the lease that had been signed in 2011 allowing a state minister unfettered discretion to agree to such a development. The guarantors were the two organisations on the board of the Adelaide Oval SMA Ltd – which called itself the Adelaide Oval Stadium Management Authority. Construction was completed in 2020.

The history of Adelaide City Council's custodianship of the park lands is full of records of raids – legal and illegal. Of course they were rarely described as raids, especially the raids that were legal. For the illegal ones, the descriptors were occupations, incursions, appropriation and alienation. For the legal ones, during the period of research (1998–2018) the descriptor under the planning law at the time was 'complying development'. Apparently that was legitimate. The public often disagreed.



Year 2013 construction of the \$535m Adelaide Oval sports stadium. The development had been made possible through the passing of special 2011 legislation. It swept aside the provisions and restrictions of existing planning legislation, including the *Development Act 1993*, the *Adelaide Park Lands Act 2005*, and statutory planning instruments such as the *Adelaide (City) Development Plan* (park lands zone), as well as key policies such as the second version of the *Adelaide Park Lands Management Strategy* (2010 version) and the *Community Land Management Plan* for the site. Each of these would have otherwise presented authorisation hurdles to the development. The use of project-oriented development legislation has been rarely used to make feasible a major development in the park lands but, when state parliament passes such statutes, all policy driven rigour to 'protect' park lands sites and retain green open space is rendered toothless.

The incremental raid

Historically, some development crept up on the park lands. For example, many of the classic examples of park lands raids began with a park lands permit or licence for recreational and sport groups and periods of casual occupation authorised by the city council. After a period of use of a site in the park lands, these groups would apply for a lease on which to base the construction of small-scale recreational facilities. This turned into *occupation* via wood and steel or bricks and mortar. Over many decades, the leasing occupier's facilities would expand, especially upwards, and fencing

would spring up to mark the lessee's boundaries. This led to exploitation, by occupation, of significant areas of the park lands. This phenomenon might be termed 'the creeping raid'.

Historically, the two most significant examples of such raids were the occupation in the 1850s of Park 16 (Victoria Park) by the South Australian Jockey Club (SAJC) that lasted for well over 150 years. What began as a bid to use park lands for an occasional horse-racing event on open space pasture ended as leased occupation of a large area of Victoria Park, littered with SAJC buildings, car parks and fenced-off sites. After the lease ran out in 2006 it took several years to remove the evidence of long-term occupation, and cost millions.

A second example, at Park 26 near North Adelaide, occurred where a small cricket association in the 1860s applied to use park lands for occasional cricket matches. Over the 150 years that followed, many permanent facilities were constructed for players and club members. Long leases underscored the reality: it was another example of *occupation*. That site now features a huge, \$535m stadium, which in 2013 replaced a number of historic, listed grandstands and other heritage buildings. The South Australian Cricket Association (SACA) expanded to other park lands sites as well, constructing a large, three-storey sports pavilion and exclusive, fenced oval in Park 25 in 2017. These examples, of the Association's occupation of the park lands, are evidence of one of the city's longest-running and most prominent park lands raids. The Association, however, would probably never agree that its founders raided the park lands. Its office holders would argue that built-form cricket facilities simply arose through the lawful operation of a lease arrangement. They would also deny that 19th century claims of raids were made at the expense of the Kaurna Aboriginal people of the Adelaide plains. The SACA site at Park 26 had been an important Aboriginal ceremonial ground before Europeans settled Adelaide, and long before the cricketers arrived.

The government raid

Although some park lands raids have progressed slowly, other raids in the form of big development proposals overwhelmed the park lands at speed. In the first two decades of the 21st century, this was almost always directed

by government. In the research related to this book a trend is highlighted showing that the state learned that the faster the raid, the greater chance it had of succeeding.⁴⁷ A culture of confidentiality about park lands and proposals, shored up by provisions in the legislation⁴⁸, smoothed the administrative pathway to enable this. When it detected public resistance to the continuity of this practice using one method, if there was much at stake, it changed methods to frustrate the resistance. But it was still a raid; the state was still raiding a public asset whose purpose was commonly agreed to be many things, but not for the construction of multi-storey bricks, mortar and glass, or major infrastructure that could often easily be constructed elsewhere to achieve the same state objectives, but – of course – not as cheaply. While a raid could be for the benefit of private commercial bodies, most commonly it was government, and sometimes it was breathtaking in scope. For example, in the case of the largest hospital ever built in South Australia (the new \$2.4b Royal Adelaide Hospital, commenced 2011; opened 2017), or the tallest, multi-storey secondary school (the \$100m, six-storey Adelaide Botanic High School, commenced in 2016; opened in 2019; with an additional seven-storey extension to that building announced in January 2022). To some non-expert observers, few of whom had the means to develop a ‘whole of park lands’ comprehension, each raid may have appeared inconsequential to the sum of park lands area. But a sustained wave of private sports pavilion development bids, commencing in 2011, also prompted much policy contemplation within the city council. A \$30,000 city council-commissioned report explored it, but its conclusions were kept secret. It addressed the challenge of how to craft policy that might justify the matter of private investment on the 74 per cent portion of public park lands under the care and control of the council.⁴⁹

The systematic nature of park lands raids over time by year-end 2018 resulted in some of the finest park lands vistas visually blighted, and free and open public access compromised for many decades. Multiple case

⁴⁷ Search: www.adelaideparklandssecrets.com and look for: *Pastures of plenty*.

⁴⁸ This was via provisions in the *Local Government Act 1999* and the *City of Adelaide Act 1998*.

⁴⁹ Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*: Chapter 38: ‘Private investment in the park lands’.

studies appearing in the website research explore examples.⁵⁰ Their variety highlights the creative ways that parliamentarians and state and local government bureaucrats, lawyers, planners and administrators have acted to get what they or the development applicant wanted. The long history's major theme is that some politicians and administrators in South Australia held, and still hold, a minimal concern about a need to maintain the open-space integrity of the Adelaide park lands.



Commercially owned \$8m western park lands sports pavilion completed in 2018 by the South Australian Cricket Association. The building, in the middle of the park, actually comprises three levels. A long-term lease allows the Association to conduct social events in this pavilion, in association with a limited liquor licence. A large, bituminised car park to the south of the building was constructed by SACA for members. The Association created a cricket oval in front of this building and fenced it. This building and oval represents what some observers see as a gross example of the 'privatisation of public space' in Adelaide's park lands. Other pavilion development applications from other sports groups holding lease agreements for other sections of the park lands were in preparation at the time of publication of this book.

⁵⁰ Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*: Appendix 19: 'Eight pavilion case studies'. (This explores where the future is heading – the beneficiaries, the money and tactics necessary to lock in built-form occupancy of the choicest park lands sites for generations).

11

Ruses, rorts, capers, larks and lurks – who knew?

No legislation or policy is perfect. Inevitably people will find ways to gain benefit from the extent of open spaces across the Adelaide park lands, access to which the creators of laws, planning instruments, guidelines and policies had earlier sought to block. The long history of park lands raids reflects a 185-year lack of commitment to maintain the integrity of the park lands open spaces by some unprincipled people influencing decisions at the time. The history of ruses, rorts, capers, larks and lurks illustrates the extent of this attitude over the same period. Other researchers' sources record this 160-year history to the late 1990s. However, this book and the research behind it focuses mainly on the contemporary period, the first two decades of the 21st century.



Let us first go back to the year when the Adelaide Park Lands Bill 2005 was being debated inside and outside of state parliament. It was perceived by optimists as legislation that had much potential to ‘protect’ the park lands. But by the conclusion of that brief period of debate, at least four significant loopholes remained embedded in it. Had parliamentary amendment occurred to the satisfaction of some elected members in the Legislative Council, the closing of each loophole could have made the resulting *Adelaide Park Lands Act 2005* significantly more effective in minimising the potential for exploitation and ruses and rorts that would follow. Revision of some draft sections at the time may have blocked subsequent exploitative opportunities before any damage could be done.⁵¹

After the enactment of the 2005 legislation, the sometimes Machiavellian politics of state government and city council park lands ruses arose in determinations relating to its grasslands and playing fields. Many were never reported by the media. Examples included the Adelaide City Council’s substantial discounting of lease fees for selected lessees (including state government lessees); sudden development plan amendments to evade previous built-form development restrictions; failure to specify council-imposed height limits for development application proponents of new sports pavilions; sudden amendments to council leasing and licensing policy to benefit existing and future occupants; and creation of ‘exceptional circumstances’ loopholes to benefit some sports pavilion construction applicants. State-initiated rorts included: subtle, sudden – and largely unpublicised – changes to regulations schedules; suspension of certain legal provisions to benefit some park lands occupants; and classification of development plan categories that would lead to avoidance of a requirement to publicly consult about a development proposal.⁵²

⁵¹ In terms of the loopholes left open during 2005 parliamentary debates, Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*: Chapter 49: ‘The loopholes lurk (Part 1)’. In terms of ruses and rorts, please refer to Chapter 50: ‘The loopholes lurk (Part 2)’.

⁵² Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*: Chapter 50: ‘The loopholes lurk, Part 2’. (This explores loopholes and administrative ruses relating to management of the Adelaide park lands during the period of study.)

This latter tactic emerged in 2007 when administrators at the Adelaide Park Lands Authority and the state government were quietly seeking ways to enable the construction of a new Royal Adelaide Hospital on 10ha of alienated park lands (rail yards). Every opportunity was exploited. They included: capitalising on features of the 2005 Act and in its ambiguous Statutory Principles; a ministerial plan amendment report that changed the existing *Adelaide (City) Development Plan*'s rules to fit the proposed hospital construction plan; and in 2009 a fast-track revision of the first *Adelaide Park Lands Management Strategy* (to create a new 2010 version) to obliterate the original (1999) Strategy's proscription of development at the site. These tactics meant that no public consultation would be necessary, and there was none.⁵³

The fact that these practices were all legal said much about the contents of the *Adelaide Park Lands Act 2005* and especially the development statute of the time, the *Development Act 1993*, with which it interacted. Many of the rorts, larks and lurks were never publicised, but some tales escaped into the public domain, despite a largely disinterested media.

Public trust was so damaged about political exploitation of park lands and development proposals over the period that it took some years for the generation that experienced it to forget how an enticing 2002 park lands narrative by a newly elected Labor state government – a pledge to finally end the long trend of park lands exploitation and alienation – tempted them into believing that it actually might be delivered. But that Labor party pledge, too, became a long-running political ruse. After all, such ruses are effectively a political or administrative seduction, often motivated by the convenience of easy opportunity and capitalising on public naivety – the triumph of hope over experience. Many political statements at the time were laced with enticing promises but, in Adelaide park lands terms, when few results were subsequently delivered, the response was further corrosion of public trust.

⁵³ Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*: Chapter 29: 'Case study – The New Royal Adelaide Hospital'.

Observers of park lands matters throughout the first decades of the new century were sometimes perplexed at how major development proposals for the park lands could be progressed where no public consultation was required before development assessment approval was given and construction begun. After all, the land was public land. Wasn't a guarantee to participate in an assessment forum an inalienable South Australian right? Apparently not. It might be described as 'the category caper', under which certain built-form proposals were categorised under the *Adelaide (City) Development Plan* (pre-2021) in a way where no public consultation was required. Although construction of very minor developments was allowed without consulting with, or at least notifying, the public (such as minor infrastructure works), many developments in the park lands were not minor, and required formal concept and drawings assessment under planning law, followed by public consultation, then planning assessment, followed by development consent. But public consultation did not always occur simultaneously, if at all. If an appropriate planning category could be determined by planners (to a category then known as Category 1), there would be no lawful requirement for the public to be notified. Such arrangements under the former *Adelaide (City) Development Plan* (pre-2021) meant that the public often had no idea about a proposed park lands development until they saw the construction teams arrive and areas fenced off. It was a revealing example of an administrative ability to frustrate public resistance.

State planners today ensure that land-use descriptors in the Assessment Provisions of the *Planning and Design Code* for park lands zones and sub-zones list every development type they – or perhaps a commercial developer – might anticipate for construction in the years ahead, even if there is no development application awaiting assessment at the time. This effectively classifies them as complying development (in the old language, 'Category 1', a term no longer used). Once classified in this way, there is no legal requirement to consult with the public, or even warn the public that a development might be soon under way. This repeats a pre-code state planning cultural practice, an example of 'the more things change, the more things remain the same'.

Where public consultation is formally required, there is another opportunity open to planners and administrators to frustrate public objection. It might be described as ‘the consultation lark’. Many South Australians live under the delusion that all major political and administrative decisions about matters affecting Adelaide’s park lands must be explicitly foreshadowed and widely publicised. This is not so. Some also naively assume that, in terms of controversial matters, consultation feedback results must go all the way to parliament to be debated by government and opposition elected members in open forum. This was, and remains, a major misunderstanding. The only parliamentary member who might be notified about public responses might be the minister in whose portfolio the *Adelaide Park Lands Act 2005* resided, and/or the planning minister, and/or the Minister for the City of Adelaide. Moreover, this would sometimes occur *after* the results of a city council consultation had been analysed and a draft determination to go ahead is created by an administrator. The exception to this, of course, relates to major park lands development proposals, which might require amendment of the post-2021 *Planning and Design Code* relating to a park lands zone policy area. While public consultation is required once the decision to act has been made there is no legislative requirement that levels of government must take any notice of the feedback.



In regard to draft park-lands-related project-oriented development legislation, bills of which had to be submitted to parliamentary scrutiny, there is potential for feedback to have political consequences. But there were very few of those bills. Paradoxically, parliamentary debate about such bills, while sometimes vigorous, had the potential to be even less transparent than public scrutiny in relation to non-legislative consultations outside the parliament during those consultation periods.⁵⁴ This is because such debate has not historically been consistently and comprehensively covered by the media. At best, media coverage of parliamentary debates about park lands matters over the post-1998 period has been patchy and unpredictable.

Perhaps the most impenetrable lurk is a secrecy tradition allowed under various statutes. There existed, and still exists, a South Australian misconception that everything proposed for the park lands is discussed and resolved in a public forum. But behind a façade of apparent local and state government transparency and accountability there has operated a park lands management machine which makes and keeps many secrets.⁵⁵ In this way, the estate most likely to warn the public about what is going on – the media – is gagged. So is the ‘fifth estate’, social media.

⁵⁴ This legislation has been rare in recent decades but can have profound consequences. Controversial examples arose in 1984 (in regard to Park 16 Victoria Park motor racing), and 2011 (the Park 26 Adelaide Oval stadium construction). More discussion about this appears later in this book. Moreover, discussion about the 1984 and the 2011 statutes also appears in the linked website research text. Search: www.adelaideparklandssecrets.com and look for: *Pastures of plenty*, Chapter 27 and Appendix 17.

⁵⁵ Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*: Chapter 46: ‘The secrecy tradition’.

On matters of controversy, an opaque procedural screen often obscures details about emerging park lands matters and subsequent determinations. Worse, park lands documentation likely to throw light on the matter months and sometimes years later can remain publicly inaccessible through an Adelaide City Council records management mechanism that is operated under the complete control of those who initially recommend the triggering of the confidentiality clauses. This mechanism is empowered by provisions in both the *City of Adelaide Act 1998* and the *Local Government Act 1999*.

Park lands secrets can be maintained for as many years as the local government administrators think fit, despite a legislative requirement that a procedure occurs annually for review by elected members, who almost always defer to advice – to maintain the secrecy, especially if the matter is controversial. It is an administrative discretionary power wide open to abuse, and it is abused.⁵⁶

There have been many other larks and lurks practised over the years by administrators and planners keen to accede to the wishes of their political masters. One particularly popular practice was ‘the footprint numbers game’. It was all about rationalising why a built-form proposal for a park lands site was entirely reasonable, notwithstanding what might have been an inappropriate site placement recommendation as well as a concept footprint area, height and scale likely to significantly compromise the landscape within which it was proposed to be constructed.

The footprint approach was, and remains, a type of park lands ‘currency’ trading market among city council and state planners and government and commercial architects. It conceives a park lands site’s existing building

⁵⁶ Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*, Appendix 22, regarding the local government (city council) ‘in-confidence’ tradition and Appendix 23: a data study of trends relating to confidentiality orders.

footprint area as a value. When a new built-form concept proposal emerges, this value could be converted into a new footprint value – a new footprint area allowance – ready to be exploited once again. Historically, when a replacement built-form development was proposed for a park lands site, assessors would be prevailed on to use a mathematical calculation resulting in a proposed reduced footprint area to meet one of a number of required criteria necessary for planning, and later, development consent. If planners could argue that the new concept was of a footprint area the same as, or ideally less than, the original built-form's footprint area, this commonly encouraged approval of the development application. But some proposed concepts resulted in a built form of greater height because of the need to add extra levels to meet the footprint area requirement. Height was then, and remained as at 2022, a matter not only judged by planners to be of less importance in relation to the park lands, but also often ignored, given that height limits were either rarely specified, or at least ambiguously described. Moreover, there was rarely any discussion about whether the original built form identified for replacement should have been sited there in the first place – or whether its original footprint area was determined to be acceptable at the time.

12

Monetising the use of the park lands

An interesting book, *The Adelaide Park Lands – A social history*⁵⁷ gives a broad pictorial and text summary of the history of the city's park-lands-focused sport and recreational pursuits, covering the 160 years to the conclusion of the 20th century. But its purpose was not financial analysis, and it revealed very little about the monetary gain to be had by exploiting use of sites in the park lands.

⁵⁷ Patricia Sumerling, Wakefield Press, 2011.



Exploitation of the park lands through event purposes for financial gain, especially arising from events held after the 21st century commenced, remains a poorly explored subject in the Adelaide City Council's publicly accessible, post-2000 record. There is a good reason for this. Even as late as 2022, the 'custodian' had no provision for administrative or public scrutiny of commercial or community park lands events gross turnover or subsequent profit or loss analysis. In 2015, a council elected member had attempted to suggest a procedure to assess this, but his colleagues declined to investigate.

The lack of specific, publicly accessible detail about financial data arising from park lands events contrasts the comprehensive records in the council's archives about events policy evolution and events management, especially after 2007 when the *Adelaide Park Lands Act 2005* was in early operation. It was a period rich with evolving administrative change, associated with emergence of much new policy documentation. It would guide future events management decision-making.

One impetus for allowance for the monetisation of the use of the park lands estate may have arisen from the city council's interpretation of one of the Act's seven Statutory Principles: "The Adelaide park lands provide a defining feature to the City of Adelaide and contribute to the economic and social well-being of the City in a manner that should be recognised and enhanced". This not only implied that the park lands were much more than a range of landscapes, but also that land uses could be subject to an economic role that may be legitimately tapped. However, the words "the well-being of the City" were ambiguous. As it turned out, the financial returns arising from the running of events more commonly did not go to "the City" but instead either to the commercial or community organisations that sought event licences, or the lease holders whose occupancy, mainly related to buildings, could last for decades. With this occupancy came event-related trading opportunities.

After about 2007 the council became preoccupied with developing a viable administrative park lands funding model, anticipating sources of revenue arising from lease fees (sports clubhouses, restaurants and cafes) as well as licence fees relating to car parking sites and entertainment events programs.

But the fee revenue always fell woefully short of the funding required by council's administration for provision of an events management and programming service. Perhaps curiously, the council's financial arrangements relating to these functions did not prompt the public scoping and assessing of the economic benefit that could be extracted by lessees or events licence holders, and release of such findings to the public. The council also did not require the public lodging of financial statements from licence holders after an event that would reveal such information. Despite this, some administrators would have known about the significant returns collected by some parties holding a lease or an events licence. Perhaps to reflect this informally gained knowledge, licence fees were gradually increased, but not on the basis of explicit and public profit or loss reporting.

Event numbers over the ten years to 2018 progressively increased. For example, in 2008–09 the council coordinated licensing for 38 major events (more than 10,000 attendees), 33 medium, and 310 minor events. By 2017–18 the council was coordinating licensing for 44, including 25 major events, eight medium, and 11 minor events. Of that total, 28 were liquor-licensed, which required fencing. Liquor-licensed events had great potential for significant cash flow and net profit of benefit to the events licensee.

A major park lands lease and licence policy was created by the Council in 2016 and updated six years later in 2022.⁵⁸ The 2022 draft policy, already approved by both the Adelaide Park Lands Authority and the full Council before it was publicly consulted on, defined 'Commercial lease/licence' as "where the lessee or licensee's core activity involves the selling of goods and services for profit". That was clear. But it had a particularly ambiguous definition of 'Community lease/licence', to avoid acknowledging that profit-making activities were occurring by all parties, regardless of their definition. The council implied that if the organisation defined itself as a 'not-for-profit' entity, its park lands events were not profit-driven as a

⁵⁸ Adelaide City Council, Agenda, Item 10.3, 'Draft Park Lands Lease and Licence Policy', 10 May 2022, pages 45–58.

business venture. “Not-for-profit clubs and associations, peak sport and recreation bodies and educational institutions are considered community lessees and licensees,” the council explained. “Any commercial activity undertaken by a community lessee/licensee is done so for the purpose of reinvesting back into the service for the benefit of its members and the community”.⁵⁹ In this way the council avoided acknowledging that commercial activity was practised by groups holding a community lease or licence. Obviously, to be able to reinvest in an organisation, a profitable activity had to be occurring. A month later, the policy was probed by a councillor. Administrators used a suite of excuses to discount the probe, citing ambiguous policy statements condoning “actions that relate to envisaged commercial activity specifically related to sport and recreation”. They then identified the profiteers as potential victims, because there was “the potential to unintentionally discriminate against sporting clubs and limit their ability to drive commercial activity across the park lands.” Another response claimed that it was too late to change the conditions of existing leases and licence agreements so nothing could be done about regulating them.⁶⁰ Clearly, monetisation was deemed impossible to regulate, and certainly impossible to stop.

While some people saw a park lands site as desirable simply for its aesthetic landscape character, others assessed its value on the basis of the site’s potential to be monetised. For example, in 2020, one small but highly transparent example arose where the likely cash flow could be easily calculated. The Adelaide Oval Stadium Management Authority (Adelaide Oval SMA Ltd), which held a sub-licence for the use of an adjacent oval, ‘Oval No 2’, won approval to use that oval as a parking site for oval-event attendees. Parking spaces totalled 1,350. At about \$20 per car per day (or night), the Adelaide Oval SMA Ltd’s cash takings were easily quantified.

⁵⁹ Ibid., page 56.

⁶⁰ Adelaide City Council, Agenda, Item 17.11, ‘Park lands hospitality’, Motion on Notice, Cr Phillip Martin, 14 June 2022, pages 347–48; Minutes (seeking a review of leasing and licensing policy), The Council, 14 June 2022, page 27.



Car parking during 2021 on Oval No. 2, adjacent to the Adelaide Oval stadium. The cash flow gained by charging stadium visitors to park on park lands was collected and banked by the sub-licence holder, Adelaide Oval SMA Ltd. It was, and remains, of irrelevance to the AOSMA that the oval was never created to become a car park, or to represent an opportunity for a profitable cash-flow venture by a sub-licensee. The same site was periodically used ancillary to oval sporting events for the profitable supply of food and liquor by the South Australian Cricket Association. It was usually fenced, to keep out non-members.



Exclusion fencing. Events in the park lands, run by well-organised commercial businesses, can extract substantial revenues through liquor sales made possible by the use of limited liquor licences. One of the legal conditions of such licences was that the site had to be fenced, and entry monitored. City council events licences could allow the licensee to determine land-use access arrangements at these sites for months. During non-business hours, the fenced site was often closed to public access. The photo above shows fencing surrounding a city council-identified major events site at Pinky Flat, adjacent to Torrens Lake. In the years leading up to the publication of this book it was a highly sought-after site by commercial businesses because of its high monetisation potential.

Leases and long-term occupancy of the park lands

Monetisation of the Adelaide park lands was also made possible through leases, enabling commercial trading arising from events. The *Adelaide Park Lands Management Strategy* (2016 version; still current in late 2022) listed the existence and term periods of leases.⁶¹



Tennis SA's (SA Tennis Association) facilities on park lands (Park 26), redeveloped in 2018 and assisted later by a \$10m state government grant to create a roof and two new, special entertainment event spaces (one is pictured at centre). This is a prime example of the use of leased sites allowing the unrestricted monetisation of the public space occupied by the commercial lessee. Tennis SA's business plan did not have to be lodged with the park lands custodian when, in July 2017, it proposed and later won a long-term lease (21+21 years) with the City of Adelaide. The other building (at right) is the Adelaide oval stadium, managed by Adelaide Oval SMA Ltd (AOSMA), a private company which enjoys monopoly control of the stadium under the terms of a long-term lease. It holds an 80-year lease with the Minister for Transport and Infrastructure and the city council. A parliamentary select committee in 2019 heard detailed evidence of lucrative financial returns to AOSMA's shareholders, the South Australian Cricket Association and South Australian National Football League, as well as many other parties using the venue, as approved by the AOSMA.⁶²

⁶¹ 'Park lands leases which exceed five years', page 103. (The lease contents are not revealed.)

⁶² Parliament of South Australia, Legislative Council, *Interim Report of the Select Committee on the Redevelopment of Adelaide Oval*, Parliamentary Paper 257, 68 pages, laid on the table Legislative Council, 3 December 2019.

Over the years, park lands lessees have included proprietors of restaurants, cafes and gyms, as well as various sporting bodies, including cricket, football and tennis associations. A long-term park lands lease would allow lessees to run events that could bring significant private financial benefit. One of the longest-running post-war examples was (and remains) a small but symbolic example – a restaurant, which commenced trading in the 1960s, on the edge of Torrens Lake (park lands) near the weir. It still operates, under various trading names. Other food and liquor outlets also trade along the river's banks. During the period 2011–18 a number of sporting groups sought leases, or extension or updates of existing leases, lodging sometimes simultaneous development applications to replace their old changing and toilet facilities with much larger 'sports pavilions' in which liquor-licensed social events could be held. They featured generous internal spaces designed for recreational food-and-drink event purposes and commonly had two levels. The holding of social events, often in conjunction with limited liquor licences, could net lucrative returns for the lessee. Lease conditions did not demand reporting of these trading results to the lessor – the Adelaide City Council. Public transparency about the terms of the lease was often poor. A city council meeting would approve a lease, during which the lease fee, any fee discounting and terms and allowances for holding of events may have been briefly publicly accessible. However, such particulars were not always subsequently accessible via any open, council public register. Such details were often described as 'commercial-in-confidence'. Annual trading results of lessee businesses, including financial outcomes arising from an annual calendar of events, remained confidential.

There was also another potentially lucrative spin-off related to leases. Very occasionally information reached the public domain about allowances under the leases for sub-leasing. It was sometimes revealed that a lessee was charging its sub-lessee(s) close to and sometimes more than what was being paid to the council annually by the head lessee. It was just another example of how a lease arrangement could effectively allow for the lucrative monetisation of use of sections of the park lands – sometimes without needing to hold any event, and for the exclusive benefit of the head lessee.

"...CAN A LESSEE SUB-LEASE
A PARK LANDS LEASE?"

"ABSOLUTELY!"



"...WHAT IF THE LESSEE PROFITS
FROM THE SUB-LEASE?"

"...SORRY... THAT'S
COMMERCIAL IN-CONFIDENCE!"



It is doubtful that the authors of the Statutory Principle in the *Adelaide Park Lands Act 2005* anticipated how future licensees and lease holders might subsequently capitalise on its ambiguity, especially the words “the economic well-being of the City”.



The Adelaide Oval Hotel, abutting the eastern walls of the Adelaide Oval stadium, managed by the Adelaide Oval Stadium Management Authority (Adelaide Oval SMA Ltd). It was completed in 2021. The hotel project capitalised on the 2014 completion of the stadium, made possible through the *Adelaide Oval Redevelopment and Management Act 2011*. This development drew on a low-interest \$42m South Australian Financing Authority loan. There were special advantages open to the AOSMA to pursue the hotel development – it was exempt from paying land tax and council rates. It also didn't have to buy the land and car-parking facilities already existed below ground, within the oval's core area. A hotel industry witness to a 2019 parliamentary select committee probing the development highlighted the inequity of the commercial arrangement through a ministerially endorsed lease arrangement that stemmed back to the 2011 oval redevelopment legislation.⁶³ Research appears on the website relating to this book (Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty*). Details appear in Chapter 1 and Chapter 27. These cover the history of the oval stadium legislation, and oval and hotel construction. Additionally, Appendix 27 explores the parliamentary select committee hearings in relation to post-2011 stadium trading activities, and post-2019 hotel development. An audit of AOSMA and its hotel operations appeared in the SA Auditor General's report (Part 4, Agency audit reports) tabled in state parliament on 26 July 2022 and published on 28 July 2022.

⁶³ Parliament of South Australia, Legislative Council, *Interim Report of the Select Committee on the Redevelopment of Adelaide Oval*, Parliamentary Paper 257, laid on the table, Legislative Council, 3 December 2019. Witness statement: page 53.

Each of the persons pictured below played controversial and sometimes defining roles in the evolution of Adelaide park lands management policy over the two-decade period of study behind this book (1998–2018). There also were many other participants. Reference to the research behind this book will provide an index that will allow you to identify them and explore their contributions. They include Michael Armitage MP, Kevin Foley MP and Patrick Conlon MP.

(Search: www.adelaideparklandssecrets.com and refer to: *Pastures of plenty.*)

**Some of the
controversial players in the
evolution of park lands
management policy
1998–2018**



Ian Gilfillan MLC



Mark Brindal MP



Premier John Olsen



Dorothy Kotz MP



**Lord Mayor
Michael Harbison**



Premier Mike Rann



**Jay Weatherill MP
(later Premier 2011–18)**



John Rau MP



**Lord Mayor
Stephen Yarwood**



**Lord Mayor
Martin Haese**

13

What has been done? A recent **historical** perspective

Dr Jane Lomax-Smith with Labor Premier Mike Rann, on the campaign trail ahead of the 2006 state election.



In order to consolidate a view about ‘What has been done’, the 12 November 2006 words of former Lord Mayor and (then) Adelaide MP and Minister for the City of Adelaide, Dr Jane Lomax-Smith, are useful to first focus on how ‘the alienation problem’ has historically presented itself. These words were spoken at an Adelaide Town Hall gathering two months before a proposed new administrative statutory authority – the Adelaide Park Lands Authority – began meeting, weeks before the full enactment of the *Adelaide Park Lands Act 2005*.

20 years in hindsight

“What I want to do today is talk about the challenges I've seen over the last 20 years. There's a saying in German: ‘The devil doesn't know everything because he's the devil, but because he's been around a long time.’ And every time I hear a new idea, I think I've heard it before; in fact, there are very few new ideas that I haven't heard before, and they fall into a range of categories. One of the observations I'll first make is it's much harder for a croquet club to put up a shelter shed than it is for a major development to be built [on the park lands].

“The full force of the law seems much harder for small individuals and clubs than it does for major developers. And that's always worth bearing in mind when you look at the new proposals that come forward. The other argument is always a challenge, and has been a challenge for 20 years, and will be the biggest challenge for the new [Adelaide Park Lands] Authority, is that there are no proscriptions. There are no rules that say: ‘You will not; something is proscribed’.⁶⁴ So that whenever somebody has a good idea – and they're always a good idea – it's hard for someone to say up front, ‘Well, that's stupid, you shouldn't even progress it.’

“I remember when the Olympic Stadium was proposed in the western park lands, the argument was: ‘This is a sporting facility, and therefore should be allowed in the park lands’. It would have meant a whole stadium. It would have meant a ticket office. It would have meant changing rooms, car parks, and it looks beautiful on the other side of the railway lines where it now is as the Santos Stadium.⁶⁵ Apparently we needed a helipad, because it was a good idea, because it's too far to drive from the airport, and you should come out by helicopter. Can you believe that? You can't come from the airport except in a helicopter!

“Someone else thought it was a good idea because there was unused park lands in the south to have a museum of childhood, a re-created John Martin's Centre, where you could have a pageant termination and go

⁶⁴ The transcript records the words ‘prescriptions’ and ‘prescribed’, but it is obvious that Dr Lomax-Smith really meant ‘proscriptions’ and ‘proscribed’.

⁶⁵ This exists on land that is not park lands.

through the Magic Cave and meet Father Christmas.⁶⁶ The most bizarre idea was a giant flora and fauna park that you entered through a 40-foot wallaby pouch – I’m not joking – to the sounds of the didgeridoo and Aboriginal singing and chanting and bird noises. That’s not made up; that’s true, and we needed that because it gave people a taste of the Outback. These plans sound horrendous, but mysteriously, nowhere in the development plans [the *Adelaide (City) Development Plan* relating to park lands zone policy areas] does it say: ‘You will not build a 40-foot wallaby pouch.’ So people always think it might just be a good idea.”

The three classical arguments

“The other problem with a good idea it that usually it’s developed when you drive through and think, ‘This is the most beautiful place in the City of Adelaide’, which of course it is, but apparently that’s why we got the Wine Centre where it was [eastern park lands], because someone drove through and thought it was the most beautiful place.⁶⁷ But very often, then the only good view that’s left is the view from inside looking out, because otherwise when you’re outside looking in, you see the size, the lighting, the alienation.

“Another argument that comes up time and time again is: ‘We will be the only city in the world that has a road race through the CBD. We will be the only place that has four-wheel drives in the major park in the city, a four-wheel-drive festival.’ And I feel like saying, ‘Yes, but why is that?’ No-one else is daft enough to think of shipping in tonnes of soil, and I might say that soil comes at a cost. The soil that [is necessary for] something like a four-wheel-drive show brings with it weight, dust, millipedes, and things that shouldn’t be here. They land on top, [and you need to be] very careful of native remnant species, and those sorts of activities should be in the [Wayville] Showgrounds [not park lands]. The reason no other capital city [does it] is they’re not daft enough. Why do we even think about it?

⁶⁶ John Martin’s was an Adelaide department store.

⁶⁷ The \$24m National Wine Centre was constructed in the eastern park lands during the last term of the Liberal government, which concluded shortly before a state election in March 2002.

“Another issue that is so bizarre is the idea that we’re not competitive unless we do it. And the reality is you have to ask who we’re competing against, and what difference it will really make. And very often the argument is that if we don’t do it someone will take it somewhere else. But the truth of the matter is that something like the Memorial Drive Tennis Club [a gym] can’t be dug up and taken to Sydney, because it’s there. So any development has to be on that site, [which means] the argument that ‘We will lose it’ is spurious.

The footprint red herring

“The other argument that I find quite bizarre is, ‘It’s replacing something ugly’, or ‘It’s replacing something bigger’, or most insidious of all, ‘It has a smaller footprint’. If I can just explain that: you can replace a one-storey shed and creative accounting will tell you that the new building is smaller. That’s a very interesting argument. [And] a three-storey building will never turn back into grass. It’s an absolutely spurious argument. It was used by the Olsen Government when they built the Wine Centre, and it was a fabulous argument [not] that’s worth re-living now because I think it actually gives you a good argument for a whole range of developments.

The \$24m National Wine Centre. This was constructed in the eastern park lands in 2001 despite much previous state parliamentary debate and public opposition. The project was made possible via the ‘major project’ provisions of the *Development Act 1993*. These were subsequently disabled when the



***Adelaide Park Lands Act 2005* came into operation, the mechanics of which were driven by Dr Lomax-Smith as a minister in the Rann Labor government. But the action did little to stop later major construction projects on the park lands.**

“[State Liberal Premier] John Olsen’s argument was that he would demolish the Herbarium, which may have been ugly, but I could never see it; it was behind the bushes. Three potting sheds, a lawn mower shelter, a compost heap, and a few open lot car-parks, and they would build something smaller! Do you get that? The Wine Centre would be smaller than the three potting sheds, the Herbarium, and the things it replaced. It was: ‘It had a smaller footprint.’

“So you have to ask yourself when you hear those sorts of stories, ‘What really does that mean?’ And when you drive past the Wine Centre, I’d like you to recall that, and just remember that it’s much smaller than the potting sheds, because that’s the argument that was used.”

The expense myth

“The same argument was used by [former state Liberal MP] Joan Hall, I must say, when she first showed me [year 2001 drawings of] the Clipsal stand [Clipsal 500 motor race concept for replacement of temporary grandstands at Park 16, Victoria Park]. And the argument then was very much, ‘It’s smaller, it’s less expensive.’ But my response to that was: Less expensive? People have to understand the cost of the park lands. The Lord Mayor [Michael Harbison, in office 2003–2010] has spoken about it. And if we are prepared to let out, say, a four-wheel-drive extravaganza into the park lands and only charge, say, \$5000, and they [Showgrounds management] have to charge \$20,000 at the Showgrounds, where do you think they’ll want to go? They will always want to go into the park lands. So we need to cost the use of our park lands, so that people understand it is not cheap land. And until we do that, people will always say, ‘It’s beautiful; it’s nice’, but underlying that, ‘It’s very cheap’.”

The ‘national interest’ myth

“The other argument is a variant of the national interest, or the state interest, and I’ve spoken of the idea that they might move [a concept proposed for the park lands] to Sydney. But the more insidious argument is: ‘You’re not a good South Australian if you oppose this’. I first heard that argument when I was on [the city] council [as a councillor in the 1990s] more than a decade ago, when the then Labor government – because all

political parties do the same thing; it's not one party or another – wanted to have the Commonwealth Games in Adelaide. And a Commonwealth Games needs a village, and a village takes 10,000 to 15,000 houses, and who do you think was the only person who opposed the Commonwealth Games bid, and why do you think that was? They [the facilities] were going to be in the park lands, and I was told I was un-South Australian [to oppose it]. What was so wonderful [not] was that they genuinely believed that a developer would put 12,000 houses in the park lands and they would be temporary. They genuinely believed they'd be pulled down. It is extraordinary, and I have to say I am the only person who is perhaps grateful that we didn't win that bid, because I know those temporary houses would still be there now.”

The money advantage

“But if you look at the finances, the most interesting financial argument against development in the park lands is very much one for the developer. If you can think of a business plan for a commercial development in the park lands, line one will always be the cost of the land – zero. The building will always cost money and once an event space, a commercial property, is built, they need to keep it open and viable, of course, all the year. But the real issue is, every time you build something large in the park lands, whatever it is, whether it's the Next Generation Centre⁶⁸ or the Wine Centre, which are the most recent buildings, they compete, and they compete, if you like, on an uneven playing field, because the developers who develop in the CBD, in the suburbs and in Adelaide, have to buy land, and they're competing all the year round with those developers; they're competing for wedding receptions, school formals, conventions, Melbourne Cup events, a whole range of activities, where they have not had to pay the cost of the land.

“We have given them those pieces of land that they can then use. So the issue is a commercial one. The bottom line is always the dollars. And the issue that perhaps people don't remember is that that public land is our land.

⁶⁸ A commercially run gym, formerly the David Lloyd Leisure Centre, adjacent to Pinky Flat near Torrens Lake, whose redevelopment on park lands was legitimised under 'major development' provisions of the *Development Act 1993* during the Liberal government's last term, which concluded in a state election in March 2002.

I said historically there have always been fights about it. I don't know if any of you remember *The Children's Hour* magazine – you're too young, of course, which went out through South Australia. Even in 1905, they were begging children to look after the park lands, and I have a copy here that says:

‘To the boys and girls of South Australia. The park lands surrounding Adelaide and other towns and the trees and plants in the squares of all South Australian towns belong to the people. The parks are your playgrounds. You have the right to use them for your games, but you must look after them and never harm them. Think of them as your own property and protect them accordingly.’

“The message is the same, because the land is finite, and once we've given it away, we will never get it back.”

The next battle

“...The next battle has to be, not in making decisions about development, but having a development plan which actually prevents developments occurring – actually prescribes what is a legitimate use, not just for permanent buildings, but for temporary activities as well – and which of those temporary activities should never be considered in our park lands, because that land is irreplaceable. So for me, we've come a long way. We [the government tiers, state and local] have no major developments on the horizon [as at 2006], but I promise you the debates that I have run through will recur.”

“The arguments that are put to us will be the same, and the arguments against developments have to be finalised, shaped and improved, because we know what they will say about every development: ‘It's always a good idea. It's always in a beautiful place. It will always go to Sydney if we don't put it here.’ And it will always have, as the bottom line, ‘It's cheap land.’ But it's not cheap; it's priceless. And the people in this room, I think, have come together because they have a common purpose, which will be to preserve our park lands, because it is finite; it is irreplaceable; it is priceless, but regrettably, not everyone in our community understands that, and we must be ever vigilant. Thank you.”

So concluded a November 2006 Sunday speech by the minister, given at Adelaide Town Hall, filled with park-lands-preoccupied South Australians who had spent a weekend attending an Adelaide symposium discussing the park lands' future.⁶⁹

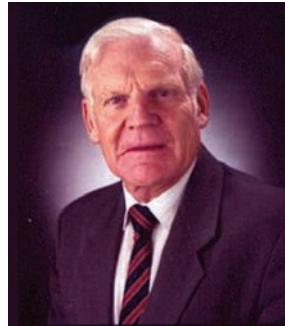
⁶⁹ Dr Jane Lomax-Smith, Adelaide Town Hall, final Q and A session (12 November 2006) of the Symposium, Transcript: 'The Bob Hawke Prime Ministerial Centre', 'Park lands forum: The Adelaide park lands threats, challenges and solutions', Hawpark, Auscript 2006, page 10 (of 29). Background to the three-day event: 'The Adelaide park lands threats, challenges and solutions', Adelaide Parklands Symposium: A balancing act: past-present-future, 10 November 2006, co-presented by The Centre for Settlement Studies, Louis Laybourne Smith School of Architecture and Design, The Bob Hawke Prime Ministerial Centre, University of SA; and the Adelaide Parklands Preservation Association.

14

What ought to be done? A contemporary reflection

“Ultimately it does not matter what structures are devised, or what legislation is enacted to protect the park lands. There will always be those who will seek to find ways to alienate the park lands for their own purposes, if the people of Adelaide are not constantly vigilant and vocal in their determination to maintain them.”⁷⁰

The sentiment of this extract is well polished by time. It comes from South Australian author, park lands preservation advocate and recreation planner Jim Daly, and his comments are recorded in his seminal 1987 book *Decisions and disasters, Alienation of the Adelaide Parklands*.⁷¹



Jim Daly

⁷⁰ Jim Daly, *Decisions and disasters, Alienation of the Adelaide Parklands*, Bland House, 1987, page 183.

⁷¹ An author-authorized PDF copy of this 1987 book *Decisions and disasters* can be accessed on the linked website (search: www.adelaideparklandssecrets.com).

Daly's comments deserve a fresh perspective today. The additional research accessible through the website associated with this book examines in close detail the legal, administrative and procedural superstructure of complexity that has grown to manage Adelaide's park lands over the first two decades of the 21st century. That superstructure is now more complicated than ever, which might (falsely) suggest that administrators and politicians have learned from their mistakes and misunderstandings of the past and implemented much improved administrative accountability mechanisms. But the exploitation and alienation of sections of the park lands has continued. Those administrators, and especially the politicians, have learned and adopted myriad ways to continue occupying the park lands for exploitative reasons in ways their career predecessors pledged should and would cease. Those pledges usually occurred around election periods but, after each poll, were quietly forgotten.

A lawyer might suggest that the reason why park lands matters are so complicated is because the law is complicated, and the apparatus that arises from the law for managing park lands is made up of many legal and administrative parts. A sceptic might suggest that this is a convenient excuse that does not address the game being played. A cynic might observe that park lands matters are complicated because the existing legal and administrative mechanisms are there to make it difficult for South Australians to comprehend and participate in.

The public discourse

Daly recommended that there occur "... a continuing public discussion of issues that relate to development and control ... [There should be] a conscious effort to educate the public, and to overcome any misguided complacency, should be ongoing and well organised".⁷²

The implication is that government at state and local government levels should assume this responsibility, and undertake efforts at educating the public about park lands management and administrative complexities, especially at times when the first hints of a contemplated change appear.

⁷² Jim Daly, *ibid.*, page 183.

However, neither the state nor local government appear to accept this responsibility. Although South Australians are sometimes aware of proposed changes in regard to the management of the park lands or of new development projects, the public becomes aware of most of them only *very close to the time or just after* the changes are implemented. Given this, few people fully understand how or why the changes came to be. Moreover, there is no user-friendly resource, accessible once a determination has been made, to fully and openly describe and explain all of the deliberations behind the determination that might explain the what, why and how of park lands legal and administrative change. Further, as time goes by, the traces of contemporary information that may have been in circulation, for example in those superficial *YourSay* public consultations, are quickly buried by more recent records. Of course, there are archives of records going back many years tracing the *formal* pathway of the determination, as long as discussions and background material were not subject to ubiquitous and sometimes long-lasting confidentiality orders. Unfortunately, these orders are much more common than most observers realise, especially about matters likely to be politically controversial. If such orders obscure aspects of the paper trail, the record is essentially compromised, and over the years there have been no administrative apologies for that. Moreover, archive records are not the same thing as objective explanations that a journalist pursuing brevity and simple explanation might deliver.

The ‘fourth estate’

Members of Adelaide communities seeking to find the answers to the what, why and how questions (among others) have not been assisted much by the media, the estate that South Australians hope might fulfil the role of educating the public about the park lands and its management, and related land-use planning determinations. This refers to the analogue media dominant in the decades of the 1990s and the early 2000s, leading up to the period when digital media, for many, became *the* principal source of news. But in the older, formal news media domain, dominated by print media and informed by trained journalists well experienced in gathering and assessing information, there endured several problems. South Australian print journalists have rarely probed the background administrative, procedural and content terrain behind park lands land-use

decisions, where answers to the what, why and how questions might be found. This is despite the fact that this terrain has often highlighted evidence of political participation and controversial, sometimes secret, procedures and directives, which media practitioners are usually keen to expose. It is only print journalists who would seek to explore in an in-depth way procedures and topics buried in the administrative and procedural terrain. Electronic news media's (radio and TV) obsession with superficiality ruled out detailed scrutiny. And social media's similar obsession with superficiality and the pursuit of clicks also ruled it out.

The importance of print journalism to healthy democracies can't be underestimated. In 2017, Australian journalist Fergus Hanson of *The Weekend Australian* noted it well.

“Journalists do not just transmit information. They decide what information to transmit. And herein lies their truly important function in democracies: stewardship. ... Journalists traditionally have set the parameters of all political debate.”⁷³

The post-2017 closure of media outlets and mastheads as Australia's print media retreated behind firewalls, and the significant cuts in job numbers in the few outlets that continued to operate in South Australia augurs badly in regard to future Adelaide park lands management scrutiny.

Scrutinising the ‘fine grain’

A second, and equally important principle applies. Examining the fine-grain mechanisms comprising the complex document superstructure of park lands management has been something few print journalists had the skills to do or, more commonly, the time or the motivation to do. At times there was doubt within many media outlets that such detailed information was of news value. This is a conscious executive journalistic decision, and highlights the style of print journalism dominant during the period of this book's study in South Australia. During most of that period journalism in

⁷³ Fergus Hanson, *The Weekend Australian*, ‘Undermine media and say goodbye democracy’, 3–4 June 2017, page 20.

Adelaide was heavily influenced by a daily print monopoly run by News Ltd (in more recent years retitled as News Corporation Australia). Much South Australian News Corporation journalism tended to be brief and superficial, and park lands coverage was and remains patchy.

As the years moved toward the second decade of the 21st century, although one other Adelaide digital news outlet emerged (*InDaily*), this superficiality endured. Park-lands-related news was undeniably covered. However, it was most commonly a style of coverage that sought out political alarms and uproars connected to park lands matters, rarely accompanied with substantial explanatory background or analysis. There was also a dominating appetite for triviality. It was a style that pursued a 'winners and losers' binary view of the world, using the standard 'he said/she said' model of reporting to deliver an illusion of balance. And, in the main, it was news coverage that reported outcomes at a time when, most commonly, a matter was close to, or had reached, a conclusion. The background explanation and/or procedural analysis was almost always missing.

For many South Australians this presented a difficult challenge in terms of being well informed about park lands matters. At a time when many might have sought to find out more in order to participate in a park lands decision, the media picture presented was, more often than not, a picture of a 'done deal'. That done deal (what and when) might be fascinating, but so could matters explaining who, how and why.

Some online digital media did occasionally publish reports with marginally better analysis than the older print media. But that analysis tended to occur randomly, and was almost always short-lived. In the business of news – and it is a business – investigative journalism is time consuming and expensive. To compensate for this, Adelaide print and digital models tended to capitalise on 'opinion' journalism, supplied by contributors, often provided at no cost to the outlet. This business approach to journalism delivered an unpredictable, sometimes inconsistent and often biased narrative, compared to that which might have been delivered by a salaried, full-time reporter objectively investigating and pursuing an evolving park lands news story from inception to conclusion.

The paper trail

Administrators of park lands management machinery might argue that the fresh and detailed paper trails, in agendas and minutes, that emerged after the Adelaide Park Lands Authority began to meet in 2007, have allowed South Australians to access monthly material presenting some background to inform about park lands decisions. Others would also highlight the paper trail that followed, through city council agendas and minutes that informed, and helped deliver, ultimate determinations. These to some extent did deliver a finer-grain record; however, it was a record that, in the main, more often than not covered only late-stage discussion. It also discounted the existence of legal provisions allowing for multiple non-public, early stage discussions, workshops and briefings – information analysis forums whose records were often unavailable to the public because of confidentiality provisions of the *City of Adelaide Act 1998*, and especially the *Local Government Act 1999*. Data examined in a research appendix on a linked website⁷⁴ highlight a substantial record of park lands subject matters, the discussion of which began their procedural lives under confidentiality orders that could remain for long periods.⁷⁵

These rules allowed the administrators, with the endorsement of elected members, to have a matter declared confidential using a wide range of parliamentary endorsed excuses. Except for the law's excuses themselves, no detailed explanatory rationale was required to be tabled by the person seeking the imposition of a confidentiality order. There was also no appeals mechanism available to a frustrated public. It meant and still means that no content detail about the subject matter declared confidential could be published during the period of the order.

⁷⁴ Search: www.adelaideparklandssecrets.com, and look for *Pastures of plenty*.

⁷⁵ Please refer to *Pastures of plenty* text on the website, especially: Appendix 23: 'Council secrecy orders – park lands key data.'

Subsequent researchers quickly discovered that the absence of certain records compromised what would otherwise be a full file of background to which South Australians ought to have access. This was especially frustrating when exploring matters subject to a public consultation phase, or when probing the background to a draft recommendation. Under this arrangement, both the Adelaide Park Lands Authority and the council could pursue an extended discussion pathway, some contents of which could remain secret, even after the emergence of open-door subsequent discussion. Administrators and elected members could also move back into ‘confidentiality’ mode during this phase, and records of those discussions could also remain secret, sometimes for years. The practice of excessively declaring matters ‘confidential’ had sinister overtones, as former city area councillor (2007–2014) and deputy Lord Mayor David Plumridge AM noted in 2018:

“Adelaide City Council far too often makes its decisions behind closed doors using the excuse that the business is ‘commercial in confidence’. My view as a former councillor invariably was that if the other party wasn’t prepared to deal in public then there should be ‘no deal’. More often than not confidentiality was used by secretive councillors – led by the administration – to avoid possible later embarrassment [but] that reason [excuse] for confidentiality is specifically excluded in the Local Government Act.”⁷⁶



David Plumridge AM. A rare voice for local government transparency during his City of Adelaide elected member terms (2007–14), especially relating to park lands matters. It said something profound about the city council’s culture that so few of his elected member colleagues were prepared to speak out publicly about the extent to which confidentiality orders were imposed.

⁷⁶ David Plumridge AM, personal online response (as a form of ‘letter to the editor’) to a report in: *InDaily*, ‘City council investigation fails to uncover media sources’, 9 July 2018, <https://indaily.com.au/news/2018/07/09/city-council-investigation-fails-to-uncover-media-sources/>.

An exploration of the legal provisions under sections 90(2) and (3) of the Local Government Act, and their allowances and consequences, appears in the website research text linked to this book.⁷⁷ Additionally, two appendices further explore the confidentiality culture that thrived during the period of this study.⁷⁸

The digital trail

So much for the paper trail. In regard to the digital trail, another procedure that sometimes occurred before the Adelaide Park Lands Authority created final summary papers and ‘recommendations’ was public consultation, via the *YourSay* model, a city council digital consultation mechanism. A similar mechanism was used by the state. An exploration of this procedure and its features appears on the website linked to this book.⁷⁹ It observes that not all is as is claimed in terms of public access to detailed, fair and objective analytical backgrounding of detail, subsequent response sampling, and analysis of the sample results. One classic case study, for example, presented 2017 evidence of a public response sample that overwhelmingly said no to a park lands proposal (comprising some submissions of significant length), but which was followed by a confident yes determination at both Authority and council level. There was no rationale left in the paper trail. The same test case illustrated how easy it was for the sample to be corrupted by external commercial forces, to bias the result. There was no rationale left in the paper trail to explain the subsequent abandonment of the consultation; indeed, there was a resounding organisational silence driven by embarrassment at local government level.⁸⁰ It illustrated something few notice – that park lands determination records are influenced by the very

⁷⁷ Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 46: ‘The secrecy tradition’.

⁷⁸ Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Appendix 22: ‘Case study: The Adelaide park lands ‘in-confidence’ tradition’, and Appendix 23: ‘Council secrecy orders – park lands key data’.

⁷⁹ Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Appendix 25: ‘Case study – *YourSay*’.

⁸⁰ Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 31: ‘Hot air and helicopter plans’.

bureaucrats and administrators who would either leave an explanatory trail that reflects favourably on their advisory work – or none at all, encouraged by the very people who make the subsequent determination. The additional use of euphemism, jargon and plain humbug was but one sign of the advisors’ ability to imbue that complementary trail with language highlighting and justifying the apparently rational nature of their discussion, and the appropriateness of their recommendations.

The *YourSay* mechanism also illustrated a trend, towards the end of the study period of the research behind this book, of an increasing reliance on superficial ‘agree/disagree’ sampling. It was relied on by city council elected members to justify what might be called ‘the inherent wisdom’ of park lands determinations. A strong ‘agree’ sample made it possible for these councillors to avoid acknowledging the poverty of the background matter provided to potential respondents, or the superficial nature of the questions posed, and instead to focus on what was sometimes perceived to be not much more than an ideas popularity contest.

“Educate the public”

Daly’s recommendation in his 1987 book for a “conscious effort to educate the public” also calls up considerable challenges. This work and the 2024 website research by the author of this book (*Pastures of plenty*) may be seen by some as one effort to deliver on this aim. But as its contents reveal, park lands matters faced and still face complicated hurdles to easy comprehension. The Adelaide City Council’s park lands agendas reflected a false assumption that a curious reader would understand a highly complicated subject, whose determinations were informed by complicated other policies and statutory instruments of park lands management, and planning protocols.

Non-lawyers can find it difficult to read and understand the provisions in a statute, or to rationalise how another statute with which it interacts informs and guides the provisions of the first statute. Moreover, over the study period

of the research behind this book it was evident that most South Australians had difficulty in reading and interpreting aspects of a development plan, influenced by planning and development law – the manifestation of that interminably confusing and risky quicksand of language that one might call ‘planner-speak’. It is difficult for some to understand what certain legal or planning jargon really means, let alone predict how planning experts might interpret it.

Moreover, it is sometimes baffling to try to understand how and why an administrator has interpreted sentences and descriptions of concepts for a park lands zone relating to ‘Desired Character’ (or, in the new *Planning and Design Code*, ‘Deemed to Satisfy’ criteria), that appear to plain-speaking people to be ambiguous. Understanding the multi-layered structure of development plans, and their post-2021 replacement, the *Planning and Design Code*, is difficult for newcomers.

“Overcome ... complacency”

Jim Daly’s call to “... overcome any misguided complacency [and ensure that the effort is] well organised” was, and remains, an ideal. The issue of complacency – a close cousin of apathy – was everywhere at year-end 2022. Causes included the difficulties in probing park lands administrative complexities. Another was the way the media covered (or more accurately didn’t cover) park lands complexities. A third was the way people lived very busy lives. But a fourth might be the most telling. It was that, over the years, there have been many political and administrative shenanigans and confidentialities pursued inside the park lands’ administrative bodies – Capital City Committee, state cabinet, Adelaide Park Lands Authority and Adelaide City Council, as well as in state parliament and its standing committees. Eventually, people likely to have the time and the energy to devote to ‘the chase after illumination’ about park lands management over time just tire out. Their enthusiasm to probe the complexities becomes exhausted. The enduring nature of the administrative apparatus, with its

constant updates and revisions, requires of South Australians a significant, long-term stamina – as well as a superhuman capacity to ‘second guess’ what is going on behind the scenes.

In 2010 one of Adelaide’s more park-lands-aware senior journalists, Rex Jory, noticed early signs of this phenomenon. “South Australians,” he wrote, “seem to have lost the appetite to fight to preserve Adelaide’s park lands. It’s as if we have been worn down by the pernicious demands of governments and developers to nibble away at our unique city green belt ... It must stop.”⁸¹ But during the year in which he wrote that, there emerged early signs of a significant new wave of park lands development projects. They would gradually take form in a new cricket and football stadium, a new Torrens footbridge, and a huge new hospital. Five years later, plans also emerged to construct a six-storey high school. These projects were all pursued, against public resistance, by a Labor state government whose tireless administrative energy contrasted that of the people who objected to the alienation.

The objectors were not the people who, on large salaries at local and state government level, worked normal business hours tasked with park lands management challenges. They were not the people who had access to extensive facilities funded by generous budget allocations at their park lands administrative workplaces. They were not the people who routinely (and often only after a few years) had their energies refreshed with replacement staff or new elected member teams, who enjoyed access to well resourced administrative and interpretive advice and support staff. They were not the legal advisors and other experts who were called upon to deliver erudite advice that, at city local government level, was almost always immediately subject to confidentiality orders which meant that their advice never accompanied the paper trail to assist the curious outside the machine.

⁸¹ Rex Jory, *The Advertiser*, ‘Comment’, 29 November 2010, page 18.

They were not the people *of* the machine. They were, in most cases, irritated observers battling significant administrative odds, notwithstanding access to some online sources. They were mere ratepayers and taxpayers trying to make a living in a city that boasted of its unique 1837 design and the exemplar open space park lands surrounding it.

City of Adelaide rates fund an ostensibly well-oiled machine to manage the park lands in the care and control of the City Council. It's a machine whose managers if challenged would confidently attest that it delivers 'best practice' community land management. But it's not best practice by any definition, and long before the state's 200th anniversary arrives, some things ought to change.

15

What *can* be done?

The observations and arguments contained in this chapter do not relate to circumstances where the South Australian state parliament can debate and pass rare project-oriented development legislation regarding specific land-use proposals within the boundaries of the Adelaide park lands. The passing of such legislation has been the exception rather than the rule.⁸²

Excepting those circumstances, in relation to the major period of study (1998 to 2018), the existing park lands laws are at the heart of the challenge. There is more than one piece of legislation, but a priority needs to be amendment of the *Adelaide Park Lands Act 2005* to remove various flaws and loopholes.⁸³ A key problem manifests as an inability to balance two matters: the planning-related opportunities allowed to South Australia’s executive government and/or the planning minister (control of land use for development purposes) versus the aspirations of South Australians to prevent further exploitation of and alienation from their park lands. The tension between these cannot be resolved until the legislation is addressed.

It is not argued here that the *Adelaide Park Lands Act 2005* become a substitute for the *Planning, Development and Infrastructure Act 2016*, only that the 2005 Act’s park lands management overview

⁸² *South Australian Motor Sport Act 1984*, and the *Adelaide Oval Redevelopment and Management Act 2011*. Two case studies of these statutes and their consequences can be found in the research behind this book. Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 27 and Appendix 17. Note: similar project-oriented legislation was passed in late 2022. Please refer to Appendix 2, commencing on page 125.

⁸³ To explore the loopholes left open in the Adelaide Park Lands bill during 2005 parliamentary debates, Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 49: ‘The loopholes lurk (Part 1)’.

play some role in influencing the spirit and intent of the 2016 development legislation with which it interacts. Clearly, the 2005 idea that including Statutory Principles in the 2005 Act as a means to influence the ‘exploit or protect’ tension can by now be seen to have spectacularly failed.⁸⁴

The *Adelaide Park Lands Act 2005* also needs to be amended in other significant ways. There are some implied intentions in the Act that appeared theoretically appropriate in 2005, but have been challenging to put into practice. Of additional concern, there are silences that have allowed administrators to adopt and adapt their own management approaches that result in the creation of strategies, policies and practices that allow exploitative outcomes.



⁸⁴ The Statutory Principles are reproduced in an appendix to this book (Appendix 3). For more research background to the origins of ‘principles’, first arising in the year 2000, search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Appendix 15: ‘The triumphal delusion: the pursuit of the park lands Statutory Principles’.

Until change occurs, the disputes, raids, ruses, larks and lurks that have characterised the management of Adelaide's park lands since the enactment of the *Adelaide Park Lands Act 2005* will continue. The Act was supposed to signal the end of the reign of alienation and exploitation of this great state asset. But if nothing changes, South Australia will reach the 200th anniversary of Colonel Light's Adelaide City Plan in 2037 still shackled by a flawed system, suffocated by layers of multi-level, legal and administrative complexity and secrecy. This has benefited state bodies and commercial sport and other recreation cliques, highlighting a development model that cannot wean itself of an enduring desire to capitalise on the existence of free, city edge land.

Adelaide is the only Australian capital city that has such a large area of public open space surrounding it, relatively intact after more than 180 years of settlement. A national ideological commitment to its 'protection' and preservation – the National Heritage listing of 2008 – ought to have diminished by now an appetite to exploit it further. But although the state was content to support the commonwealth government listing, the state remains unwilling to curb the development appetite. This is because the listing is, in reality, toothless in thwarting economic development concepts and commercial propositions for development on the park lands.⁸⁵

The park lands policy management system and procedures (the 'protection regime') is also too complicated for non-expert observers to easily comprehend, and even where deliberations are transparent, which is rare, the system's myriad policy and procedural complexities baffle most observers. This is unsatisfactory.

⁸⁵ Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Appendix 30: '10 popular myths about the rules regarding the Adelaide park lands, March 2022' – see myths #9 and #10.

The Adelaide Park Lands Act 2005

Chapters in research behind this book explore the way in which the Adelaide Park Lands Authority and the city council were operating, years after the Authority commenced operations in 2007.⁸⁶ It is worth looking at the symptoms of a system that grew over many years as a result of the *Adelaide Park Lands Act 2005*. The process issues distil to this:

- The Act said little about the administrative burden, and nothing about the funding burden, to be left at local government level, under one corporation.
- The Act was and remains unclear about the operational relationship between park lands management, strategy and policy, in other words, how administrative action should be guided and implemented. It was left to administrators to adapt to the new legislative requirements, not only to the Act's sometimes-ambiguous provisions, but also to the provisions of other interacting Acts, such as the *Local Government Act 1999* and the *Development Act* (which has now become the *Planning, Development and Infrastructure Act 2016*). A convoluted local management framework resulted, characterised by myriad complexities, heavy weight of policy documentation, and potential for policy contradiction as policy documents aged and required updating. This led to 'misalignment', a euphemism for conflicting (and sometimes contradictory) sources and subjects of policy over time. Moreover, this would occur in an administrative culture nurtured by the secrecy provisions allowed under interacting legislation. In this way the public was restricted at times in comprehending how messy was the arrangement.

⁸⁶ Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 51: 'The park lands policy system that struggles to work', and Chapter 52: 'A quagmire of policy connection and coherence'.

The major symptoms

Until change occurs, these park lands management symptoms will continue to manifest:

- No planning-related independence from the state executive or the planning minister.
- Ambiguous park lands strategic management planning, often subject to periodical political influence through an enduring ministerial control.
- Poor procedural transparency.
- Inadequate public participation in decision-making and inadequate public consultation legislation and procedures.
- Inadequate equity in funding responsibility, burdening the park lands custodian with most of the administrative and maintenance costs.

Most of the debates and disputes arising in the recent history of Adelaide's park lands can be traced to one or more of these aspects. The website research text behind this book contains a detailed historical exploration of the so-called legislative revolution that occurred between 2002 and 2005 and management intentions at the time to create a new approach. In 2005 the Adelaide Park Lands Act promised a wholesale redesign of the park lands management framework. Protagonists at the time suggested that a future culture of transparency and accountability would emerge. But like all revolutions that envisaged much, the new framework has turned out to be as flawed as the previous one because not only did it allow adoption of inadequate mechanisms, but it also expanded the scope for system complexity. A core feature was continuity of total control in planning terms by the state executive and planning minister, through government departments. The post-2007 exploitation of the park lands has been at times on a scale much worse than before 1999, when the first *Park Lands Management Strategy Report 2000–2037* was published to so much acclaim – and in anticipation that the ad-hoc exploitative habits of the past would cease.⁸⁷

⁸⁷ For an overview of that ground-breaking study, search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 11: 'The first *Park Lands Management Strategy Report*'.

The rationale for full transparency is simple. Adelaide's park lands are a public asset, they are publicly funded community lands, and any contemplations about access, future land-use development and arising potential exploitation ought to be 'an open book' at all stages of discussion.



English Elms in south park lands, March 2007.

How the Adelaide park lands 'protection' machine is assumed to work

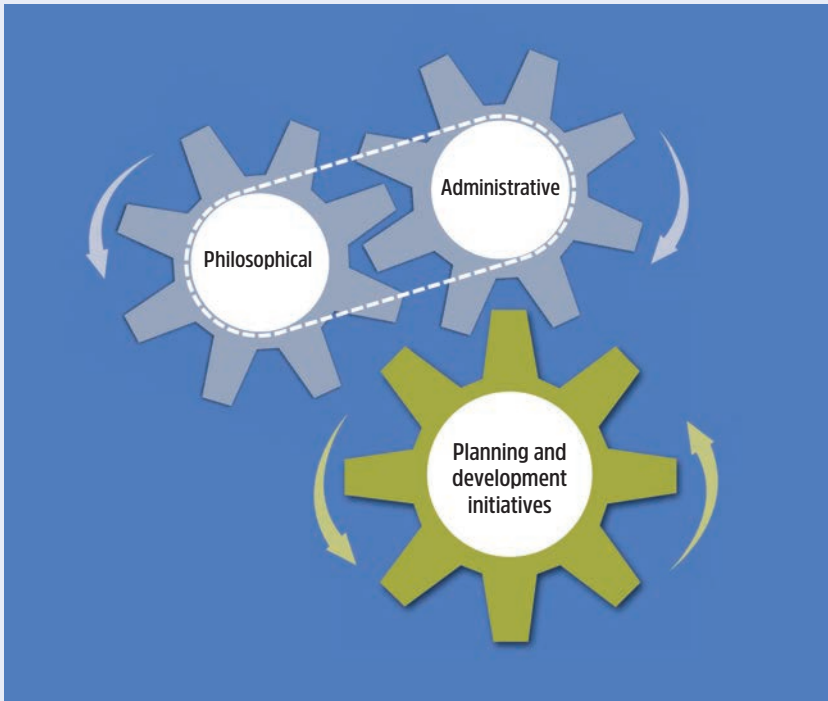


Figure D: **The 'machine'.**

(To examine its elements, please refer to the 'cogs and wheels' referred to later in this chapter.)

The park lands 'protection' machine is represented by the state government and the Adelaide City Council as a methodical and highly functional administrative model, balancing application of the philosophical fundamentals with an orderly administrative approach incorporating policy checks and balances to ensure park lands 'protection'.

Curiously, this word is not defined in the *Adelaide Park Lands Act 2005*, and neither is the word 'enhance', which appears in the Act's list of Statutory Principles. The seven principles, copied in Appendix 3 of this book, are an enduring source of ambiguity. They feature statements open to wide interpretation, enabling park lands procedural manipulation at policy and especially development assessment stages.

Nine features of the City of Adelaide's 'protection' regime

- 1 Although the Adelaide City Council is the 'custodian' of a large portion of the park lands, its role is primarily administrative and operational (for maintenance purposes), and at its own high cost. Despite its 'care and control' role, any park lands administrative determinations it makes can be – and often have been – over-ruled by the state minister responsible for the Act.
- 2 The *Local Government Act 1999* allows park lands matters under contemplation to be declared secret by the Adelaide City Council, via confidentiality orders. Once formalised by elected members, such secrets can endure as long as city council administrators determine. An order cannot be appealed by a member of the public. Each year, many administrative subject matters are declared secret, and many of those appear to be park-lands-related.
- 3 Any park-lands-related communication to the City of Adelaide from the Capital City Committee or a government minister is defined as an 'in confidence' matter (*Local Government Act 1999*, and *City of Adelaide Act 1998*) and blocked from public access.
- 4 The Adelaide Park Lands Authority is a subsidiary committee of the Adelaide City Council, whose role is to provide advice. Despite a public illusion that its board is the central repository of all post-2005 park lands administrative knowledge and experience, there is no legal requirement for the Authority to explore or comment on every park-lands-related matter. At times the Authority has been excluded from exploring matters and giving advice to the council, depending on the political sensitivity involved, especially where issues relating to 'protection' arise.
- 5 The Authority's advice carries no determination authority unless a state minister agrees. Choice of government-elected board members is controlled by the minister. Under the Authority's charter, board members must abide by a 'culture of confidence' if imposed; in other words, to restrict matters from public access.
- 6 A requirement of the *Adelaide Park Lands Act 2005*, that the Adelaide Park Lands Authority, the Adelaide City Council and the state government must reach agreement on a management strategy, is a political fantasy created by the Act's authors. In reality, the state government rules on the content of the management strategy, and the document carries no authority until a state minister has endorsed it.

- 7 Evolution of the contents of the two key policy documents (*Adelaide Park Lands Management Strategy* and the *Community Land Management Plan*) is coordinated by the Adelaide City Council. But neither document has any authorised currency unless approved by the minister. Any amendments also must be approved by the minister.
- 8 The Adelaide Park Lands Act's confusing requirement that a *Community Land Management Plan* (CLMP) for the park lands must be consistent with the management strategy has never been adequately resolved among City of Adelaide administrators. This is because the two have different purposes; each arises from separate statutes, and each evolved at different times. The Strategy is an 'action plan' (but curiously, is unfunded and has no key performance indicators or action-plan timelines). Conversely, the CLMP is a management plan, designed to record existing land-use features and to establish a future management direction vision for parks or groups of parks to guide land manager (council) decisions. Version evolution of each since about 2009 has been influenced by the state, through the minister.
- 9 Exploitation of the park lands for economic purpose arises mostly through the state's control of land-use determinations, under the *Planning, Development and Infrastructure Act 2016* and its instrument, the *Planning and Design Code*.⁸⁸

The City of Adelaide's priorities for park lands management have sometimes conflicted with state priorities, but under the park lands 2005 legislation, a state minister remains in full control. Many of the ministerial determinations since 2005 have been politically driven for the benefit of government (public infrastructure) or commercial operators (private infrastructure, sometimes financially assisted by commonwealth, state or local government).

These have been the principal sources of the progressive alienation from public access of the Adelaide park lands since the passing of the *Adelaide Park Lands Act 2005*.

⁸⁸ This code came into operation on 19 March 2021.

The 'cogs and wheels' – elements of the machine

Philosophical

The seven Statutory Principles in the *Adelaide Park Lands Act 2005*

Administrative

The City of Adelaide's 'protection' regime (*see note below*):

- "Provisions of the *Local Government Act 1999*.
- "The establishment of the Adelaide Park Lands Authority.
- "The requirement for the Adelaide Park Lands Authority, the City of Adelaide and the state government to reach agreement on a management strategy which is to be subject to periodic review.
- "The obligation on the City of Adelaide to ensure there are community [land] management plans maintained in respect of the park lands which must be consistent with the management strategy."

State Planning and Development Initiatives

The tools – principal law, and instrument:

- The *Planning, Development and Infrastructure Act 2016*.
- The *Planning and Design Code* for the park lands zone.

The statutory reference guidelines:

- *Adelaide Park Lands Management Strategy*.
- The *Community Land Management Plan*.

Note: "The Adelaide park lands are protected by the following regime" – These words are an extract from the City of Adelaide's submission to the [SA state parliamentary] Select Committee on the Redevelopment of the Adelaide Oval, 30 January 2019, page 6.

How the park lands protection regime might be perceived by South Australians

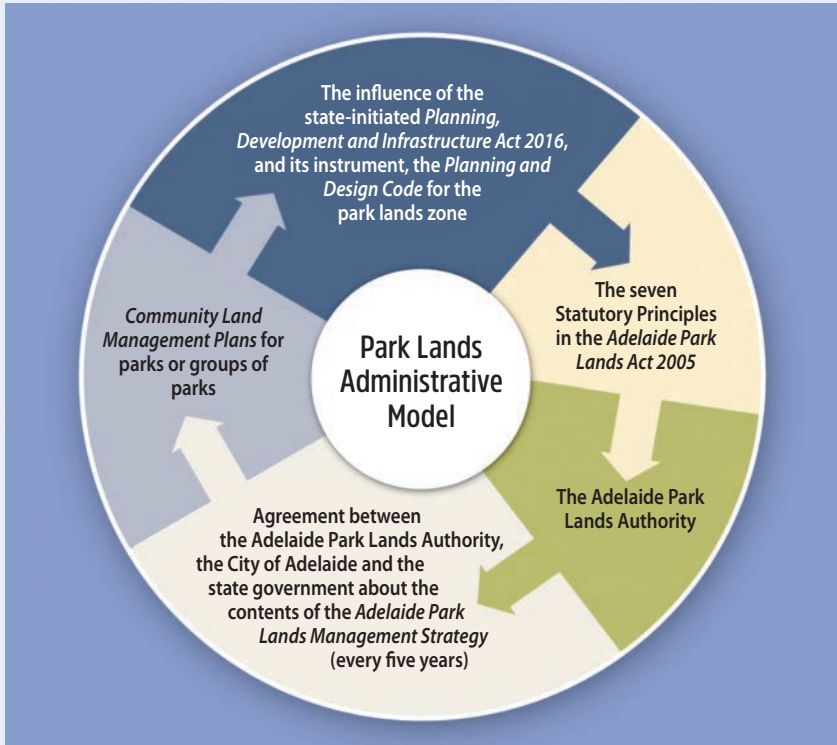


Figure E: The park lands administrative model. It exhibits many of the elements required by the *Adelaide Park Lands Act 2005* and illustrates how its authors hoped it would operate.⁸⁹

In practice, its features encourage an enduring tension between the objectives of state versus local government (Adelaide City Council as custodian). It is influenced by: ambiguous Statutory Principles; some interacting legislation not sympathetic to transparent park lands management; planning instruments that enable state-led land-use exploitation; and periodically revised statutory policy instruments whose evolving contents are subject to politically driven initiatives influenced by the state government.

⁸⁹ This is a figure created to illustrate the elements of the machine by the author of this work. It is not a City of Adelaide or state government graphic.

Recommendations

Each of the recommendations below call for the South Australian state parliament to revisit some legislative matters, and amend some responsibilities that it delegated when it passed the *Adelaide Park Lands Act 2005*. Delegation is what parliaments can do when passing legislation, especially regarding administrative matters to be addressed by other tiers of government – in this case by local government (the Adelaide City Council as custodian of much of the Adelaide park lands).

It is by now abundantly clear that, with regard to the management of these park lands, the 2005 legislation has not delivered an appropriate administrative model, one that many South Australians anticipated in 2005.

The following recommendations may address some of the long-standing issues. Each is addressed in detail in an expanded chapter in the research text on the website. Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 57: ‘What can be done?’.

REVIEW the *Adelaide Park Lands Act 2005*

- Review the *Adelaide Park Lands Act 2005* to enable it to influence interacting development legislation, by limiting that legislation’s scope to allow rezoning of, and alienating development on, land within the Act’s Adelaide Park Lands Plan.

ACTION: Review the nexus between the *Adelaide Park Lands Act 2005*, and the *Urban Renewal Act 2013* and state development legislation (formerly the *Development Act 1993* which is now the *Planning, Development and Infrastructure Act 2016*) in regard to development on the park lands.

ADDRESS transparency issues

- End the secrecy relating to all park lands deliberations.

ACTION: Review the nexus between, and the contents of, the *Adelaide Park Lands Act 2005*, and the *Local Government Act 1999* and the *City of Adelaide Act 1998*, in regard to the latter two Acts' confidentiality provisions.

- Improve public consultation processes and end 'sham consultation' about park lands proposals.

ACTION: Review provisions under the *Local Government Act 1999* in regard to public consultation on park lands matters.

INITIATE wider administrative collaboration

- Acknowledge the need for cooperation about park lands management decisions with other adjacent inner-city council corporations.

ACTION: Bring in surrounding, inner-metropolitan local government corporation participants, to collaborate with the city council in relation to the management of park lands decision-making.

BROADEN equity of funding

- Legislate to ensure these participant corporations share the funding burden (currently limited to one city corporation: the Adelaide City Council).

ACTION: More equitably fund the management and maintenance role of Adelaide's park lands, via inner metropolitan local government contributors to share the financial load, to remove the exclusive administrative burden that is currently quarantined to the Adelaide City Council and its small ratepayer base via the existing funding arrangement.

IMPROVE processes regarding Park Lands Management Strategy

- Clarify the Adelaide Park Lands Act's intentions with regard to the content and implementation of the park lands key periodical action plan, the *Adelaide Park Lands Management Strategy*.

ACTION: Amend the *Adelaide Park Lands Act 2005* to address implementation 'silences' in regard to future versions of the *Adelaide Park Lands Management Strategy*.

- Amend the *Adelaide Park Lands Act 2005* to ensure that the Strategy, while an action plan, must under law match aspiration with specific funding.

ACTION: To avoid creation of future uncostered and often ambiguous 'wishlists', amend legislation to require specific, approved allocation of funding for any particular 'activation aspiration'⁹⁰ before the minister can authorise future versions of the Strategy.

Other recommendations may further address specific issues in relation to the management and exploitation of Adelaide's park lands. Each is addressed in detail in an expanded chapter. Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 57: 'What can be done?'

Themes explored include:

- Land-use planning
- Administrative equity
- Transparency
- Strategic action planning
- Public consultation

⁹⁰ What does 'activation aspiration' mean? The 2016 version of the *Adelaide Park Lands Management Strategy 2015–2025* (still operationally current as at late 2022) featured 10 'Big Moves', featuring mostly major recreational development projects across the Adelaide park lands. The government and the city council described these as 'activation' projects. However, the Strategy at 2016 was unfunded. Each project would depend on future council or state money. This reflected an action-plan model containing 'aspirations' but dependent on unpredictable future council budgets and, in particular, even less predictable discretionary state largesse.

Historic bid to end exploitative habits, still possible today



Peter Lewis

Peter Lewis, MP, elected as a Liberal Party MP in 1979. In July 2000, he was expelled from the party. He ran as an independent candidate in the lead-up to the 2002 state poll and won. Neither party won a majority, but Lewis's support of Labor allowed the party to form government. Several years later state parliament elected him as Speaker of the House of Assembly.

Lewis's most controversial hour, captured in state parliament's record, *Hansard*, had occurred several years earlier, in October 1999, when he proposed a legislative means that would have blocked the state executive's freedom to alienate and exploit the park lands through initiation and endorsement of major development projects in those park lands. His bill was mocked and discounted as the product of a disorderly and reckless mind. The particulars essentially called the parliamentarians' bluff, proposing that MPs and MLCs take steps to come to a legislative agreement in both houses. If passed, it would have, at last, ceased the never-ending parliamentary debates in which many routinely pledged to cease old exploitative habits but never got around to doing something about it.

Lewis's bill would have been revolutionary because it would have thrown a legislative onus onto state parliament to formally debate every development proposal for the park lands, estimated to cost above a certain amount, ahead of approval. It was designed to capture the big developments that historically had prompted public concerns. Had the proposal been adopted, the state executive would have lost exclusive control of what could be constructed on park lands.

Lewis's bill confronted both sides of parliament, daring MPs and MLCs to adopt his radical new approach. It would have resulted in a legislative mechanism that would have guaranteed a more disciplined level of park lands debate than existed at the time, through the adoption of a transparent land-use development proposal scrutiny procedure.

The confrontation was courageous; the parliamentarians' response was indifference. The bill failed. The moment passed into history.

Full particulars of the 'Lewis proposal' appear in the website research text associated with this book. Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 13: 'Seismic rumblings – park lands dialogue as the new century arrives' and Chapter 57: 'What *can* be done?'

APPENDICES

APPENDIX 1

The 'crisis of 2021' and a test case



Proposed new extension (right hand tower above) of the Adelaide Botanic High School, at late-2022 still only an architect's concept illustration. The 2022 Liberal government decision to expand the school had not been foreshadowed during a park lands rezoning bid months earlier. The \$98m development concept is to be sited on land previously identified as 'green, open space', which a 2021 concept plan had implied would be quarantined from development. The day of the January 2022 announcement, the state Labor opposition confirmed its support for the extension, illustrating that, when it came to major developments on Adelaide's park lands there endured a shared state political party support for ongoing use of the Adelaide park lands as the primary source of land for government infrastructure development. The bottom line is simple: the land is free.

Did it take you long to read this book? Certainly less than the 185 years that have passed during which time Adelaide's park lands have been scandalously exploited for state or private gain. The fact that this wonderful landscape estate at 2022 remained vulnerable to continually expanding development 185 years after Colonel William Light drew up his park lands plan is not only regrettable but also should be, frankly, embarrassing to South Australians.

The key question for South Australians is whether this vulnerability is unavoidable. Are they powerless to adopt change to better protect their Adelaide park lands from exploitation and alienation? Could actions have been taken in the past to diminish the potential for present and future vulnerability? The answer is most certainly yes. Some steps already ought to have been taken.

What South Australians also needed was a crisis – a ‘test case’ if you like – to trigger an awareness of what can happen, and the relevance and usefulness of potential actions to stop it. Such a crisis occurred during the period in which this book was being finalised. So a test case exists.

How this park lands raid occurred

Here’s a brief summary about how it was done.

After conclusion of a 2013–15 Adelaide project that reviewed the state’s planning legislation⁹¹, a new development Act was passed.⁹² Arising from that was the concept of a new planning instrument to apply throughout South Australia.⁹³ It would contain the rules to apply in all local government areas, including the City of Adelaide, which includes the Adelaide park lands. The instrument revised many of the former rules guiding development aspirations for sites in the park lands. It came into metropolitan effect on 19 March 2021.

Only six months later, in September 2021, the Marshall state Liberal government publicly initiated a major park lands rezoning procedure. It was accompanied by a bid to revise aspects of that planning instrument – the *Planning and Design Code* – to permit several new, large-scale development projects on land within the Adelaide Park Lands Plan. Several big state-funded structures were proposed to be built on sites that were to be rezoned from one zone to several new sub-zones, to lawfully allow them. The revised instrument was the key. A period of public consultation followed.

⁹¹ The Expert Panel on Planning Reform, which concluded after several years’ research with the report *The planning system we want* (December 2014).

⁹² The *Planning, Development and Infrastructure Act 2016*, replacing the *Development Act 1993*.

⁹³ The *Planning and Design Code*, replacing all of the state’s former development plans.

Public feedback results revealed in December 2021 indicated that a large majority of the hundreds of the South Australians who responded strongly opposed the bid. Instead, the feedback supported the retention of the existing environmental character of the park lands, which would be under threat if the changes were approved. Importantly, the Adelaide City Council also heavily criticised the proposal, with the exception of one development, a 'Riverbank arena'. (This was eventually abandoned.) The council was particularly critical of the government's so-called 'engagement process', the way it informed the public about what it wanted to do, and of bids to rezone certain park lands sites.

Despite this, the state government ignored the objections and went ahead with the rezoning procedure. Moreover, it kept secret the details and proposed site of one additional big state development proposal, a school expansion, revealing all only after the revisions of the instrument, the *Planning and Design Code*, had been formally brought into effect. This occurred three months after the public consultation procedure had concluded. During the period of consultation, much government background material had been publicly released to inform potential respondents about the government's motivations, and to explain the planning complexities. But some information, such as a Master Plan for the whole of the area under review, was not released, which meant that the footprint area, scale and heights of the built-form proposals were not revealed. Nor was there any release of specific information about a secret 2021 development proposal until after the instrument was formally adopted and had legally come into effect in early 2022. This was a bid to construct a new, \$98m, seven-storey tower to expand capacity at the existing twin-tower Adelaide Botanic High School. The plan was to site the new tower on adjacent park lands 'green open space', which government planners had said in 2021 was not going to be developed. The whole rezoning proposal comprised a park lands raid of a scope not seen in many years.⁹⁴

⁹⁴ Observations arising from this period also gave rise to an analysis that described problematic park lands 'protection' and management issues relating to National Heritage listing under commonwealth legislation. It is reproduced in Appendix 29 of *Pastures of plenty*. Search: www.adelaideparklandssecrets.com.

The question today is: could any of the outcomes have been thwarted if one or more of the recommendations of the previous chapter in this book (Chapter 15) had been in place? The short answer is that there is a high probability that some would have been unlikely and the state might have had to seek land elsewhere to construct those built forms. In other words, there could have been options open to the people of South Australia, through amendments to existing legislation, had they been adopted and implemented previously. They might have blocked the outcomes that South Australians witnessed in the test case during late 2021 and early 2022.

The following suggestions are all discussed in research text associated with this book.⁹⁵ The most effective would be to:

- Confront and revisit the lost opportunity in 2005 for the bill that became the *Adelaide Park Lands Act 2005* to influence interacting development legislation (the then *Development Act 1993*, which became the *Planning, Development and Infrastructure Act 2016*) by limiting that legislation's scope to allow rezoning of, and alienating development on, land within the 2005 Act's Adelaide Park Lands Plan.
- End the administrative culture of secrecy regarding deliberations relating to matters regarding use of the land within the boundaries of the Adelaide Park Lands Plan.

There are several other suggestions put forward in the more detailed website chapter that would have had the potential to put in place effective procedures to guard against a repeat of the scenario described above – a scenario where the state executive could drive park lands exploitation, free of parliamentary participation (and resistance).

⁹⁵ Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Chapter 57, 'What *can* be done?'

These additional options are all discussed. The ones with the most potential are those that would:

- Remove from executive government and/or the planning minister an unrestricted freedom to trigger rezoning and/or development proposals on land within the Adelaide Park Lands Plan without prior parliamentary scrutiny and endorsement.
- (In certain circumstances) allow South Australians to also have a say, through a referendum.

These options could revolutionise aspects of South Australia's management of the Adelaide park lands and put into place mechanisms and procedures to better protect the open spaces from the exploitative state or commercially driven habits of the past.



Construction works commence at Adelaide Botanic High School in January 2023.

APPENDIX 2

The park lands blitzkrieg of 2022



State government September 2022 architect's concept drawing for a proposed new Women's and Children's Hospital, on park lands and adjacent to Bonython Park (Park 27), west park lands.

There is another approach that some South Australians might describe as 'the nuclear option' regarding the political means possible to permanently assume control over a park lands site. This approach emerged on the eve of the publication of this book.

The South Australian parliament has the power to trigger a park lands raid which can have profound, long-term consequences for its landscape and open spaces. New legislation can always be passed, if the numbers are favourable to the government of the day, that sweeps aside all of the traditional legislative and policy checks and balances to monitor and guide park lands access (as detailed in previous chapters of this book). Such project-oriented development legislation has always been highly controversial and, perhaps because of this, has been rare.

On 31 October 2022, the new Malinauskas Labor state administration, eight months into its first term and without prior public consultation introduced a park lands development bill into state parliament's Legislative Council (the Upper House).⁹⁶ As with many previous park lands raids, the bill's preparation had been done in secret and its timing had been very carefully planned. Its purpose was to enable land in the west park lands to be placed under control of a state minister to allow construction of a new \$3.2b Women's and Children's Hospital.⁹⁷ This was an example of the state's most confronting legal means to gain unfettered development control over a specific section of the park lands.⁹⁸ The bill also provided for the demolition of 10 state-heritage listed buildings at the park lands site, a historic police barracks facility, making null and void existing state heritage legislation applying to the site, and deleting the listings. It also provided a minister with powers to prescribe assumption of additional unidentified land elsewhere in the park lands, of an undefined area, to allow for replacement of SA Police horse facilities that would be lost when the new hospital is built. The bill was swiftly passed in both houses.

This parliamentary event, as well as another unrelated administrative arrangement under way at the time between the state government and Adelaide City Council regarding a school construction project in the eastern park lands, meant that three park lands raids were being pursued simultaneously by South Australia's state administration – a post-WW2 Adelaide park lands record. Moreover, there was another state Labor bid already under way, to build a new \$82m Adelaide Aquatic Centre at Park 2,

⁹⁶ This was tactical, because once the bill was passed in that place, where opposition was most likely, passage in the House of Assembly was assured because Labor had the numbers there. The bill was passed, unamended, in the Legislative Council on 1 November 2022.

⁹⁷ New Women's and Children's Hospital Bill 2022 (20 October 2022). The land identified in the bill was west of the new Royal Adelaide Hospital (2017). The nominated 'project site' also identified adjacent Kate Cocks Park, comprising 1860s olive groves used as an agistment site for SAPOL's 'police greys' horses.

⁹⁸ Only one other statute similar to this had been passed by state parliament during the 20-year period of study behind this book: the *Adelaide Oval Redevelopment and Management Act 2011*. To illustrate how rare was that statute, the only other previous similar statute in contemporary park lands history had occurred 27 years earlier – the *South Australian Motor Sport Act 1984*. Each succeeded in enabling a state minister or ministers to define long-term intentions for use of the identified land.

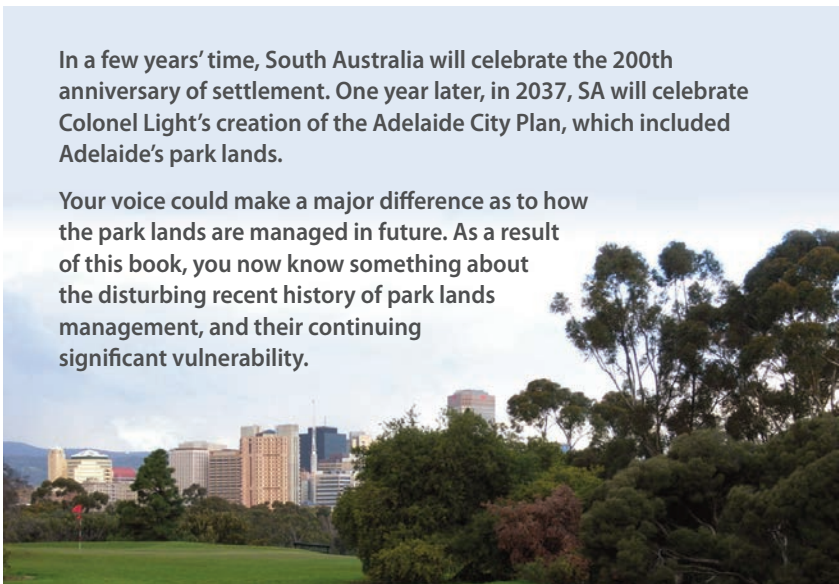
east of North Adelaide, replacing the existing city council facility nearby. The specifics to be allowed (height, bulk, scale and function intent) would be defined by the relatively new *Planning and Design Code*. Its wording, which had been amended since the 2021 demise of the former *Adelaide (City) Development Plan* for the park lands zone, allowed not only for swimming and other water-related recreational functions, but also new administrative functions, not previously applying to the old existing building. This brought the raids tally to four.

Very clearly, a major and very aggressive new park lands development agenda was being pursued by the state Labor government, the same party that, 17 years earlier, had passed the *Adelaide Park Lands Act 2005* to much acclaim, underpinned by a naive public assumption that its purpose was to ‘protect’ the park lands.

The success of the hospital bill prompted some media observers at the time to claim that the state had quietly adopted a new ‘land bank’ approach regarding the Adelaide park lands. In other words, whenever it needed land for future infrastructure development, the park lands would be the principal source of development sites.

In a few years’ time, South Australia will celebrate the 200th anniversary of settlement. One year later, in 2037, SA will celebrate Colonel Light’s creation of the Adelaide City Plan, which included Adelaide’s park lands.

Your voice could make a major difference as to how the park lands are managed in future. As a result of this book, you now know something about the disturbing recent history of park lands management, and their continuing significant vulnerability.



APPENDIX 3

The Statutory Principles of the *Adelaide Park Lands Act 2005*

“4—Statutory principles [2005]⁹⁹

“Clause 4 expresses a number of principles relevant to the operation of the Act. A person or body involved in the administration of the Act, or performing a function under the Act, or responsible for the care, control or management of a part of the Park, must have regard to, and seek to apply, the principles. Those principles are as follows:

- a) the land comprising the Adelaide Park Lands should, as far as is reasonably appropriate, correspond to the general intentions of Colonel William Light in establishing the first Plan of Adelaide in 1837;
- b) the Adelaide Park Lands should be held for the public benefit of the people of South Australia, and should be generally available to them for their use and enjoyment (recognising that certain uses of the park lands may restrict or prevent access to particular parts of the park lands);
- c) the Adelaide Park Lands reflect and support a diverse range of environmental, cultural, recreational and social values and activities that should be protected and enhanced;
- d) the Adelaide Park Lands provide a defining feature to the City of Adelaide and contribute to the economic and social well-being of the City in a manner that should be recognised and enhanced;
- e) the contribution that the Adelaide Park Lands make to the natural heritage of the Adelaide Plains should be recognised, and consideration given to the extent to which initiatives involving the park lands can improve the biodiversity and sustainability of the Adelaide Plains;

⁹⁹ Adelaide Park Lands Bill 2005, from: transcript of a reading of the bill in the South Australian Parliament’s Legislative Council, 15 September 2005. See also: *Adelaide Park Lands Act 2005*, Preliminary, Part 1, 4 – Statutory principles.

- f) the State Government, State agencies and authorities, and the Adelaide City Council, should actively seek to cooperate and collaborate with each other in order to protect and enhance the Adelaide Park Lands;
- g) the interests of the South Australian community in ensuring the preservation of the Adelaide Park Lands are to be recognised, and activities that may affect the Park Lands should be consistent with maintaining or enhancing the environmental, cultural, recreational and social heritage status of the park lands for the benefit of the State.”

Further analysis by this book’s author of the Statutory Principles in the 2005 Act appears in associated research available online.¹⁰⁰

¹⁰⁰ Search: www.adelaideparklandssecrets.com, *Pastures of plenty*: Appendix 9: ‘2018 observations on the minister’s introduction to parts of the Adelaide Park Lands Bill 2005’; and Appendix 15: ‘The triumphal delusion: the pursuit of the park lands Statutory Principles’.

APPENDIX 4

The research behind this book, accessible online¹⁰¹

Pastures of plenty

Public land and public spaces: Management and exploitation of the Adelaide park lands in the new century

Below follows a brief summary of each of the parts.

1. An introduction – the what, why, how and the who

Part 1 features two studies. The first examines the Adelaide park lands in contemporary context (to year-end 2018). The second explores the poorly comprehended park lands management complexities, and then examines the key elements of the management machinery.

2. Setting the scene – were you there?

Part 2 also features two studies. The first reflects on the writing of history, in particular (from this author's perspective), a history of the management of the Adelaide park lands during the brief two-decade period 1998 to 2018. The second reflects on a trio of personalities who played influential roles during the period, and then examines several seminal reference sources of the time that have been largely forgotten.

3. The planning and the management contexts

Part 3 takes the reader back to 1998 and examines two foundation documents of the time that would influence the course of park lands administration and management history to follow. A concluding chapter reflects on the Adelaide governance of public space and the influence of state planning practice on the park lands, a matter whose political, administrative and operational machinery is poorly understood by most South Australians.

¹⁰¹ Search: www.adelaideparklandssecrets.com

4. Retrospective phase 1: 1999–2001

Part 4 features a study of park lands politics between the formative years 1999 to 2001, exploring a failed park lands bill, a select committee that never concluded its brief, and a rising politician set to play a key role in park lands matters in the years ahead.

5. Retrospective phase 2: 2002–2006

Part 5 features a study of the arrival of new political era for South Australia, and how state bureaucrats managed the complexities of delivering on a political park lands ‘protection’ pledge, an independent ‘Trust’: which no-one in the bureaucracy wanted and subsequently never delivered.

6. Retrospective phase 3: 2006–2011, eastern park lands

Part 6 examines park lands activity in the second term of the Labor government, exploring some local government administrative complexities. It records a bitter people-versus-the-government fight about a big development proposal for the eastern park lands. The concluding chapter jumps ahead four years to reflect on how the Labor government achieved an audacious park lands development goal, turning an embarrassing defeat in 2007 in one park into a commercial victory in 2011 in another park.

7. Retrospective phase 4: 2006–2013, western park lands

Part 7 swings west and examines state Labor’s exploitation of the open spaces of the western park lands in its second term, and the arrival of the ‘Great Park’ extravaganza, centred on a commercially influenced, river-edge state infrastructure building spree capitalising on the rezoning of land originally defined as park lands. There is also a study of a decision to build a huge new hospital on land earmarked not for construction, but to be returned to park lands.

8. Retrospective phase 5: 2008–2016, the evolving policy pathway

Part 8 features an administrative and political analysis that follows on from Part 3's exploration of park lands foundation documents, in particular, the first *Park Lands Management Strategy Report*. It explores how versions 2 and 3 evolved, and how an enlightened master plan for the whole of the park lands was created but then abandoned within five years, as the third version of the Strategy redefined state visions for the park lands. Another chapter studies the commercial consequences of park lands documentation beyond 2010, which saw a wave of sport facility construction projects, contributing to a perception of a creeping privatisation of public land. A concluding chapter explores how the state reframed its view of the likely purpose of the Adelaide park lands in the new century – an 'urban address' as an adjunct to high-density inner-city and city rim residential development policy.

9. A critical analysis of the Adelaide park lands machine

Part 9 features a brief reflection on the 170-year history of park lands raids, followed by six chapter studies of features of the management 'machine'. Despite oft-stated intentions by state and local government to 'protect and enhance' the park lands, the chapters reveal the ruses, capers, games, larks and lurks that have compromised what ought to be open and transparent administrative processes. A concluding two-part chapter explores the loopholes that evaded elimination during the original 2005 parliamentary debates about the Adelaide Park Lands Bill 2005, and the loopholes routinely exploited since.

10. More critical analysis – the Adelaide park lands management superstructure

Part 10 features four chapters exploring a park lands administrative system that struggles to deliver coherence and congruence, featuring a complicated management arrangement drawing on multiple, sometimes disconnected park lands policy sources; an unresolved 20-year quest for World Heritage or State Heritage listing; and a swamp of semantic jargon characterising every element of the park lands management narrative.

11. What is to be done?

Part 11 comprises three parts: ‘What is done?’; ‘What ought to be done?’; and ‘What *can* be done?’. Recommendations appear in this third chapter. They include: reviewing the nexus between certain statutes; reviewing confidentiality provisions; reviewing public consultation models and procedures; addressing implementation silences in the *Adelaide Park Lands Act 2005*; and legislating to allow a referendum mechanism to measure support for park lands proposals.

Each of these parts features discussions that link to 30 appendix chapters that explore the finer details further.

Acknowledgements

My very grateful thanks go to Gunta Groves for her editorial discipline and wise counsel. Very little detail about contemporary (post-2000) Adelaide park lands matters has escaped her attention, and that knowledge, combined with many years' experience as a widely respected editor, allowed me access during the writing of this book to a formidable source of sound advice. Further, I was also indulged through access to the experience and advice of her husband, Philip, whose park lands management knowledge is also profound.

Additional and very grateful thanks go to illustrator cartoonist Trevor Paynter, editor John Liddle, and designer Ingrid Grigg for their professional skills and expertise.

Elsewhere¹⁰² there is reference to others who kindly and generously contributed advice and comments during many years' accumulation of archive material.

Index

An index appears at the conclusion of the website research text, *Pastures of plenty*¹⁰².

References

References appear at the conclusion of the website research text, *Pastures of plenty*¹⁰².

¹⁰² Search: www.adelaideparklandssecrets.com, *Pastures of plenty*.



This is an introductory work prefacing another extensive body of online research exploring the Adelaide park lands administrative and political history since 1998. The management of the globally renowned public land estate surrounding Australia's small southern capital, the city of Adelaide, is subject to enduring debate. Created in 1837 by the city's first

Surveyor-General Colonel William Light, it is widely acknowledged as an exemplar feature of the city's design.

In this work, John Bridgland discusses some of the reasons why the Adelaide community has struggled to understand the park lands management complexities. Readers can also explore how and why efforts to better protect the open spaces from exploitative development have not lived up to expectations.

In a few short years, in 2036, Adelaide will celebrate its 200th anniversary of settlement. In 2037, Adelaide will celebrate the anniversary of the creation by Colonel Light of the Adelaide City Plan, which includes the pastures and woodlands of the park lands surrounding the city. That event could prompt a pivotal moment of reflection among South Australia's 1.8m inhabitants. This book helps to identify the park lands management issues ahead of that time. It presents some ideas to ensure that the period leading up to that anniversary might see a more transparent and accountable management culture adopted for Adelaide's unique landscape 'jewel in the crown'.