

PUBLIC LAND

PROFESSIONAL DEVELOPMENT

The Public Land Consultancy, in association with the law firm Maddocks, is pleased to offer a suite of training courses for staff of Councils and other land management agencies in Victoria.

This year our program has been expanded to include two new courses: “*Vegetation and the Law*” and “*Land Law for Managers of Parks, Gardens and Reserves.*”

These augment our suite of well-established courses relating to Crown Land, Roads, Coasts, and Rivers.

Our courses are soundly based in law and policy. They provide a practical understanding of complex technical issues and de-mystify the bureaucratic and legal jargon which so often obscures them.

Trespass

- A Common Law “tort” (civil wrong)
- *Entering or remaining upon, or causing some object to come into contact with, land in the possession of another*
- without consent of the person in possession
- without legal justification or excuse
- May be intentional or accidental
- No damage need be done

The Public Land Consultancy
in association with
Maddocks

All courses are well-illustrated by real and hypothetical examples. They are augmented by information about current developments and illuminated by perceptive analysis and commentary.

Our courses have been developed specifically for middle and senior-level professional and technical staff. They may be planners, program coordinators, asset managers, road engineers or corporate administrators.

Over four years, well over 1000 students have attended our courses – from councils, government departments, statutory authorities and private consultancies.

Four Types of Road

- Arterial Roads (previously known as ‘Declared Roads’)
- Government Roads – i.e. roads set out on Crown Land by the 19th Century surveyor
- Subdivisional Roads – i.e. roads created on freehold land, usually by subdivision
- Paper Roads (often ‘lanes’) which never became Public Highways

OUR PRESENTERS

David Gabriel-Jones,
Principal, The Public Land Consultancy

Brendan Sydes
Principal Solicitor, The Environment Defenders Office

Dr Geoff Parr-Smith
Principal, Terra Forma Pty Ltd

Andrew Walker
Accredited Specialist in Environmental Law, Hunt and Hunt, Solicitors

Native Title

- ‘Native Title’ means a set of rights held by indigenous people who have had a continuous association with the land
- Native Title can exist only on Crown land, having been extinguished on land which is or ever was freehold. Also extinguished by public works.
- Cultural significance is different from NT
- NT may exist even if there is no claim

Vegetation and the Law

- *How Planning Schemes govern the clearance of native and other vegetation*
- *How threatened species are protected by the FFG Act 1988 and the EPBC Act 1999*

The Net Gain Methodology

- *Bioregions (27 in Victoria)*
- *Ecological Vegetation Classes (EVCs)*
- *Conservation Status of EVC in Bioregion (Endangered, Depleted...)*
- *Conservation Significance (Very High, High, Medium, Low) is derived from:-*
 - *Conservation Status and Habitat Score, or*
 - *Habitat for Threatened Species, or*
 - *Other Attributes*

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- *How the National Parks Act 1975 and the Crown Land (Reserves) Act 1978 protect land of high environmental significance*
- *How heritage trees and Aboriginal scarred trees are protected by State and Commonwealth Acts*
- *How the law deals with weeds, forestry, plantations and crops*
- *Making a Planning Scheme Amendment to create a Vegetation Protection Overlay*
- *Presenting a case at VCAT in relation to a vegetation clearance permit*
- *Prosecutions, injunctions, enforcement proceedings, and negligence actions*
- *Covenants and restrictions on Title*
- *Making a municipal Local Law to protect garden trees*

Supreme Court of Victoria Wain v Maroondah City Council

- *Supreme Court of Victoria 18 Dec 2000*
- *Council Local Law:- "No person shall remove, destroy or lop a canopy tree ... (exceptions) ... unless with a planning permit or a Council permit"*
- *Plaintiff claimed this contravened s111 Local Govt Act 1989*
- *Court upheld validity of Council's local law*

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Land Law for Managers of Parks, Gardens & Reserves

Whether you manage a National Park, the Municipal Gardens, or the Plantations in the middle of Main Street, you probably need to know more than they taught you when you studied Environmental Science or Horticulture. This course will provide you with a sound understanding of those areas of land and property law that impinge onto your territory.

Land Status in Victoria

Crown land, freehold land, National Parks, Crown reserves, reserves on freehold land, road reserves, an introduction to Native Title

Legislation governing Parks, Gardens and Reserves

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

Friends' Groups

- *"Friends of ..." are self-managing independent entities which may assist (or hinder) the official land manager*
- *They are usually incorporated bodies under the Associations Incorporations Act 1981*
- *They should carry their own insurance*
- *Arrangements between the Land Manager and Friends' Groups should be documented*

Control and Management of Parks, Gardens and Reserves

Commonwealth and State 'National Parks,' the various roles of municipalities, Parks Victoria and DSE, the various avenues for community involvement

Commercial and Private use of Parks, Gardens and Reserves

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

Controls over the Use and Development of Parks, Gardens and Reserves

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

Regulating Behaviour and Activities

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

Land Law for Managers of Rivers, Lakes & Catchments

The management of water cannot be separated from the management of the land over which it flows... This course provides a sound overview for staff of Catchment Management Authorities, Councils and Water Authorities

- Land Status and Control in Victoria
- Ownership and control of rivers and lakes
- Property boundaries and the Doctrine of Accretion

The Doctrine of Accretion

- Boundaries fixed by 'metes and bounds' cannot move
- Boundaries fixed by relation to a topographic feature (e.g. top of bank, high water mark) may move over time...
- ...if the movement is gradual and imperceptible (not artificial or catastrophic)

- The Control and Tenure of River Beds, Banks and Frontages
- Public access to Rivers and Frontages
- The Use and Development of Riparian Land

Land Law for Managers of Roads, Streets and Lanes

The Road Management Act 2004 added another layer to the already-complex body of law relating to roads. It's all clarified in this one-day course for Road Engineers, Property Managers and Statutory Planners

- Land Status and Control in Victoria
- How Victorian Roads are owned and managed
- Road law - as seen by drivers, property managers and Road Authorities
- How Roads are created, deviated, closed, discontinued and tenanted
- Road Terminology: - Road Law jargon explained

"Public Highways"

- Land over which all citizens have a right to pass (*including rivers, lakes, canals...*)
- Public Highways may be created under statutory law or under common law
- All Government Roads (other than 'Unused Roads') are Public Highways
- Most subdivisional roads are public highways; some pre-1988 roads are not.

- Road-related Legislation – ending up with the Road Management Act 2004

COURSE FORMAT OPTIONS ·

- We can run the course for your staff, either in your offices or off-site ·
- You may prefer to 'host' the course and invite staff from nearby councils
- You may enroll staff in one of our Melbourne-based courses

Maximum Class size: 10 students

ALL COURSES ARE...

- One-day duration (9:00 a.m. to 4:30 p.m.)
- Maximum of ten participants
- Plenty of opportunity for discussion
- Clear, lucid Powerpoint presentations
- High quality course notes

Land Law for Coastal Authorities

Professional Development for staff of agencies responsible for the governance and management of Victoria's coastal lands and waters

- **The Status and Control of land and off-shore waters in Victoria**
- **Authority over Coastal Lands and Waters**
- **The Tenure, Use and Development of Coastal Lands and Waters –**
- **Commonwealth and State Legislation governing Coastal Land**

The Coastal Management Act

- 'Coastal Crown Land' = all Crown land within 200m of HWM + the seabed + CL reserved for Protection of the Coastline
- Establishes Victorian Coastal Council and three Regional Coastal Boards. They are *not* land managers
- Provides for the Victorian Coastal Strategy, Coast Action Plans and Management Plans

- **Regulations and Enforcement**

Crown Land Law, Policy and Practice

An Intensive one-day Professional Development Course for Local Government staff seeking to get Best Value from a portfolio of Crown Land

- **Land Status and Control in Victoria**
- **Authority over Crown Land**
- **Committees of Management**

Reserve Purposes

- Every parcel of reserved Crown Land has its official gazetted public purpose
- Purposes are set by the GinC and may be changed only by GinC (in the case of temporary reserves) or Parliament (permanent reserves)
- Use and development must comply with the Reserve Purpose – or at least not be detrimental to that purpose

- **Crown Tenures - Leases, Licences and Permits**
- **An introduction to Roads and Rivers**
- **An Introduction to Native Title**
- **Use and Development of Crown Land**

COURSE COST

\$440 per person

including GST, course notes and working lunch

INQUIRIES AND REGISTRATIONS

Dorothy Jenkins - Training Coordinator

Phone 9579 2635

dorothy@publicland.com.au

Our Consultancy Services

- *Public Land Information and Analysis*
- *Public Land Policy and Strategy*
- *Public Land Change Processes*
- *Public Land Relationship Design*

Our Territory

*Parks and Reserves
Roads, Streets and Laneways
Rivers and Lakes
Council Infrastructure
Coasts and Bays
Alpine Resorts*