

LEX LOCI'S TRAVELS

4 JANUARY 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex checks out some Boots at the Portland Drill Hall

On vacation in the State's far South-West, Lex has a near-empty diary. Still, on Wednesday 11th January he'll be dropping in at the Portland Drill Hall.

This is where the Portland militia were issued with good solid boots and trained (with wooden guns) before being sent off to Gallipoli and the Somme.



The Drill Hall's place-law is interesting, although that's not the reason Lex is going there. It's a freehold inlier in a public purposes precinct which is otherwise reserved Crown land.

The Hall had also been Crown land until the first of March 1901. Then it was granted in freehold to the newly-created Commonwealth of Australia, which at federation had taken responsibility for defence. It's still freehold, now owned by the Shire of Glenelg.

But as we said, that's not why Lex is going there. His main mission is to check out another set of footwear.

Coastcare Victoria is hosting a 'Summer by the Sea' event, at which the guest speaker will be Mr Lynn Murrell.

Our Lex is in awe of Lynn. Sure, Lex gets around the State, but tends to do it as a cyber-tourist. Lynn on the other hand actually walked along the entire Victorian coastline, from West to East.

He traversed National Park, Crown Reserve, and Council freehold. He crossed we don't know how many river estuaries. Four commercial ports and fourteen local ports. When he came to privately owned freehold (yes, there is some) he had to go inland and walk around it. If he wandered below low water mark he was in a Marine Sanctuary or on unreserved Crown land.

Not to forget the Commonwealth land at Queenscliff, Williamstown, Point Nepean, and Sale. Freehold for the same reason that the Drill Hall is freehold.

Which gets us back to Portland on Wednesday 11th January, where Lex intends to check out the state of Lynn's boots.

See you there! Lex Loci

Picture: WW1 Army boots. Courtesy Australian War Memorial, Canberra

LEX LOCI'S TRAVELS

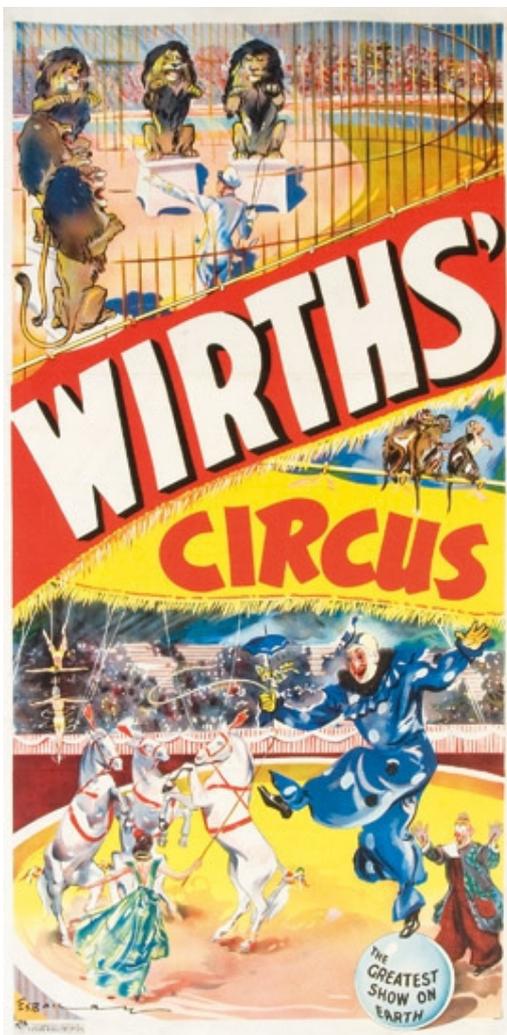
1 FEBRUARY 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex's Grandpa goes to the Circus

When Lex's grandpa was a lad, he'd get off the train at Flinders Street, cross over Princes Bridge, and go to the circus. These days, Melbourne has no dedicated circus site – and Lex thinks that's a shame.

For the best part of a century the Crown land where the National Gallery of Victoria now stands was the permanent home of Marvelous Melbourne's circuses. In the 1870s it housed Cooper and Bailey's Great American Circus, then Fitzgerald's Circus, and finally the Wirths Brothers' Circus.



Following a disastrous fire in 1953, the Dunstan Government decided to use the site for an Arts Centre. Visiting circuses were relegated to the far end of Richmond, or to the Flemington Showgrounds – Crown reserves configured, managed, developed and serviced for altogether different primary purposes.

Of course, the whole circus genre has changed dramatically over the decades. We no longer want to see animals being mistreated. But we continue to delight in the acrobats, clowns and magicians of Cirque du Soleil, and Silvers, and Circus Oz, and a dozen other itinerant troupes.

What a pity they don't have a decent home.

In his imagination Lex sees a permanent, purpose-built, architect-designed Big Top. Not made of scaffolding and canvas, but of crystals and fairy-floss, with minarets and cupolas...

Back to earth, Lex!

There was another side to the Wirths' Circus site – a seedy side. One venue there was the Forty Club, an enterprise which notoriously sold sly grog “carried in under the eyes of the police.” Quite possibly that's where Lex's grandpa was going.

See you there! Lex Loci

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LEX LOCI'S TRAVELS

10 FEBRUARY 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex cheers them on at Whitten Oval

"You can't beat the boys of the Bulldog brand..." But as women footballers put the boot to the Sherrin, the Footscray theme song will surely have to be rewritten.

Lex is confident the West will rise to this challenge, as it has risen to many challenges over the years.

For instance, Whitten Oval once had its very own Act of Parliament, the *Footscray (Recreation Grounds) Lands Act 1968*, which suffered from a serious drafting error.



photo Ballarat Courier

The 1968 Act appointed Footscray (now Maribyrnong) City Council as the ground's Committee of Management. But the Act omitted three vital words: "deemed to be."

Parliament's intention was to invest Council with the same standing, powers, functions and duties as would have been the case if it had been appointed under the provision we now know as section 14 of the *Crown Land (Reserves) Act 1978*. But it didn't.

The Act simply proclaimed Council to be 'hereby appointed as Committee of Management of the said lands,' without any elaboration. How was anyone to know what restrictions, obligations and accountabilities went with the appointment?

Worse still - the appointment was locked in. When Whitten Oval needed new management arrangements in 2009, Council could not resign and could not be removed by the Minister. To move forward required another Act of Parliament.

'Deemed to be'

Here we are dealing with 'legal fictions' - the authorising of a legal interpretation which otherwise would be in error. Some such fictions are curious indeed: the *New Zealand Poultry Act 1968* deems a three-day old chicken to be a one day-old chicken.

For some reason, our Parliamentary drafts-persons are now reluctant to use this form of words. According to the *Melbourne Cricket Ground Amendment Act 2008* certain land is 'deemed to be' part of the MCG, but the *Land (Revocation of Reservations and Other Matters) Act 2009* informs us that Parks Victoria is 'taken to be' the Committee of Management under the *Crown Land (Reserves) Act*.

It seems that these days 'taken to be' can be deemed to be (or taken to be) 'deemed to be.' And vice versa.

See you there! Lex Loci

LEX LOCI'S TRAVELS

13 FEBRUARY 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex cheers them on at Whitten Oval

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As women footballers put the boot to the Sherrin, the Footscray theme song will surely have to be rewritten.

Lex is confident the West will rise to this challenge, as it has risen to many challenges over the years.

For instance, Whitten Oval (known as 'the kennel') once had its very own Act of Parliament, the *Footscray (Recreation Grounds) Lands Act 1968*, which suffered from a serious drafting error.



photo Ballarat Courier

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The Act simply proclaimed Council to be 'hereby appointed as Committee of Management of the said lands,' without any elaboration. How was anyone to know what accountabilities, restrictions, powers and obligations went with the appointment?

Worse still – the appointment was locked in. In 2009, along came the government with a bucket of money, and Victoria University with plans for a sports faculty. New governance arrangements were called for, but the missing words meant that Council could not resign and could not be removed by the Minister.

To move forward required another Act of Parliament.

'Deemed to be'

Here we are dealing with 'legal fictions' – the validation of a legal interpretation which otherwise would be in error. Some such fictions are curious indeed: the *New Zealand Poultry Act* deems a three-day old chicken to be a one day-old chicken.

Lex is certainly not suggesting that in the song 'boys' be *deemed* to include 'girls.' He's confident that out at the kennel they can do better than that.

Anyway, our Parliamentary draftspersons have recently moved away from 'deemed to be' to 'taken to be.'

It seems that these days 'taken to be' can be deemed to be (or taken to be) 'deemed to be.' And vice versa.

See you there! Lex Loci

LEX LOCI'S TRAVELS

15 MARCH 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex and the Burkes Flat UFO

It's not often that Lex gets to illustrate his travels with a picture of a UFO. But check this out...



It appeared just after dusk on 4 April 1966, to an astonished farmer driving from St Arnaud to Dunolly.

As he passed through Burkes Flat, there it was, just off the road. Its magnetic field was so strong it caused his headlight beams to bend.

You can read all about it on various (highly reliable) websites, set up by (highly qualified) ufologists. So it must be true. Just Google up 'Burkes Flat' and 'UFO.'

Now it so happens that the Victorian Parliament has been taking an interest in Burkes Flat. Only a few months back the place featured in the debate on the *Land (Revocation of Reservations) Bill 2016*. Curiously, there was no mention of the UFO.

It seems that land near where the sighting occurred was Crown land permanently reserved in 1890 for a Mechanics Institute and Free Library.

The headlight-bending forces must have been at work back then, because the actual Mechanics Institute building was erroneously erected on the land next door. And then (mysteriously) removed.

What's more, there are no mechanics in Burkes Flat. In fact there are no inhabitants. As Minister Lisa Neville told Parliament, the original trustees of the reserve are all gone, and no-one can find any of their successors.

Lex has two theories about all this. The first involves alien forces. And very probably a dark conspiracy.

Why else would our esteemed State Parliamentarians devote their valuable time to considering a tiny block of land whose future could surely be determined by ordinary earthlings?

Lex's second theory is that the *Crown Land (Reserves) Act 1978* is in desperate need of amendment. Or total revision. Or even abduction by extra-terrestrials.

See you there! Lex Loci

Picture - www.ufocasebook.com

LEX LOCI'S TRAVELS

21 APRIL 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex sips a Grange Burn

To Lex, it sounds like a good Scotch whisky. Grange Burn single malt.

No. It's actually the creek which runs through Hamilton. Seems it might have been named by Major Mitchell as he trekked through Gunditjmara country.

Anyway, Grange Burn isn't where it used to be. It has been moved - not by the forces of nature which affect so many of our waterways, but by the operation of earthmoving equipment. Apparently a local landowner formed the view, a few decades back, that various bends should be taken out of it, and its general location should be somewhere else.

From what Lex knows of it, the frogs and platypus seem to have adapted - with a little help from the local CMA. And so has the endangered Glenelg Spiny Crayfish.

But what interests Lex is not the ecosystem, but the cadastre. When the Burn was moved, what happened to all those imaginary lines defining land parcel boundaries? Well, some of them moved, and others didn't.

When our landowner realigned the waterway, he moved it onto his neighbour's land. His own property became bigger, and his neighbour's became correspondingly smaller.

In at the Titles Office they knew nothing of this, so the title documents remained unchanged.

Nevertheless, with the effluxion of time, a slab of land changed ownership, and became part of our enterprising landowner's estate. This is what's known as *adverse possession*. When our landowner sold up, the documents of conveyance announced that he was "*seized of a possessory interest of the land hereinafter described for an estate in fee simple in possession.*"

But what about Grange Burn? Before the realignment it had occupied a strip of Crown land - and Crown land is unaffected by adverse possession. Our landowner cannot claim to be 'seized of' the land where the Burn used once to run.

Across the middle of his paddock is a strip of Crown land, with no waterway in it. At the bottom of the paddock, between his land and his unfortunate neighbour's land, the actual waterway flows over freehold owned by one of them or the other - you'd need a Supreme Court judgement to figure it out - but it's certainly not owned by the Crown.

Anyway, the frogs and platypus just get on with life, thanks to the CMA, the local council and the angling club. And Lex is off to the bar for a Grange Burn single malt. On the rocks.



LEX LOCI'S TRAVELS

24 APRIL 2017

An ad-hoc one-pager from The Public Land Consultancy

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Across the middle of his paddock is a strip of Crown land, with no waterway in it. At the bottom of the paddock, between his land and his unfortunate neighbour's land, the actual waterway flows over freehold owned by one of them or the other; Lex is certain (well, almost certain) that it's not owned by the Crown... You'd have to be a Supreme Court judge to figure it out.

Anyway, the frogs and platypus just get on with life, thanks to the CMA, the local council and the angling club. And Lex is off to the bar for a Grange Burn single malt. On the rocks.



LEX LOCI'S TRAVELS

8 MAY 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex in Never-Ever Land



See you there!
Lex Loci

'Never Ever Ever Ever Ever.' It's not a phrase you would expect to find in a VCAT judgement. But when the case¹ involves common property controlled by an Owners Corporation (OC), tempers can get a little frayed.

Not the temper of the VCAT member, Lex hastens to add. She kept her cool throughout. But as for the disputants before her...

As the published judgement records, the chairman of the OC had felt it necessary to communicate with one unit owner in the following terms:

Be warned. Never ever ever ever ever make direct contact with me again by email, telephone, fax or any other method. Your contact is not welcome... Do not respond to me directly regarding this or any other matter at any time. I can't make it any clearer...

The dispute before VCAT (actually a bundle of 20 separate disputes) was largely about management of the common property in a 17-lot subdivision at Seaford. And they were nasty disputes.

Is common property public land? Perhaps not.

It's certainly not in public ownership. In many subdivisions it's accessible only to the lot owners; in others it looks and functions like open-to-anybody public land.

In fact, many common property roadways will be roads for the purposes of the *Road Safety Act 1986*. And they may also be public places for the purposes of the *Summary Offences Act 1966*.

In the Seaford case, VCAT concluded that some of the 20-odd claims had been made out, and ordered the OC to rectify them. Others had not, and presumably remain the subject of vigorous dispute.

So, as Lex drives down Nepean Highway, Seaford, he's not going to drop in at number xxx for a chat. Never ever.

1. *Paisley v Owners Corporation PS52240*, VCAT 1739 (4 October 2013)

LEX LOCI'S TRAVELS

3 JULY 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex Gets His Gear Off

In public, we mean.

But it's mid-winter so (on second thoughts) Lex keeps his gear on. Just as well, because under sec 19 of the *Summary Offences Act 1966* 'obscene exposure' attracts a penalty of 2 years' imprisonment.

Maybe in summer Lex will head to one of Victoria's optional dress beaches.

There's one at Sunnyside North on the Mornington Peninsula and others at Point Impossible and Southside near Torquay. Here, nudity is authorized under the *Nudity (Prescribed Areas) Act* of 1983.

There had been another nude beach, at Campbells Cove, Werribee South. (No doubt Lex will write about Campbells Cove on another occasion - but to do so he will have to decide whether to describe it as one of Port Phillip's hidden gems, or a bunch of insanitary hovels of dubious legality.)

Anyway, the Campbells Cove nude beach was revoked by Planning Minister Richard Wynne in 2015. Like the market gardens of Werribee South, it fell victim to Melbourne's urban expansion.



The original nude bather? Botticelli's Venus surfs to shore on a scallop shell.

When Lex is in nudism mode, he's glad he's not a Queenslander. There are some 15 nudist beaches in the Sunshine State, but they're all illegal.

Rejecting a proposal to follow Victoria's lead, Police Minister Bill Byrne said the current laws were "designed to provide for the safety and protection of Queenslanders. We have no plans to change the current legislation dealing with willful exposure."

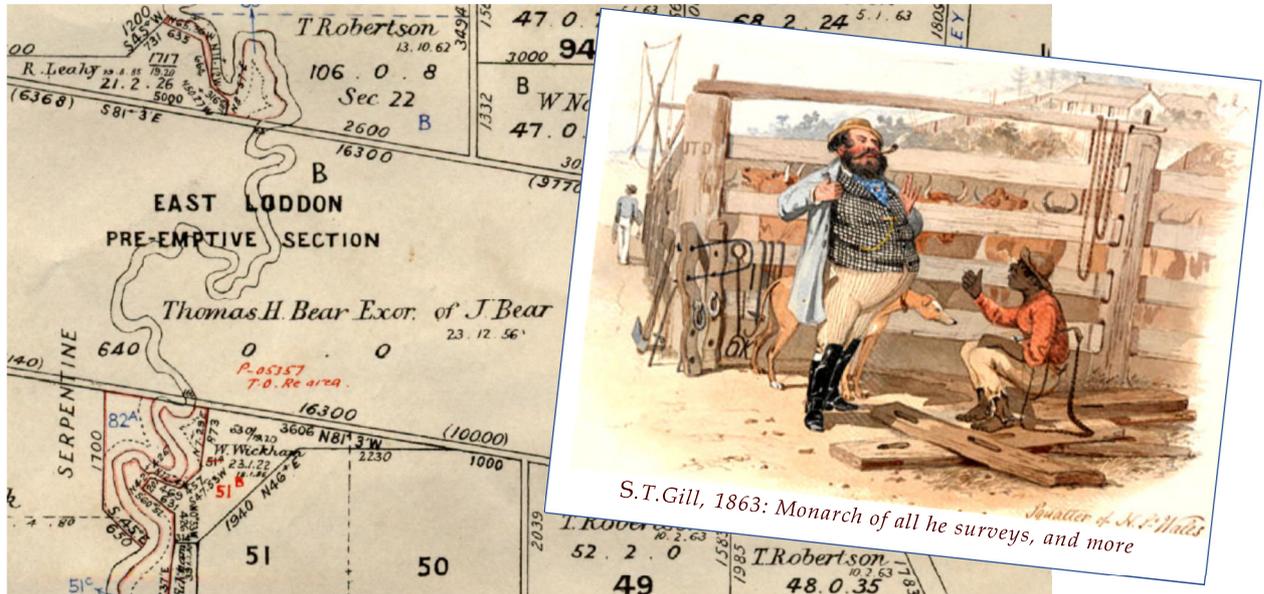
But now, in mid winter, it's a non-issue. Lex is happy to remain clad.

See you there! Lex Loci

LEX LOCI'S TRAVELS

10 JULY 2017

Lex joins the Squattocracy



As Lex heads up the Loddon Highway to Kerang, he ponders the plight of poor Squatter Bear – his run cut in 1856 from 30,000 acres to a mere 640.

As he gets around Victoria, Lex comes across them all the time. Not the squatters themselves, but their land.

Tracts of land whose history is different, and known as Pre-emptive Rights. There are about a thousand of them across the State, and nearly every one is exactly 640 acres in area.

To a casual observer they look just like any other tract of freehold land. To the people who live on them, or subdivide them, or buy and sell land within them, they are just freehold land. But history tells us they are different.

Our social image of the squatter comes from *Waltzing Matilda*: mounted on his thoroughbred, and backed up by the law in the form of troopers, one, two, three.

In reality, the squatters' vast runs could hardly be described as authorised by law. Their pastoral licences were issued in far-away Sydney, under the authority of the

Colonial Secretary in even further-away Westminster.

White-fellas' rule of law was established later, in the personage of the mounted policeman, the magistrate, the surveyor, and the 'Protector of Aborigines.'

Other settlers were entitled to bid for Crown Allotments, but only after the squatters had claimed their 'pre-emptive right' to one square mile of their run.

Invariably, they chose the most fertile one square mile (640 acres) in the river valley. The gazettals make interesting reading: each squatter didn't *apply* for their PR but *demand*ed it.

Lex plans to put in a few demands. To demand his right to pre-empt everybody else. Trouble is, he isn't mounted on a thoroughbred. Bad luck, Lex.

See you there! Lex Loci

LEX LOCI'S TRAVELS

8 AUGUST 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex asks: What's New?



Lex asks 'What's new?' and in response, tells himself that new is relative. New College Oxford was founded in 1379.

Which gives some perspective to the 'New Works' at Lakes Entrance, commenced in 1860, completed in 1889 – delayed along the way by natural disasters and administrative prevarication.

The primary focus of the new works was the dredging of the channel between the lakes and the open sea – celebrated by the nearby town of Cunninghame being renamed 'Lakes Entrance.'

Other associated works included jetties, groynes, and workers' temporary cottages, which took on quite a permanent character. They remain there to this day – on the primary dune between the lakes and the ninety mile beach.

The land on which the cottages are built was never sold off as freehold. The 'new works' cottages sit on Crown land; occupied by descendants or beneficiaries of the original workers.

In the 1980s the State Government, riven by inter-departmental rivalries, held contradictory views about the cottages. The old Lands Department wanted them removed, and gave the occupants notice to quit. The Conservation Department assessed them as having heritage significance, and listed them on the heritage register.

The end result – they're still there. The occupants have formed themselves into an incorporated association, committed to the protection of the dune environment and the restoration of heritage values.

And they're still called 'new.'



See you there! Lex Loci

Graeme Butler, 1993 – *New Works Conservation Analysis*

Public Land Consultancy, 2004 – *New Works Area, Lakes Entrance, Report for Occupiers*

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LEX LOCI'S TRAVELS

21 AUGUST 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex is Discriminated Against at Harkaway Hall

Lex's mates were just planning a bit of a, like, 21st birthday turn at the local hall. A few, like, kegs of beer behind the bar, and a few, like, decibels of doof-doof. What's wrong with that?

The Harkaway Hall Committee had other ideas. They would allow twenty-firsts (and eighteenth) only if they could be satisfied on matters of supervision, security, transport and measures against gatecrashers.

Into the fray stepped the Victorian Equal Opportunity and Human Rights Commission (VEOHRC), citing the rights of the child under the *Charter of Human Rights and Responsibilities Act 2006*, and the *Equal Opportunity Act 2010*.

The former Act imposes an obligation on public authorities (a term which ropes in the Harkaway Hall Committee) to act in a way which is compatible with human rights.

The latter Act makes it an offence to unreasonably discriminate on the basis of certain attributes, including age – unless with the authority of the Victorian Civil and Administrative Tribunal (VCAT). So that's where the Hall Committee headed to next.



A rowdy lot of grandmas gather at the Harkaway Hall for a quilt-in.

VEOHRC told VCAT it was not convinced that the peaceful enjoyment of nearby homes and concerns about young people's safety should overrule the 'equality right' to party.

The Committee told VCAT that Lex's mates were 'sometimes inebriated.'

'On a number of occasions, damage was done to the Hall and some of the persons leaving the parties engaged in anti-social behaviour and caused damage to the surrounding homes and businesses.'

In the end, VCAT agreed with the Committee, and granted an exemption from the Act.

Lex isn't happy, like.

See you there!
Lex Loci

http://www.humanrightscommission.vic.gov.au/media/k2/attachments/General_Practices_FS_A4.pdf
Government Gazette G12, 22 March 2012, page 540

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LEX LOCI'S TRAVELS

29 AUGUST 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex Loci and Captain Cook at Point Hicks and in the Catani Gardens



If Cook had turned left rather than right, there might be some logic in his statue now gracing the Catani Gardens at St Kilda. Well, at least the plaque on the plinth doesn't claim he 'discovered' Australia.

Lex is contemplating a difficult issue. He is at Point Hicks, in Croajingalong National Park. He is reading from the log of HMS Endeavour: an entry written by Captain Cook, and dated Thursday 19 April, 1770. The entry presents Lex with a few problems.

"The Southernmost point of land we had in sight, which bore from us West quarter South... I have named Point Hicks, because Lieutenant Hicks was the first who discovered this land."

Lex's problems: first, Captain Cook R.N. did not yet hold the rank of Captain, he was Lieutenant Cook.

Secondly, the date was wrong. A month earlier, Cook had crossed what we now call the International Date Line, so it was actually Friday 20 April 1770. Thirdly, there is speculation that what Lieutenant Hicks actually saw might have been Mount Raymond, about 10 miles east of Orbost.

But Lex's biggest problem is the word 'discovered.' In Croajingalong Lex finds himself standing alongside people of the GunaiKurnai. As they tell him, the land had not been lost, so how could it be discovered?

Lex suspects we need to rethink our use of language, and rethink exactly what it is we celebrate on Australia Day – but that's another story.

That's not the end of Lex's difficulties. He wants to know why Cook, having made landfall, then turned right. Or should we say put the helm to starboard. It was a course that took him to Botany Bay, and the Barrier Reef, and Cape York. Why didn't he turn left?

Had Cook put the helm to port, the history of Australia would have been different. He would have seen (not 'discovered') Wilsons Prom, Western Port Bay, and Port Phillip. Eighteen years later, Arthur Phillip would have brought the First Fleet to the River Yarra. Melbourne would have been Sydney. It's just too much for Lex to contemplate.

See you there! Lex Loci

LEX LOCI'S TRAVELS

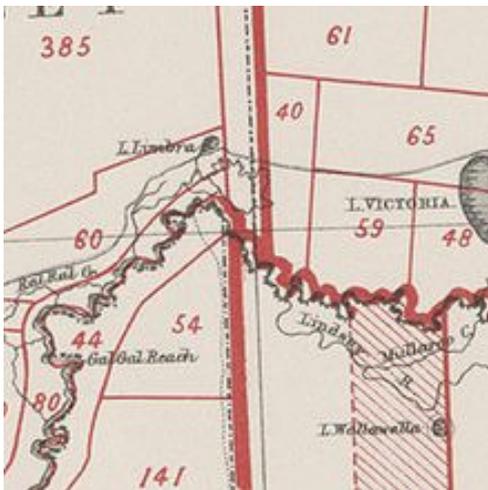
18 SEPTEMBER 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex at the Corner-most Corner

Lex Loci has made it to the corner-most corner of north-west Victoria. And he's wet.

You might imagine that Mildura is at the corner. No. You might imagine that Ned's Corner Station, some 70km further west, is at the corner. No. A further 25km west of Ned's Corner is MacCabe's Corner. But that's still not the corner-most corner.



The border between Victoria, South Australia and New South Wales, as marked on an 1883 map. Victoria's western border is further to the west than that of New South Wales

MacCabe's Corner is the point at which Victoria, New South Wales and South Australia meet. It's on the south side of the Murray, and marked by a post. But Victoria continues on for a further 3.6km.

That's 3.6km as the crow flies, but some 10km as the pelican flies – assuming that pelicans fly along the meandering course of the river.

The absolute corner-most corner of north-west Victoria is unnamed and unmarked. It is at the northern end of the border with South Australia – which should have been the 141st meridian of longitude.

It seems the surveyor who first set out the border (an unfortunate gentleman by the name of Edward White) got it wrong by 3.6km – a mistake for which we must forgive him, given the appalling privations he went through in the course of the exercise. In 1914 the High Court forgave him, and dismissed South Australia's claim to get the 3.6km transferred to them.

On the north side of the Murray, the border between South Australia and NSW is where it should be – on the 141st meridian. So the South Australian border does a dog-leg.

MacCabe's Corner is at the eastern angle of the dog's leg; our Lex is at the western angle. And he's wet.

The High Court informs us that the border between Victoria and NSW is the top of the bank on the south of the river. So MacCabe's corner is high and dry. But for the 3.6km we are talking about here (or 10 pelican-km) the land north of the Murray is South Australia. In the absence of a High Court ruling we assume the border to be in the middle of the Murray. So Lex, determined to get to the corner-most corner, is wet.

That's dedication!

See you there! Lex Loci

LEX LOCI'S TRAVELS

16 OCTOBER 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex contemplates Gravity at the Trawool Reservoir

Lex knows about gravity. That's what makes water flow downhill. Unless of course it's pumped, or in a rising main – as invented by the ancient Romans.

The business of water going uphill and downhill has attracted new attention – as renewable energy engineers contemplate pumped hydro. When there's excess sun-based or wind-based energy, water gets pumped uphill to a reservoir; when there's not, it gravitates back down, driving generators.

Here's the interesting bit. Unlike the more familiar water-supply storages, these dams need not have catchments. Certainly not nice clean catchments. Their only necessary characteristic is elevation. The greater the elevation, the more gravity-driven power can be extracted from them.

Which brings us to Trawool Reservoir. Constructed in 1895 on Crown land permanently reserved for water supply purposes, it once supplied drinking water to Seymour. Superseded and abandoned, it still holds 100 mega-litres of water, some 260 metres above the floor of the Goulburn River.

It seems this equates to 36 Megawatt-hours (MWh) of energy *. Not Hazelwood, perhaps, but Lex wonders how many other Trawools there are across the State, and what their combined generation capacity might be.

These schemes are not territory for big business. As small-scale plants, often occupying multiple-use public land, we are surely looking at management by local government or community groups – presumably in partnership with some wind or solar power generator.

Meanwhile, Lex is heading back to school to figure out the difference between a watt, a joule and a newton.

See you there! Lex Loci

* Melbourne Energy Institute, University of Melbourne, July 2017, *Pumped Hydro Electric Storage for Euroa and Seymour*



Not all abandoned water storages are best suited for pumped hydro.

Above, the citizens of Paddington (Sydney) relax in their recycled reservoir.

LEX LOCI'S TRAVELS

31 OCTOBER 2017

An ad-hoc one-pager from The Public Land Consultancy

Lex considers People-Power at Minimay, just off the Kaniva-Edenhope Road

In a tree just off Coopers Road Minimay Lex spots a couple of Red-tailed Black Cockatoos. Amongst the ground litter below the tree, he spots a couple of Diamond Firetails.



Minimay, you ask? That's in the Wimmera, on the Kaniva-Edenhope Road just south of the Little Desert. And Lex must confess he's there as a cyber-tourist. Or in this case a cyber-ornithologist.

The land on which the tree stands is not part of a national park, or a conservation reserve, or any sort of public land. It's freehold land owned by Bank Australia, covenanted by Trust for Nature, and managed by Greening Australia.

In the late 1960s, the Little Desert itself almost became freehold land. The Minister for Lands, Sir William McDonald, commenced its subdivision, sale and clearance - and thereby provoked a defining moment in Australian environmental politics.

Activists, scientists, amateur naturalists, economists and bureaucrats banded together in opposition. The Little Desert became a National Park, Sir William lost his seat, and the Land Conservation Council (LCC, now VEAC) was born.

But back to Minimay. This had been freeholded long before through a series of Crown grants - as Sir William's predecessors carved up the Parishes of Boorookpi, Mortat, Miniman and Ding-a-Ding (not joking) and sold them off to worthy settlers. To fence and to clear.

The land Lex is looking at was freeholded, but somehow spared from clearance. The tree where the birds now display their colours still stands.



At Minimay, some 950 hectares is now owned, covenanted, and managed for conservation. Here's what interests Lex: it does not need to be protected by the National Parks Act.

There's clearly been a shift in how the conservation movement works. People no longer expect governments to do it all for them. We do it ourselves. Lex included. He puts his pocket-money (such as it is) into Bank Australia.

See you there! Lex Loci

Photo credits Ian Morgan
Libby Robbin: *Defending the Little Desert*

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LEX LOCI'S TRAVELS

23 NOVEMBER 2017

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Lex goes to Church



Lex is sitting on a very hard pew, and contemplating a very long word: *disestablishmentarianism*.

It must be one of the longest words in the English language.* It refers to the philosophy of separating church and state. It was coined in the 1860s, when it took up a disproportionate amount of space on newspaper front pages in both Australia and England.

Until then, it had been seen as quite proper for the state to reserve Crown land for the church – just as it did for town halls, court houses, post offices and army drill-halls.

But that all came to an end in 1871, when the Victorian Parliament passed Act Number 391 – the *State Aid to Religion Abolition Act*. There were to be no more hand-outs. However, the Act provided that Crown land already reserved for church purposes could be disposed of by the relevant church, which could keep the proceeds.

The pew on which Lex is sitting is in Bailey Street, Clunes. This used to be Crown land, reserved in 1863 for the purpose of a Roman Catholic Church.

Clunes was clearly a pious town: further along the street we find Crown land reserved for the Presbyterians the Wesleyans, the Primitive Methodists, and two reserves for the CofE.

Act 391 is still on the statute books, and is still in use. As congregations dwindle and churches are deconsecrated, Crown reserves are handed over in fee simple, free of charge, for the relevant archbishopric to dispose of as it sees fit. The land is invariably sold off, and the title records the fact that it derived not from a Crown Grant, but from the provisions of 'Act 391.'

So it was in Clunes. A notice in the Government Gazette in 2009 caused this land to vest in the Diocese of Ballarat.

It's now [for sale](#) for \$500,000. Lex won't be buying it, the pews are far too hard.

* but *antidisestablishmentarianism* is longer

See you there! Lex Loci