



Yes Minister You are in control of Public Land

Congratulations Enver Erdogan! You are the new Minister for a swag of public land legislation. Between now and the State election, you get to administer a list of Acts seven pages long. That's just the *list* of Acts, not their actual substance.

For many of them, you get to administer only parts of the Act, with your cabinet colleagues getting other parts. Some you share with the Minister for Outdoor Recreation, which happens to be yourself. Another 3 pages.

[To see the full list of ministerial responsibilities, click here.](#)

Has your Department attempted to explain the entire list? We hope not – that would be a waste of time. They most certainly should be briefing you on those Acts which are under review. Their briefing paper may well have the headings '**Before the Election,**' and '**After the Election.**' And perhaps another heading '**In the Fullness of Time...**'

In the Fullness of Time

That's a real Sir Humphrey phrase – but it does indeed have some relevance. Public land reform is a vast and evolving subject. It's not going to happen overnight.

Here at The Public Land Consultancy we advocate *strategic incrementalism*. Do it bit by bit, but with an overall purpose. Just imagine:

- A Public Land Accountability Act.
- A Crown Tenures Act.
- A Reserve Purposes Rationalisation Act.
- A Riparian Land Reform Act.
- A Fix Up Topographic Boundaries Act...

Bit by bit – but with a clear overall direction.



Hon Enver Erdogan, MP

Minister – your Department tells us that it's working on a new Public Land Act. OK, up to a point. It's been on the cards since well before 2017, when VEAC recommended a wide suite of reforms to many of the Acts which you now administer. In retrospect, it was all too much. We had a list of reforms, but not a strategy for implementing them.

Your Department has released very little of any substance – but we do expect to see a draft Bill before the election – something to be put to Parliament in 2027. We can only guess that it will revoke and replace the *Forests Act 1958*, but leave untouched most of the other items on your seven-page list.

Minster Erdogan, here's a job you should give to your Sir Humphrey. Turn the Ministerial briefing paper into a public press release with three headings: **Before the Election**, **After the Election**, and **In the Fullness of Time**. ■

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Q and A

Do State laws apply to Commonwealth land?

Question prompted by the Defence properties sell-off

Answer: Yes, and No.



In 1970 the High Court held that NSW State legislation did not operate in the Richmond Air Force base.

“...certain State laws concerning manslaughter, forgery, theft, gross indecency, possession of drugs and the use of indecent language do not operate in ... Air Force bases, Army camps, Post Offices, Commonwealth offices, Commonwealth court buildings and quarantine stations.”

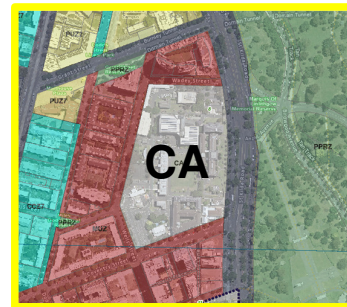
The Court was not approving of this state of affairs, but prompting its rectification. The Commonwealth parliament immediately responded with the *Commonwealth Places (Application of Laws) Act 1970*. End result: we cannot use indecent language in Post Offices.

BUT... States cannot dictate to the Commonwealth itself, and that brings us to the defence land sell-off.

Victoria’s planning schemes do not apply to Commonwealth land where the land is

owned by the Commonwealth or the use is carried on by a Commonwealth government agency.

Commonwealth land is not included in any zone or overlay in a planning scheme. It is recognised by the designation “CA” on the planning scheme map.



Victoria barracks, St Kilda Road

A major factor in the valuation of land is, of course its zoning. A rapacious developer would like nothing better than to be constrained by no planning controls whatsoever. And the State cannot put such controls in place until after the land is no longer Commonwealth land, until after it has been sold.

Back in 2003 the Howard Government planned to sell off Point Nepean as a private spa resort. It took a few years of inter-governmental negotiation and intense community protest but in the end we got a National Park.

Let’s hope the next swag of defence sell-offs goes a bit more smoothly. ■

The Public Land Consultancy acknowledges that our core work relates to the lands of Victoria’s Traditional Owners. We promote recognition of Indigenous rights through study, policy and the law.

Q and A

What is meant by ‘Crown Land Administrator’?

Question arising in the course of work for a client which manages a large portfolio of Crown land parcels

Every parcel of land has some legal status, and comes under the responsibility of some person or legal entity. The nature of that responsibility can vary considerably. We may need to differentiate between owner, controller, manager, and occupier.

The details are alluded to in Register Search Statements (for freehold land) and Crown Folio Statements (for Crown land). Both types of document are numbered under the ancient and rather weird system of ‘volume and folio’.

On freehold land, the Register Search Statement shows ‘registered proprietor’ which usually means ‘owner’ – but not always. Between that document and the associated survey diagram, we should also get insights into encumbrances such as easements and mortgages – but not always.

As for Crown land, we find Crown Folio Statements, which look something like title documents, but aren’t. Instead of registered proprietor, the people in at Land Registry attempt to provide their clients (us) with a useful starting point – the ‘Crown Land Administrator.’

When we delve into ‘Administrator’ we may find we are looking at the owner, the controller, or the manager – an entity which may or may not also be the occupier.

The **owner** of the parcel will be ‘the Crown in the right of the State of Victoria’ – headed up by King Charles III, whose representative is Professor the Honourable Margaret Gardner AC – but that’s hardly useful information. So instead, we are pointed to the Secretary for DEECA, an entity which is the agent of a Minister who is in turn the agent of the Crown.

The diagram shows a sample Crown Folio Statement with three callout boxes:

- Not a Certificate of Title!** (points to 'CROWN FOLIO STATEMENT VOLUME 11776 FOLIO 720 No CoT exists')
- In this case, the Committee of Management** (points to 'CROWN LAND ADMINISTRATOR SECRETARY TO THE DEPARTMENT OF HEALTH AND STREET MELBOURNE VIC 3000 AT9350835 12/01/2021')
- Don't forget the Traditional Owners** (points to 'INDIGENOUS LAND USE AGREEMENT MI208781B 06/0 NATIVE TITLE DETERMINATION VID6007/1998')

The text in the diagram is as follows:

CROWN FOLIO STATEMENT
VOLUME 11776 FOLIO 720
No CoT exists

CROWN FOLIO

LAND DESCRIPTION
Crown Allotment 92E Paris
Created by instrument

CROWN LAND ADMINISTRATOR
SECRETARY TO THE DEPARTMENT OF HEALTH AND
STREET MELBOURNE VIC 3000
[AT9350835](#) 12/01/2021

STATUS, ENCUMBRANCES AND
RESERVATION MI208780D 0
TEMPORARY
PUBLIC PURPOSES

INDIGENOUS LAND USE AGREEMENT MI208781B 06/0
NATIVE TITLE DETERMINATION VID6007/1998

The **controller** of a Crown parcel may be an entity in which the land is vested – such as VicTrack or a Water Corporation. It may be Parks Victoria or Great Ocean Road Coasts and Parks Authority (GORCPA).

The **manager** of a Crown parcel may be a Committee of Management appointed under the Crown Land (Reserves) Act – very often a municipal Council. They don’t own the land, nor ultimately control it, being (in theory) dismissible by the Minister.

What about the **occupier** of a Crown parcel? Occupations with some degree of legal recognition take the form of leases and licences – and occasionally (not always) these appear on the Crown Folio Statement.

So in answer to the question: the term Crown Land Administrator is a pointer in the general direction of information about a Crown parcel’s governance, but no more than a pointer. ■

Readers of *Terra Publica* should not act on the basis of its contents which are not legal advice, are of a general nature, capable of misinterpretation and not applicable in inappropriate cases. If required, we can obtain formal legal advice from one of our legal associates

Professional Development, May-July 2026

NOTE: some presentations are 3 sessions, each of 2 hours duration;
others are 2 sessions, each of 3 hours duration

	<p>Property Law and Planning <i>Presenter: Lydia Eastwood</i></p>	<p>Tues 12 May, 10am – 1pm Wed 13 May, 10am – 1pm</p>
	<p>The Law relating to Vegetation <i>Presenter: Matt Looby</i></p>	<p>Tues 19 May, 10am – 12pm Wed 20 May, 10am – 12pm Thurs 21 May, 10am – 12pm</p>
	<p>Land Law for Managers of Rivers and Riparian Land <i>Presenter: Johanna Slijkerman</i></p>	<p>Tues 19 May, 10.30am – 12.30pm Thurs 21 May, 10.30am – 12.30pm Fri 22 May, 10.30am – 12.30pm</p>
	<p>Native Title and Aboriginal Heritage <i>Presenter: Henry Dow</i></p>	<p>Tues 26 May, 10am – 1pm Wed 27 May, 10am – 1pm</p>
	<p>Roads Governance <i>Presenter: David Gabriel-Jones</i></p>	<p>Tues 26 May, 10am – 12pm Wed 27 May, 10am – 12pm Thurs 28 May, 10am – 12pm</p>
	<p>Leases and Licences of Public Land <i>Presenter: Richard O'Byrne</i></p>	<p>Tues 2 June, 10am – 12pm Wed 3 June, 10am – 12pm Thurs 4 June, 10am – 12pm</p>
	<p>Restrictions on Title <i>Presenter: Nick Sissons</i></p>	<p>Tues 3 June, 10am – 1pm Wed 4 June, 10am – 1pm</p>
	<p>Land Law for Service Utilities <i>Presenter: Nick Sissons</i></p>	<p>Tues 9 June, 10am – 1pm Wed 10 June, 10am – 1pm</p>
	<p>Coastal Land Management <i>Presenter: Richard O'Byrne</i></p>	<p>Tues 14 July, 10am – 12pm Wed 15 July, 10am – 12pm Thurs 16 July, 10am – 12pm</p>

Cost:
\$550 including GST,
course notes and certificate
of attendance

Accreditation: These courses
are eligible for CPD points for
lawyers, planners, valuers, and
FPET for surveyors.

Enquiries and Registrations:
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And ask us about presenting these courses for you, in your own offices.