



Photo – Ballarat Courier

Bushfire Season Approaches

Victoria is carved up into parcels. This bit is public land, that bit is private land, some other bit is a road reserve. But when bushfire strikes, all that becomes irrelevant. And, as our emergency services fear, we are heading into a bad fire summer.

As a Parliamentary Committee reported just last month, fire risk straddles boundaries: forest to farm, roadside to paddock, park to township, public track to private access point. Bushfire prevention measures cannot be limited to one form of tenure, or one agency's responsibility.

Having said that, we nevertheless find ourselves focusing on one form of land status, namely roadsides. As Melbourne University researchers told the Committee, roadsides represent an important but often under-coordinated component of the landscape.

They are key access for suppression crews and egress for people escaping fire. However, they can act as corridors for fire spread and are the subject of multiple, sometimes competing, management priorities.

The dilemma is threefold. Vegetation conservation may be at odds not only with bushfire management, but also with traffic

safety. It's far too often that we see 'in memoriam' wreaths on roadside trees.

The 2026 Parliamentary report builds on the Bushfires Royal Commission of 2009. One of the key recommendations of that earlier report related to roadside vegetation. In response, Victoria has amended its planning provisions to exempt a range of vegetation clearance from the need for a planning permit. But has that been effective?

One problem is the multitude of road management agencies: a road reserve may be controlled by the local council, or DTP, or DEECA. It may be managed by the abutting landowner. And it may carry infrastructure and service utilities.

Add to that the Registered Aboriginal Party, which oversees Aboriginal heritage, and the Catchment Management Authority, which deals with weed infestations.

In response, the Parliamentary Committee turns to the CFA, recommending that they be given clearer authority to enforce roadside vegetation management, and to require hazard remediation by public land managers. Well, that's a big idea, but needing quite a lot of refinement.

Here at TPLC, our aim is to help bridge the gaps between the legislators, the lawyers, and on-the-ground reality. We can't fix the regime, but we can attempt to explain it, and to inform those working within it. ■

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Landlocked... The bushfire hazard still to be addressed

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The Cabinet Churn

Keeping track of Ministerial responsibility for public land

Who warrants more sympathy, we wonder?
The various MPs who suddenly need introductions to
their new portfolios, or the public servants who are
expected to deliver those introductions?



Tim Richardson

is now the new Minister for Local Government. He was
previously Cabinet Secretary

*Let's discuss Crown land of purely local significance, Tim.
Why not just give it to municipalities? Not cost shifting, but
asset shifting!*



Michaela Settle

is now the new Minister for Water, but continues on as
Minister for Agriculture.

*Hi Michaela. Let's discuss unused government roads and
Crown water frontages. Let's reset the balance between
farmers' land management and the public's access rights.*



Jaclyn Symes

is now the new Minister for Energy, Climate Action, and
Environment. She was previously the Treasurer

*Let's discuss DEECA's new Public Land Act, Jaclyn. Will it be
anything more than just a new Forests Act? What about all the
other unimplemented VEAC reforms?*



Paul Hamer

is now the new Minister for Roads. He was previously
Minister for Local Government

*Let's review the Road Management Act 2004, Paul. In
particular, let's discuss the roads omitted from Road Registers.*



Sonya Kilkenny

enjoys relative continuity!

She has been the Attorney General since 2024, and Minister
for Planning since 2022

*Let's plan some referrals to the Law Reform Commission,
Sonya. Perhaps they could examine community engagement
in public land management? It's a shambles!*

Amendment to our April edition:

Delete references to **Enver Erdogan**. He has gone off to look
after Finance, Gaming, Liquor laws, and the Casino. But what
we said to him back then still stands. We just re-address our
advice to the various Ministers mentioned above. ■



Q
&
A

My property is landlocked.

Can I get access over nearby Crown land?

Question we've heard several times over the years

These days it just wouldn't happen. The configuration of parcels of land must go through the processes of the *Subdivision Act 1988* and the *Planning and Environment Act 1987*. Surely no parcel of land would be so configured without access to nearby roads. Surely.

But it wasn't that way in the past. Original Crown allotments, laid out by the Government Surveyor, may have had no road abuttal. The most recent we have found was dated 1967. It was (we guess) assumed that access would be available over some nearby yet-to-be carved up Crown land.

More common is the subdivision of freehold land, back in the days before public exhibition, Referral Authorities, and VCAT. (We've been told that brown paper bags were handed over behind the municipal offices. Not so sure about that.) So we certainly find older freehold blocks, totally landlocked.



Roads on Crown land. Practical access maybe, but are they legal access?

That brings us to the difference between legal access and practical access. Ideally, they should go hand-in-hand. Here is an abutting road reserve, and what's more it's physically

traversable. But all too often we find one without the other, especially in topographically challenging terrain.

Who is responsible for fixing it? First answer: the landowner. Go and negotiate with your neighbour. Second answer: whoever created the problem, if they can be found, and if we want to fight our way through the common law 'easement of necessity.'

Sec 36 of the *Subdivision Act 1988* opens up the prospect of one landowner acquiring an easement over a neighbour's land – but only with VCAT approval, which in some cases has been granted, in others denied.

So, back to the question. Can I get access over Crown land?

Sec 6(1)(h) of the *Subdivision Act* suggests the possibility of access over Crown land, but it virtually never gets used. It requires the consent of the Minister responsible for the *Land Act 1958* – but DEECA and Parks Victoria are firmly against its overuse.

Consequently, in the 2006 case *Hocking v Northern Grampians Shire*, VCAT was reluctantly forced to disallow otherwise essential upgrades to a bushfire-prone property. Here's what Deputy President Gibson had to say in that case:

- *Wildfire Overlay. Access track runs through the National Park*
- *'Sole issue is the adequacy of access ... bush fire safety is of paramount concern.' However...*
- *'Parks Victoria will deny any access across National Park ... No current plans to excise sections of the Park to allow permanent access...'*
- *'The legal status of this access (or rather the lack of legal status) means that the applicants have no legal right to insist on its upgrade... even at their own expense.'*
- **Application refused. ■**

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.

Professional Development August to November 2026

NOTE: some presentations are 2 sessions, each of 3 hours. Others are 3 sessions, each of 2 hours duration



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 Leases and Licences of Public Land 1, 2, 3 September 10 am to 12 pm each day Richard O'Byrne	 Crown Land Governance 27, 28 and 29 October 10 am to 12 pm each day David Gabriel-Jones
 Climate Change for Public Land Managers 6, 7, 8 October 10 am to 12 pm each day Rod Anderson (ex-Regional Manager, DEECA)	 Risk Management for Public Land Managers 13 and 14 October 10 am to 1 pm each day Michael Beasley (Beasley & Associates)
 Land Law and Subdivisions 20 and 21 October 10 am to 1 pm each day Mark Bartley (Russell Kennedy Lawyers)	 Native Title and Aboriginal Heritage 10 and 11 Nov 10 am to 1 pm each day Henry Dow (Marawah Law)
 Working with Owners Corporations 10 and 11 Nov 10 am to 1 pm each day Anthony Wilkinson (Pelham Strata)	How our retainers work... Your authorised staff call us whenever they need our advice. We keep a log of time committed and send you a quarterly invoice against your purchase order. <i>It's a service being taken up by metropolitan and provincial councils. If it interests you, please call David on (03)9534 5128</i>

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

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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.