

Change Management

Yes, a rather ambiguous heading, reminiscent of Jack Nicholson's 'Anger Management.' What we really mean in this case is *The Management of Change*.

With public land, there's plenty that needs to be changed. In 2017, courtesy of VEAC, we should see the commencement of a [total rewrite](#) of Crown land legislation. We should see a new Marine and Coastal Act, and we will certainly see very tangible changes at many level crossings.

How does change come about? The Government doesn't wake up in the morning and think '*public land governance needs to be fixed.*' It falls to other stakeholders to tell it so. And how do stakeholders like municipalities recognise that the Government needs to be told? It's a process which shouldn't need a map – but we've thrown one in (below) anyway.

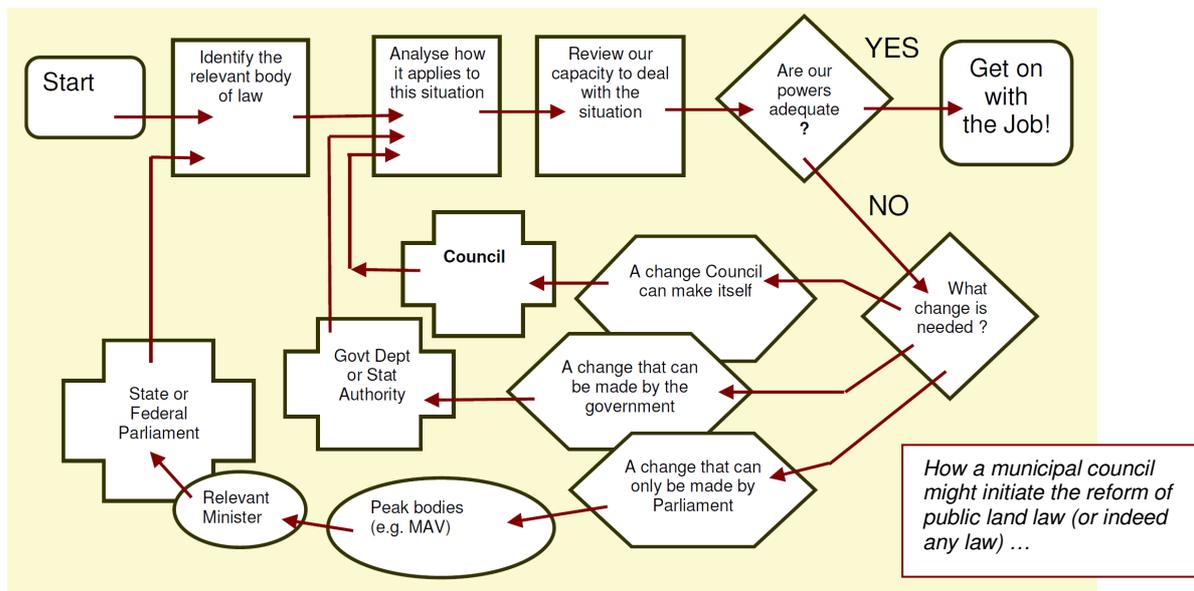
There are plenty of academic theories about change management in commerce and industry. Dr John Kotter of Harvard University has 'invented' an 8-step process, commencing with such insights as (1) Establish a Sense of Urgency; (2) Create the Guiding Coalition; (3) Develop a Vision and Strategy... and so forth.

Edwards Demming decreed that change involves four stages: Plan-Do-Check-Act (we're not sure of the difference between *Do* and *Act*). Then there's the Association of Change Management Professionals, advocating a 5-step change cycle which curiously omits actually evaluating the need for change in the first place. But all these gurus belong in the realm of the private sector.

One methodology of more relevance to change in the public sector is cost-benefit analysis. In theory, if some new law or policy delivers a better ratio of benefits-to-costs than the *status quo*, then let's have it. Ah, if only it were so simple: but benefits may be intangible, and costs hidden. And should the provision of 'free' public land be regarded as a cost? In these exercises attempts at objectivity are distorted by ideologies, and overlaid with party politics.

The public sector is familiar with two persistent ideologically-laden theories: the 'steering not rowing' paradigm, and the 'tragedy of the commons' analysis. Each tends to shift the balance of control from the public sector to market forces. The former has some veracity, but the latter is, in our opinion, outright dangerous. We looked at in in [TP November 2014](#).

Fortunately 2017 is not an election year. The Andrews Government can get on with the business of public land reform. We don't really care what academic theory they adopt – just don't give us more patches on patches, please. ■



Page 2: Our reconfigured 'Roads' courses for 2017

Page 3: Our workshops and masterclasses 2017

Page 4: Our calendar of training courses for 2017

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We have come across carriageway easements in favour of Council. Are these just ordinary lanes?

Question asked by the Infrastructure Manager for an urban municipality

Carriageway easements are used where access is required over one private property (the 'servient tenement') by the owners/occupiers etc of some other private property (the 'dominant tenement'). Council must approve the creation or abolition of a carriageway easement, but has no role in its ongoing control or management.

If a Plan of Subdivision were to create a carriageway easement in favour of Council (as against in favour of some parcel of private land) that would amount to 'dedication to the public' and as soon as there was 'acceptance' by the public the land would automatically become a public highway, vest in Council, and automatically become a road within the meaning of the RM Act. So it might as well have been designated 'road' in the first place.

In past times, many old subdivisions included things annotated: 'easement of way and drainage' or 'carriageway easement in favour of all the lots on this plan' or some similar notation. Occasionally, the subdivider's intention was to create a carriageway easement of the type described above. In these cases the subject land is likely to be part of some lot, now owned by someone other than the original subdivider. We can confidently describe these as carriageway easements. In other cases, the subdivider's intention was clearly to create a road open to the public – even though it may appear on the plan

as a carriageway easement in favour of Council, or in favour of some or all of the lots in the subdivision.

As one NSW court said...

... I regard it as an artificial and unreal conception that when roads are left in subdivision they are left as private roads merely for the use of those who want to get to land in the subdivision. It seems more realistic to treat such roads as shown as part of the general roadway system and as open to all so that unless access is prevented by fencing or otherwise, roads shown upon a plan of subdivision are properly to be regarded as open to the public, with the consequence that if there is use of such a road as a means of passage by any members of the public, whether owners of land in the subdivision or not, then it is a public (highway).

In these cases the original subdivider is likely to be shown on title as the 'registered proprietor' although this is in fact meaningless. The thing is without doubt a public highway, and vests in Council, and as far as the subdivider (or their descendants) are concerned the title is worthless.

Many freehold lanes and roads will have been created before the *Subdivision Act 1988*; the original plans of subdivision may have all sorts of annotations on them, but by-and-large we can assert that if they look like roads, then they are roads. If someone jumps up and claims otherwise (the descendants of the original subdivider perhaps, or ASIC representing some defunct company) then you can put the matter beyond doubt by declaring the thing to be a public highway under sec 204 LG Act (even if it is a public highway already) and then causing it to be transferred into Council's name. ■

*In 2017 we will be reconfiguring our one-day roads courses. Our long-standing course 'Land Law for Managers of Roads Streets and Lanes' will become 'Roads Governance,' and will be augmented by two new courses on **Works on Roads** and **Offences and Enforcement...***

Roads Governance

- The ownership, control and management of roads, streets and lanes, urban and rural
- Their creation, closure, deviation and discontinuation.
- A look at half a dozen Acts of Parliament relating to roads.
- A look at the most relevant case law; clarification of legal concepts and terminology

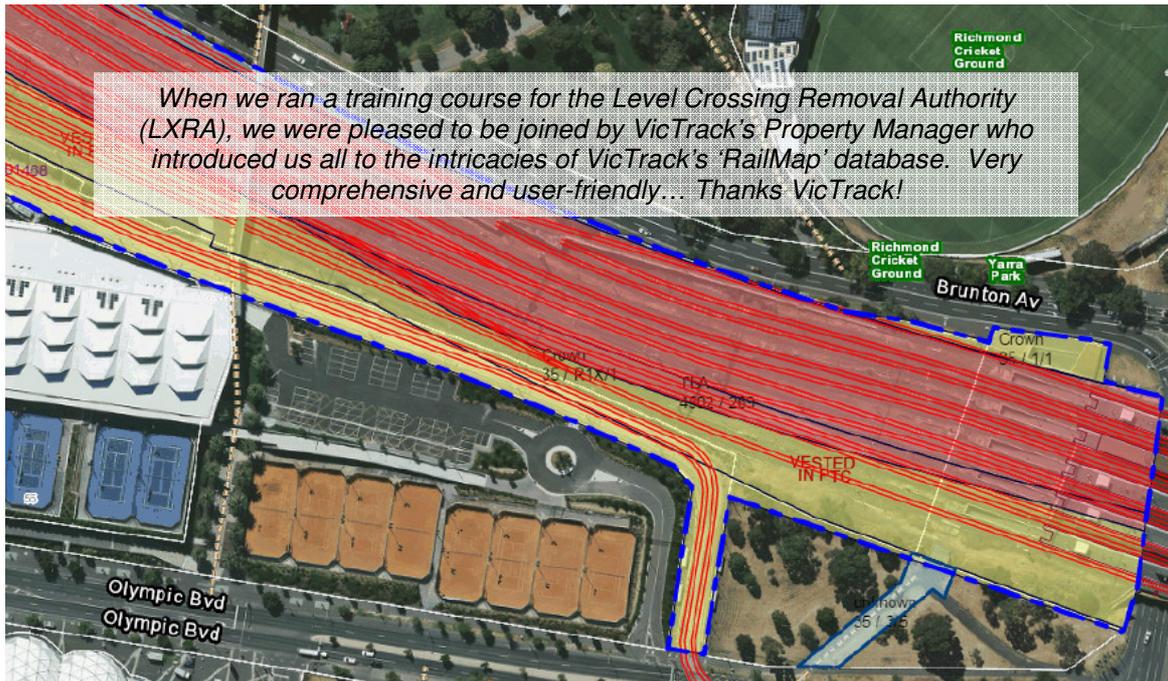
Works on Roads

- The roles and responsibilities of Road Authorities, utilities and infrastructure managers
- The Acts, Regulations and Codes governing road works
- Issuing and enforcing Works on Roads permits for private builders
- The law governing works safety and traffic control

Roads Offences and Enforcement

- Road-related law: Acts, Regulations and Local laws
- Authorised Officers and their powers of enforcement
- Infringement Notices, Procedures and Penalties
- Taking a prosecution to the Magistrates' Court

For more details of these courses go to www.publicland.com.au/professional-development



Workshops and Masterclasses 2017

<p>Friday 3 March 2017</p> <h3>Delegated Management of Public Land</h3> <p>A close look at Crown land committees of management, 'Section 86' committees, 'friends' groups, and community organisations as tenants... Is the system working as it should? What is its future?</p>	<p>Wednesday 3 May 2017</p> <h3>Public Land Regulation and Enforcement</h3> <p>A new look at the overlapping systems of Crown land regulations, council local laws, and road-related regulations as they apply to public land. Can we be doing better?</p>
<p>Wednesday 14 June 2017</p> <h3>The Spaces between the Buildings</h3> <p>Inner Melbourne is fast becoming a set of buildings, with public space being the left-over bits between them. Is there another paradigm – designed spaces surrounded by buildings? How might it work?</p>	<p>Wednesday 2 August 2017</p> <h3>Public land Landlord-Tenant Relationships</h3> <p>As private usage of public land intensifies and commercialises, we need new purpose-built models for planning, setting up, and managing landlord-tenant relationships.</p>
<p>Wednesday 20 September 2017</p> <h3>Public Land Proactive Planning</h3> <p>For private land developments, a municipal planner's toolkit is essentially reactive. For public land they have a much more powerful, pro-active tool-kit. Let's explore it...</p>	<p>Wednesday 18 October 2017</p> <h3>Reconfiguring Urban Lanes</h3> <p>As densities increase and private properties are reconfigured, Councils are called on to deal with an increasingly contested network of lanes, passageways and easements – often dating from the era of the horse and buggy. Here's the what, who, how and why of it...</p>

Enquiries and advance bookings – contact Jacqui Talbot – jacqui@publicland.com.au

Our One-day Training Courses
February to June 2017



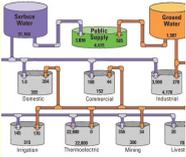
Crown Land
Law, Policy and
Practice

Tues 28 February 2017



Referral Authorities
and the Victorian
Planning System

Thurs 9 March 2017



Land Law for
Service Utilities

Thurs 16 March 2017



Roads Governance

Wed 22 March 2017

Contact us for details of our new
courses: 'Works on Roads' and
'Roads -Offences and Enforcement'



Property Law
for Statutory and
Strategic Planners

Tues 28 March 2017



Leases and Licences
of Public Land

Friday 28 April 2017



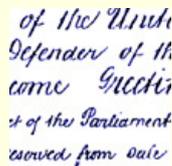
Native Title
and Aboriginal
Heritage

Friday 5 May



Land Law for Managers
of
Rivers and Lakes

Tues 9 May 2017



Restrictions on Title

Easements, Covenants,
Restrictions, Conditional
Crown Grants etc

Thurs 11 May 2017



The Law and
Subdivisions

Thurs 18 May 2017



Offences and
Enforcement
on Roads

Tues 23 May 2017



Environmental Law
for Public Sector Land
Managers

Wed 24 May 2017



Coastal
Land Management

Wed 25 May 2017



Managing
Volunteers and Grants

Thurs 8 June 2017

Cost \$550 per person
including GST, Course notes and working lunch.
Discounts for host organisations

Enrolments and Enquiries – Jacqui Talbot –
jacqui@publicland.com.au

Unless otherwise noted, all courses are at
Law Institute of Victoria,
470 Bourke Street Melbourne

All courses are of one-day duration;
starting time 9:00 am, finish 4:30 pm

For details of all these courses go to
www.publicland.com.au/professional-development