

State of Emergency

Public Health and Wellbeing Act 2008

DECLARATION OF A STATE OF EMERGENCY

It's a time of crisis, yet the business of government goes on. During March 2020, followers of [the Government Gazette](#) have borne witness to this paradox.

On Monday 16th March, Special Gazette S129 announced, in a mere dozen lines, that Victoria is in a State of Emergency. Later the same day, Gazette S130 shut down the Grand Prix. These two pronouncements were made by the relevant Ministers in the Andrews Government, but the next was to be made by a higher authority.

On Wednesday 18th, Special Gazette S134 was headed up: *ELIZABETH THE SECOND, BY THE GRACE OF GOD QUEEN OF AUSTRALIA...* It went on to appoint three royal commissioners to report on governments' response to natural disasters and climate change. This Royal Commission (initiated at Commonwealth level) promises to be a benchmark of profound significance for future policy direction.

Further details of Victoria's State of Emergency unfolded over subsequent editions of the Gazette. S139 dealt with cruise ships, S143 with mass gatherings, S144 with non-essential businesses, S147 with visitors to hospitals, and S156 with prohibited gatherings.

These are not normal times. The pandemic has overshadowed other events which would otherwise have hit the headlines.

On Thursday 19th, gazette S136 recorded a decision of the Chief Magistrate to appoint various persons to the bench of the newly formed Family Violence Court. On Friday 20th, gazette S137 put into effect the sacking of Whittlesea Council.

On Monday 23 March, Gazettes S145 and S146 announced a minor reshuffle of the Andrews Government. The long-standing Minister for Aboriginal Affairs, Gavin Jennings, has stood aside in favour of Gabrielle Williams.

On Tuesday 24th March, gazettes S148 and S150 announced the birth of the new *Local Government Act 2020*, and set out the dates on which its various parts will come into operation.



Gazette S152 specified new 'Bushfire Prone Areas' for the purposes of the *Building Act 1993*, and S163 exempted Bridge Road Mernda from the controls applicable to other roads, courtesy of the *Major Transport Projects Facilitation Act 2008*.

Along the way, Parks Victoria changed the rules for boating on certain waterways, Fisheries Victoria changed the catch limit for Banded Morwong, and Animal Welfare Victoria changed the rules for wild dog traps. Life goes on.

Yes, the Government Gazette is fascinating reading. And nowadays it's accessible on line!

There was a time when one had to go to the Supreme Court, or to the State Library, and climb up a ladder. The Gazette you wanted was always on the top shelf, just out of reach. ◆

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How we are responding

- Our new on-line training course format
- For Victoria's councils: the unthinkable becomes the new must-do



Pages 3 and 4

On-line training courses

- Roadsides and the Law
- Working with Owners Corporations
- Referral Authorities and the Victorian Planning System

How our training courses are responding

For 20 years, our training courses took the form of an actual meeting, at some physical location. Ten students sat around a table, and the presenter addressed them face-to-face. Course materials consisted of hard copy handouts, a powerpoint presentation, and diagrams on the whiteboard.

From time to time we would break for coffee, lunch, and informal (but often vigorous) discussions. Those days are gone.

Our new format uses the on-line meeting platform ZOOM. It will deliver all the training outcomes of our traditional courses, with added benefits. Our traditional courses took the form of one-day presentations of 6.5 hours duration, usually from 9:00 am until 4:30 pm. Our standard course format will now consist of three modules, spread over three nearby dates. Each module is of 2.0 hours duration, typically from 10:00 am until 12:00 noon.



The zoom platform allows the presenter to see the students, and the students to see each other. In other words, the round-the-table peer-group dialogue can continue. We will still have the questions, answers and comments which are so valuable in these learning exercises.

The modular on-line format has other benefits. Files can be uploaded and shared. Questions can either be asked verbally, or keyed in for the presenter to answer later.

And the costs are coming down! We no longer need to hire venues, order catering, and to book overnight accommodation. So our basic per-person booking fee can go down by \$100. Good news for you, good news for us – but we are so sorry for all those wonderful hotels and caterers who have given us such good service in the past.

To hospitality people across the State – people at the Mildura Grand, the Wangaratta Gateway, the Geelong Convention Centre... Thank you! We do hope to see you again in the future. ♦

For information about our new on-line program, contact us on (03) 9534 5128 or at info@publicland.com.au



For Councils, the unthinkable becomes the new must-do

Measures considered unacceptable in normal times have become necessary – even essential. Imagine: a Coalition government nationalising private hospitals!

Municipalities must also respond as their ratepayers self isolate and businesses close. Here's the positive view: change under duress can also be an opportunity for reform.

As we go into lockdown -

- Road expenditure can be substantially reduced by various measures, commencing with lower speed limits. Unthinkable in normal times, but...
- Property assets can be rationalised; many community facilities will be put into mothballs, but others can be declared surplus and sold off altogether.
- Many parks, gardens and roadsides can move into low maintenance mode. Volunteer-based land management may even be retained, suitably reorganised.

As we come out of lockdown –

- In parallel with moving into (and ultimately out of) the lockdown, councils will be transitioning into the new *Local Government Act 2020*. As public halls and sports grounds come out of mothballs, it will be an opportunity to rethink the policy frameworks for issuing leases, charging rents, and community management.

Further issues, post-lockdown -

- The municipal sector must face up to the impending modernisation of Crown land legislation. It will happen – even if councils are preoccupied with other priorities.
- And (so we hear) the Minister for Finance is rethinking policy on government land sales. The municipal sector should be wide awake to that one! ♦

A three-
module
course



Roadsides And the Law

Module 1

- **What is a road?**

How the law sees roads and road reserves

- **Responsibilities for roadsides**

How the *Road Management Act 2004* recognises roadsides and assigns responsibility

- **Roadside infrastructure**

Utilities, crossovers, culverts and pathways...

Module 2

- **Controls over roadsides**

Local laws, planning schemes, referral authorities...

- **Roadside vegetation**

Native vegetation, exotic vegetation, weeds and pests, dangerous trees, fire control

Module 3

- **Roadside safety**

The common law 'duty of care,' risk management strategies

- **Occupation, Use, Boundary Issues**

Fences, grazing, tree reserves, advertising signs, balconies...

And spread across all 3 modules:

- Case law – half a dozen cases from VCAT and the Supreme Court
- Legislation – a brief introduction to a dozen Acts of Parliament and regulations



Presentations

Tues 21, Wed 22, and Thurs 23 April
Each module 10am to 12 noon

Cost: \$440 for the 3-module series including GST and course notes.

A two-
module
course



Working with Owners Corporations

Module 1

- **What they are; how they are created**

The corporate entity and corporations law

- **How they are governed**

Purpose, structure, decision making, OC Committees, OC managers

- **Reading strata plans**

Lots, liabilities and entitlements, boundaries, common property, easement

Module 2

- **What they do and how they do it**

Functions, powers, duties; procedures and operations; setting fees; resolving disputes

- **How they can be modified or abolished**

Altering their rules, purpose and functions; amending the subdivision; winding them up

- **Current Issues**

The cladding issue: industry and policy responses

Covid-19: legal obligations and emerging practice

And spread across the two modules:

The Acts: Owners Corporation Act 2006, Subdivision Act 1988, Transfer of Land Act 1958
Key decisions from VCAT and the Supreme Court

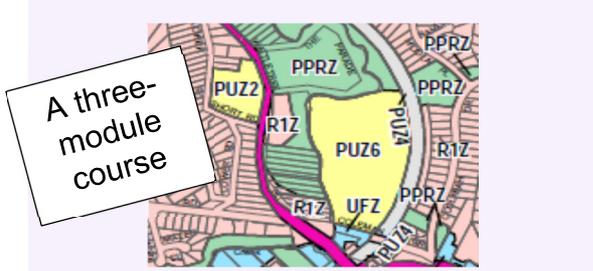


Presentations

- Tues 5 May and Wed 6 May
 - Tues 26 May and Wed 27 May
- Each module 9am to 12 noon

Cost: \$440 for the 2-module series including GST and course notes.

Enquiries and Registrations: Jacqui Talbot – jacqui@publicland.com.au



Referral Authorities and the Victorian Planning System

Module 1

- **The Planning & Environment Act**

Planning Scheme components (zones, overlays, particular provisions etc)
Planning Permit process
Including overview of referral authority role

- **The Subdivision Act**

The subdivision approval process
Easements, roads reserves
Relationship with Planning Permit process

Module 2

- **Roles and responsibilities**

Referral triggers
Planning Permit conditions
Enforcement options
Planning Scheme Amendment process

- **VCAT**

What VCAT can and can't deal with
Some keynote decisions

Module 3

- **Doing things better**

streamlining processes
Avoiding disputes and challenges

- **Shortcuts and Complications**

Environment Effects Act
Major Transport Projects Facilitation Act
Aboriginal Heritage Act
The EPBC Act (Commonwealth)



Presentations

Tues 12, Wed 13, and Thurs 14 May
Each module 10am to 12 noon

Cost: \$440 for the 3-module series
including GST and course notes

Enquiries and Registrations
jacqui@publicland.com.au

All our professional development courses are being converted from one-day presentations to modularised on-line presentations. To discuss, please contact Jacqui Talbot on (03) 9534 5128

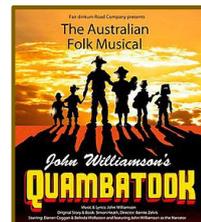
- Coastal Governance
- Subdivisions and the Law
- Leases and Licences of Public Land
- Land Information and its Interpretation
- Crown Land Governance
- Risk Management on Public Land
- Restrictions on Title
- Offences and Enforcement on Public Land

Great News! *Life goes on!*

What a joy it was to get this phone call.

The caller's query related to a fence in a back lane in Quambatook.

Never thought we would get so excited about a 15 minute consultancy job. After weeks of worrying about pandemics, the state of emergency, and moving our courses on-line, it was a breath of fresh air: life goes on!



Citizens have problems with their back fence. Council officers are uncertain about the law. We help the Council officers. They help the citizens. Fantastic! Life goes on!

Let's not get into the detail – except to say that our response took us to Clause 4 of Schedule 5 of the *Road Management Act 2004*.

Cheers to all in Quambatook... (sorry about cancellation of the Great Tractor Pull). ♦

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, The Public Land Consultancy can obtain legal advice from one of its associated law firms.