

## Corporate Knowledge and its converse, Corporate Ignorance

According to one-time US Defense Secretary Donald Rumsfeld, we are faced with known knowns, known unknowns, and unknown unknowns. Thankyou, Mr Secretary: a very clear analysis of human comprehension.

What Rumsfeld had in mind was Iraqi weapons systems – but his now clichéd response to a pesky journalist applies to many fields of knowledge, including the corporate knowledge of municipalities.

How often does one hear the complaint “Old Paddy has retired; all our knowledge has just walked out the door...” What a withering condemnation of whatever entity Old Paddy worked in. The superior who allowed that situation to develop should be sacked.

**One objective for any corporate entity, such as a municipal council, will be to retain the knowns, deal with the known unknowns, and minimise the fear of unknown unknowns. To put it another way, to shift the boundary between corporate knowledge and corporate ignorance.**

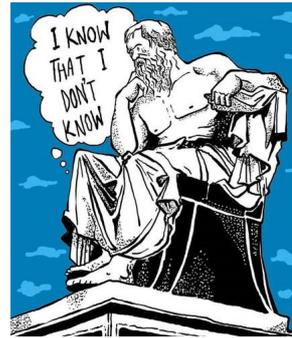
Each one of us, individually, has both knowledge and ignorance. Any two people will, collectively, have more knowledge (and correspondingly less ignorance) than either one of them. Across a typical municipality, we would hope to find a pretty comprehensive spread of relevant knowledge. We would hope to find that ignorance had been shrunk to the known unknowns – that we had dispelled the unknown unknowns.

These days, three factors compel the need to enhance corporate knowledge: environmental change, legislative reform, and personnel churn. Gone are the days when, faced with some difficult question, we could turn to Old Paddy who would pull out the precedent file from the archives.

How to cultivate corporate knowledge? Academic institutions may be part of the strategy, but only a part. Engineers must know their physics and maths. Lawyers must know their precedents. Park Rangers

must know their environmental science. But when faced with real-world, day-to-day problem situations, a framed degree will be of little comfort.

Central to corporate knowledge is peer review, and peer support. A good CEO will insist, and ensure, that knowledge is shared. We’re thinking internal briefings and workshops, structured inductions, and case reviews. Vitally important are the reviews of cases where something went wrong: to make one mistake is unfortunate, but to repeat that mistake is inexcusable.



In Victoria we are fortunate to have a system for peer-group knowledge sharing across municipal boundaries. The Local Government Professional Officers Association (LGPRO) has fostered [Special Interest Groups](#) (SIGs), over thirty of which share knowledge about governance, property, risk, training, community, and many more topics.

As SIG members testify: “Sharing of resources saves hours in preparation and research...” and “I have been able to learn and hear what other Councils do the same or differently...”

**Here at The Public Land Consultancy we are pleased to make the occasional contribution to this knowledge-milieu. There are still plenty of unknowns out there – both known and unknown – but we’re working on them! ■**



At the LGPRO annual conference dinner  
LGPRO President Liana Thompson and David Gabriel-Jones, Principal of The Public Land Consultancy

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Escape from the Silo – how corporate knowledge can be enhanced through cross-disciplinary training workshops

### Page 3 Q&A

Can a Local Law contravene the Road Rules? (or more specifically, how to stop footpath-cyclists mowing down pedestrians!)

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*Our Calendar of Professional Development Courses for March –June 2020*



No, they're not homeless people in Bourke Street, they're actors in Samuel Beckett's play Endgame

Apart from building corporate knowledge, there are further reasons for entities such as municipal councils to get into silo-busting.

Multi-focussed bodies need to structure themselves somehow – and traditionally their organisation charts align with professional disciplines: planning, engineering finance, and property law.

**It's a system often reinforced by land status: this parcel of land is a park, to be managed by people qualified in horticulture, environmental science and recreation; this parcel is a road, to be managed by engineers; and this is privately owned, so our inputs will be made via planners, building inspectors and rate collectors.**

[Project for Public Spaces](#) (PPS) is a New York based non-profit organisation which, in its own words, is dedicated to helping people create and sustain public spaces that build stronger communities.

In a recent bulletin, PPS proposes that governance should be restructured around places. Instead of inhabiting silos labelled transportation, housing, recreation and economic development, we should all inhabit somewhere called Placemaking.

*Here, according to PPS, we'll find a Place-led governance culture facilitating networked community resources formed up into Place-based institutions which create Place-Capital. All too good to be true?*

In Victoria, place-based administration has both succeeded and failed. The Royal Botanic Gardens has its own governance regime, which has surely worked well. The (now defunct) Housing Commission may have excelled at delivering basic shelter, but failed miserably at creating places. As for the (now defunct) Docklands Authority, some commentators see architectural and economic vibrancy where we see a barely habitable wind-swept wasteland.

Our own proposition is a little different from the PPS model. As we see it, the success or failure of any public place depends on three characteristics: firstly its physical features, secondly its activity-commerce, and thirdly its governance regime. These three are closely interlinked, with the first two shaping and being shaped by the third.

Most of the time public places just roll along, the task of their specialist managers being, essentially, to keep them functioning. But there are specific times in the life-cycle of a public place when it needs to be reincarnated. That's when we require some cross-disciplinary silo-busting.

**One key challenge for municipalities is to recognise when the time has come to re-jig a place's basic governance regime. Why? In order to advance (or preserve, or restore, or for that matter erase) its physical and activity-commercial character.**

Just take a look at the St Kilda Triangle. A disaster by any criteria. What it so desperately needs is not architects or accountants or event managers – but a new governance regime capable of rebalancing local and state government interests.

So it's time to knock some holes in the silo walls, to start mixing up their contents. Let's turn from the silo metaphor to the kitchen canister metaphor.

*Our recent series of 'encroachments' workshops has highlighted the benefits of municipal cake-mixing. Around the table are custodians of the ingredients: road engineers, compliance officers, statutory planners, building surveyors, property managers and in-house corporate lawyers.*

It's fascinating to watch the cake-mixing: "Is that really what you've got in your canister? Here's what we've got in ours..." Yes, it makes teaching worthwhile. ■

Some of our Presenters...



**Simon Libbis**  
B.Juris., LLB;  
LIV accredited specialist in Property Law



**Robert Steel OAM**  
Licensed Surveyor  
Ex-president Institution of Surveyors Victoria



**Astrid Di Carlo**  
LLB, LLM, BA,  
Grad Dip Policy & Law



**Stuart Monotti**  
LIV accredited specialist in Property Law and Commercial Tenancy Law



Daylesford residents offer their opinions on Local Law number 2 ... photo Ballarat Courier

The answer to the ratepayer's question is NO. But what constitutes a contravention?

The *Local Government Act 1989* (section 111) provides that a local law must not be inconsistent with any Act or regulation. In the new LG Act, this requirement will survive as section 72.

What upset our questioner was the Shire of Hepburn's new local law number 2.4, which on the surface appears to prohibit the riding of bicycles on footpaths. Here at *Terra Publica* we support the underlying policy: pedestrians should not go in fear of being mown down by cyclists! But that's not the question.

Hepburn's local law reads: "A person must not ... ride a bicycle... in any municipal place other than... a designated roadway or bicycle path." Putting aside the peculiar term 'designated roadway,' does this law prevent our questioner from cycling to the local school with her children? Let's turn to the Road Rules – in particular Rule 250.

Now various types of subordinate legislation could (or should, or should not) be regarded as 'regulations.' But there can be no doubt about the *Road Rules 2017*, made by the Governor in Council under section 97D of the *Road Safety Act 1986*. They are without doubt regulations.

Rule 250 has something to say about cycling on footpaths. Paraphrasing:

*"The rider of a bicycle who is 13 years old or older must not ride on a footpath. Exceptions:*

- *an adult accompanying a child who is riding a bicycle on the footpath*
- *an adult cyclist with a child in a baby seat*
- *a rider with a certified disability*
- *a postal worker."*

Even in these cases the cyclist must keep to the left and (here's the bit we like) give way to pedestrians.

So – does Hepburn's Local law 2.4 *contravene* the Road Rules? Or, to use the wording of the LG Act, is it *inconsistent with* the Road Rules?

Rule 250 doesn't actually say that riders under 13 years old are *allowed* to ride on footpaths, but no other interpretation can reasonably be made. VicRoads agrees ([click here](#)). The prohibition of riders over the age of 13 *implies* the sanctioning of riders under that age. As for their parents, and disabled cyclists, and postal workers – the rule is explicit: they may ride on footpaths. That's about as inconsistent as you can get – so in their case the Local Law is without a shadow of doubt inoperative.



Here's the oddity: the local law discussed above is not only invalid, it is unnecessary. There is another way in which councils can prevent cycling in certain places, including footpaths.

Despite Rule 250, cycling can be prohibited altogether under Rule 252. This involves a bit more work for the council: the erection of signs signifying the start and end of the no-bicycle zone.

**We are inclined to think that explicit, reasoned site-specific bicycle-bans would attract less public hostility than a crude blanket catch-all prohibition. ■**

**Coming soon...**

A new Professional Development course  
***Making Local Laws under the  
Local Government Act 2020***

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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.

## Our Forthcoming One-day Training Courses March to June 2020



### Roads Governance

Thurs 5 March – Melbourne  
Thurs 19 March – Ballarat  
Thurs 23 April – Wangaratta  
Mon 4 May – Traralgon  
Tues 12 May – Geelong  
Tues 28 May – Bendigo



### Roadsides and the Law

Wed 18 March – Melbourne  
Wed 25 March – Ballarat  
Wed 1 April – Traralgon  
Tues 28 April – Bendigo  
Tues 26 May – Wangaratta



### Crown Land Governance

Mon 16 March – Wangaratta  
Tues 24 March – Traralgon  
Thurs 2 April – Bendigo  
Thurs 16 April – Geelong  
Tues 2 June – Horsham  
Tues 16 June – Warrnambool



### Working with Owners Corporations

Tues 17 March – Bendigo  
Tues 31 March – Melbourne  
Thurs 30 April – Geelong  
Thurs 14 May – Traralgon



### The Law relating to Works on Roads

Mon 16 March – Melbourne



### Offences and Enforcement on Roads

Mon 20 April – Melbourne  
(Venue: Russell Kennedy)



### Land Law for Managers of Rivers and Lakes

Wed 29 April – Melbourne



### Statutory Approvals on Public Land

Thurs 30 April – Melbourne



### Risk Management Law

Tues 5 May – Melbourne



### Coastal Land Management

Fri 15 May – Melbourne



### The Law relating to Subdivisions

Wed 13 May – Wangaratta



### Leases and Licences of Public Land

Thurs 27 February – Melbourne



### Road Discontinuations (half-day)

Tues 21 April – Geelong  
Thurs 7 May – Ballarat  
Tues 19 May – Melbourne  
Fri 19 June – Bendigo



### Encroachments onto Public Land (half-day)

Fri 27 March – Melbourne  
Fri 1 May – Wangaratta  
Fri 22 May – Traralgon  
Fri 5 June – Ballarat

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

**Enrolments and Enquiries** – Jacqui Talbot –  
[jacqui@publicland.com.au](mailto:jacqui@publicland.com.au)

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](http://www.publicland.com.au/professional-development)