

TERRA PUBLICA

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*The First People's Assembly
is now Gellung Warl*

Victoria's legal systems will be impacted at various points by the *Statewide Treaty Act 2025*, which was given Royal Assent on 13 November.

That Act is the culmination of a series of reforms going back to the Whitlam Government's *Racial Discrimination Act 1975*. More importantly, it is also the commencement of a series of policy instruments which may now emerge from it.

Here at The Public Land Consultancy, we will certainly be discussing the new roles of Gellung Warl in our training course 'Native Title and Aboriginal Heritage'.

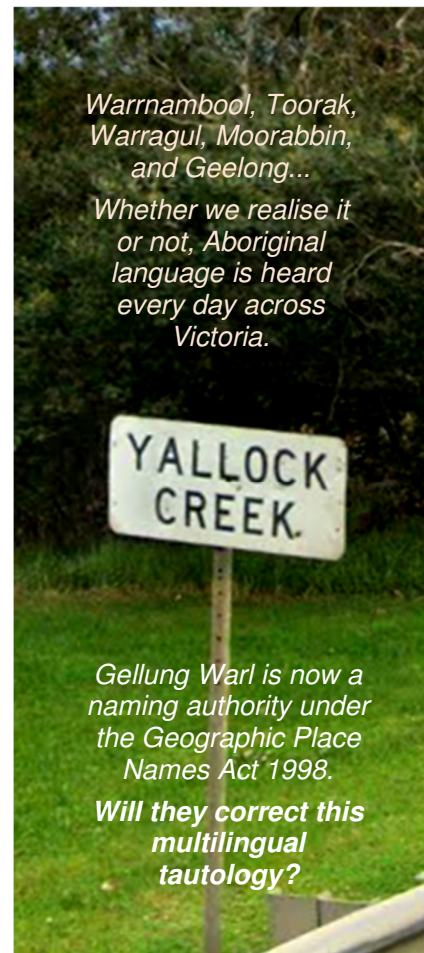
Many land-related matters will continue to be dealt with by Native Title holders and Registered Aboriginal Parties (RAPs), where they have been appointed.

Our NT and AH course is presented by Henry Dow, an associate of Marrawah Law, a law firm specialising in supporting Indigenous people across Australia. Henry has been very well reviewed. Here's what one client had to say...

"Our Councillors thought it was important to have a high-level understanding of the wide range of legislation that covers Native Title and Aboriginal Heritage. The litigious nature of the content can be quite intense but the facilitator from The Public Land Consultancy made it engaging with his lived experience and passion for the topic."

--- Gail Gatt, CEO, Horsham Rural City Council

One of the important functions of Gellung Warl will be advising Parliament and the State Government on matters that affect First Peoples. How about starting with the South bank of the River Murray (Dungala in language)? The actual land frontage to the river. Here is public land of considerable significance to all Victorians, but it's not even in Victoria – so the abutting RAPs have no jurisdiction there. Further reform required! ■



*Warrnambool, Toorak,
Warragul, Moorabbin,
and Geelong...*

*Whether we realise it
or not, Aboriginal
language is heard
every day across
Victoria.*

*Gellung Warl is now a
naming authority under
the Geographic Place
Names Act 1998.*

*Will they correct this
multilingual
tautology?*

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by the **Richmond Abattoir***

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Independent professional advice and support for managers and users of public land

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From Our last Lunchtime Conversation

Earlier this month 180 people signed up for the topic 'The courts v public land.' In the conversation we looked at twenty court cases which had shaped public land law in Victoria.

Our final proposition: reforms should not have to wait for murders, collapsing bridges, surveyors' mistakes, land thefts or racist Queensland Premiers.

The bureaucracy should be awake to the need for reform, commission independent reviews, seek legal advice outside actual court hearings, and advise the legislature accordingly.

Q & A

What happened at Richmond Abattoir?

A question arising from our November Lunchtime Conversation

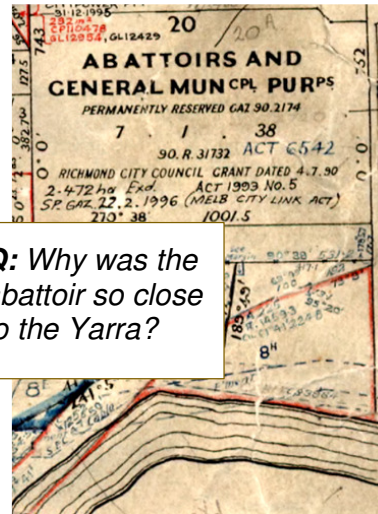
Richmond abattoir? We were referring to a Supreme Court Case which prompted an Act of Parliament.

The case was *The Mayor, Councillors and Citizens of the City of Richmond v. Her Majesty's Attorney-General for the State of Victoria* (Supreme Court of Victoria, 1990). The Act of Parliament was the *Land (Crown Grants and Reserves) Act 1993*.

The land was a Crown reserve vested in the Council, but which was no longer required for its official gazetted purpose. Council had decided to sell it, but the sale had been challenged by the Lands Department, represented by the Attorney General.

The Supreme Court in its wisdom ruled that it was perfectly legal for the Council to make its own decisions about its own real estate.

The Lands Department saw itself as the sole authority over Crown land, and Treasury saw itself as the sole repository of its dollar value, even though that land had been acquired for zilch. They prevailed on their captive ministers to overturn the Supreme Court.



And so it is that we have section 8 of the *Crown Land (Reserves) Act 1978*. Any unauthorised sale lease or licence of reserved Crown land shall be absolutely void. Authorisation must be through an Act of Parliament which expressly, and not merely by implication, authorises such sale, leasing or licensing.

Well, the Lands Department's power was restored, but was it good policy? Maybe local government is best placed to handle land of local significance. Perhaps the dollar value of community assets should be attributed to the local community.

Back to our proposition: the bureaucracy should be awake to the need for reform, commission independent reviews, seek legal advice outside actual court hearings, and advise the legislature accordingly. ■

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.

For our next Lunchtime Conversation Tuesday 9 December 2025, 12pm to 1pm

The Victorian Law Reform Commission (VLRC) usually makes recommendations on issues referred to it by the Attorney-General. It may also, on its own initiative, look into...

‘Minor legal matters of general community concern.’

Here at TPLC, our 2026 plans include making proposals to both the A-G and the VLRC that they look into ‘bottom end’ roads, lanes, and tracks.



Over the years we have investigated a few hundred individual cases relating to bottom-end roads. Not your freeways and arterials, not the managed roads listed on councils’ road registers, but all the rest.

Each individual case has been a relatively minor governance issue, unworthy of the attention of eminent bodies such as the High Court or a Royal Commission. But they are often of immense importance to our clients: the people who use the road-like thing, or who are prevented from using it, or are in some way distressed by it, or are expected to manage it.

Seems to us they are ‘minor legal issues of general community concern.’

Unused Government roads

In farming country across the State. The farmer just wants to graze cattle there. A neighbour wants to get into their back paddock. Some recreational fisher wants to get down to the river frontage. Disputes galore: more than once, we have seen the police called in.

Road layouts to be reconfigured

Topography, vegetation, urbanisation, or environmental policy has rendered some pre-existing road layout unworkable. The current body of law allows for deviations, but the corresponding money flow can be utterly irrational.

Ex-Roads to be abolished

Here is some land no longer needed for road purposes – but what is it to become when it has stopped being a road reserve? By what process will the change be caused? Currently we have four incompatible processes, each of which fails the sound public policy test.

Landlocked parcels

There are blocks where the abutting road reserve is impassable, or where the only access is across Crown land. The ‘easement of necessity’ common law doctrine just isn’t working.

Roads omitted from the Register

The *Road Management Act 2004* is largely about those roads ‘required for general public use’ – but many fail that test. What duty of care does a road authority have for back lanes and dead-end country roads? The RM Act seems to leave Councils exposed to the common law of negligence.

***Yes! A good topic for our next Lunchtime Conversation
Tuesday 9 December 2025***





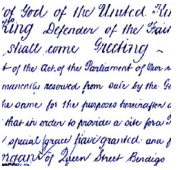



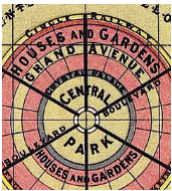


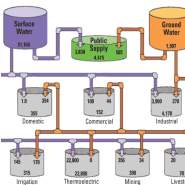
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The Public Land Consultancy acknowledges that our core work relates to the lands of Victoria’s Traditional Owners. We promote recognition of Indigenous rights through study, policy and the law

Professional Development December 2025 – February 2026

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



	Crown Land Governance 9, 10, 11 Dec 2025 10am to 12pm David Gabriel-Jones The Public Land Consultancy		Native Title and Aboriginal Heritage 9 and 10 Dec 2025 10am – 1pm Henry Dow (Marawah Law)
	Crown Land Governance 28, 29, 30 Jan 2026 10am to 12pm David Gabriel-Jones		The Law relating to Vegetation Dates to be confirmed Matt Looby (Biosis)
	Restrictions on Title Dates to be confirmed Nick Sissons (Russell Kennedy lawyers)		Roads Governance 10, 11, 12 Feb 2026 10am–12pm each day David Gabriel-Jones
	Working with Owners Corporations 17 and 18 Feb 2026 10 am to 1pm Anthony Wilkinson (Pelham Strata)		Land Law and Subdivisions Dates to be confirmed Mark Bartley (Russell Kennedy lawyers)
	Land Law for Planners 24 and 25 Feb 2026 10am – 1pm Lydia Eastwood (Redmond Lynch lawyers)		Native Title and Aboriginal Heritage 24 and 25 Feb 2026 10am – 1pm Henry Dow (Marawah Law)
	Rivers and Riparian Land Dates to be confirmed Jo Slijkerman (Watertech P/L)		Land Law for Service Utilities Dates to be confirmed Nick Sissons (Russell Kennedy lawyers)

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.

Registrations:
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ALSO: In-House presentations – we can come to you