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After the Election

Repercussions for Public Land

It seems Victoria is heading for a new government. The Liberal-National parties will dominate the Lower House, but what about One Nation?

Predictions vary. Maybe they will join the coalition government, maybe they will be the crossbench, maybe they will just make trouble from upstairs in the Upper House.

Whatever the eventual outcome, it's timely to consider the repercussions for public land.

Traditional Owners will certainly see significant change. The Treaty will be revoked, and the First Peoples' Council abolished. An incoming State government cannot touch the *Commonwealth Native Title Act 1993*, nor decisions of the Federal Court, but it could revise the *Traditional Owner Settlement Act 2010* and the *Aboriginal Heritage Act 2006*.

> *"Claims for land based on Aboriginal mythology should have no more validity than a claim based on the tooth fairy."*
>
> *"One Nation's policy will restore equality for all Australians. Equal rights for all citizens, and special rights for none…"*
>
> Pauline Hanson

We would not be surprised to see a rewriting of existing Land Use Activity Agreement (LUAAs) and the end to any new LUAAs. Nor would we be surprised to see a watering down of Cultural Heritage Management Plans (CHMPs), and a weakening of Registered Aboriginal Parties (RAPs).

At the extreme, monoculturalism would see Aboriginal heritage simply subsumed into heritage-in-general. Oh, shame.

Net Zero as a target has long been disputed by conservative politics and, for One Nation, is an object of un-scientific derision.

Victoria has been seeing a proliferation of wind farms, solar arrays and battery storages – on private freehold. But the transmission lines which serve them are often on public land, such as road reserves, river corridors and State Forest. Unsightly, maybe – but that's a price we choose to pay for net zero.

A LNP coalition government would redirect the power industry to coal and gas, but One Nation would go further, and fantasises about nuclear. Either way, a Yallourn-centred power industry would mean fewer new transmission lines elsewhere in the State.

Would a power-line free landscape warrant exacerbating climate change? Many would say no, but the electorate may say otherwise.

Roads are election fodder for another reason: **potholes**. The primary response is simple: more money. But we could see revision of the VicRoads/municipal carve-up, variations to road management plans, and reconsideration of the law on negligence.



At this point the Shooters, Fishers and Farmers Party joins the fray, but the roads they complain about are those managed by DEECA and Parks Victoria. Back in the 1980s there was a 4-wheel drive levy. Would the SFFP want that again? ■

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

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Q & A

Is **AI** reliable?

Question from a researcher investigating road-related law.

Artificial Intelligence is a useful tool, but it has limits. **AI** had provided our questioner with 20-word summaries of four court cases relating to roads. All four summaries were over-simplifications, and that's to be expected. **But in three of the four cases there were errors. AI had got it wrong.**

In relation to **one oft-cited case** (*Anderson v Stonnington,2016 and 2017*), AI correctly reported that a road's legal status may be related to its historic public use – but failed to warn that historic public use was only one amongst a number of relevant factors.

The misinterpretation of this case has spread into 'sovereign citizen' territory. We have seen high country citizens demand access to old tracks on private land: '*Historic tracks are public highways according to the Supreme Court of Appeal judgement of 2016…*' Well, guess you can't blame **AI** for Desi Freeman.

In a second case (*VicRoads v Pearce, 2011*), AI correctly stated that 'abutting private landowners cannot annex government road reserves by moving fencelines.' Yes, that is correct – but it's not what that case was about!

The land which Pearce had attempted to annex was not a road reserve, but ordinary freehold owned by VicRoads. His annexation failed because VicRoads was deemed to be 'the Crown,' against which there is no adverse possession.

In a third case (*Bass Coast Council v King, 1997*), **AI** reported on the findings of a lower court: '*Road reserves covered in trees must be kept open'*. But AI missed the fact that this had been significantly varied on appeal to a higher court: '*The trial judge erred…*' and the council had a qualified obligation to keep open only those roads which it considered were required for public traffic.

In fact, the higher court's view in 1997 was later written into statutory law, in the form of the *Road Management Act 2004*. But **AI** didn't mention that. ■

Place Names

From Geelong to Warragal, from Toorak to Warrnambool – Victoria abounds with Aboriginal place names. Most were assigned by the early surveyors, as they went about the job of dispossessing the very people whose words they were recording.

More recently, the City of Moreland has become Merri-bek. and the Yarra River has taken on the alternate name Birrarung.

If Pauline has her way,
all that will stop.



Attempts to rename Australian places with Indigenous words will be rejected. – Pauline Hanson

That leads us to open up the *Geographic Place Names Act 1998* and the associated *Naming Rules for Places in Victoria*. Here we find official endorsement of the practice:

'The use of Traditional Owner languages in the naming of roads, features and localities is encouraged, subject to the agreement of the relevant Traditional Owner groups.'



An assortment of place-etymology here!

Whatever the election result, we plan to offer a new half-day course for Councils: '*Working with the Place Names Act*.' ■

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.

After the Election
Will our Training Courses need updating?

Native Title and Aboriginal Heritage

As we suggest on Page 1, we may need to revise this course, insofar as it touches on LUAAs under the *Traditional Owner Settlement Act 2010*, and CHMPs and RAPs under the *Aboriginal Heritage Act 2006*.

Will the *Commonwealth Native Title Act 1993* be affected? We must wait for a federal election until we see the repercussions of Pauline Hanson's outbursts:

> *"Under our policy, no new submissions will be accepted while all existing claims under native title or cultural heritage laws will be reviewed. We'll amend the Native Title Act to insert a sunset clause.*

We must agree that Indigenous land rights in Victoria are an incomplete mosaic; a work-in-progress. Perhaps we do need a review – but it would be a review which confirms, restates and simplifies the existing body of law, not a review which destroys it.

So YES, our Native Title and Aboriginal Heritage course will need a little revision.

Land Law and Waterways

Waterways and riparian lands have always been a pivotal component of Victoria's landscape and culture – and they are threatened by climate change.

In relation to the actual water, the party-political divide focusses on the allocation split between farmers and the environment.

As for the land alongside the waterways, no government of any persuasion has taken a serious look at it since 1881 (Yes, that's 1881, not 1981) – although some important reforms did occur in 1905.

Who should be the advocates of riparian land reform? The Catchment Management Authorities (CMAs) are not funded to take it on, and the Victorian Farmers Federation (VFF) is focused on irrigation and drainage, but not riparian land governance.

It's the recreational fishers who lead the way. So, a little perversely, we hope for a bit of a stand-off between the fishers and the VFF. That would surely provoke the National Party to urge Spring Street to take a serious look at water frontages and their close companions, unused roads.

So, let's hope change happens, and we do need to update our course Land Law for Managers of Waterways.

The Bush

Victoria's non-urban tracts of remnant Crown land are also the subject of on-going political division.

The LNP coalition, backed up by One Nation, would resume the harvesting of native forests and reopen timber mills – at a cost which alarms the Auditor General.

The Greens have always espoused more National Parks, but others (notably the Shooters and Fishers Party) want far greater freedoms than are allowed under the NP Act.

Back in the 1980s we saw a (very short-lived) four-wheel-drive levy. Guess that could help fund places like Dargo State Forest.

The outgoing Caroll government made noises about '*a brand new Public Land Act to sit alongside and complement the National Parks Act*.' Unfortunately, that was mere fantasy, a regurgitation of decades of false promises to reform Crown land legislation.

We would welcome an opportunity to rebuild our Crown Land Governance course, but we fear long-overdue reforms will remain at the bottom of any new government's to-do list. ■

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.

On-Line Professional Development November-December 2026

Note: All these courses will address changes to law or policy which may arise after the State election





Working with Owners Corporations

10 and 11 Nov
10 am to 1 pm each day

Anthony Wilkinson
(Pelham Strata)



Native Title and Aboriginal Heritage

10 and 11 Nov
10 am to 1 pm each day

Henry Dow
(Marrawah Law)



Land Law and Subdivisions

17 and 18 November
10 am to 1 pm each day

Mark Bartley
(Russell Kennedy Lawyers)



Roads Governance

24, 25 and 26 November
10 am to 12 pm each day

David Gabriel-Jones
(The Public Land Consultancy)



Land Law for Managers of Waterways

24, 26 and 27 November
10:30-12:30 each day

Johanna Slijkerman
(Watertech)



Property Law & Planning

1 and 2 December
10am to 1pm each day

Lydia Eastwood
(Redmond Lynch Lawyers)



Leases and Licences of Public Land

1, 2 and 3 December
10am to 12 pm each day

Richard O'Bryne (The Public Land Consultancy)



Crown Land Governance

Dates to be fixed

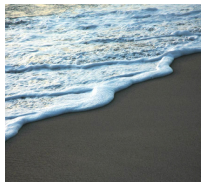
David Gabriel-Jones (The Public Land Consultancy)



Climate Change for Public Land Managers

Dates to be fixed

Rod Anderson (ex-Regional Manager, DEECA)



Coastal Land Management

Dates to be fixed

Liz Patterson (Alluvium) and Richard O'Byrne

Cost:
$550 including GST, course notes and certificate of attendance

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

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