

LEX LOCI'S TRAVELS

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An irregular one-pager from The Public Land Consultancy

Lex Contemplates Perpetuity

Lex is at the Elvis Presley memorial in the Melbourne General Cemetery. He's humming the 1963 Elvis song 'never ending,' and contemplating perpetuity.

The *Cemeteries and Crematoria Act 2003* offers the prospect of interment 'in perpetuity.' Now our Lex is a bit suspicious about words like *temporary* and *permanent* – so what does he make of *in perpetuity*?



Let's be clear about this: Elvis himself is not buried here.

One might be forgiven for thinking that temporary means short-term, and permanent means long-term. Oh, no. When applied to Crown land, such words refer to the method by which the governance regime may be changed. A temporary reserve can be revoked by administrative action; a permanent reserve requires an Act of Parliament.

So what about 'in perpetuity?' The C&C Act sees interment as being either for 25 years, or 'perpetual.' The *Reference Areas*

Act 1978 sets certain pristine areas aside for scientific study 'in perpetuity.' The *Loch Public Hall Act 1966* binds the hall's trustees to use it as a place of recreation and amusement 'in perpetuity.'

Some light might be shed on this perpetuity business by the *Land Act 1958*. There's a whole slab of it devoted to perpetual leases – including provisions dealing with their resumption, annulment and termination. Here's one such provision that takes Lex's fancy: if some scoundrel contrives to amass more than 1170 hectares under perpetual leases, the excess may be subject to forfeiture.

It's a provision which dates back to 1898, and has just been rolled over every time the *Land Act* has been re-enacted. As DELWP heads into yet another rewrite of that Act, we can only hope that perpetual leases are finally relegated to the legislative cemetery.

So the point is: things change, even cemeteries. At the end of the day, reference areas, the Loch public hall, perpetual leases and even the Melbourne General Cemetery are only as permanent as parliament wants them to be.

Elvis, however, lives on forever:

*"I bring you never ending
never ending, never ending,
never ending, never ending,
never ending love..."*

**See you there!
Lex Loci**