

The Do-Nothing Option

Here's a familiar situation. A client comes to us with a public land problem. They have found some governance deficiency, some anomaly, some mistake. Maybe it's an illegality, maybe it's just a curiosity.



We find ourselves analysing the problem, explaining the problem, but then what? Very often we end up asking 'Does it Matter?' Talking it through with the client, we may progress to plans for remedial action, or we may recommend the Do-Nothing Option.

A road reserve has been encroached on by some abutting property. Does it matter? If the answer is clearly *Yes*, then option one is remove the encroachment, and option two is discontinue the relevant portion of road. Both options incur complexities, resources, and costs. But the answer may be *No, not really*. The encroachment is minor, nobody is complaining, the road still functions properly, and it's been like that for a hundred years. We suggest the Do-Nothing Option. Just leave it alone.

A service utility has put a pipeline across a reserve without any easement having been created. Does it matter? A sporting club does not know the difference between a licence and a lease. An abutting owner is converting a narrow pedestrian gate into a wide vehicular gate. Does it matter? In some cases, *Yes*, we need to take action. In other cases, *No*, let's just get on with life.

Are there dangers in this approach? Yes, there probably are. We could be inviting litigation, we could be setting a precedent, we could be squandering ratepayers' assets. So it comes down to a risk analysis.

The Social Worker Option

Sometimes clients have what they believe are land governance problems, but in fact what's needed is support and counselling.

Here is a vagrant, homeless, camping amidst the ti-tree on the foreshore. Sure, he's in breach of local laws, and Crown land regulations, and the Summary Offences Act – but so what? Our advice to the relevant Council: forget about lawyers and prosecutions, call in the Brotherhood of St Lawrence.

The Go Away Option

Finally, the obsessive litigious would-be client. Here's a landowner with grievances about an abutting laneway. Our response to their approach, very early in the piece: your case is hopeless, you are wasting our time and your money. Sorry, but we can't help you.



Rather than build a decent fence, they went on to document 248 alleged acts of nuisance emanating from the laneway over a period of three years. The very number 248 is surely evidence of obsession! Then they initiated litigation right through to the Supreme Court of Victoria Court of Appeal where, as they had been warned, their case failed.

We are pleased to say that by invoking the go-away option, we did not add to their woes by charging them law-firm fees. ■

Professional Development 'In-House'

We are getting an increasing number of requests to deliver one-day training courses 'in-house'.

Rivers and Riparian Land

Our presenter Jo Slijkerman has presented this one to North-East CMA in Wodonga and East Gippsland CMA in Bairnsdale.

Land Law and Subdivisions

We have presented this course *in-house* for several Councils and the Vic Health Building Authority

Offences and Enforcement on Roads

We recently ran a number of *in-house* sessions specially tailored for DTP (VicRoads), and for the City of Melbourne

Land Information and its Interpretation.

Last year we ran this course, *in-house*, for 15 professional staff of Major Road Projects Victoria.

Native Title and Aboriginal Heritage

We have run this course *in-house* for several municipalities, CMAs, and DEECA
Wherever possible, we present this course in collaboration with the relevant Traditional Owner group.

Questions?

Our retainer-based advisory service may be the answer.

We can provide:

- a ten minute phone discussion
 - a brief exchange of emails,
 - a more formal written opinion,
- or even a 'QandA' article in *Terra Publica*...

How our retainers work...

Your authorised staff call our experts whenever they need our advice; we keep a dropbox log of time committed; we send you a quarterly invoice against your purchase order.

It's a service being taken up by metropolitan and provincial councils. If it interests you, please call David on 0412 134 243.

Offences and Enforcement on Roads

A one-day course from
The Public Land Consultancy



David Gabriel-Jones
Principal, The Public Land
Consultancy



Colin Almond
Lawyer, HWL
Ebsworth

The Department of Transport and Planning (DTP) has judged this course to satisfy section 71(6) of the *Road Management Act 2004* which reads -

A person must not be appointed as an authorised officer under this section unless the person has completed appropriate training or qualifications as determined by the Secretary or by the relevant road authority making the appointment.

DTP required us to cover the following:

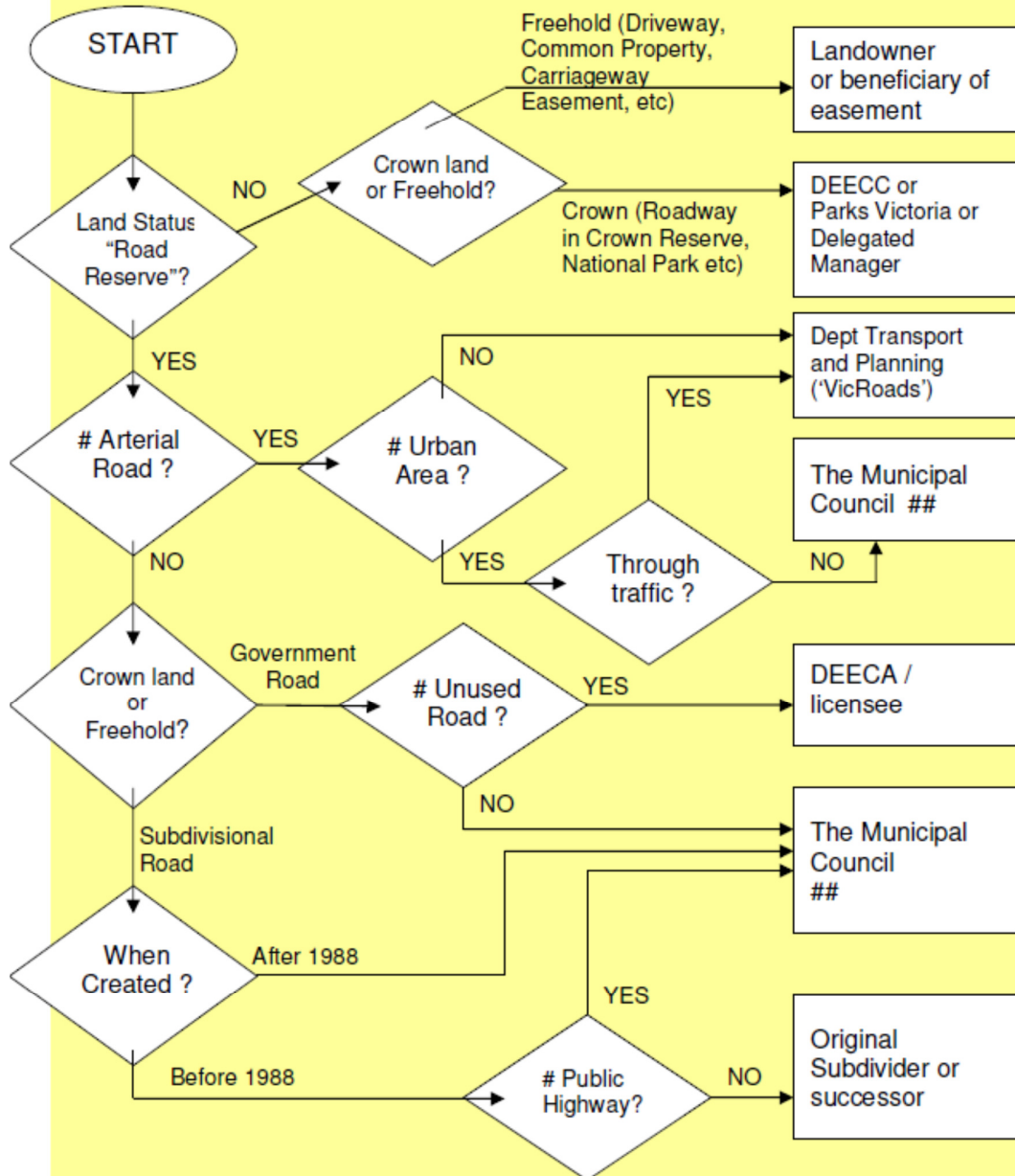
- Roads as defined by:
 - the *Road Management Act 2004*,
 - the *Road Safety Act 1986*, and
 - the *Local Government Act 1989*



- Acts relating to accidents:
 - the *Transport Accident Act 1986* and
 - the *Accident Towing Services Act 2007*
- Road authorities - their roles and powers
- Arterial roads - division of responsibility - *Code for Operational Responsibility*
- Regulations - esp regulations relating to works on roads
- Utilities - how they see roads
- Roads as workplaces:
 - the *Occupational Health and Safety Act 2004*

Q & A

Who is responsible for this road ?
A question often asked, and answered in detail in our Professional Development course "Roads Governance"



The nature of a council's responsibility depends on whether the road is a '# Public Road' under the Road Management Act

Warning: This is a Defined Term

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 its legal associates.

Professional Development, Feb - June 2025

*NOTE: some presentations are 3 sessions, each of 2 hours duration;
others are 2 sessions, each of 3 hours duration*

	Crown Land Governance <i>Presenter: David Gabriel-Jones</i>	Tues 4 Feb, Wed 5 Feb & Thurs 6 Feb, 10am to 12 noon
	Roads Governance <i>Presenter: David Gabriel-Jones</i>	Tues 11 Feb, Wed 12 Feb & Thurs 13 Feb, 10am to 12 noon
	Native Title and Aboriginal Heritage <i>Presenter: Bridgid Cowling</i>	Tues 25 Feb & Wed 26 Feb, 10am to 1 pm
	Property Law and Planning Law <i>Presenter: Nick Sissons</i>	Wed 26 Feb & Thurs 27 Feb, 10am to 1 pm
	Working with Owners Corporations <i>Presenter: Anthony Wilkinson</i>	Tues 4 March & Wed 5 March, 10 am to 1pm
	Leases and Licences of Public Land <i>Presenter: Richard O'Byrne</i>	Tue 11 March, Wed 12 March & Thurs 13 March, 10 am to 12 noon
	Restrictions on Title <i>Presenter: Nick Sissons</i>	Wed 19 March & Thurs 20 March, 10am to 1pm
	Coastal Land Management <i>Presenter: Richard O'Byrne</i>	Tues 25 March, Wed 26 March & Thurs 27 March 10am to 12 noon

Cost: \$550 (from 1 July 2024) 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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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.

