

# LEX LOCI'S TRAVELS

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*An ad-hoc one-pager from The Public Land Consultancy*



## Ambling along Chelsea Beach

Properties abutting the Chelsea foreshore, between Mordialloc Creek and Patterson River, must be worth a few dollars. 'Absolute beach frontage' read the Estate Agents' blurbs. You walk out of your gate onto the beach.

**But in the 1970s some property values took a plunge. The owners couldn't get mortgages.**

To understand why, we need to distinguish between fixed boundaries and 'ambulatory' boundaries.

In 1865 the seaward boundary of the Crown reserve was defined to be High Water Mark; the landward boundary of the reserve (and hence the boundary of the freehold) was defined as being 100 feet from HWM.

Over the decades, HWM had moved seaward. Surveyors subdividing the freehold had assumed that the

landward boundary was 'ambulatory' and had also moved seaward.

In 1970 it was determined that it wasn't, and it hadn't. The landward boundary of the reserve was still exactly where it had been a hundred years earlier. 'Freehold' properties were therefore encroaching into the permanent Crown reserve. Shonky titles; no mortgages.

State Parliament came to the rescue, with the *Chelsea Lands Act* of 1981. The landward boundary was now deemed to be where the owners thought it should be. But Parliament didn't address the seaward boundary, which may still be where HWM was in 1865, or may have ambled back and forth in accordance with the *doctrine of accretion*.

Lex just doesn't know...

**See you there!**  
**Lex Loci**