

LEX LOCI'S TRAVELS

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

Lex in Never-Ever Land



See you there!
Lex Loci

'Never Ever Ever Ever Ever.' It's not a phrase you would expect to find in a VCAT judgement. But when the case¹ involves common property controlled by an Owners Corporation (OC), tempers can get a little frayed.

Not the temper of the VCAT member, Lex hastens to add. She kept her cool throughout. But as for the disputants before her...

As the published judgement records, the chairman of the OC had felt it necessary to communicate with one unit owner in the following terms:

Be warned. Never ever ever ever ever make direct contact with me again by email, telephone, fax or any other method. Your contact is not welcome... Do not respond to me directly regarding this or any other matter at any time. I can't make it any clearer...

The dispute before VCAT (actually a bundle of 20 separate disputes) was largely about management of the common property in a 17-lot subdivision at Seaford. And they were nasty disputes.

Is common property public land? Perhaps not.

It's certainly not in public ownership. In many subdivisions it's accessible only to the lot owners; in others it looks and functions like open-to-anybody public land.

In fact, many common property roadways will be roads for the purposes of the *Road Safety Act 1986*. And they may also be public places for the purposes of the *Summary Offences Act 1966*.

In the Seaford case, VCAT concluded that some of the 20-odd claims had been made out, and ordered the OC to rectify them. Others had not, and presumably remain the subject of vigorous dispute.

So, as Lex drives down Nepean Highway, Seaford, he's not going to drop in at number xxx for a chat. Never ever.

1. Paisley v Owners Corporation PS52240, VCAT 1739 (4 October 2013)