

LEX LOCI'S TRAVELS

24 OCTOBER 2022

An occasional one-pager from The Public Land Consultancy

Lex in Gumboots

By the Goulburn River in Seymour

Lex is in Seymour, dismayed by the flood damage he sees. Hundreds of homes and businesses inundated.

Could it have been prevented? Would a levy bank have worked, or merely destroyed important wildlife habitat? Lex will leave that debate to the hydrologists and planners.

But one matter which our Lex will comment on is the cadastre: the pattern of actual land status and ownership along the river.

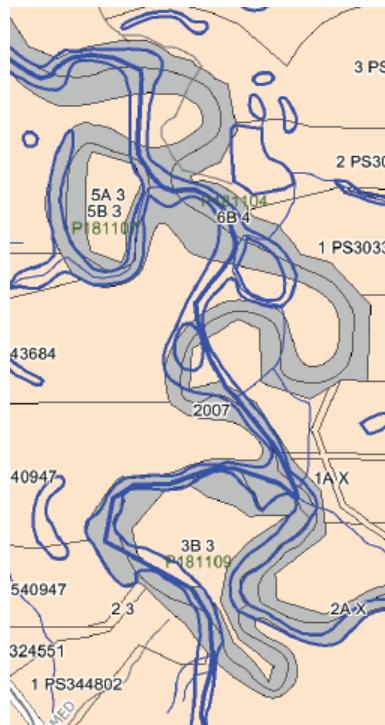
In the year 1881 the government of the day formed the view that rivers and riparian frontages should be public land. The bed, banks, and frontages of hundreds of rivers across the State were permanently reserved for public purposes.

Since that date many, perhaps most, rivers have changed course - due to natural causes or human intervention.

The 1881 reserve has not responded. The end result: a strip of Crown land, where the river used once to flow, is now high and dry and appears to be part of the abutting farmer's paddock. A little distance away, the actual waterway flows over freehold land belonging perhaps to the same farmer, or perhaps (through that pesky adverse possession trickery) to their neighbour.

Can it be fixed? The 1881 Crown reservation was designated *permanent*.

That means it cannot be varied by any available administrative process. If the river moves, the Crown land can be reconfigured only by Act of Parliament.



The Goulburn River at Seymour. The blue lines show the course of the river in 2013. The grey areas are the Crown land reserve, unchanged since 1881.

When the present flood subsides, who knows where the river will settle? The hydrologists and planners will no doubt revisit the question of levy banks.

But Lex says: first, let's sort out who actually owns what! A new Riparian Land Act please! ◆

See you there! Lex Loci

Seymour is in Taungurung Country