



Our reference: 17/02004#11

Contact: Peter Bisset
Phone: 02 6990 1801
Email: peter.bisset@crownland.nsw.gov.au

Clare Fitzpatrick
Progressive Rural Solutions
P.O. Box 74
Deniliquin NSW 2710

Dear Clare,

RE: PRESUMPTIVE TITLE - LOT 1 DP 1001440

I refer to your email to authorise the occupation of Crown land for a 'pumpsite'.

An historical search has determined that the title boundary to Lot 1 Deposited Plan (DP) 1001440 currently held by Christopher John Crump, Dawn Christine Crump, Joel Andrew Smith & Kalli Irene Crump, where it fronts the Edward River and Murray River extends to the middle thread of the river by means of presumptive title (via the '*Ad Medium Filum Aquae*' rule).

The original freehold title for this land was granted on 18 November 1870.

As a general rule where a freehold title of land bounded by a non-tidal stream issued prior to 3 May 1918 (being the date the beds of creeks and rivers etc. in the Central and Eastern Divisions of NSW were reserved to the Crown) and the plan of survey on which the freehold title is based shows the bank as the boundary, then the "*ad medium filum aquae*" rule (under Common Law) applies in that the riparian owner would enjoy presumptive title to the middle thread of the respective creek or river.

The presumption applies unless it has been rebutted by a statement in the freehold title or subsequent dealing in the land. In the case of this land, there is no evidence of rebuttal and the chances of a rebuttal are considered highly unlikely.

The title plan (DP1001440) clearly shows the bank of the river as the allotment boundary, and the freehold title was issued prior to 3 May 1918.

From this information, I am confident that Lot 1 DP 1001440 enjoys presumptive title to the middle thread of the Edward River and Murray River under the provisions of Section 45A of the *Real Property Act 1900*. On that basis, I do not consider the bed of the Edward River and Murray River between the documentary title boundary and the middle thread to be Crown land.

Please note:

- (1) The physical location of the bed and centre thread of the creek or river can only be determined by survey. Formal claims to the centre line of the must be made in all cases to NSW Land Registry Services, Legal Division. As such, this letter does not constitute legal advice.
- (2) This advice is only in relation to Lot 1 DP 1001440. Each freehold adjoining parcel of land adjoining a non-tidal creek or river is unique and a thorough examination of the history of the original grant of the title to the land is required as evidence to necessitate the existence of presumptive title.
- (3) The proposed works/activities are subject to the requirements of various other pieces of legislation. It is the responsibility of the applicant to obtain any appropriate information and to observe any requirements of these other laws. These include (but are not necessarily limited to) the:

- a. *Water Management Act 2000*- authorisation for water supply and works approvals from the WaterNSW; and
- b. *Environmental Planning and Assessment Act 1979 / Local Environment Plans*- development consent from your local Council.

If you have questions regarding this letter, please contact Peter Bisset, Natural Resource Management Project Officer on (phone) 02 6990 1801 or (email) peter.bisset@crownland.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Grant Marsden', with a circular flourish at the start.

Grant Marsden
Area Manager- South West

Date: 30-July-2021