



Our reference: 17/02004#08

Contact: Peter Bisset  
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Chris O'Brien  
Murray River Council  
P.O. Box 21  
Mathoura NSW 2710

Dear Chris,

**RE: PRESUMPTIVE TITLE – LOTS 4 & 5 DP 560393 – MEROOL CARAVAN PARK**

I refer to proposed bank stabisation & erosion control works on the Murray River adjoining Lots 4 & 5 DP560393 at the Merool Caravan Park.

A historical search has determined that the title boundary to Lots 4 & 5 Deposited Plan (DP) 560393 currently held by Tasman Tourism Property Pty Ltd where it fronts the Murray River extends to the middle thread of the river by means of presumption title (via the '*Ad Medium Filum Aquae*' rule).

The original freehold title for this land was Vol 10 Folio 245 and was granted on 31 December 1863.

As a general rule where a freehold title of land bounded by a non-tidal stream issued prior to the gazettal date of 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) or 31 May 1935 (being the date the beds of creeks and rivers etc. in the Western Division 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 is considered highly unlikely.

The current title plan (DP560393) and historical title plan Crown plan C3-1817 clearly shows the bank of the river as the allotment boundary, and the freehold title was issued prior to the Reservation on 3 May 1918.

From this information, I am confident that Lots 4 & 5 DP 560393 enjoys presumptive title to the middle thread of the 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 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 Lots 4 & 5 DP 560393. 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 holder 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](mailto:peter.bisset@crownland.nsw.gov.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Bisset', with a stylized flourish at the end.

Peter Bisset  
For Area Manager- South West  
Date: 15/7/2021