

Our reference: DOC25/018933

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Edify Energy Pty Ltd  
PO Box 786  
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Via email: [adam.smith@edifyenergy.com](mailto:adam.smith@edifyenergy.com)

Dear Adam,

RE: PRESUMPTIVE TITLE – LOTS 1-2 DP 1236901

I refer to your application for a land search to investigate the ‘*Ad Medium Filum Aquae*’ and the ownership of Salt Water Creek, adjoining Lot 1 (former Portions 117, 118, 129 and 130) Deposited Plan (DP) 1236901 and Lot 2 (former Portions 119 and 120) DP 1236901, Parish of Melrose, County of Roxburgh.

A historical search has determined that the original title boundary of Lot 1 DP 1236901 and Lot 2 DP 1236901, where it fronts Salt Water Creek, does extend to the middle thread of the river by means of presumption title (via the ‘*Ad Medium Filum Aquae*’ rule).

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) 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 Crown Grant 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 Title Plan (CP 870-1496) for former Portions 117, 118, 129 and 130 (now Lot 1 DP 1236901) clearly shows the bank of the river as being the allotment boundary and the relevant Crown Grants were issued prior to the reservation of Reserve 56,146 for ‘Beds and banks of rivers etc’ on 3 May 1918. From this information, I am confident that Lot 1 DP 1236901 does enjoy presumptive title to the middle thread of Salt Water Creek under the provisions of Section 45A of the *Real Property Act 1900*. On that basis, I do not consider the bed of Salt Water Creek between the documentary title boundary and the middle thread to be Crown land.

The Title Plan (CP 870-1496) for former Portions 119 and 120 (now Lot 2 DP 1236901) clearly shows the bank of the river as being the allotment boundary and the relevant Crown Grants were issued prior to the reservation of Reserve 56,146 for ‘Beds and banks of rivers etc’ on 3 May 1918. From this information, I am confident that Lot 2 DP 1236901 does enjoy presumptive title to the middle thread of Salt Water Creek under the provisions of Section 45A of the *Real Property Act 1900*. On that basis, I do not consider the bed of Salt Water Creek between the documentary title boundary and the middle thread to be Crown land.

Please note this letter simply determines the Crowns interest, if any, and does not constitute legal advice as to the ownership of the lands.

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 the Legal Division of NSW Land Registry Services. As such, this letter does not constitute legal advice.
- (2) No further searching from the freehold title has been undertaken. That is, the chain of title has not been researched to check for a rebuttal.
- (3) This advice is only in relation to Lots 1-2 DP 1236901. 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.
- (4) 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 Sara Swain, A/g Property Management Officer by email at [sara.swain@crowland.nsw.gov.au](mailto:sara.swain@crowland.nsw.gov.au).

Yours sincerely,



Shaun Barker  
Area Manager- North West

Date: 5 February 2025