

Riparian Boundary: Moved by Water or by Man?

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ABSTRACT

A subdivision survey was undertaken of a property fronting the Hunter River near Denman in the Hunter Valley, NSW. Development Application (DA) approval was sought and granted in 2008. The matter did not proceed at the time as the original owner decided to sell the property unsubdivided. The incoming owner likewise decided not to subdivide but subsequently changed his mind in 2013, then changed his mind again, and then reconsidered in 2018 when the drought forced his hand. The majority of the land had title based on a Deposited Plan prepared in 1920, showing no lot area but indicating the bank of the river was the boundary. However, a subsequent signed amendment by the surveyor states “the land comprised in this plan extends to the middle thread of the Hunter River.” After some further delays, the subdivision was surveyed and the plan prepared in 2019. A subdivision certificate was obtained and after execution by the owner and mortgagees the plan was lodged at Land Registry Services (LRS) for examination and registration. It then was brought to the author’s attention by the plan examiner at LRS that the matter of the riparian boundary was the subject of Supreme Court action between the landowner and the Land Titles Office back in 1927. This raised interesting inconsistencies between a land title based upon a registered plan and LRS records based upon Supreme Court judgement. As a surveyor, one always assumed that a riparian boundary is determined by and moves with the bank of the watercourse, whereas in this case it appears that the boundary moves by the judgement of man. This presentation outlines the intricacies of this interesting case.

KEYWORDS: Riparian boundary, Supreme Court judgement, Certificate of Title, Land Registry Services.