



## Old System Land (also known as Limited Title and/or Qualified Title)

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## Torrens Title Land

# What it means for you and why you should know the difference

### The Different titles explained. What do you need to know?

**Old System Title** was the first system of land grants in NSW, used between 1792 and 1863. Within this system, each time land changed ownership a new deed of title was drawn up and registered with the Lands Department.

This was done because:

1. There was no central registry (as there is today) for the registration of land.
2. Quite literally, the piece of paper the title was drawn up on needed to be recreated every time the parcel of land exchanged hands because the new purchasers' details had to be recorded on the new title. (It wasn't a matter of just crossing out the sellers details and scribbling the new purchasers' details onto the existing title).

Over time this meant that any individual parcel of land had in existence any number of separate titles all relating to the one parcel.

Subsequently, proof of absolute ownership was only achieved through the possession of the series of unbroken title deeds known as a 'chain of titles' (hence possession of all the deeds that had ever been created for any individual parcel of land).

Without the 'Chain of titles', the question of absolute ownership remains unanswered and can be challenged at any time.

In contrast:

**Torrens Title System** (also known as 'title by registration'), differs in that there is only ever one title attached to any registered parcel of land.

In simple terms, in the Torrens Title system, each time land changes ownership this single title (recorded as a volume and folio number) and is exchanged between the old and new owners. The State creates and maintains the register of land holdings (the Land Titles Office), and as a result this serves as conclusive evidence of ownership, termed indefeasibility of title.

This means the ownership of your land/property can not be questioned or changed (with the only exception being if the land was registered fraudulently).



## **How do I know if my property is Old System title or Torrens Title?**

You will know if your parcel of land is registered under Old System Title if there is a notation on the Certificate of Title of either '*Qualified Title.*' or '*Limited Title.*' or both. If these are absent, your land is registered under Torrens Title.

## **What does 'Qualified Title' mean?**

This notification on the Certificate of Title serves as a 'buyer beware' caution. Don't worry, this does not mean there is anything wrong with the land, or the title. ***What it does mean is that there is no guarantee that there is not another person in existence who has an interest in the land,*** by having another deed attached to that specific lot of land.

## **What does 'Limited Title' mean?**

This means that there is no guarantee on the position of the boundaries for your parcel of land. No one has ever properly surveyed the land (which is a prerequisite for Torrens Title registration).

As such the position of the boundaries as they stand are only approximate. The only way to remove this notation, and have your property registered under the Torrens Title System is an investigation by a Registered Surveyor to define the exact boundaries.

## **What does this mean for YOU?**

The most important feature between the 2 types of land registration is that land registered under the Torrens Title System possesses what is known as 'Indefeasibility of Title'. In short, this means that there is ***CERTAINTY of ownership of your parcel of land*** and prevents any third party from making a challenge or claim over your land.

Additionally, under the Torrens Title system, your title comes with a Government backed guarantee. It's called the Torrens Assurance Fund as is designed to protect and compensate anyone who through no fault of their own (such as fraud), suffers loss or damage as a result of the operation of the real property act.

What this means is that under Torrens Title, if you were to suffer a loss or damage to your title under no fault of your own (i.e. fraud or an error or omission in the register), and you were unable to recover the finances from the responsible party there is another avenue available to you. You may make a claim for compensation from the Torrens Assurance Fund (TAF).

If your land is in Old System Title and you were to suffer the exact same loss or damage, you would not be covered by the TAF. You would then be engaged in expensive legal proceedings to try to recover your parcel of land, and if this is not successful you do not have the Government backed guarantee.



## **Can your title be changed from Old System to Torrens Title?**

Absolutely.

The '**Qualified Title.**' notation can be removed in numerous ways. The different ways vary depending upon several external influences.

Regardless, these may be removed upon application and satisfaction of requirements which can be arranged by your legal representative.

The '**Limited Title.**' notation can be removed from your title by getting a Registered Surveyor in NSW to complete a plan of 'Delimitation'. This plan will then need to be lodged and registered with the NSW Land Registry Services.

When these requirements have been met, your land will be under Torrens Title and possess the essential characteristics of Torrens Title Land. Most importantly your ownership of title is unquestionable and protected by the Torrens Assurance Fund (TAF)



## **WHAT YOU NEED TO KNOW ABOUT ARP SURVEYORS**

ARP Surveyors is a team of experienced registered land surveyors.

We service the entirety of NSW and conduct all types of land surveys including both urban and rural settings.

With over 35 years' experience on our team, ARP Surveyors is led by company director Rob Lyon; a fully qualified Registered Surveyor with a Batchelor Of Engineering (HONS)(UNEW).

Combining that level of knowledge and experience with the use of the latest technologies and machinery to ensure precision in both the field and on final reports... makes trusting your land in our hands an easy decision.

At ARP, our focus is simple...

**Delivering you an unparalleled client experience resulting in the rapid delivery of precise and cost-effective work.**

And we pride ourselves on that commitment.

Our dedication to quality is built on 3 key '**Client Focused**' performance drivers:

1. To make your job easy
2. Rapid delivery
3. Precision and accuracy

Sincerely, we do not want you to be a transient customer or us to be just a temporary service provider for you. Our goal is to build a life-long business partnership.

Which is why everything we do is centred around our key performance drivers so you are guaranteed nothing short of a first-class experience, and product result.

We look forward to hearing from you and working with you long into the future.

If you require any further information, please do not hesitate to call us directly on the number listed below. And until then, have a superb day.

A handwritten signature in blue ink, appearing to read 'Rob Lyon', written over a circular scribble.

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A handwritten signature in blue ink, appearing to read 'Paul Brotherson', written in a cursive style.

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