

Title system of land in New South Wales

Apart from Crown leases, title to land in New South Wales is either under the Old System (or General Law), or the Torrens System (Real Property Act). The Old System Title was introduced into the colony of New South Wales when it first settled and has its roots in the centuries old English land law. After the original Crown Grant of land, title is transferred to each successive owner by a Deed of Conveyance or Mortgage. Each document must be properly signed and attested, stamped and contain a description of the land. All these documents form the chain of title.

To ensure that there are no problems with the chain of title, extensive searches of the documents must be made. In practice, to find a good starting title often means going back well beyond 30 years. Old System conveyancing can be complex and very time consuming. The search fees and legal costs involved are significantly higher than is the case with Torrens System where there is only one title deed.

To encourage conversion of Old System Title to Torrens Title, the Real Property (Conversion of Titles) Act was passed in 1967. This Act provides for the issue of a Certificate of Title known as a "Qualified Title". The qualification is removed and the title becomes absolute six years after the issue of the certificate, if there has been a transfer to a purchaser for valuable consideration. Otherwise, the title becomes absolute after twelve years. Until the title becomes absolute it is necessary to fully investigate the Old System Title documents to the land. Therefore dealing with a Qualified Title is just as expensive as an Old System Title.

