Raiders of the Lost Lot: A Collaborative Approach to Restoring Integrity to the Torrens Register of Titles

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ABSTRACT

The underlying principle of the Torrens system of titles is the indefeasibility of title by registration. The Real Property Act 1900 establishes that the estate of the registered proprietor is paramount, stating that the registered proprietor of any estate or interest in land maintains that interest absolutely free from all other interests not recorded. This principle is further amplified by stating that no dealing is deemed effectual until it is registered. This paper presents the adventure of the Raiders of the "Lost Lot", demonstrating a collaborative approach to restoring integrity to the Torrens Register of Titles. While undertaking a survey for an entirely separate purpose, the authors discovered an error in the Torrens Register of Titles that resulted in an entire Torrens title being "visually erased" from the NSW cadastre and seemingly consolidated with the adjoining title. However, a folio identifier for the "lost lot" had not been issued, the manual volume/folio title was listed as "cancelled", a mortgage remained undischarged, and its graphical representation within the Digital Cadastral Database (DCDB) was absent. Following extensive and detailed plan and title searches, with the required evidence in hand, the findings were confirmed with NSW Land Registry Services (LRS) and the error rectified in the register. Six months after the discovery, LRS issued a folio identifier for the "lost lot" – over 30 years after it first "disappeared". Later, this adventure received the 2025 NSW Excellence in Surveying and Spatial Information (EISSI) Award for Urban Cadastral and Land Titling Excellence, as well as the Sir Thomas Mitchell Award for the most outstanding winning project.

KEYWORDS: *Torrens register, rectification, DCDB error, title by registration, lost lot.*

1 INTRODUCTION

The underlying principle of the Torrens system of titles is the indefeasibility of title by registration. Section 42 of the Real Property Act 1900 (NSW Legislation, 2026a) establishes that the "estate of the registered proprietor is paramount", stating that the registered proprietor of any estate or interest in land maintains that interest absolutely free from all other interests not recorded. Sections 41 & 43 further amplify this principle, e.g. by noting that no dealing is deemed effectual until it is registered.

This paper presents the adventure of the Raiders of the "Lost Lot", demonstrating a collaborative approach to restoring integrity to the Torrens Register of Titles. While undertaking a survey for an entirely separate purpose, the authors discovered an error in the

Torrens Register of Titles. This error was likely due to an administrative oversight by the entity responsible for preparing a particular transfer document or by NSW Land Registry Services (LRS) (or its predecessors), resulting in an entire Torrens title being "visually erased" from the NSW cadastre and seemingly consolidated with the adjoining title.

It was clear, however, that the adjoining title had not been subject to a consolidation. A folio identifier for the "lost lot" had not been issued, the manual volume/folio title was listed as "cancelled", a mortgage remained undischarged, and its graphical representation within the Digital Cadastral Database (DCDB) was absent. The registered proprietor of the adjoining title unknowingly occupies the entirety of the subject title, potentially giving rise to a (likely successful) possessory title claim. Consequently, the "dispossessed" registered proprietor could have a probable successful claim against the Torrens Assurance Fund due to an error by the Registrar-General.

Following extensive and detailed plan and title searches, and becoming absolutely certain of the circumstances, the authors compiled and presented evidence to LRS. They first sought confirmation of their findings, then rectification of the register. This work was undertaken without fee or reward, as there was no client. Aware of the Board of Surveying and Spatial Information's (BOSSI's) Code of Professional Conduct with respect to the general public, the authors discovered an anomaly in the Torrens Register of Titles and sought to remedy it of their own volition.

2 SEARCH AND DISCOVERY

In August 2024, Mr Surveyor Thomas Casey was carrying out a survey at the intersection of Forbes Street and Schweitzer Lane, Grenfell. As part of making a full and thorough search of the applicable section and adjacent nearby land, he noted the Cadastral Records Enquiry (CRE) for that job showed that the corner of Burrangong Street and Schweitzer Lane was occupied by 1/370182. A copy of DP370182 was obtained, and it interestingly noted marks found without reference to their origin but suggested another older survey of the land had been performed. Additionally, the plan referenced a party wall and an adjoining volume and folio title reference (Vol.2828 Fol.96). The shape of the lot in DP370182 was not the shape shown in the CRE (Figure 1), and the CRE representation appeared almost twice the area noted on the plan.

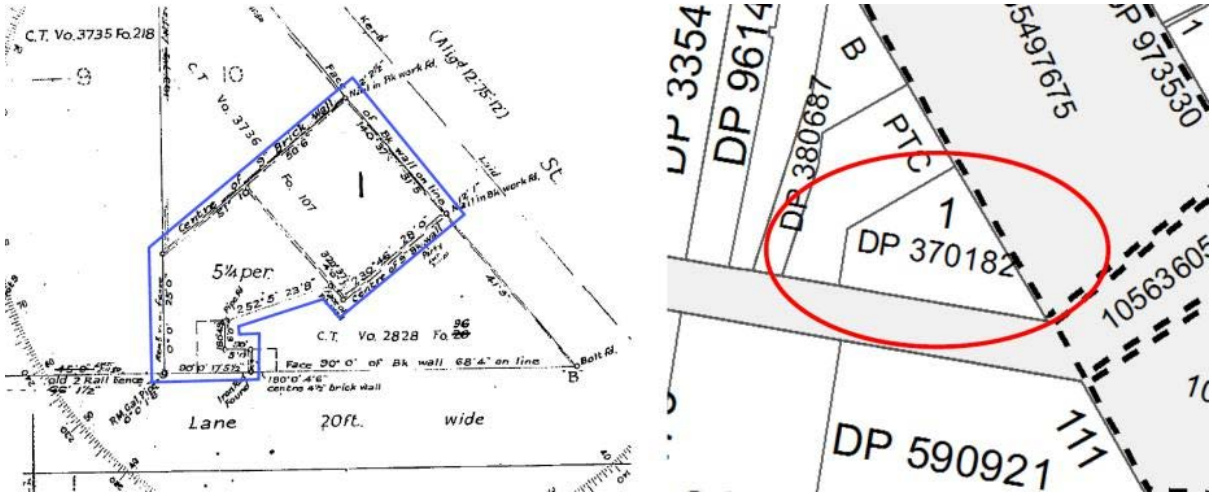


Figure 1: DP370182 and its depiction in the DCDB.

In general conversation with Mr Surveyor Darren Booth, the matter was discussed, and both surveyors agreed there was something strange going on. They then decided to investigate further for no other purpose than to "scratch an itch" and proceeded to "dive down the rabbit hole".

Vol.2828 Fol.96 was investigated. It was found through a cancelled title search, but it did not bear evidence of cancellation. A search within the Historical Land Records Viewer (LRS, 2026) noted "live title or residue remains". The title contained a diagram clearly noting a party wall and an adjoining title, Vol.6254 Fol.47. The titles shared common boundaries and noted a burdening and appurtenant right of way (Figure 2). A search of Vol.6254 Fol.47 showed it was cancelled, and a new folio identifier, 1/370182, had been created.

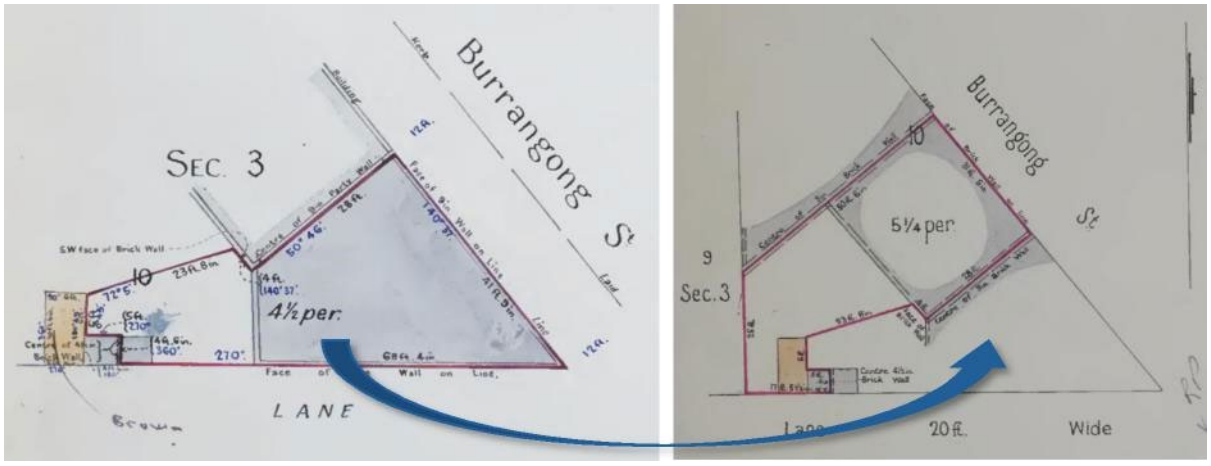


Figure 2: Vol.2828 Fol.96 (left) and Vol.6254 Fol.47 (right).

Casey and Booth returned to Vol.2828 Fol.96. It referred to a registered transfer dealing A349708, a copy of which was obtained and bore reference to an annexed plan, being a plan of Lot 1 in DP958450 (Figure 3). This was the missing plan of survey and the origin of marks found in DP370182.

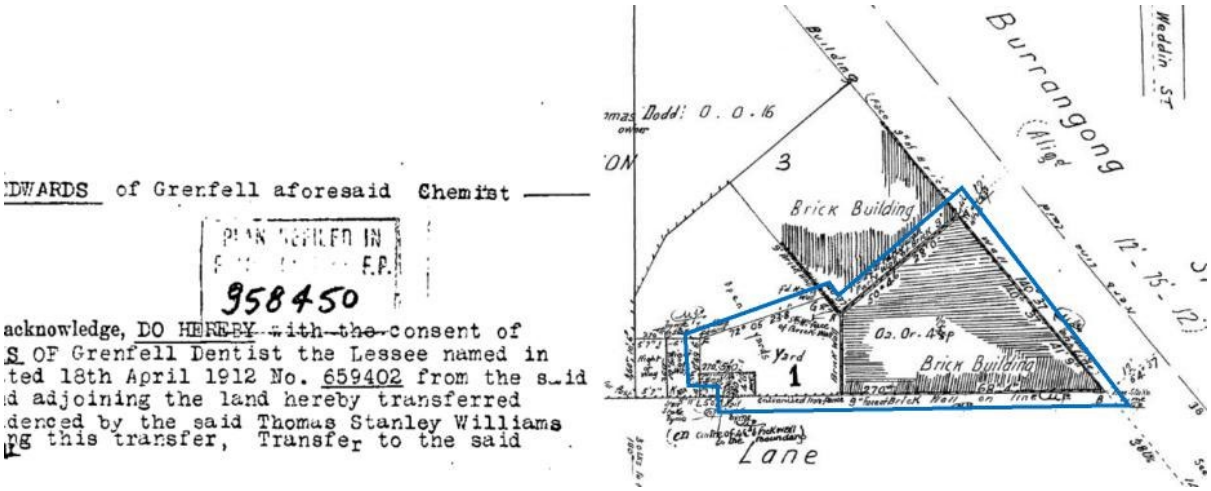


Figure 3: Excerpt from A349708 and part of DP958450.

But what had happened to the land in Vol.2828 Fol.96 – Lot 1 in DP958450? A search for folio identifier 1/958450 yielded no results; it did not exist, returning "1/958450 could not be verified" (Figure 4).

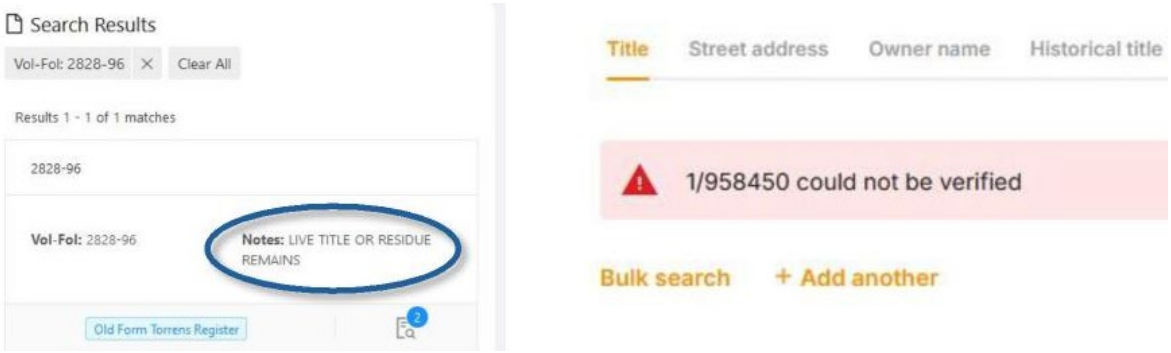


Figure 4: "Live Title"? – No folio identifier for land in Vol.2828 Fol.96 or Lot 1 in DP958450.

Notably, on the face of DP958450, a notation had been added by the then regulator, Land and Property Information (LPI) – "Lot number (1) added in LPI vide 2004/772" (Figure 5) – together with the seal of the Registrar-General. 2004/772 refers to an internal file, a copy of which was requested from LRS. That request was denied, and an application under the Government Information (Public Access) Act was considered but not made.

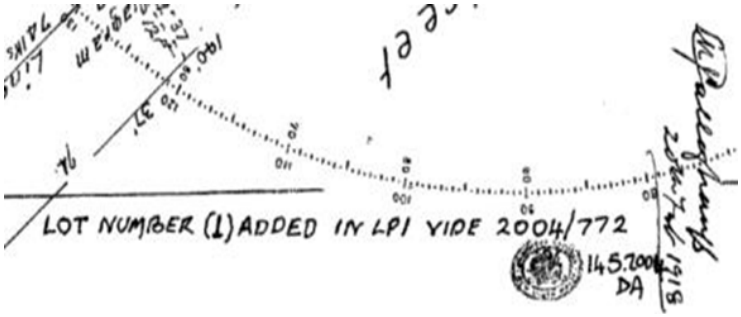


Figure 5: LPI 2004 file reference.

The depiction of 1/370182 in the DCDB had remained unchanged since 2002 when it was first introduced. An amendment to the plan by LPI in 2004 indicates the regulator certainly knew of the plan's existence, acknowledged the existence of the lot, and presumably the title. The question as to why the title anomaly was not addressed concurrently with the plan amendment in 2004 remains unanswered.

An investigation of additional notations on Vol.2828 Fol.96 showed the last recorded registered proprietor was an entity, Rytrent Pty Ltd (Rytrent), from 1984, and took out a mortgage in 1994 vide dealing U740767. A copy of U740767 was obtained and revealed that Rytrent was not only the registered proprietor of land in Vol.2828 Fol.96 but also land in Vol.6254 Fol.47 (1/370182) adjoining (Figure 6).

Figure 6: Reference to Mortgage on Vol.2828 Fol.96 and U740767 referencing both volume/folios.

Then a historical title search of 1/370182 was undertaken to follow the trail of mortgages, discharges and transfers (Figure 7). Dealing 5251526 discharged the mortgage in U740767, but only with respect to 1/370182. The mortgage over land in Vol.2828 Fol.96 must still exist. As a folio identifier for Lot 1 in DP958450 did not exist, a historical search of that title, of course, could not be made. It remains perplexing, given that the title Vol.2828 Fol.96 was clearly still current with an undischarged mortgage noted, why the volume/folio was available as a "cancelled title" search via the brokers for plan and title information.

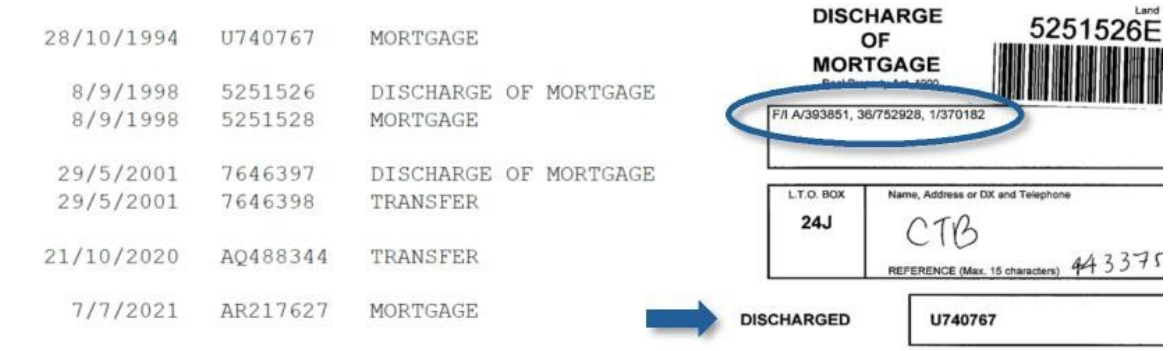


Figure 7: 1/370182 historical search and 5251526 (no discharge for Vol.2828 Fol.96).

The *search* returned to starting from the beginning – the Crown grant. By searching successive transfers originating from the grant, a chain of title was established (Figure 8). This was complicated by the fact that, at one point in time, three separate parcels of land were jointly held as one title in tenants in common in equal shares, and each of the tenants was issued separate volume and folios for the same land but in their own names for their share.

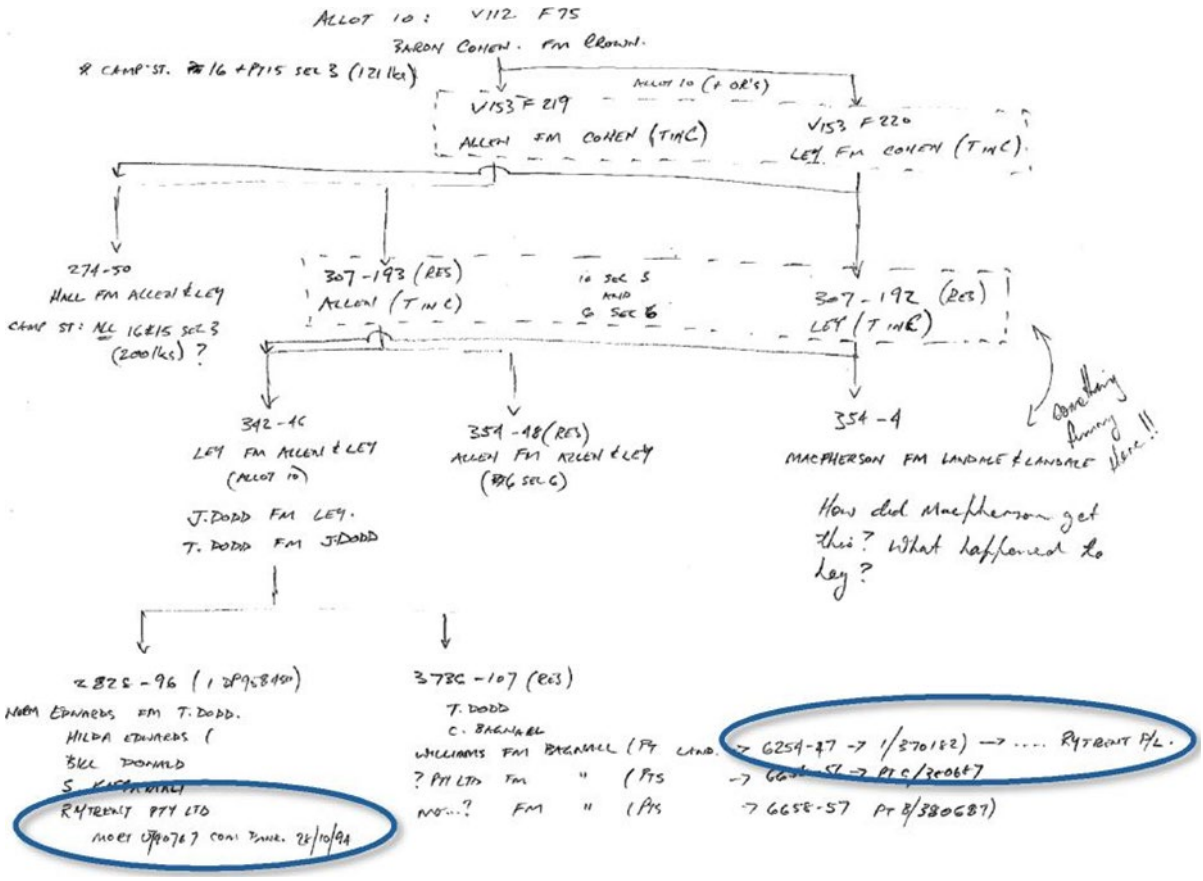
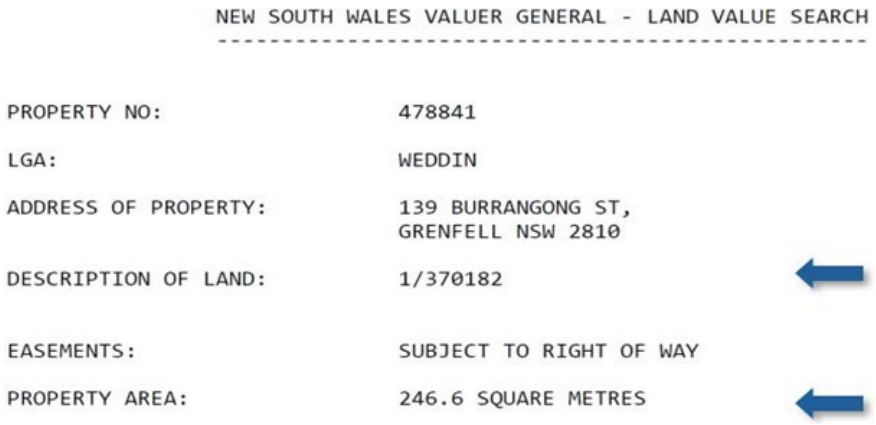


Figure 8: "Chain of title" from the Crown grant.

All available historical charting maps were thoroughly investigated. There was no evidence of a compiled or surveyed plan of consolidation. Plans available were sourced and "stitched" together to ensure there were no gaps in the cadastre. No hiatus was found to exist.

A Valuer-General's report for 1/370182 was obtained, noting an area of 246.6 m^2 (Figure 9). Land in Vol.2828 Fol.96 contained 4½ perches, and land in Vol.6254 Fol.47 contained 5¼ perches, totalling 9¾ perches and equating to 246.6 m^2. The Valuer-General is valuing two separate titles as if they were only one.


NEW SOUTH WALES VALUER GENERAL - LAND VALUE SEARCH

PROPERTY NO:	478841
LGA:	WEDDIN
ADDRESS OF PROPERTY:	139 BURRANGONG ST, GRENFELL NSW 2810
DESCRIPTION OF LAND:	1/370182
EASEMENTS:	SUBJECT TO RIGHT OF WAY
PROPERTY AREA:	246.6 SQUARE METRES

Figure 9: Valuer-General's report for 1/370182, stating area as 246.6 m^2.

3 OWNERS AND OCCUPIERS

The registered proprietor of 1/370182 is Balance Properties Cowra Pty Ltd (Balance). Rytrent transferred the title to Weddin Shire Council in 2001 (vide transfer 7646398), who later transferred the title to Balance in 2020 (vide transfer AQ488344). It appeared Balance was entirely occupying land in Vol.2828 Fol.96, noting, however, that both adjoining title diagrams showed a party wall. Did the party wall still exist? Is the existing building the same as that shown in the title diagrams?

The authors searched council records and discovered a council report related to development application DA67/2020. The report indicated the following:

- The application was to alter an existing building by partial demolition and alterations to the floor plan.
- The building was subject to heritage considerations.
- It referred to the building as a "former medical centre". The historical titles contained recordings of registered leases to dentists and doctors.

The authors determined the building was most likely that shown on the title diagrams, albeit subject to alterations.

By chance, an archived internet real estate listing for the 2020 sale was discovered, containing internal photos of the property and a floor plan (Figure 10). These proved invaluable for verifying the internal layout of the building, specifically identifying 9"-double-brick walls internally. By correlating the internal location of these walls with openings to the street, and then those openings with features of the facade visible on aerial photography, the boundaries from the Deposited Plans were overlaid and verified with a high degree of certainty that the

party wall still existed and, therefore, cross-easements for support were still applicable. Belatedly, a photographed aerial view of Grenfell dated 1935 from the National Library of Australia surfaced and reinforced this assertion (Figure 11).

Figure 10: Real Estate floor plan and internal photo showing 9” brick wall.

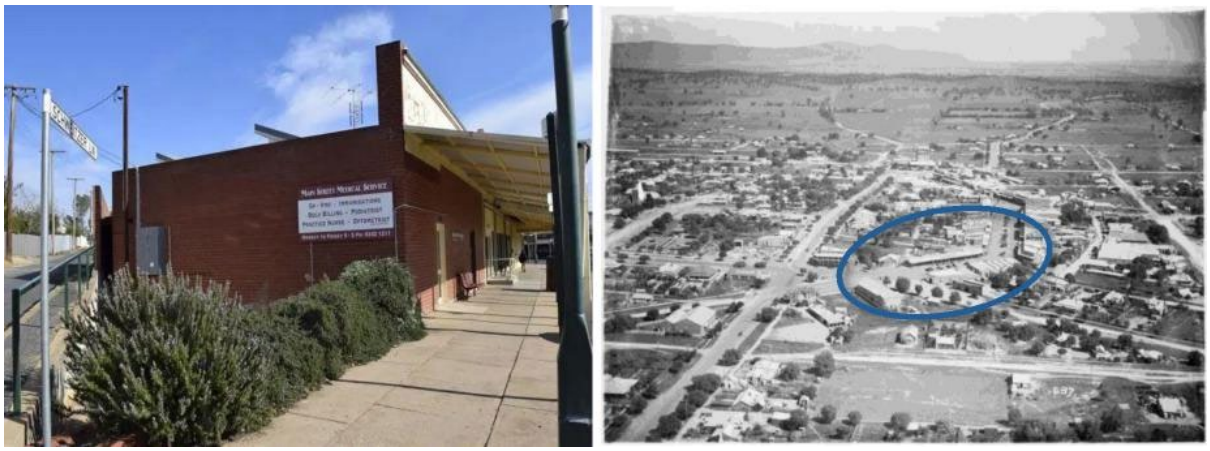


Figure 11: External image and aerial view (1935).

The authors did not have authority to enter the building. A search of the Australian Securities and Investments Commission (ASIC) register revealed the last known registered proprietor of land in Vol.2828 Fol.96 (Rytrent) was still a registered entity with a registered office being a solicitor’s office in Young. The sole director/secretary of Rytrent was that solicitor.

Casey and Booth determined that even though the current occupier’s possession of land in Vol.2828 Fol.96 has only been continuous for 5 years (less than the statutory 12-year limitation period), continuous adverse possession by successive occupiers exceeding 12 years transfers rights to make a possessory claim.

Section 38 of the Limitation Act 1969 (NSW Legislation, 2026b) states that where a cause of action accrues to recover land from a person in adverse possession, and the land is afterwards in the adverse possession of a second person, whether the second person claims through the first person or not, the cause of action to recover the land from the second person is treated as having accrued at the same time as the cause of action to recover the land from the first person.

In simpler terms, if there is an uninterrupted chain of adverse possession, the periods of possession by successive “squatters” can be added together to meet the required 12-year

limitation period. Importantly, occupation of land in Vol.2828 Vol.96 has not only been unbroken but also open, peaceful, adverse, exclusive and factual possession, with clear intention to possess (see *Mulcahy v. Curramore Pty Ltd [1974]*).

The authors believe Balance has a legitimate claim pursuant to Part 6A, s45B-45G of the Real Property Act to possessory title of land in Vol.2828 Fol.96. The depiction of 1/370182 in the DCDB as 9¾ perches and the Valuer-General's concurrence regarding the area also reinforces the notion of open occupation.

3.1 Rytrent Pty Ltd and the Torrens Assurance Fund

The Torrens Assurance Fund (TAF), established under Part 14 of the Real Property Act, is a state-backed compensation scheme that underwrites the integrity of the Torrens Register of Titles. Its purpose is to compensate those who suffer loss or damage due to errors or omissions in the register, or deprivation of land, through no fault of their own. The authors deem Rytrent may have legitimate grounds for making a claim.

Section 129(1) of the Real Property Act sets out the circumstances in which compensation is payable. The most relevant grounds in this case would be:

a) Any act or omission of the Registrar-General in the execution or performance of his or her functions or duties under this Act in relation to the land (including any such act or omission of the authorised operator): The administrative oversight of not formally converting or assigning a folio identifier to Vol.2828 Fol.96, and the DCDB error (which LRS, with DCS Spatial Services, maintains), could fall under an "act or omission" of the Registrar-General or the authorised operator (LRS).
b) The registration (otherwise than under section 45E) of some other persons as proprietor of the land, or of any estate or interest in the land: If the proprietor of 1/370182 successfully registers their possessory title over Vol.2828 Fol.96, the original proprietor of Vol.2828 Fol.96 will be deprived of their land by the operation of the Act (specifically Section 45E, which deals with the grant of a possessory application). While Section 129(1)(b) excludes section 45E directly, the overall operation of the Act due to the prior error leading to the adverse possession claim would be a strong basis for a TAF claim. An "error, misdescription or omission" (129(1)(c)) could be the root cause.
c) Any error, misdescription or omission in the register in relation to the land: The failure to properly reflect the separate existence of Vol.2828 Fol.96 in the modern digital register (even if it is "live" in an older format) and the erroneous area calculation for 1/370182 could constitute an "error, misdescription or omission".

The authors acknowledge, however, with respect to Rytrent, that it would need to demonstrate that the loss was not a consequence of its own act or omission. In addition, claims must typically be lodged within 6 years from the date the loss was suffered, or the act/omission occurred. This could be complex if the adverse possession period has been running for decades. However, the clock might start when the true proprietor becomes aware of the issue or when the adverse possession claim is registered, which would be a more recent event.

The potential for a claim against TAF is outside the remit of the authors. This section has been provided for commentary only, not advice.

4 ON THE HORNS OF AN ETHICAL DILEMMA

Convinced there was a clear error in the Register of Titles and within the DCDB, the authors faced a dilemma:

- Do they contact and advise Rytrent?
- Do they contact and advise Balance?

The ultimate decision was to provide advice and notice of the error to the regulator through LRS. The Registrar-General has the authority to correct and rectify errors in the register by exercising powers bestowed by s12(1)(d) of the Real Property Act 1900: "*(d) The Registrar-General may, subject to this section and upon such evidence as appears to the Registrar-General sufficient, correct errors and omissions in the Register*."

At the end of August 2024, with all evidence compiled, a detailed referral was made to LRS, drawing attention to the error in the register. The referral included all available plan and title searches, file notes and sketches, together with a detailed factual history of events and the recommended remedies. Within the referral was a "draft title", for the benefit of LRS, which included the proposed contents of the second schedule for the land in Vol.2828 Fol.96 (Figure 12).

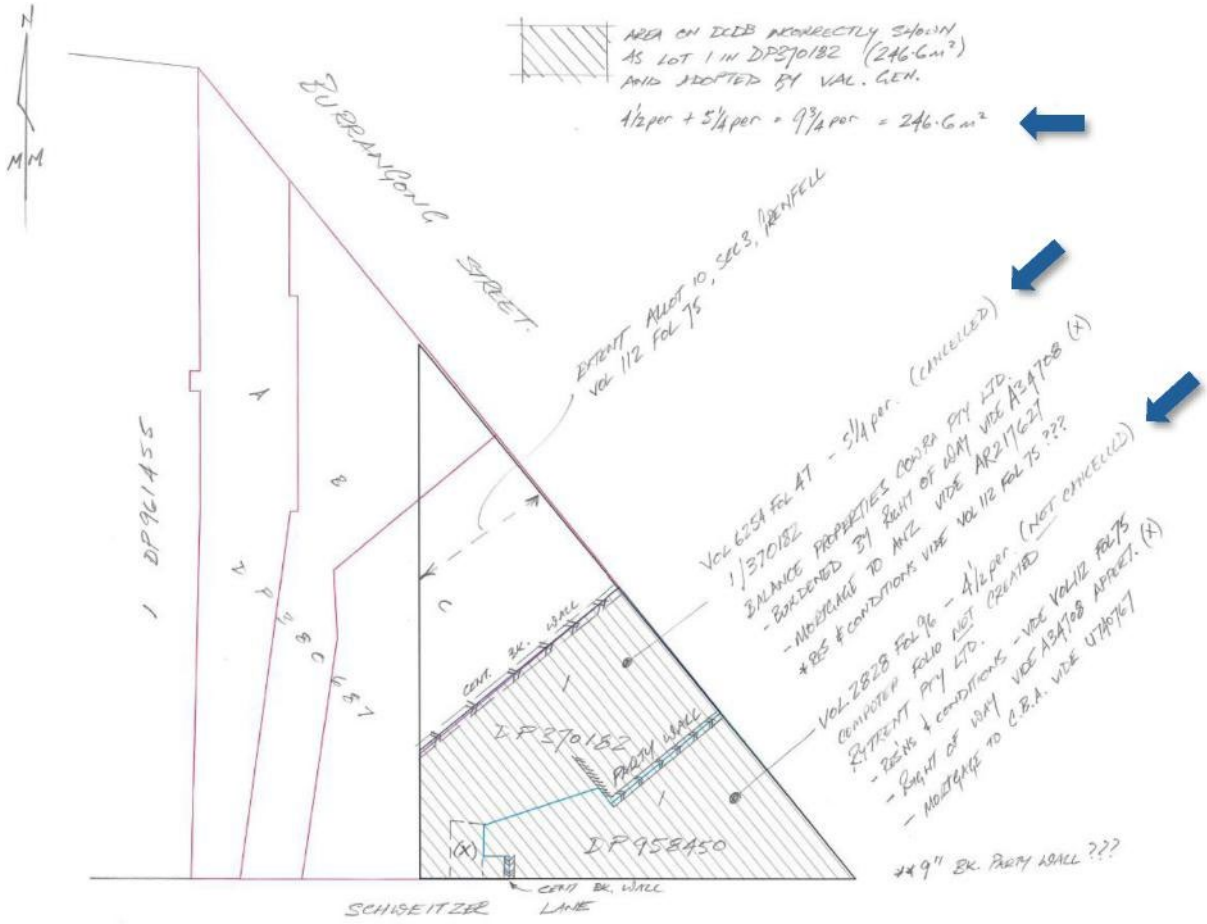


Figure 12: Part of cadastral analysis and submission to LRS.

The referral was acknowledged and escalated to LRS Amendments and Legal Disputes Resolution at the beginning of September 2024 with internal recommendations as follows:

- "*Can you please review the attachments and the information in the email regarding what action to take to amend this matter*."
- "*Possibly create a new computer folio for Lot 1 in DP958540 and cancel vol 2828 fol 96*."
- "*Discuss with LDR the above and how to approach the matter of the land in vol 2828 fol 96 being a live title and it appearing to have been dealt with as part of Lot 1 in DP370182, i.e. transferred and mortgaged*."
- "*Plus once sorted raise a CRV Error Log so the DCDB can be updated*."

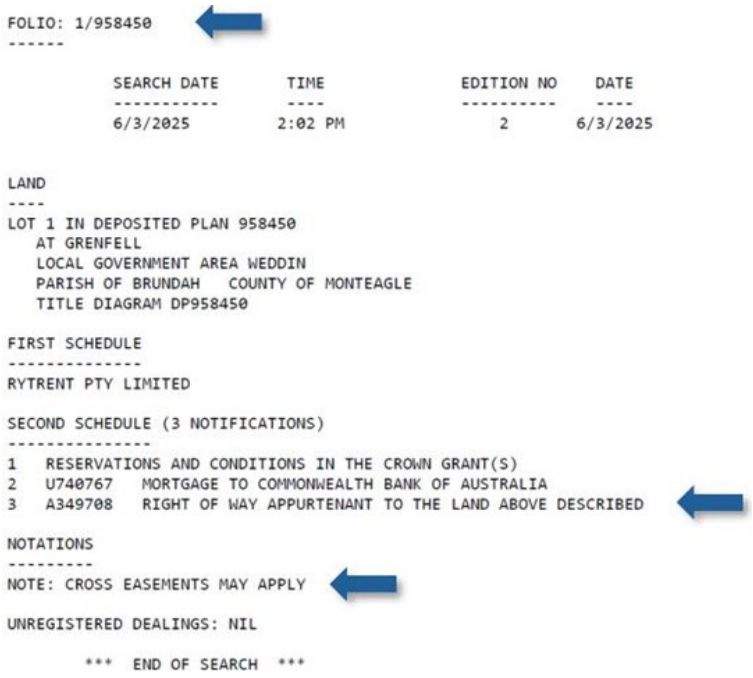
The internal referral also requested Mr Surveyor Booth be advised of the outcome of the matter.

5 RESOLUTION

Some time then elapsed, and in February 2025 the authors again contacted LRS enquiring as to the status and progress of their referral. Fearing a potential lack of action or at least priority at LRS, it was at this time the authors made it clear they were fully aware of the identities and whereabouts of both the occupier and the "dispossessed". This was perhaps a thinly veiled threat to make direct contact with the affected parties.

In accordance with the authority conferred by s12A of the Real Property Act, the Registrar-General had given notice to persons affected by the proposed corrective actions. The notice period expired on 18 February 2025. There being no objections made, or at least no valid ones, edition 1 of folio identifier 1/958450 was created on 25 February 2025 and issued to the authors, who promptly inspected the title.

It was immediately evident that the new title contained errors: the omission of an appurtenant right of way and reference to the potential cross-easements in relation to the party wall referred to in both Vol.2828 Fol.96 and Vol.6254 Fol.47. The authors again contacted LRS to draw this to their attention, and on 6 March 2025 edition 2 was issued (Figure 13). Shortly thereafter, alterations to the CRE were completed to depict the "lost lot" (Figure 14).



FOLIO: 1/958450

SEARCH DATE	TIME	EDITION NO	DATE
6/3/2025	2:02 PM	2	6/3/2025

LAND

LOT 1 IN DEPOSITED PLAN 958450
AT GRENFELL
LOCAL GOVERNMENT AREA WEDDIN
PARISH OF BRUNDAH COUNTY OF MONTEAGLE
TITLE DIAGRAM DP958450

FIRST SCHEDULE

RYTRENT PTY LIMITED

SECOND SCHEDULE (3 NOTIFICATIONS)

1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
2 U740767 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA
3 A349708 RIGHT OF WAY APPURTENANT TO THE LAND ABOVE DESCRIBED

NOTATIONS

NOTE: CROSS EASEMENTS MAY APPLY

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

Figure 13: New folio identifier 1/958450 (land in Vol.2828 Fol.96).

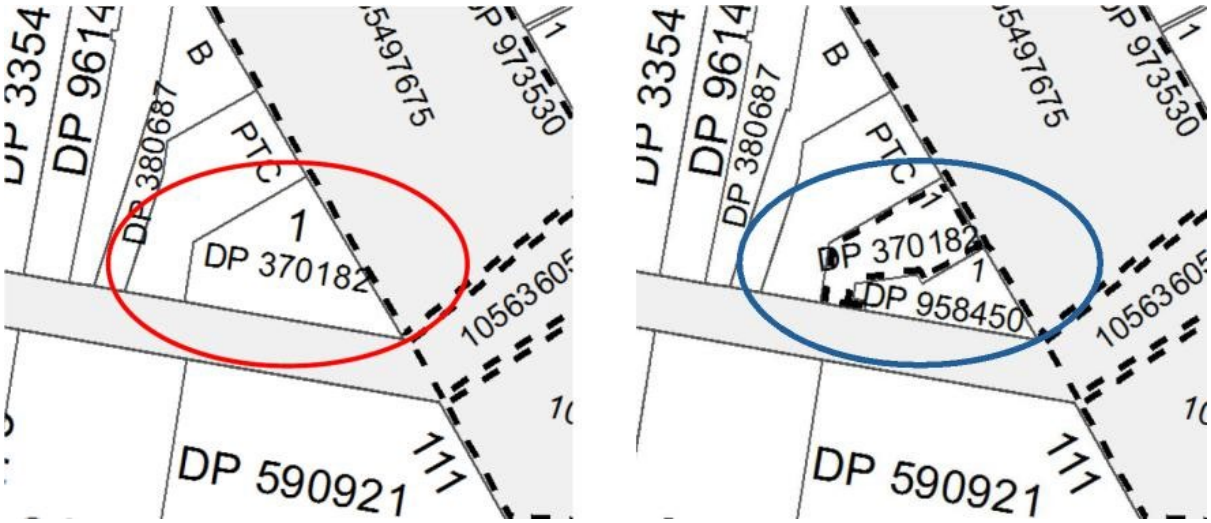


Figure 14: Cadastral Records Enquiry – before and after the correction.

Finally, in July 2025, a transfer of Lot 1 DP958450 was recorded in the register, wherein Rytrent Pty Ltd transferred Lot 1 DP958450 to Balance Properties Cowra Pty Ltd for the princely sum of a single dollar (Figure 15).

LODGED BY:

Responsible Subscriber:	GARDEN & MONTGOMERIE ABN 52618455271
Address:	14 Kendal ST Cowra 2794
Email:	enquiries@gandm.com.au
ELNO Subscriber Number:	20479
Customer Account Number:	502229Q
Document Collection Box:	1W
Client Reference:	BALANCE.043454

LAND TITLE REFERENCE

1/958450

TRANSFEROR

RYTRENT PTY LIMITED ACN 002481745
Registered company

TRANSFEREE

BALANCE PROPERTIES COWRA PTY LTD ACN 623106678
Registered company

Tenancy: Sole Proprietor

CONSIDERATION

The transferor acknowledges receipt of the consideration of $1.00

ESTATE TRANSFERRED

FEE SIMPLE

The Transferor transfers to the Transferee the Estate specified in this Instrument and acknowledges receipt of any Consideration shown.

Figure 15: Transfer of Lot 1 DP958450.

6 CONCLUDING REMARKS

The underlying principle of the Torrens system of titles is the indefeasibility of title by registration. This paper reinforces the long-held notion that the registered land surveyor is the true custodian of the NSW cadastre. It underscores and upholds the surveyor's ethical obligation to ensure the interests of the NSW public always remain paramount, also highlighting the importance and value of comprehensive plan and title investigation.

This paper has presented the adventure of the Raiders of the "Lost Lot", outlining a collaborative approach to restoring integrity to the Torrens Register of Titles after an error was discovered that resulted in an entire Torrens title being "visually erased" from the NSW cadastre and seemingly consolidated with the adjoining title. However, a folio identifier for the "lost lot" had not been issued, the manual volume/folio title was listed as "cancelled", a mortgage remained undischarged, and its graphical representation within the DCDB was absent.

Following extensive and detailed plan and title searches (showcasing the authors' tenacity, enthusiasm and dogged determination), with the required evidence in hand, the findings were confirmed and the error rectified in the register. LRS then issued a folio identifier for the "lost lot" – over 30 years after it first "disappeared" – leading to a happy ending for the NSW cadastre. Later, this adventure received the 2025 NSW Excellence in Surveying and Spatial Information (EISSI) Award for Urban Cadastral and Land Titling Excellence, as well as the Sir Thomas Mitchell Award for the most outstanding winning project.

In summary, the key outcomes are:

- The correction of a recording in the Torrens Register of Titles and creation of a folio identifier for land in Vol.2828 Fol.96 / Lot 1 in DP958450.
- Identification of the true registered proprietor of 1/958450.
- The correction of the graphical representation of the DCDB for all users.
- Reinstatement of DP958450 as a searchable plan within the DCDB.
- Cadastral integrity has been restored.
- The surveyors have maintained the interests of the NSW public as paramount.

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NSW Legislation (2026b) Limitation Act 1969, https://legislation.nsw.gov.au/view/html/inforce/current/act-1969-031 (accessed Mar 2026).