



**LAND
REGISTRY
SERVICES**

NEW REQUIREMENTS FOR THE IDENTIFICATION AND CLAIMING OF SLIVERS OF LAND

**Tabled at Surveyor Liaison Meeting 27 August 2020
Updated October 2020**

**Proposed Implementation date:
1 January 2021**

INTRODUCTION

The following industry paper has been developed as a guide for registered land surveyors who are preparing deposited plans of survey over Old System or Limited Torrens Title land.

Upon implementation, this new policy will require landholders, developers and surveyors to deal with the whole of the land in the subject Deed or Limited Folio. The policy seeks to minimise the creation of small sliver parcels of remnant land and ensure that, where their creation is unavoidable, all sliver parcels will be fully defined by survey.

BACKGROUND

Slivers, as referred to throughout this document, are small strips of land that are sometimes created when Old System or Limited Title parcels are surveyed for conversion to full Torrens Title. They arise where part of the land in the Deed or Limited Folio has been adversely occupied by an adjoining owner for a period greater than twelve years. Where adjoining land is Crown Land, the provisions of section 13.1 *Crown Land Management Act 2016* apply.

In these situations, the documentary owner is only able to include the adversely occupied land in a new title with the consent of the adjoining owner in possession. Where consent is obtained and full Torrens Title is issued, the adjoining owner will lose any rights they have over the occupied land and will not be able to claim that land by possession in the future. Where consent is not sought or not given, the occupier of the sliver can generally only consolidate the land into their title by way of possession, which may require a primary application or a possessory application to be undertaken.

Where consent has not been obtained, the extent of the survey (plan purpose could be delimitation, Primary Application, redefinition or subdivision) has, in many cases, been restricted to include only the occupied land. The sliver is typically not fully defined by survey in the new plan, and the intentions of the adjoining owner in possession are often not known at the time of plan registration.

Notwithstanding the lack of survey definition of the slivers on the new plan, they are identifiable on the Digital Cadastral Database (DCDB) and were being separately valued by the Valuer-General. The valuation of slivers has caused community concern, especially when the sliver was being rated by some local Councils. Documentary owners were being levied with separate rate notices for a small strip of land they were no longer occupying and where the right to deal with the land had been lost through adverse possession.

The Valuer-General has agreed to an interim Moratorium on assigning values to slivers which has resulted in rate notices no longer being issued, pending a more permanent solution being found.

The Office of the Registrar General (ORG) and NSW Land Registry Services (NSW LRS) have, with the support of the Surveyor General, developed a solution which provides a comprehensive approach to potential sliver situations, resolving problems surrounding the valuation of slivers and the issue of rates notices.

The new policy introduces processes to:

- **prevent, wherever possible, a sliver being created, left unclaimed or unidentified;**
- **where a sliver is unavoidable, identify the sliver as a separate lot in the new plan;**
- **introduce titling solutions to ensure that where a sliver is created, no title will be issued;**
- **introduce a simplified and cost-effective process to allow for the vesting of legal ownership of the sliver into the name of the adjoining owner in possession.**

CURRENT PRACTICE

Currently, slivers are identified on the plan as “Part” of the land in a former Folio (or Deed) (see Diagram A below). The land represented by the sliver lot remains in the former, cancelled Folio and a notation like the following is made (the sliver being the residue remaining):

*‘DP ***FOLIO CANCELLED*****RESIDUE REMAINS BEING UNDEFINED RESIDUE, NEW FOLIOS HAVE BEEN CREATED FOR LOT(S).....’*

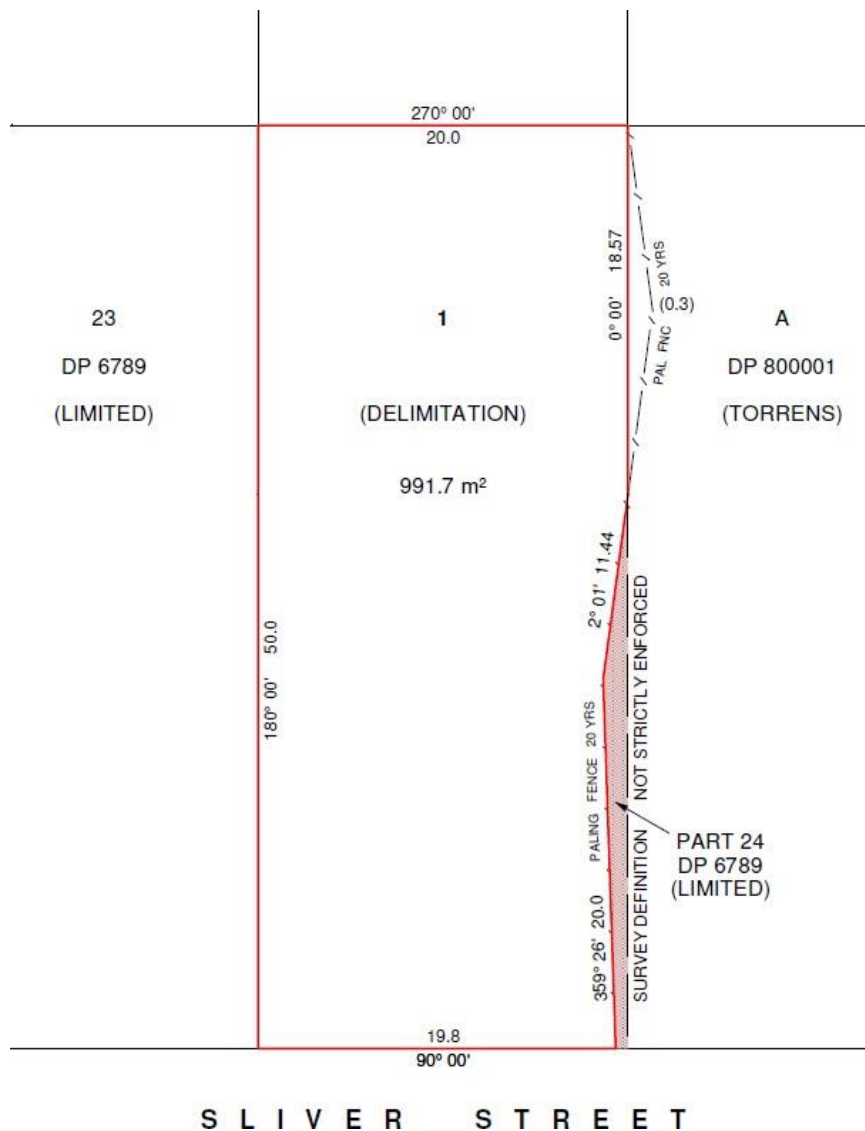


Diagram A: Current practice of defining a sliver parcel. The example shown above is for a Plan of Delimitation of Part of Lot 24 in DP6789.

NEW PRACTICE

The new practice aims to:

1. Prevent wherever possible the sliver being created, left unclaimed or unidentified:

- **Consent of adjoining owner:**

The purpose of the plan will typically be a delimitation plan but could also include a plan that deals with the whole of the land in the Deed i.e Subdivision, Redefinition etc. The survey should not be restricted only to the internal occupations without resolving or considering the status of the land between occupations and the Deed boundary (the sliver).

This should include an attempt by the owner/developer of the subject land to obtain consent over any potential sliver situation prior to lodging the plan. For example, by obtaining the consent of the adjoining owner(s) in possession of the sliver, the whole of the land in the Deed may be included in the delimitation lot(s) (That is, the adjoining owner foregoing any claim to land occupied).

- **New practice where sliver unavoidable:**

If the sliver cannot be dealt with prior to lodgment of the delimitation plan with NSW LRS, it must be identified as a separate, fully dimensioned lot (including area) in the new plan (see Diagram B below). The sliver lot(s) are created for identification purposes only. The surveyor will include a standard statement (to be advised) on the plan to clearly indicate the creation of a sliver lot and the purpose for its creation.

As part of the attempt to deal with potential sliver lots, and to facilitate the prompt registration of the plan, a simple proforma document should be completed by an adjoining owner in possession of the land indicating their intention to maintain their interest in the occupied land. On provision of this document NSW LRS will correspond with the adjoining owner and inform them how to pursue a possessory claim. If this form is provided at the time of lodgment, then, subject to any other requirements and/or requisitions, the plan will proceed to registration without delay.

Where no such document is provided, and there is potential for a silver lot to be created, registration of the plan will await NSW LRS first sending a notice to the adjoining owner in possession. If, in response, an adjoining owner indicates no interest in the sliver, NSW LRS will direct the surveyor to amend their plan to include the whole of the land in the Deed in the delimitation lot(s), with removal of the sliver lot(s). In these circumstances, a further statutory notice will be sent to the adjoining owner prior to the registration of the amended plan.

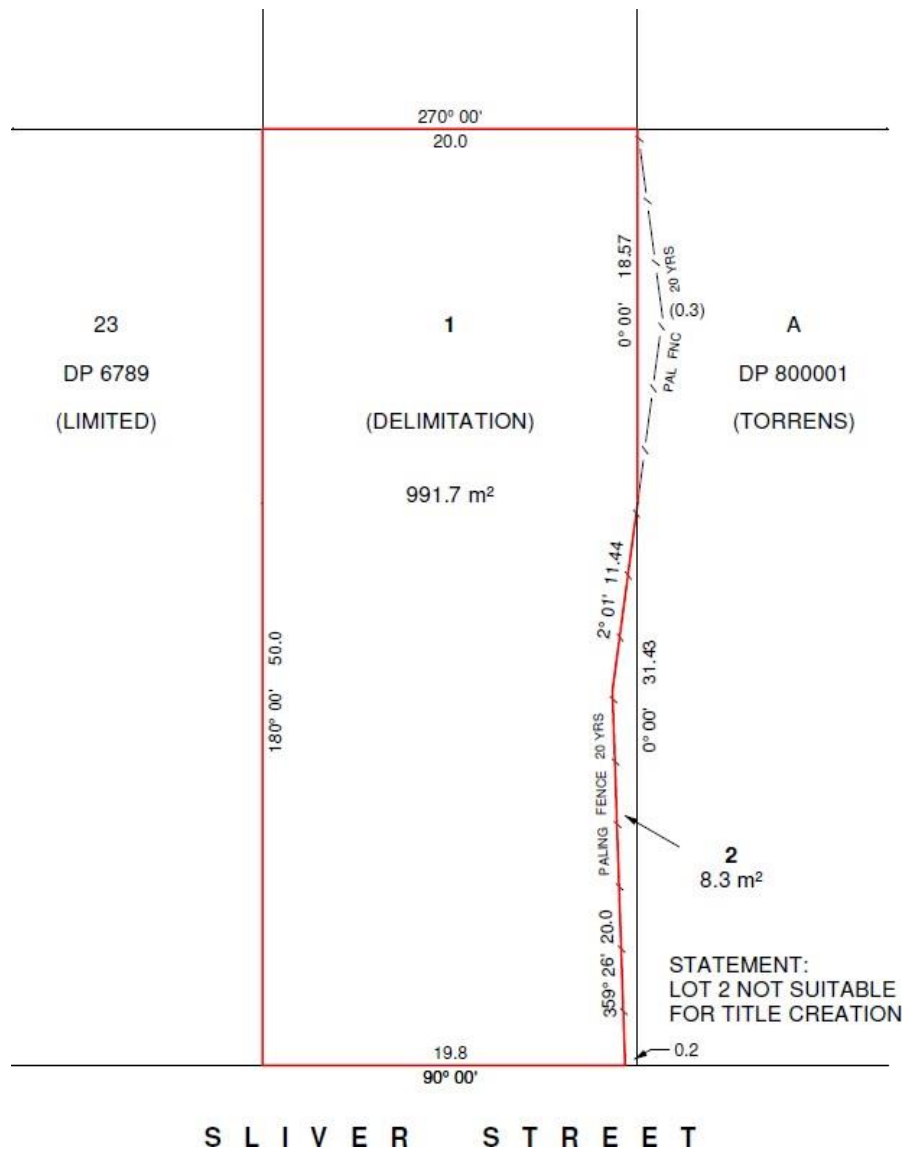


Diagram B: Proposed practice for defining a sliver parcel

2. Introduce a new titling solution:

Where a sliver lot is created, it is implied that the documentary owner, in creating that separate sliver lot, has relinquished any future claim to it.

A Title search of the sliver lot will return a new message to indicate that the land is not suitable for separate Title creation. Sliver lots will be separately identified in the DCDB based upon the new Lot number and DP number.

Where an adjoining owner in possession indicates an interest in pursuing a claim in the sliver lot, a simplified process will be introduced to vest the sliver lot to the occupier.

Prepared by

NSW Land Registry Services

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