

Removal of Duplicate Titles - Webinar Questions and Answers

12 July 2023

Question: How do we prove we are the owner of our property without the Duplicate Title?

The Record of Certificate of Title is the resulting search of the Original Certificate of Title. This is the legal evidence of ownership of a property, showing the current registered proprietors and registered interests and encumbrances at the time of the search. A search of the Title can be ordered via the Landgate website.

Question: If there is only a digital Titles Register, what happens if it is hacked? What is the WA Govt's contingency plan?

The WA Department of Premier and Cabinet's Cyber Security Unit and Landgate have security monitoring to detect and respond to any unusual activity identified. In the unlikely event that the system was hacked, the data is backed up in multiple locations and could be recovered quickly and reinstated. There are multiple robust measures in place with systems, systems access, rigorous participation rules for users of the Electronic Lodgement Network and requirements for verifying the identity and establishing the right to deal for parties to transactions. This provides multiple layers of safeguards to mitigate the risk of fraud and cyber-attack.

Question: If you are returning a Duplicate Certificate of title to a client after the abolition date, do you have to VOI them? Is this an ARNECC requirement?

No, you don't have to VOI them, but prudence would suggest that you should still VOI them.

Question: Will WA be moving to an Electronic Certificate of Title (eCT) control model as Victoria has?

No, WA will not be adopting an eCT model.

Question: If lodging, for example, an Application by Survivor in PAPER, how do we prove land ownership for our client?

The practitioner (Lawyer or Settlement Agent) should search the Record of Certificate of Title and then use "Reasonable Steps" to verify the Right to Deal. Reliance on one Document is not conclusive evidence to establish a Right to Deal. Some evidence sighted by the practitioner would need to tie the Verification of Identity of the Survivor to the land and intended land transaction. While you have referred to a paper example, please refer to ARNECC Model Participation Rules Guidance note 4, as the requirements for paper are the same for this scenario.

Question: With the removal of Dup CTs - when a dealing is searched will there be a "Completion date" given rather than an "issuing date" to determine when the dealing was finalised?

The date of lodgement of documents at Landgate is the date of Registration of the transaction contained in the documents once a document meets the requirements for registration and processing is finalised. When you search a registered document, the image of the document shows only the lodgement date.

When you do a "Dealing Status Search", it refers to lodgement date, date of last status change and case status. The information in those fields won't change."

Question: During the webinar, Landgate said that any documents lodged on or before 4 August that remain unregistered on 7 August will be unable to issue a Duplicate Title. But for someone who is already the registered proprietor of a land, what's the cut-off date to apply for a Duplicate Title?

From 7 August 2023 there will be no computer functionality to create or issue a paper Duplicate Title. Further, the changes to the *Transfer of Land Act 1893* (TLA) will come into effect on that date removing reference to Duplicate Titles in the TLA.

We cannot provide a cut-off date to lodge this application to issue a duplicate title however we would discourage lodgement after 28 July 2023. These Applications are manually assessed to see if they meet registration requirements. They are not automated. Whilst the Application does not incur a registration fee, Verification of Identity is required for each registered proprietor, and this would need to be done via industry professional or via Australia Post which would incur a cost from either of these.