Part 22 – Certificate of Title

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General Law

The Certificate of Title is a paper record of the current particulars of ownership and interests of a lot recorded on an indefeasible title held in the Freehold Land Register.

Under s 45 of the Land Title Act 1994, unless the Registrar otherwise directs, a Certificate of Title deposited in the land registry is cancelled, whether or not a note of the cancellation is made on it.

Practice

The Certificate of Title issued by the Registrar is an accurate record of the current particulars held against the indefeasible title in the Freehold Land Register for the lot shown.

A registered owner may request the issue of a Certificate of Title in a Form 19 – Application for Title. However, if the lot is subject to a mortgage, the consent of the mortgagee endorsed on the Form 19 is required. The mortgagee’s consent should be endorsed in the following terms, eg: ‘XYZ Bank Ltd ACN 123 456 789 consents to the Request’. The consent must be dated and lawfully executed. The consents of all mortgagees must be given.

The Registrar must give the Certificate of Title to the person stated in the owner’s request in the Form 19.

Certificate of Title to be Lodged

A Certificate of Title must be deposited with a dealing relating to that lot, for the purpose of cancellation (s 154(1) of the Land Title Act 1994) except in the cases below. If lost or destroyed, an application may be made for production to be dispensed with (s 164(1) of the Land Title Act 1994). See part 17 – Request to Dispense with Production of Instrument.

However, under s 154(2) of the Land Title Act 1994 a Certificate of Title does not have to be returned for cancellation with any of the following:

(a) an instrument transferring or otherwise dealing with the interest of a lessee under a registered lease that is lodged without the lessor’s consent;

(b) a request to register a writ of execution;

(c) any caveat;

(d) a request to register a power of attorney;

(e) a request to register a charge created under an Act;

(f) a request to register an instrument of amendment, extinguishment or partial extinguishment of a building management statement, if the request is accompanied by the evidence the Registrar reasonably requires to allow the registration of the instrument;
(g) a request to record a vesting, if the vesting is in favour of the State or another entity representing the State;

(h) an instrument for which the Registrar has dispensed with production of the title;

(i) a request to register a dealing under the State Development and Public Works Organisation Act 1971, part 6, division 8;

(j) an instrument affecting the public utility provider as the registered proprietor of a public utility easement;

(k) an instrument affecting the registered proprietor of the following interests in land–

   (i) a registered profit a prendre, if the profit does not benefit any lot;

   (ii) a registered carbon abatement interest.

For subsection 154 (2) (j) and (k), an instrument affects the registered proprietor of an interest in land if the registration of the instrument would result in–

(a) a change in the registered proprietor of the interest, including, for example, because the interest has been transferred or a person beneficially entitled under a will to the interest has been registered as proprietor of the interest; or

(b) a change in the registered proprietor’s name.

A Certificate of Title is not required to be deposited for any dealing to which the person entitled to hold the Certificate of Title is not a party. For example see [10-2000].

When a Certificate of Title is in the possession of a mortgagee and that mortgagee deposits the Certificate of Title for cancellation on lodgement of a transaction, the mortgagee is taken to be aware of and agreeable to registration of the transaction. Accordingly, in such cases, there is no necessity for mortgagees to consent in Form 18 and no requisition is issued seeking the mortgagee’s consent.

Certificate of Title Cancelled on Deposit

[22-2015]

The Registrar has directed that a Certificate of Title deposited or left at the land registry for any reason is cancelled, whether or not a note of the cancellation is made on it.
CERTIFICATE OF TITLE
QUEENSLAND

Dealing No: 713099715

Certificate No: 1
Issue Date: 06/12/2010

I certify that the person described below is the registered owner of the undermentioned estate in the land within described subject nevertheless to such Basements, Encumbrances and Interests as are shown.

Registrar of Titles

REGISTERED OWNER

PROCLAW PTY LTD A.C.N. 123 456 789

ESTATE AND LAND

Estate in Fee Simple

LOT 1  SURVEY PLAN 765492
County of NAABES Parish of CAIRNS
Local Government: CAIRNS CITY

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. Rights and interests reserved to the Crown by Deed of Grant No. 5100100 (POR 276)

2. EASEMENT IN GROSS No 909733875 06/10/2005 at 10:50 burstering the land CAIRNS CITY COUNCIL over EASEMENT A ON 99787235

3. MORTGAGE No 282207654 11/11/2005 at 11:10 STATECORP LIMITED A.C.N. 880 199 737

PERIORS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREOF.
Guide to Form 22

The following information is included on the Certificate of Title.

(A) Lodger details.

(B) The title reference recorded against the indefeasible title for the lot in the Automated Titles System. The version number identifies the number of Certificates of Title that have been produced for that lot. The date of issue of the Certificate of Title is also included.

(C) The Registrar’s certification in compliance with the requirements of s 43 of the *Land Title Act* 1994.

(D) The full name/s of the registered owner/s of the lot, their tenancy and relative shares as applicable.

(E) ‘Estate and Land’ identifies the fee simple description of the lot contained in the title by reference to the lot and plan and the parish and county in which it is located.

(F) ‘Easements, Encumbrances and Interests’ discloses the particulars of any lease, easement, charge etc registered against the indefeasible title. As mentioned previously, if there is a mortgage registered against the indefeasible title, a Certificate of Title cannot be generated without the consent of the mortgagee.

Cross References and Further Reading

Nil.

Notes in text

Note¹ – This part does not apply to water allocations.

Note² – This part does not apply to State land.