COT-02 Duplicate Title

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1 Overview

A freehold duplicate certificate of title (if required) is issued to the Registered Proprietor or other person as authorised by the registered proprietor.

Where a certificate of title has been created and registered, a duplicate certificate of title will be issued unless the Registered Proprietor(s) request, in an approved form that a duplicate certificate of title not be issued (s.48B of the TLA).

Section 48B of the TLA provides flexibility on the part of the registered proprietors of land to request the issue or non-issue of the duplicate certificate of title.

Note: A duplicate of a certificate of Crown land title is never issued.

2 Request for non-issue of the Duplicate Title

Where a duplicate title has been created and issued, the registered proprietor(s) may in an approved form, request the non-issue of the duplicate title.

If a request for the non-issue of a duplicate certificate of title is made, no duplicate will be issued upon the lodgement of subsequent documents unless the current registered proprietor(s) request, in an approved form that a duplicate certificate of title is to issue.

Only the registered proprietor(s) can make a request for non-issue of the duplicate title. If there is more than one registered proprietor, all of them must make the request. However, a registered proprietor of an undivided share in land may, in an approved form, request the non-issue of the duplicate title for their undivided share in the land.

Requests for non-issue of a duplicate title may be made in one of the following ways:

- The Registered Proprietor(s) may request the non-issue in Forms Application for a New/Balance
Title and Application to Register Strata / Survey-Strata Plan).

- The Mortgagor/Transferee may request the non-issue in Forms National Mortgage Form, Charge, Transfer of land with additional pages, Transfer of Land by Mortgagee, Transfer of Land (sale for rates), Transfer of Land under property (seizure and sale) order and Transfer of mortgage, charge, lease etc under property (seizure and sale) order.

- Where a duplicate certificate of title has issued, the registered proprietor(s) may make application under s.48B (4) on a General Application Form, without payment of a registration fee, for the cancellation and non-issue of the duplicate title.

Note: A mortgagee that wants the mortgagors (Registered Proprietors) to request non-issue of the duplicate title upon registration of the mortgage, may like to insert a clause in the mortgage to the effect that the mortgagors will not request the issue of the duplicate title until the mortgage has been discharged.

When a request for the non-issue of a duplicate certificate of title is made, the paper or digital certificate of title (whichever is applicable) will contain the following endorsement:

"DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING"

3 Request for issue of the Duplicate Title

This document is subject to the Verification of Identity Practice issued jointly by the Western Australian Registrar of Titles and Commissioner of Titles.

Where a duplicate title has not been created and issued, the registered proprietor(s) may in an approved form, request the issue of the duplicate title.

If a request for the issue of a duplicate certificate of title is made, a duplicate will be issued upon the lodgement of subsequent documents unless the current registered proprietor(s) request, in an approved form, the non-issue of the duplicate certificate of title.

Requests for issue of a duplicate title may be made in one of the following ways:

- The Mortgagor/Transferee may request the issue of the duplicate title in Forms National Mortgage Form, Charge, Transfer of land with additional pages, Transfer of Land by Mortgagee, Transfer of Land (sale for rates), Transfer of Land under property (seizure and sale) order and Transfer of mortgage, charge or lease under property (seizure and sale) order.

- Where a duplicate certificate of title was not previously issued, the registered proprietor(s) may make application on a General Application form, without payment of a registration fee, for a duplicate title to issue.

The duplicate certificate of title (if any) must be produced to the Registrar when any dealing or application concerning the land is lodged for registration. However, the Registrar at the direction of the Commissioner may dispense with the production of the duplicate certificate of title (s.74 of the TLA).

Note: If the land, the subject of a request for the issue of a duplicate certificate of title, is ENCUMBERED by a registered mortgage(s) or a registered charge(s), a requisition (no fee) will be raised to clarify the matter. The issue of a duplicate title may be against the wishes of the mortgagee and it would not benefit the registered proprietors because they are not entitled to physical possession of a duplicate title that is encumbered by a mortgage or charge.
4 Third-party consent to subsequent dealings where no Duplicate Title was issued

Where a certificate of title is encumbered by a registered mortgage(s) or a registered charge(s) and no duplicate certificate of title has been issued by request of the registered proprietor(s), a letter of consent to subsequent lodgement from the first mortgagee or annuitant is required to be lodged with any document that would normally have required production of the duplicate certificate of title by the first mortgagee or annuitant. The consent of the first mortgagee or annuitant is required where appropriate. (See Example of Consent Letter).

Note: The exceptions being as follows:

- where the first mortgagee or annuitant lodges a subsequent document for registration

or

- where a second mortgage is being lodged for registration by another mortgagee.

In both instances, a letter of consent to subsequent lodgement from the first mortgagee or annuitant is not required.

5 Third-party consent to subsequent dealings where a paper duplicate title has issued

Where there is a paper duplicate Certificate of Title issued, the lodgement of a second or subsequent mortgage requires the production of the duplicate Certificate of Title.

Where there is a paper duplicate Certificate of Title issued and a first mortgage has been lodged and is being processed by Landgate, the lodgement of a second mortgage (or any other document that requires the duplicate Certificate of Title) will require a follow-on consent letter.