



Circular

No. 2017/07

June 2017

Electronic Certificate of Title (eCT): information for settlement and lodgment of dealings and plans

On 8 October 2013 electronic conveyancing commenced in NSW, allowing subscribers to Property Exchange Australia (PEXA) to prepare, and lodge mortgages and discharge of mortgages, electronically. In September 2014 the functionality was widened to include lodgement of caveats, transfers and the financial settlement of transactions.

Where an electronic Mortgage is registered and the mortgagee is an Authorised Deposit-Taking Institutions (ADIs) and they are the first mortgagee, they receive an eCT.

Eligibility for eCT is limited to ADIs who hold a registered first mortgage; and are subscribers to Property Exchange Australia (PEXA), or are represented by a subscriber to PEXA.

From 1 August 2017 where a mortgagee is an ADI and the mortgagee, or its representative, lodges a paper transaction, and they are or remain the first mortgagee on title, they will receive an eCT on registration of the paper transaction.

As electronic conveyancing grows, it is increasingly likely that practitioners engaged in conveyancing transactions, leasing or plan registration will encounter titles where an eCT has issued. This Circular provides information for settlement and lodgment of dealings and plans resulting from eCT.

Identifying where an eCT has issued

Where an eCT has issued to an ADI the folio of the Register will indicate who holds Control of the Right to Deal (CoRD) for that title, as below:

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 4/SP58139

SEARCH DATE	TIME	EDITION NO	DATE
4/9/2013	3:43 PM	4	4/9/2013

NO CERTIFICATE OF TITLE HAS ISSUED FOR THE CURRENT EDITION OF THIS FOLIO.
CONTROL OF THE RIGHT TO DEAL IS HELD BY ABC TEST BANK.

LAND

LOT 4 IN STRATA PLAN 58139
AT BOWRAL
LOCAL GOVERNMENT AREA WINGECARRIBEE

FIRST SCHEDULE

JOHN PUBLIC
JANE PUBLIC
AS JOINT TENANTS (T 9527930)

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP58139
- 2 9527929 LEASE TO MAXICARE PTY LIMITED OF SHOP 4, 380 BONG BONG STREET, BOWRAL. EXPIRES: 29/2/2008. OPTION OF RENEWAL: 3 YEARS WITH A FURTHER PERIOD OF 3 YEARS.
- 3 AD287029 MORTGAGE TO ABC TEST BANK

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

Proceeding to settlement where an eCT has issued

The most common land transaction involves a discharge of a mortgage, a transfer of ownership, and a new mortgage.

Where an eCT has issued, the discharging mortgagee must lodge a CoRD Holder Consent via PEXA **before** settlement. A CoRD Holder Consent cannot be lodged in paper with LPI.

The Consent provides assurance and protection to the incoming transferee and mortgagee that control of the right to deal will pass at settlement. As the discharging mortgagee will pass CoRD, the type of consent will be a Transacting Party Consent.

To ensure that consent has been provided before settlement, all parties involved should perform an LPI CT Inquiry through an information broker or LPI's Online portal. As a fraud prevention measure, **the CoRD Holder Consent must specify all dealings in the settlement case**, not just the mortgage being discharged.

The parties receiving under each of the dealings (such as the transferee in a transfer and the mortgagee in a new mortgage) must also be stated - see sample search result below.

The **discharging mortgagee** is required to obtain details about the dealings and incoming parties **prior** to lodging the CoRD Holder Consent.

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LAND AND PROPERTY INFORMATION NEW SOUTH WALES - CT INQUIRY

FOLIO: 102/870687

Status: E-TRANSACTIONING CONSENT
Edition No: 3      Date Issued: 8/5/2015      Status Date: 26/6/2017
Controlling Party: 131Q  XYZ BANKING CORPORATION
Returning Party: 131Q  XYZ BANKING CORPORATION
Last Delivered To: CORD  XYZ BANKING CORPORATION
Date Delivered: 8/5/2015      Issued By: M  AJ4660
Production Ref: 502Test2      Production Date: 26/6/2017
Production Purpose: M  MORTGAGE TO ZYE BANK LIMITED
                   DM  DISCHARGE OF MORTGAGE TO XYZ BANKING
                   CORPORATION
                   T  TRANSFER TO Gordon Dean Bells

*** END OF SEARCH ***
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When the paper dealings are registered, a paper CT will issue to the lodging party of the dealings.

From 1 August 2017 ADIs will receive an eCT on registration of paper transactions where they are or remain 1st mortgagee.

Lodging a plan, second mortgage, lease, or other dealing where an eCT has issued

The mortgagee must lodge a CoRD Holder Consent via PEXA. The Consent must specify all plans and/or dealings consented to and the parties involved. As the mortgagee will be retaining CoRD after registration, the type of consent will be a Third Party Consent.

To ensure that consent has been provided, the lodging party should perform an LPI CT Inquiry through an information broker or LPI's Online portal - see sample search result below.

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - CT INQUIRY

FOLIO: 2/1000

Status: E-PRODUCTION

Edition No: 2 Date Issued: 7/8/1995 Status Date: 26/6/2017

Controlling Party: 132F ABC TEST BANK

Returning Party: 132F ABC TEST BANK

Last Delivered To: CORD ABC TEST BANK

Issued By: M A438571

Production Ref: Test1 Production Date: 26/6/2017

Production Purpose: L LEASE TO LEASING COMPANY PTY LIMITED

*** END OF SEARCH ***

Can a CoRD Holder Consent be amended, replaced or withdrawn?

Once a CoRD Holder Consent has been lodged it cannot be amended. It can be replaced in PEXA however, providing dealings for the case have not been lodged.

A CoRD Holder Consent cannot be withdrawn electronically via PEXA - it can only be manually withdrawn upon request to LPI:

- If the responsible subscriber requires withdrawal of a CoRD Holder Consent where the transaction for which the consent was provided is not going to proceed.
- Where a standalone CoRD Holder Consent has been lodged in PEXA for a case which is to proceed in the paper channel, and then it is decided to proceed in the electronic channel (PEXA), the standalone Consent must be withdrawn.

In some circumstances, where the dealings have been lodged and a requisition sent for the details in the CoRD Holder Consent to be updated or amended, LPI will remove the current consent to enable the replacement through PEXA.

Related information:

Conveyancing Rules – Electronic Lodgment Circular 2017/01
http://www.lpi.nsw.gov.au/_data/assets/pdf_file/0006/216393/2017-01_Conveyancing_Rules_Electronic_Lodgment.pdf

Further Information

For more information regarding:

- CoRD. Refer to the e-Dealings section of the Registrar General's Guidelines:
http://rgdirections.lpi.nsw.gov.au/e-dealings/control_right_deal.
- Attending a paper settlement when the Certificate of Title (CT) is in electronic format. Refer to fact sheet:
http://rgdirections.lpi.nsw.gov.au/_data/assets/pdf_file/0018/201069/Paper_Settlement_CT.pdf

Email your inquiries to econveyancingnsw@lpi.nsw.gov.au.