



New South Wales

# Real Property Amendment (Certificates of Title) Bill 2021

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Real Property Act 1900* to remove—

- (a) the requirement for the Registrar-General to issue certificates of title for real property, and
- (b) requirements for the Registrar-General to make recordings on certificates of title, and
- (c) the Registrar-General's powers to require the production of certificates of title, and
- (d) requirements for land owners to produce and rely on certificates of title in conveyancing transactions, and
- (e) provisions that restrict the use of electronic conveyancing.

The Bill also makes consequential amendments to other Acts and regulations.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## Schedule 1 Amendment of Real Property Act 1900 No 25

### Certificates of title and duplicate registered dealings

**Schedule 1.1[2], [3] and [5]** remove references to certificates of title and duplicate registered dealings.

**Schedule 1.1[20]** removes the power of the Registrar-General to issue, and to decline to issue, a certificate of title to land and removes references to the Registrar-General delivering to a person instruments, including certificates of title, following the recording of a dealing.

The amendment provides for the Registrar-General to issue an information notice to note that a dealing has been registered. An information notice confers no interest or title in land and is for information purposes only.

The amendment preserves the Registrar-General's capacity to assume people lodging dealings have the authority to do so. **Schedule 1.1[4]** makes a consequential amendment.

**Schedule 1.1[6]–[12], [14]–[19], [21], [22], [24]–[27] and [32]** make amendments to remove references to certificates of title in recognition that, as the Registrar-General will no longer issue certificates of title, there is no basis to require dealings and interests to be recorded on them.

The amendments also omit references and provisions requiring a person to give a certificate of title to the Registrar-General for the purpose of making a recording on the certificate or for another purpose.

**Schedule 1.1[28]–[31], [33] and [34]** remove references to a person applying to the Registrar-General for the issue of a certificate of title or duplicate registered dealing.

**Schedule 1.1[35]–[37]** remove references to a court making orders for the production, issue or delivery of a certificate of title as a consequence of the amendments removing references to dealings being recorded on certificates of title.

**Schedule 1.1[13]** removes references to offences relating to certificates of title, including offences associated with wrongful retention of a certificate of title. **Schedule 1.1[38]** makes a consequential amendment.

**Schedule 1.1[23]** removes a reference to the Registrar-General requiring a dealing to be lodged in paper form and provides for dealings to be lodged in a way approved by the Registrar-General.

**Schedule 1.1[39]** inserts savings and transitional provisions.

### **Electronic lodgment of documents**

**Schedule 1.2[1] and [8]** replace the current provision allowing documents to be lodged via an Electronic Lodgment Network under the *Electronic Conveyancing National Law (NSW)* with a provision that also allows lodgment by any electronic means approved by the Registrar-General. **Schedule 1.2[2] and [3]** make consequential amendments.

**Schedule 1.2[4]–[7], [9] and [10]** allow the Registrar-General to approve ways of providing consents, evidence and certificates in relation to land dealings under the *Real Property Act 1900*. These amendments will allow the Registrar-General to approve a range of electronic methods for providing consents, evidence and certificates.

### **Other amendments**

**Schedule 1.1[1]** updates a reference to a Department.

## **Schedule 2 Amendment of Real Property Regulation 2019**

**Schedule 2** makes consequential amendments to the *Real Property Regulation 2019*.

## **Schedule 3 Amendment of other legislation**

**Schedule 3** makes consequential amendments to a number of Acts and regulations, including the *Conveyancing Act 1919* and the *Strata Schemes Development Act 2015*.