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## **Certificates of Title**

In New South Wales, ownership of land is recorded on the Torrens Land Title Register held at the Land Registry Services (LRS). Each parcel of land has a unique identifier and what is known as a 'folio' which sets out who the owner of the land is and any other interests in the land. An owner of land is issued with a Certificate of Title (CT), which is a replica of that folio held in the Register. Without a CT, an owner cannot do many things with their property, such as selling or mortgaging it.

Some Local Aboriginal Land Councils (LALCs) have not been able to finalise land dealings because they have not been able to locate their CTs.

NSWALC highly recommends that LALCs carry out an audit of their CTs by checking which CTs they have against a list of their land holdings.

LALCs can contact the Land and Property Unit of NSWALC (LPU) if they are unsure what they have is the CT or a copy. Also, to assist LALCs, Attachment 1 to this Fact Sheet shows some recent versions of CTs issued by the LRS (identifying details have been removed from these copies). There are some older versions of CTs which are handwritten with a plan of the land. LALCs will note that the latest 2 versions of CTs contain security features such as bar codes and the NSW Coat of Arms.

LALCs may find that some CTs are issued in their mis-spelt name, a former name or in a name

that the LALC has been using but which has not been correctly constituted under the *Aboriginal Land Rights Act 1983* (ALRA). LALCs should contact the LPU for assistance with correcting these CTs.

### **Lost CTs**

If LALCs cannot locate their CTs, NSWALC suggests that they carry out comprehensive checks:

- of their office records and documents:
- by contacting their solicitor and any former solicitors to see if the solicitors are holding the CTs in their safe custody;
- by contacting their bank and former banks to see if the CTs are held in a safe deposit box:
- by contacting any former Administrator of the LALC to see if the Administrator has the CTs or knows the location of the CTs;
- by contacting the Deeds Room (email: DeedsRoom@pmc.gov.au) the Department of Prime Minister and Cabinet (PMC). This is because some LALCs purchased land or renovated their properties with funding provided by the former Aboriginal and Torres Strait Islander Commission (ATSIC) and the former ATSIC placed a caveat over the title to the affected property and or kept the LALCs CT as security for the funding. ATSIC was abolished in 2005 and all the CTs were transferred to the Deeds Room of the Department of PMC;
- by contacting NSWALC to see if NSWALC is holding the CT in our safe custody.

Note: The content of this fact sheet is intended for information purposes only. It is not intended as advice and should not be relied upon as advice. All parties should seek independent advice that is suited to their own specific circumstances.





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LALCs should make notes of all the steps they took to try to locate the CTs, including the above steps.

Please contact the LPU if you wish NSWALC to keep your CTs in NSWALC's safe.

# **Applying for replacement CTs**

Subject to resources, NSWALC can assist LALCs to apply for replacement CTs. The process is prescriptive (the person declaring the statutory declaration needs to provide several forms of identification) and the LALC is required to carry out mandatory searches (as stated above) and can be costly as the LRS charges \$146.40 per 20 replacement CTs. This fee increases in July every year. The process can take some months, so it is important LALCs contact NSWALC as early as possible, especially where LALCs need the CT to complete a land dealing.

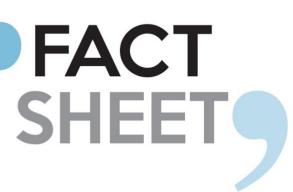
### **Keeping CTs safe**

As LALCs change key personnel, CTs tend to get misplaced so in order to avoid having to apply for replacement CTs, good record keeping and safe custody procedures are required. It is therefore very important that LALCs keep their CTs in a safe fireproof place and document where it is kept and if it has been removed, then by whom and for what purpose.

NSWALC has been happy to keep LALC CTs in NSWALC's safe custody, free of charge. Some LALCs have kept their CTs in NSWALC's safe custody and when LALCs need the CT for a land dealing or for any other reason, LALCs need to write to NSWALC directing that NSWALC release the CT to them or their solicitor.

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Ph: 02 9689 4444 Fax: 02 9687 1234





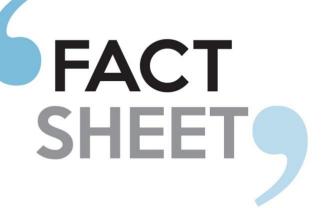
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### Attachment 1

BOX 469S NEW SOUTH WALES (0642676) CERTIFICATE OF TITLE REAL PROPERTY ACT, 1900 TORRENS TITLE 743/7 PERSONS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON 2.11.1995 I certify that the person described in the First Schedule is the registered proprietor of an estate in fee simple (or such other estate or interest as is set forth in that Schedule) in the land within described subject to such exceptions, encumbrances, interests and entries as appear in the Second Schedule and to any additional entries in the Folio of the Register. REGISTRAR GENERAL LAND LOT 743 IN DEPOSITED PLAN (FORMERLY KNOWN AS ALLOTMENT 743) AIL LOCAL GOVERNMENT AREA: PARISH OF NAROOMA COUNTY OF DAMPIER TITLE DIAGRAM: SEE CROWN PLAN FIRST SCHEDULE LOCAL ABORIGINAL LAND COUNCIL (AP SECOND SCHEDULE SUBJECT TO CONDITIONS IN MEMORANDUM Y757000. RESTRICTIONS ON DEALINGS - SEE SECTION 40 AND 40AA ABORIGINAL LAND RIGHTS ACT 1983 1. 0642676 WARNING: BEFORE DEALING WITH THIS LAND SEARCH THE CURRENT FOLIO OF THE REGISTER

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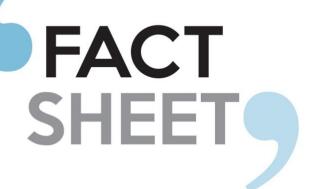
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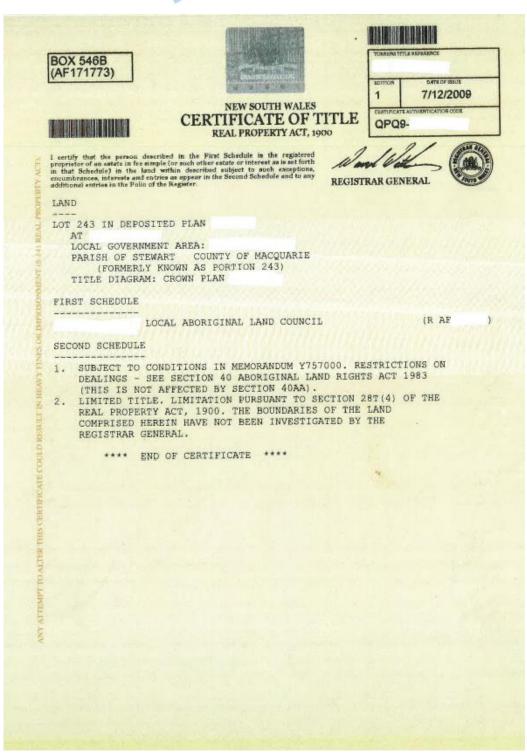
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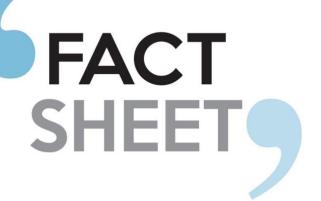


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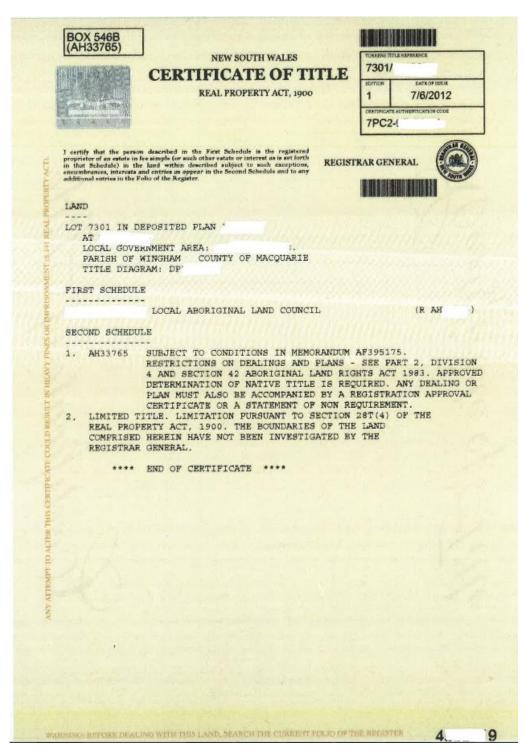
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