

Part 2 – Mortgage (National Mortgage Form)

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025



Table of Contents

PART 2 – MORTGAGE (NATIONAL MORTGAGE FORM)	3
[2-0000] GENERAL LAW	3
[2-0000] Mortgage	3
[2-0010] Mortgagor	3
[2-0020] Mortgagee	3
Capacity of Mortgagor	3
Capacity of Mortgagee	4
Creation of Subsequent Mortgages	6
[2-0150] Equitable Mortgage ²	6
[2-0160] Mortgage of Lease of Freehold Land or Water Allocation ²	7
[2-0170] Mortgage of a State Lease ^{1, 3}	7
[2-0180] Mortgage of a Trustee Lease of a Reserve ^{1, 3}	7
[2-0190] Mortgage of a Deed of Grant in Trust ^{1, 3}	7
[2-0200] Tenures under the Land Act 1994 that must not be Mortgaged ^{1, 3}	7
[2-0210] Conversion of State Land to Freehold Land ¹	7
[2-0220] Default	7
[2-0230] Power of Sale	8
[2-1000] LEGISLATION	8
Application of the <i>Land Title Act 1994</i> to the <i>Water Act 2000</i> ^{2, 3}	8
Reference to the registrar of titles in the <i>Land Title Act 1994</i> and <i>Land Act 1994</i> and reference to the registrar of water allocations in the <i>Water Act 2000</i>	8
[2-2000] PRACTICE	8
[2-2000] Requirements of Mortgage	8
[2-2070] Amendment of Mortgage and Priority	11
[2-2080] Collateral Mortgages ²	11
[2-2090] Power of Sale	11
[2-2100] Foreclosure ²	11
[2-2110] Power of Sale by Defence Service Homes Corporation ^{1, 2}	11
[2-2120] Lease by Mortgagee in Possession	11
[2-2130] Receiver Appointed by a Mortgagee	11
[2-2140] Merger of Mortgage ²	12
[2-2150] Mortgage Duty	12
[2-2160] The <i>Bank Integration Act 1991</i> (Cth)	12
[2-4010] FORMS	12
[2-4010] General Guide to Completion of Forms	12
Guide to Completion of National Mortgage Form	16
[2-4020] Lodger Details Panel	16
[2-4030] Jurisdiction Panel	16
[2-4040] Estate and/or interest being mortgaged Panel	16
[2-4050] Land Title Reference/Part Land Affected? /Land Description Panel	17
[2-4060] Mortgagor Panel	18
[2-4070] Mortgagee Panel	20
[2-4080] Operative words and Terms and Conditions of this Mortgage Panel	24
[2-4090] Mortgagor and Mortgagee executions Panel	27
[2-5000] ECONVEYANCING	30
[2-5010] Electronic Conveyancing and Electronic Conveyancing Document	30
[2-5100] Scope Restrictions	30

[2-5105] Electronic Conveyancing Mandate	30
[2-5200] Prescribed Requirements – Mortgage Form (electronic)	31
[2-5300] Attachments – Mortgage Form (electronic).....	31
[2-5400] Execution and Certification	32
[2-5600] Electronic Form	32
[2-5700] Electronic Form Notes for Completion	38
[2-8000] FEES	38
[2-9000] CROSS REFERENCES	39
[2-9050] Notes in text.....	39

Part 2 – Mortgage (National Mortgage Form)

[2-0000] General Law

[2-0000] Mortgage

A lot or an interest may be mortgaged by registering a mortgage for the lot or interest (s. 72(1) of the *Land Title Act 1994*). However, a mortgage is not an interest that can be mortgaged (s. 72(2) of the *Land Title Act*)².

A mortgage under the *Land Title Act*, *Land Act 1994* and *Water Act 2000* does not operate to transfer the lot or interest to the mortgagee, but rather the mortgagee acquires a charge over the lot or interest which is coupled with certain powers, e.g. the powers of foreclosure and sale on default by the mortgagor.

Section 4 of the *Land Title Act* defines a mortgage to include 'a charge on a lot or an interest in a lot for securing money or money's worth'².

The National Mortgage Form is the appropriate form for registration of a mortgage, however there is a transition period until 2 March 2018 during which mortgages can be executed using the Form 2 – Mortgage.

A notice recorded under s. 73(1)(c) of the *Water Act* is taken to be a mortgage under the *Land Title Act*^{2, 3}. It is recorded on the water allocation title as a mortgage under s. 73(1)(c) of the *Water Act*. Form – W2F147 Notice of Consent to Encumber a Water Allocation is the appropriate form for a notice under s. 73(1)(c) of the *Water Act* (see part 49, esp ¶[49-2060]).

[2-0010] Mortgagor

The mortgagor is the person who executes the mortgage, charging their interest in the lot or State tenure in favour of the mortgagee, and who undertakes to perform certain obligations.

A person cannot mortgage to themselves alone.

[2-0020] Mortgagee

The mortgagee is the person who accepts the mortgage over the mortgagor's lot or interest as security for certain obligations.

Capacity of Mortgagor

[2-0030] Individual

A mortgagor must be a person capable of accepting legal responsibility for the execution of the mortgage. Therefore, generally minors or people who lack legal capacity cannot be mortgagors.

[2-0040] Corporation

A company incorporated under the *Corporations Act 2001* (Cth) (or its predecessors) has the same capacity as a natural person, including the power to borrow money and give mortgages (s. 124(1) of the *Corporations Act*). This is subject to any specific exclusion of these powers in the company's constitution (see part 50 – Corporations and Companies).

[2-0050] Trustee

If a registered owner or holder of an interest is recorded as trustee on title, the Capacity Field of the Mortgagor Panel of the NMF must specify that the mortgagor is holding the interest in a trustee capacity, for example:

Mortgagor	
Name	ABC CORPORATION PTY LTD
ACN	123123123
Capacity	TRUSTEE

However, please note the additional requirements that apply to mortgages that may not come within the scope of the Trustees' powers under the *Trusts Act 1973* such as where a trustee enters into a mortgage as either mortgagor or mortgagee with themselves in a personal capacity (refer to [51-0245]).

[2-0060] Tenant in Common

A tenant in common can execute a mortgage over their undivided part or share in the lot or interest in favour of the other tenant/s in common or any other person.

[2-0070] Joint Tenant

A mortgage by a joint tenant over their interest is registrable without severing the joint tenancy. However, it would appear that upon the death of a mortgagor who is a natural person, such a mortgage is cancelled.

Capacity of Mortgagee

[2-0080] Individual

A minor or a person who lacks legal capacity cannot be a mortgagee.

[2-0090] Corporation

A company incorporated under the *Corporations Act 2001* (Cth) has the same capacity as a natural person, including the power to borrow money and give mortgages (s. 124 of the Corporations Act). This is subject to any specific exclusion of these powers in the company's constitution (see part 50 – Corporations and Companies).

[2-0100] Trustee

Where the mortgagee is a trustee, the Registrar will not make any enquires about the authority of the trustee to enter into the mortgage, as s. 21 of the *Trusts Act 1973* allows a trustee to invest trust funds in any form of investment unless expressly forbidden by the instrument creating the trust.

However, please note the additional requirements that apply to mortgages that may not come within the scope of the Trustees' powers under the *Trusts Act 1973* such as where a trustee enters into a mortgage as either mortgagor or mortgagee with themselves in a personal capacity (refer to [51-0245]).

Under s. 28(1)(b) of the *Land Title Act 1994* or s. 278(a) of the *Land Act 1994* the particulars necessary to identify every interest registered in a register must be recorded in that register.

If a Mortgagee is to be recorded as registered proprietor in a trustee capacity, the Capacity Field of the Mortgagee Panel of the NMF must specify that the mortgagee is holding the interest in a trustee capacity.

Example for a single organisation trustee:

Mortgagee	
Name	BRAVO HOLDINGS LIMITED
ACN	321321321
Capacity	TRUSTEE

Example for multiple individual trustees of the same trust:

Mortgagee

Given Name(s)	JOHN
Family Name	CITIZEN
Capacity	TRUSTEE
Given Name(s)	MARY
Family Name	CITIZEN
Capacity	TRUSTEE

Where the Mortgagee Panel is only completed with trustee mortgagees and the Tenancy (inc. share) Fields are left blank or omitted (as above), the Registrar will record the mortgagees as trustees of the same trust.

If multiple mortgagees are holding their interests on trust for different trusts the words "TENANTS IN COMMON" and the share fraction (as numerator/ denominator) must be added to the Tenancy (inc. share) Field for each mortgagee. The total shares must add to 1.

Example of two organisation mortgagees holding their interests on trust for different trusts as tenants in common:

Mortgagee

Name	ALPHA HOLDINGS PTY LTD
ACN	123123123
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2
Name	BRAVO HOLDINGS LIMITED
ACN	321321321
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2

There is no longer a requirement to provide details of the trust instrument when lodging a mortgage to a trustee mortgagee (e.g. by depositing a certified copy of the trust deed or referring to a previous dealing where the trust deed was deposited).

For the specific requirements in relation to the transfer of a mortgage interest to a trustee mortgagee using a Form 1 – Transfer – see Part 1, esp. [1-2390].

Where a mortgagee holds as trustee and wishes to appoint a new trustee, this should be done by using a Form 1 – Transfer (see part 1, esp. [1-2400] to [1-2430]).

[2-0110] Personal Representative

Where a personal representative advances money from a deceased estate and wishes to register a mortgage over the property, the following applies:

- a personal representative who is a mortgagee will only be recorded on title as a trustee;
- The Capacity Field of the Mortgagee Panel of the NMF for the relevant mortgagee must be completed as 'TRUSTEE', and NOT as 'PERSONAL REPRESENTATIVE' nor as 'EXECUTOR OF THE WILL OF....'
- the following must be deposited with the mortgage:
 - a declaration by the personal representative stating that all executorial duties have been completed; and
 - either:
 - the original will (it will be returned to the lodger after registration in this case); or
 - a copy of a grant of representation (or a reseal in Queensland).

For information about deposit of supporting documentation see part [60-1030].

[2-0120] Joint Tenants and Tenants in Common

There may be multiple mortgagees who may hold an interest jointly or severally. A corporation and a natural person, two corporations and a natural person, or any such combination may take a mortgage as tenants in common or on joint account (s. 26(2) of the *Property Law Act 2023*).

The tenancy and shares (if tenants in common), in which the mortgagees hold the interests must be set out in the Tenancy (inc. share) Field of the Mortgagee Panel of the National Mortgage Form (NMF). For example:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Tenancy (inc. share)	JOINT TENANTS INTER-SE 3/5
Given Name(s)	JOAN
Family Name	CITIZEN
Name	BIG BANK LIMITED
ACN	986384755
Australian Credit Licence	659726
Tenancy (inc. share)	TENANTS IN COMMON 2/5

An NMF that fails to state a tenancy (where it is required) will be requisitioned, requiring the Tenancy (inc. share) Field of the Mortgagee Panel to be completed.

Whilst it is usual for the shares of the money advanced by each mortgagee to be shown, in mortgages where the amount of money advanced may be a fluctuating amount not definable at the time of execution of the mortgage, it is permissible for this item to show 'Not Applicable'. A letter by the mortgagees or their solicitor confirming that the shares are fluctuating and not definable at the time of execution is required to be deposited. It is the responsibility of the remaining mortgagees, on the death (or dissolution, if a corporation) of one of the mortgagees to provide evidence of the share of the deceased or dissolved mortgagee.

Mortgagees who are tenants in common may create a joint tenancy by way of transfer. Similarly, mortgagees who are joint tenants may become tenants in common by way of transfer.

Creation of Subsequent Mortgages

[2-0130] deleted

[2-0140] Consent of Prior Mortgagee

Under s. 125 of the *Property Law Act 2023*, a subsequent mortgage may be created without the consent of a prior mortgagee, notwithstanding any provision in the prior mortgage to the contrary.

However, when a mortgage is registered in favour of the Queensland Housing Commission and was executed prior to the commencement of the *Housing Act 2003* (1 January 2004), consent by the Queensland Housing Commission to a subsequent mortgage is required (cl. 21(1)(a) of the Schedule to the *State Housing Act 1945*). The consent should be in a Form 18 – General Consent.

[2-0150] Equitable Mortgage²

Prior to 1 October 2019 the former section 75(1) of the *Land Title Act 1994* provided that an equitable mortgage could be created by depositing the Certificate of Title with the mortgagee¹.

The Land Title Act governs the right of an equitable mortgagee to lodge a lapsing caveat (s. 122(2) of the Land Title Act) (see part 11 – Caveat).

[2-0160] Mortgage of Lease of Freehold Land or Water Allocation²

A lessee can mortgage an interest in a lease as security for certain obligations. A mortgage of a registered lease is created in the same manner as a mortgage of another interest (s. 72 of the *Land Title Act 1994*).

The lessor's consent to a mortgage of a lease is not required for registration.

Section 142(3) of the *Property Law Act 2023* provides that the lessor's consent cannot be unreasonably withheld.

A mortgage of a lease may be capable of registration even if it is lodged after the initial term of the lease has expired. For further information see [7-2190].

[2-0170] Mortgage of a State Lease^{1, 3}

Under the provisions of s. 340 of the *Land Act 1994*, a State lease or sublease may be mortgaged by registering a mortgage.

[2-0180] Mortgage of a Trustee Lease of a Reserve^{1, 3}

The written approval of the chief executive by way of a Form 18 – General Consent must be deposited (s. 58(1) of the *Land Act 1994*). The approval of the chief executive is not required if the trustee has a written authority under s. 64 of the *Land Act* or the lease is a trustee lease granted by the State or Statutory body (s. 58(2) of the *Land Act*).

[2-0190] Mortgage of a Deed of Grant in Trust^{1, 3}

A deed of grant in trust, issued before the commencement of the *Land Act 1994*, may be mortgaged by the trustee. A deed of grant in trust issued after the commencement of this Act may be mortgaged by the trustee if the deed of grant in trust was issued because of a surrender under s. 358 of the *Land Act*, and the deed being surrendered was issued under s. 493 of the *Land Act*. The written approval (by way of letter or a Form 18 – General Consent) of the Minister is required to be deposited with the mortgage.

[2-0200] Tenures under the Land Act 1994 that must not be Mortgaged^{1, 3}

A mortgage must not be registered over the following tenures:

- a. a road licence or an occupational licence (no provision under the *Land Act*);
- b. a reserve, by the trustee (prohibited by s. 67(1) of the *Land Act*); or
- c. a permit to occupy (prohibited by s. 177(6) of the *Land Act*).

[2-0210] Conversion of State Land to Freehold Land¹

A lessee of a State lease may, depending on the type of lease, apply to have the land freeholded. If approved, a deed of grant issues and an indefeasible title is created. If there is a mortgage over the State lease, the mortgage continues to apply to the deed of grant (s. 331(1) of the *Land Act 1994*).

[2-0220] Default

A mortgagee will usually have certain rights under its mortgage in the event of default by the mortgagor². In addition to the other powers exercisable by the mortgagee, s. 78(1) of the *Land Title Act 1994* provides that a mortgagee is to have the powers and liabilities of a mortgagee under Part 8 of the *Property Law Act 2023*. Section 78(2) of the *Land Title Act* provides that the mortgagee also has the following remedies in the event of default by the mortgagor:

- to enter into possession of the property subject to the mortgage;
- to receive the rents and profits from the property (if any); and
- to commence proceedings in a court of competent jurisdiction to obtain possession, an order of foreclosure or an order for the sale of the property.

The mortgagee of a lease is entitled to sell the interest if the lessee defaults under a mortgage, and the mortgagee has entered into possession of the mortgaged interest or is exercising a power of sale under the mortgage (s. 345 of the *Land Act 1994*)^{1, 3}.

If the trustee of a deed of grant in trust defaults under the mortgage, the mortgagee is entitled to sell the interest if they have complied with s. 68 of the Land Act^{1, 3}.

[2-0230] Power of Sale

If the mortgagor defaults in the performance of its obligations (e.g. by failing to pay the principal and/or interest), the mortgagee will be entitled to sell the lot or interest to recover its debt. This right is usually set out in the mortgage instrument, but it is also a right implied by s. 113(1)(a) of the *Property Law Act 2023*.

The mortgagee cannot exercise the power of sale until it has first served a notice advising the mortgagor of any default under the mortgage and allowing the mortgagor 30 days to remedy the default (s. 114 of the *Property Law Act*)². The notice of default may be in Form 3 of the forms approved under s. 234 of the *Property Law Act*.

The *Land Title Act 1994* ensures that the mortgagee exercising a power of sale is able to sell free from any liability in respect of subsequent mortgages and equitable mortgagee's caveats². Therefore, it is not necessary to obtain releases of subsequent mortgages or equitable mortgagee's caveats (ss. 79 and 124(2)(c) of the *Land Title Act*).

The *Land Act 1994* ensures that the mortgagee exercising a power of sale is able to sell free from any liability in respect of subsequent mortgages^{1, 3}. Therefore, it is not necessary to obtain releases of subsequent mortgages (s. 350 of the *Land Act*).

[2-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*^{2,3}

Under the provisions of the *Water Act*, an interest or dealing may be registered in a way mentioned in the *Land Title Act*, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the *Land Title Act*:

- a. as if a reference to the freehold land register is a reference to the water allocations register; and
- b. as if a reference to freehold land or land is a reference to a water allocation; and
- c. as if a reference to a lot is a reference to a water allocation; and
- d. with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [0-8100] and [0-8200] and [0-8300].

[2-2000] Practice

[2-2000] Requirements of Mortgage

Pursuant to s. 73 of the *Land Title Act 1994*, a mortgage must be validly executed and include a description of the lot or interest to be mortgaged, and the debt or liability secured by the mortgage².

Pursuant to s. 288 of the *Land Act*, a mortgage of a lease or sublease must be signed by^{1,3}:

- a. the mortgagor; and
- b. the mortgagee or by a lawyer authorised by the mortgagee.

[2-2005] Confirmation of Identity of Mortgagor by Mortgagee

Section 11A of the *Land Title Act 1994* and s. 288A of the *Land Act 1994* place an onus on **ALL** mortgagees to adopt appropriate *due diligence* practices prior to lodging any mortgage for registration. The provisions under s. 11A of the *Land*

Title Act and s. 288A of the Land Act apply to **ALL** mortgages lodged for registration in Queensland, whether or not the mortgagee has any other business relationship with the mortgagor.

A mortgagee intending to take a mortgage over freehold land, a water allocation or an interest in a State tenure as security for a debt or liability, must, prior to lodging a mortgage for registration, take 'reasonable steps' to ensure that the person who executed the mortgage as mortgagor is identical with the person who is, or who is about to become, the registered owner of the lot or holder of the interest being mortgaged.

Under s. 11A(3) of the Land Title Act and s. 288A(3) of the Land Act, a mortgagee takes 'reasonable steps' if they comply with the practices included in this Manual.

One way in which a mortgagee will take 'reasonable steps' is if they identify the person who is the mortgagor under the instrument (**Person Being Identified**) using the Verification of Identity Standard outlined in Part 61 [61-2700] and ensure the Person Being Identified is identical with the person who is, or who is about to become, the registered owner of the lot or holder of the interest being mortgaged.

Accordingly for the purposes of complying with s. 11A(2) of the Land Title Act and s. 288A(2) of the Land Act a mortgagee can either:

- a. identify the person who is the mortgagor under the instrument (**Person Being Identified**) using the Verification of Identity Standard outlined in Part 61 [61-2700] and ensure the Person Being Identified is identical with the person who is, or who is about to become, the registered owner of the lot or holder of the interest being mortgaged.
- b. ensure that the person who is the mortgagor under the instrument is identical with the person who is, or who is about to become, the registered owner of the lot or holder of the interest being mortgaged, in some other way that constitutes the taking of reasonable steps.

Prudent lending practice – further checks

It is considered that in most cases, compliance with the Verification of Identity Standard would satisfy the 'reasonable steps' requirement under s. 11A(2) of the *Land Title Act 1994* or s. 288A(2) of the *Land Act 1994* provided that, from the steps taken, a prudent lender would be satisfied that the person who is the mortgagor under the instrument is, or is about to become, the registered owner or holder of the interest to be mortgaged.

However, it is important to note that mere mechanical compliance with the Verification of Identity Standard, without attention to detail, is not sufficient. Accordingly, paragraph 9 of the Verification of Identity standard requires a mortgagee to undertake further steps to verify the identity of the Person Being Identified where they ought reasonably know that:

- a. any identity Document produced by the Person Being Identified is not genuine; or
- b. any photograph on an identity Document produced by the Person Being Identified is not a reasonable likeness of the Person Being Identified; or
- c. the Person Being Identified does not appear to be the Person to which the identity Document(s) relate;

or it would otherwise be reasonable to do so.

Specific circumstances where it may otherwise be considered reasonable to undertake further steps, may include the following–

- the Person Being Identified, has in any document or record relied on to identify that person, a name that is not exactly the same as the name of the current registered owner or holder of the interest, or transferee on a transfer to be lodged prior to the mortgage; or
- the Person Being Identified appears not to be of the same gender as the current registered owner or holder of the relevant interest, as indicated by the name of the registered owner or holder of the interest or by any other information reasonably available to the mortgagee; or
- the Person Being Identified appears to be younger than the current registered owner or holder of the interest, as indicated by the date that the person became registered on title or by any other information reasonably available to the mortgagee;
- the mortgage is executed under a power of attorney. Where the mortgage is executed under a power of attorney the mortgagee should take reasonable steps to ensure the power of attorney is genuine.

Record keeping

Under s. 11A(4) of the *Land Title Act 1994* and s. 288A(4) of the *Land Act 1994* a mortgagee must keep the following for 7 years after the instrument is registered:

- a. a written record of the steps taken under s. 11A(2) of the Land Title Act or s. 288A(2) of the Land Act; or

- b. originals or copies of the documents and other evidence provided to or otherwise obtained by the mortgagee in complying with s. 11A(2) of the Land Title Act and s. 288A(2) of the Land Act.

A written record properly identifies the mortgage transaction and clearly details the steps taken by the mortgagee under s. 11A of the Land Title Act or s. 288A of the Land Act. The record does not form part of, and must not accompany, an instrument or document lodged for registration.

Section 11A(6) of the Land Title Act and s. 288A(6) of the Land Act authorises the production of the records, which may contain personal information, only when such a request is made by the Registrar. It is anticipated that production of records would be required in, but not limited to, circumstances where the Registrar is investigating a particular allegation or other matter.

[2-2010] Interest being Mortgaged

A registered owner or holder of different interests may mortgage all those interests in the one mortgage provided the interests are all of a primary nature or all of a secondary nature. See ¶[59-2020] for further information. A natural person or a corporation who are also a trustee may not enter into the same mortgage in both capacities.

[2-2020] Description of Debt or Liability

A description of the debt or liability secured by a mortgage must be detailed in the *Operative words and Terms and Conditions of this Mortgage Panel* under the heading *Terms and Conditions of this Mortgage* using one of the three methods detailed in [2-4080].

The description of the debt or liability may include the following:

[2-2030] Consideration

That is, the amount of money advanced by the mortgagee to the mortgagor. Any amount of money must be shown in Australian currency. The amount of the advance may not be fixed and therefore the consideration may be simply all money that may be provided or secured by the mortgage.

[2-2040] Rate of Interest

The mortgage usually secures payment to the mortgagee of interest payable on money secured by the mortgage. The applicable rate of interest can be shown.

[2-2050] Repayment of Debt

The term of the time frame for repayment of the debt can be shown.

[2-2060] Covenants

These are the terms and conditions of the mortgage.

The mortgage may include terms and conditions using a Standard Terms Document in full (without amendment) or in part (with specific clauses deleted and/or substituted by new clauses). Refer to [2-4080] in the guide to completion for instructions.

Some statutes imply certain covenants and obligations into a mortgage transaction. For example, in the *Property Law Act 2023*:

- Section 128 implies an obligation on the mortgagor to repay the principal and interest and keep the buildings (if any) in repair.
- Section 113(1)(b) confers a number of powers on the mortgagee, e.g. the power to insure against loss and damage, in which case the premiums paid are a charge on the mortgaged property in addition to the mortgage money at the same rate as for interest.
- Section 129 gives the mortgagor the right to inspect any documents relating to the mortgaged property.
- Section 132 gives the mortgagor the right to have the mortgage transferred to another person in certain circumstances.

Other powers upon default are also implied (see [2-0220]). These implied powers may be negated or varied in any mortgage (s. 62(2) of the Property Law Act).

[2-2070] Amendment of Mortgage and Priority

Section 76 of the *Land Title Act 1994* and s. 343 of the *Land Act 1994* regulate the registration of amendments of mortgage.

Section 77 of the *Land Title Act* and s. 344 of the *Land Act* enable the amendment of the priority of registered mortgages by way of a Form 30 – Mortgage Priority.

See part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a Prendre, Building Management Statement or Carbon Abatement Interest or part 30 – Mortgage Priority.

[2-2080] Collateral Mortgages²

A collateral mortgage is one which is in addition to the original mortgage and is to better secure the debt which the original mortgage secures. This enables the mortgagee to fully exercise its rights under the original mortgage.

The Registrar requires a collateral mortgage to be lodged when a plan of survey joins two or more lots together into one lot, and where one or more of the original lots is not covered by an existing mortgage. The collateral mortgage must cover all of the land in the new lot created by the plan. Failure to lodge a collateral mortgage would result in the mortgagee only having a security over part of the new lot thus preventing it from exercising its rights should the mortgagor default.

In the case of an amalgamation of water allocations it is not possible to lodge a collateral mortgage at the same time as an amalgamation request, as the lot number and title reference will not be known until the amalgamation request is registered³.

In view of this, mortgagees have two options:

- a. ensure that all lots that are to be amalgamated are mortgaged to the same mortgagee prior to the lodgement of the amalgamation request; or
- b. provide written advice to the Registrar stating that:
 - the mortgagee is aware that the whole of the new lot will not be subject to a mortgage; and
 - there is a need to register a collateral mortgage over the whole of the new lot; and
 - the mortgagee intends to lodge a collateral mortgage upon the registration of the amalgamation.

Collateral mortgages are **not** required when the same mortgagee holds separate mortgages over several lots to be amalgamated.

[2-2090] Power of Sale

See Part 1 – Transfer, [1-2340] to [1-2375].

[2-2100] Foreclosure²

This is the right of the mortgagee on default by the mortgagor to take the land in satisfaction of the debt. For further information see part 14, [14-2310].

[2-2110] Power of Sale by Defence Service Homes Corporation^{1, 2}

See Part 1 – Transfer, [1-2375].

[2-2120] Lease by Mortgagee in Possession

See part 7 – Lease, [7-2070].

(For receivers and managers see part 50 – Corporations and Companies.)

[2-2130] Receiver Appointed by a Mortgagee

For information about a receiver of property of a mortgagor appointed under the terms of a registered mortgage see [1-2379], [50-2030] and [61-3070].

[2-2140] Merger of Mortgage²

Unless the mortgagee asks the Registrar not to, if a mortgagee of a lot becomes the registered owner of that lot, the Registrar must register the mortgagee as registered owner free of the mortgage (ss. 63(2) and (3) of the *Land Title Act 1994*).

The request of a mortgagee in these circumstances may be included in Item 5 of the Form 1 – Transfer by the insertion of the words ‘do not cancel Mortgage No [number]’.

[2-2150] Mortgage Duty

A mortgage signed before 1 July 2008 must have a duty notation.

[2-2160] The *Bank Integration Act 1991* (Cth)

This Act has the general effect of amalgamating savings banks with their parent banks.

The Act provides for the vesting of the assets from the savings bank in the parent bank (‘the Bank’). The day on which the property vests is the ‘succession day’. The Registrar is notified of the succession day by virtue of the certificate issued by an authorised person (ss. 23 and 24 of the Bank Integration Act).

Dealings which are currently registered do not require amendment. However, where the Bank wishes to have the new name entered onto the Register, a Form 14 – Request to Change Name (see part 14, esp [14-2000] and [14-2020]) must be lodged.

Where an amendment of mortgage is lodged, a Form 14 – Request to Change Name must be lodged prior to the amendment. The succession day will vary for each Bank. A certificate issued under s. 23 of the Bank Integration Act must be provided to the Registrar, by stating the earlier dealing number where the certificate was deposited and may be referred to in subsequent dealings.

Mortgages executed on or after succession day must be under the Bank’s new name and executed accordingly.

Dealings associated with the vesting of savings bank assets in the parent bank are exempt from fees.

Where a dealing is to be registered which will involve the mortgagee going off the title, the name of the mortgagee is to include its former name, e.g. ‘Big City Bank Limited formerly Big City Savings Bank Limited’.

[2-4010] Forms

Electronic Conveyancing Documents [2-4000] moved to [2-5010] and renamed Electronic Conveyancing and Electronic Conveyancing Document

[2-4010] General Guide to Completion of Forms

For general requirements for completion of forms see part 59 – Forms.

Webform

The National Mortgage Form webform can be completed online and printed or downloaded as a completed form in portable document format (pdf). The webform cannot be downloaded for local use. However, the data entered via the National Mortgage webform can be saved and re-loaded at a later time for completion and printing.

The webform and user guide can be accessed at: <http://lrforms.arnec.gov.au/lrforms/>

The panels of the NMF will expand to include any additional Fields and data required. The use of a *Form 20 – Enlarged Panel* or *Form 20 - Schedule* to include Fields or data that can be inserted into the panels of the NMF is only permitted for:

- the Operative words and Terms and Conditions of this Mortgage Panel (using a *Form 20 – Schedule*); and
- the Mortgagor Execution Panel and Mortgagee Execution Panel when a marksman clause (see [61-3040]) is required (using a *Form 20 – Enlarged Panel*).

Microsoft Word Template Form

A Microsoft Word Template National Mortgage Form is also available for download from the [Titles Queensland Forms web page](#).

However, please note that the completion of the NMF in the correct format may require an intermediate knowledge of the use of Microsoft Word. The Titles Registry recommends the use of the Webform as the easiest method of completing the NMF.

A basic guide to completion which includes instructions on how to unprotect the form to make any necessary changes is also available on the Titles Registry forms web page. Further information in relation to the completion of the NMF is also provided below.

The panels of the NMF will expand to include any additional Fields and data required. The use of a *Form 20 – Enlarged Panel* or *Form 20 - Schedule* to include Fields or data that can be inserted into the panels of the NMF is only permitted for:

- the *Operative words and Terms and Conditions of this Mortgage Panel* (using a *Form 20 – Schedule*); and
- the *Mortgagor Execution Panel* and *Mortgagee Execution Panel* when a marksman clause (see ¶[61-3040]) is required (using a *Form 20 – Enlarged Panel*).

Lodger Details

Lodger Code
Name BIG CITY SOLICITORS
Address 123 QUEEN ST BRISBANE
Lodger Box 123
Phone (07) 3222 3333
Email mail@bigcitysolicitors.com.au
Reference SMITH:ABC

For Office Use Only

**THE BACK OF THIS FORM
MUST NOT BE USED**

MORTGAGE

Jurisdiction QUEENSLAND

Privacy Collection Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Titles Queensland website.

Estate and/or interest being mortgaged

FEE SIMPLE

Land Title Reference	Part Land Affected?	Land Description
12348019		LOT 1 ON RP 118983

Mortgagor

Given Name(s)	ROBERT JOHN
Family Name	SMITH
Given Name(s)	MARY ANNE
Family Name	SMITH

Mortgagee

Name	ABC BANK LIMITED
ACN	123456789

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference	709123465
(b) Additional terms and conditions	NIL

Mortgagor Execution

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994

Executed on behalf of ROBERT JOHN SMITH

Signer Name ROBERT JOHN SMITH

Signature R J Smith

Execution Date 21 / 07 / 2017

Full Name of Witness ALFRED HENRY
PATTERSON

Witness Signature A Patterson

Witness Qualifications SOLICITOR

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994

Executed on behalf of MARY ANNE SMITH

Signer Name MARY ANNE SMITH

Signature M A Smith

Execution Date 21 / 07 / 2017

Full Name of Witness ALFRED HENRY
PATTERSON

Witness Signature A Patterson

Witness Qualifications SOLICITOR

Mortgagee Execution

Executed on behalf of ABC BANK LIMITED
under power of attorney number 712345612

Signer Name EMILY JANE JONES

Signer Organisation ABC BANK LIMITED

Signer Role TIER 2 ATTORNEY

Signature E J Jones

Execution Date 28 / 07 / 2017

Guide to Completion of National Mortgage Form

[2-4020] Lodger Details Panel

The standard Fields of the Lodger Details Panel are as follows:

Lodger Details

Lodger Code
Name
Address
Lodger Box
Phone
Email
Reference

None of the Fields are individually mandatory, however the combination of details must contain the minimum information necessary for positive identification and contact by mail, electronic mail and telephone.

If the Lodger Code Field is completed, there is no need to complete the Name Field, Address Field, Lodger Box Field, Phone Field or Email Field because this information can be obtained from Titles Registry records using the lodger code.

If the Lodger Code Field is not completed, the following Fields should be completed:

1. The Name Field with the name of the lodger;
2. The Address Field with the postal address of the lodger;
3. The Lodger Box Field with the lodger box reference (if applicable);
4. The Phone Field with the telephone number of the lodger;
5. The Email Field with the email address of the lodger.

The Reference Field can be completed with the lodger's internal reference for the matter. This data is not required or used by the Titles Registry. Any internal reference completed by a lodger must comply with the requirements set out in part [59-2030].

[2-4030] Jurisdiction Panel

The Jurisdiction Field in the Jurisdiction Panel must state QUEENSLAND.

Example:

Jurisdiction	QUEENSLAND
---------------------	------------

[2-4040] Estate and/or interest being mortgaged Panel

Insert FEE SIMPLE, WATER ALLOCATION, LEASE, or type of State tenure e.g. (STATE LEASE), whichever is applicable. If the mortgage only relates to the interest of one Tenant in Common Registered Owner, that Registered Owner's share fraction share (as numerator/ denominator) should be included.

Example: mortgage of an interest in a lease:

Estate and/or interest being mortgaged

LEASE NO. 703303243

Example: mortgage of the fee simple interest of a Tenant in Common who owns a half share:

Estate and/or interest being mortgaged

1/2 FEE SIMPLE

[2-4050] Land Title Reference/Part Land Affected? /Land Description Panel

The standard Fields of the Land Title Reference/Part Land Affected? /Land Description Panel are as follows:

Land Title Reference	Part Land Affected?	Land Description
----------------------	---------------------	------------------

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Freehold Land Description^{1, 2}

<u>Land Title Reference Field:</u>	complete with the 8 digit Land Title Reference for the lot.
<u>Part Land Affected? Field:</u>	insert “Y” if the mortgage relates to only one or some of the lots on an indefeasible title (Land Title Reference) which has multiple lots, otherwise leave blank.
<u>Land Description Field:</u>	The description should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for crown plans). The area of the lot/s is not shown.

Example of a mortgage of 2 titles, each with 2 lots:

Land Title Reference	Part Land Affected?	Land Description
51564528		LOT 51 ON RP 300124
51564528		LOT 54 ON RP 300124
52387245		LOT 3 ON SP 222599
52387245		LOT 4 ON SP 222599

Example of a mortgage of one lot on an indefeasible title which has more than one lot (Part Land Affected):

Land Title Reference	Part Land Affected?	Land Description
51564528	Y	LOT 51 ON RP 300124

Water Allocation Description^{2, 3}

<u>Land Title Reference Field:</u>	complete with the 8 digit Land Title Reference for the Water Allocation.
<u>Part Land Affected? Field:</u>	This Field is not applicable to Water Allocations and must be left blank.
<u>Land Description Field:</u>	A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. All plans referring to water allocations are administrative plans. Administrative plan is abbreviated to AP as the prefix of the plan identifier.

Example:

Land Title Reference	Part Land Affected?	Land Description
46012345		WA 27 ON AP7900

State Tenure Description^{1, 3}

<u>Land Title Reference Field:</u>	complete with the 8 digit Land Title Reference for the State tenure.
<u>Part Land Affected? Field:</u>	insert “Y” if the mortgage relates to only one or some of the lots on an indefeasible title (Land Title Reference) which has multiple lots, otherwise leave blank.

Land Description Field:

The description of the relevant State tenure should always read 'Lot [no.] on [plan reference]'. Plan references must contain the appropriate prefix (e.g. 'CP' for a crown plan).

Example:

Land Title Reference	Part Land Affected?	Land Description
40567123		LOT 27 ON CP LIV1234

[2-4060] Mortgagor Panel

The standard Fields of the Mortgagor Panel are as follows:

Mortgagor	
Given Name(s)	<i>[For an individual]</i>
Family Name	
Capacity	
Name	<i>[For an organisation e.g. a company]</i>
ACN	
ARBN	
Capacity	

Individual Mortgagor

For each mortgagor that is an individual, the following Fields are applicable:

<u>Given Name(s):</u>	When combined with the Family Name Field, this must correspond with the name of the registered owner or holder of the interest as shown on a current title search.
<u>Family Name:</u>	When combined with the Given Name(s) Field, this must correspond with the name of the registered owner or holder of an interest as shown on a current title search.
<u>Capacity:</u>	This Field is used to supply the capacity in which the mortgagor holds the land (e.g. TRUSTEE – see [2-0050]). If there is no capacity for the mortgagor, this Field can be left blank or omitted.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Example for 2 individual mortgagors:

Mortgagor	
Given Name(s)	JOHN
Family Name	CITIZEN
Given Name(s)	JOAN
Family Name	CITIZEN

Example for 2 individual mortgagors holding the property as trustees:

Mortgagor	
Given Name(s)	JOHN
Family Name	CITIZEN
Capacity	TRUSTEE
Given Name(s)	JOAN
Family Name	CITIZEN
Capacity	TRUSTEE

Organisation Mortgagor

For each mortgagor that is an organisation (e.g. a company), the following Fields are applicable:

Name: this Field should contain the full legal name of the organisation and must correspond with the name of the registered owner or holder of the interest as shown on a current title search.

ACN: If the Mortgagor has an ACN, the 9 digit ACN must be entered. If there is no ACN this Field can be left blank or omitted.

ARBN: If the Mortgagor has an ARBN, the 9 digit ARBN must be entered. If there is no ARBN this Field can be left blank or omitted.

Capacity: This Field is used to supply the capacity in which the mortgagor holds the land (e.g. TRUSTEE – see [2-0050]). If there is no capacity for the mortgagor, this Field can be left blank or omitted.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Example for a corporate mortgagor:

Mortgagor	
Name	DEF COMPANY LTD
ARBN	987651265

Example for a corporate mortgagor holding the property as trustee:

Mortgagor	
Name	ABC COMPANY PTY LTD
ACN	986384755
Capacity	TRUSTEE

[2-4070] Mortgagee Panel

The standard Fields of the Mortgagee Panel are as follows:

Mortgagee

Given Name(s)	<i>[For an individual]</i>
Family Name	
Capacity	
Tenancy (inc. share)	
Name	<i>[For an organisation e.g. a company]</i>
ACN	
ARBN	
Australian Credit Licence	
Capacity	
Tenancy (inc. share)	

Individual Mortgagee

For each mortgagee that is an individual, the following Fields are applicable:

<u>Given Name(s):</u>	When combined with the Family Name Field, this must correspond with the full legal name of the individual.
<u>Family Name:</u>	When combined with the Given Name(s) Field, this must correspond with the full legal name of the individual.
<u>Capacity:</u>	This Field is used to supply the capacity in which the mortgagee will hold the mortgage on title (e.g. TRUSTEE – see [2-0100]). If there is no capacity to be recorded, this Field can be left blank or omitted.
<u>Tenancy (inc. share):</u>	If there is only one mortgagee this Field can be left blank or omitted. See [2-4075] in relation to completion of this Field where there is more than one mortgagee.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Example for an individual mortgagee:

Mortgagee

Given Name(s)	JOHN
Family Name	CITIZEN

Example for an individual mortgagee holding as trustee:

Mortgagee

Given Name(s)	JOHN
Family Name	CITIZEN
Capacity	TRUSTEE

Organisation Mortgagee

For each mortgagee that is an organisation (e.g. a company), the following Fields are applicable:

<u>Name:</u>	this Field must contain the full legal entity name of the organisation.
<u>ACN:</u>	If the Mortgagee has an ACN, the 9 digit ACN must be entered. If there is no ACN this Field can be left blank or omitted. An ABN is not permitted in this Field.
<u>ARBN:</u>	If the Mortgagee has an ARBN, the 9 digit ARBN must be entered. If there is no ARBN this Field can be left blank or omitted. An ABN is not permitted in this Field.
<u>Australia Credit Licence:</u>	This is an optional Field. If the mortgagee has no Australian Credit Licence this Field can be left blank or omitted.
<u>Capacity:</u>	This Field is used to supply the capacity in which the mortgagee will hold the mortgage on title (e.g. TRUSTEE – see [2-0100]). If there is no capacity to be recorded, this Field can be left blank or omitted.
<u>Tenancy (inc. share)</u>	<p>If there is only one mortgagee this Field can be left blank or omitted.</p> <p>See [2-4075] in relation to completion of this Field where there is more than one mortgagee.</p>

It is not permissible to:

- include an ABN in the ACN Field or ARBN Field; or
- alter the National Mortgage Form in any way to include a Field for the insertion of an ABN for an organisation mortgagee.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Example for an Australian Company Mortgagee:

Mortgagee	
Name	BIG BANK LIMITED
ACN	986384755
Australian Credit Licence	659726

Example for an Australian Company Mortgagee holding as Trustee:

Mortgagee	
Name	BIG INVESTMENT COMPANY LIMITED
ACN	886384755
Capacity	TRUSTEE

[2-4075] Completion of the Tenancy (inc. share) Field for multiple Mortgagees

Declared Trustees

Where multiple trustees of the same trust are to be registered on title as the only mortgagees to the mortgage the Tenancy (inc. share) Field must be left blank or omitted for each mortgagee.

Example for multiple individual mortgagees holding the interest as trustees of the same trust:

Mortgagee

Given Name(s)	JOHN
Family Name	CITIZEN
Capacity	TRUSTEE
Given Name(s)	MARY
Family Name	CITIZEN
Capacity	TRUSTEE

Where the Mortgagee Panel is only completed with trustee mortgagees and the Tenancy (inc. share) Fields are left blank or omitted (as above), the Registrar will record the mortgagees as trustees of the same trust.

If a trustee mortgagee holds their interest as tenant in common with another mortgagee that is not a trustee of the same trust, the words "TENANTS IN COMMON" and the share fraction (as numerator/ denominator) must be added to the Tenancy (inc. share) Field for each mortgagee. The total shares must add to 1.

Example of two organisation mortgagees holding their interests on trust for two different trusts as tenants in common:

Mortgagee

Name	ALPHA HOLDINGS PTY LTD
ACN	123123123
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2
Name	BRAVO HOLDINGS LIMITED
ACN	321321321
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2

Example of an organisation mortgagee holding two separate interests on trust for two different trusts:

Mortgagee

Name	ALPHA HOLDINGS PTY LTD
ACN	123123123
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2
Name	ALPHA HOLDINGS PTY LTD
ACN	123123123
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2

Joint Tenants

If multiple mortgagees hold as joint tenants, the words "Joint Tenants" should be added to the Tenancy (inc. share) Field for the first joint tenant.

Example of two organisation mortgagees holding as joint tenants:

Mortgagee

Name	ALPHA BANK LIMITED
ACN	123123123
Australian Credit Licence	659800
Tenancy (inc. share)	JOINT TENANTS
Name	BRAVO BANK LIMITED
ACN	321321321

Example of an individual mortgagee and an organisation mortgagee holding as joint tenants:

Mortgagee

Given Name(s)	JOHN
Family Name	CITIZEN
Tenancy (inc. share)	JOINT TENANTS
Name	BRAVO BANK LIMITED
ACN	321321321

Tenants in Common

If multiple mortgagees hold as tenants in common, every mortgagee must have the words "Tenants in Common" and the share fraction (as numerator/denominator) added to the Tenancy (inc. share) Field for each mortgagee. The total shares must add to 1.

Example of 2 organisation mortgagees holding as tenants in common:

Mortgagee

Name	ALPHA BANK LIMITED
ACN	123123123
Tenancy (inc. share)	TENANTS IN COMMON 1/3
Name	BRAVO BANK LIMITED
ACN	321321321
Tenancy (inc. share)	TENANTS IN COMMON 2/3

Example of an individual mortgagee and organisation mortgagee holding as tenants in common:

Mortgagee

Given Name(s)	JOHN
Family Name	CITIZEN
Tenancy (inc. share)	TENANTS IN COMMON 2/5
Name	BRAVO HOLDINGS LIMITED
ACN	521321321
Tenancy (inc. share)	TENANTS IN COMMON 3/5

Mixed Tenancies (Joint Tenants inter-se holding as Tenants in Common with other mortgagees)

If some of the mortgagees hold as joint tenants, and they hold as tenants in common with one or more other mortgagees, the words "JOINT TENANTS INTER-SE" and the share fraction (as numerator/ denominator) that group of mortgagees hold is added to the Tenancy (inc. share) Field for the first mortgagee in the group of joint tenants and the words "TENANTS

IN COMMON" and the share fraction (as numerator/ denominator) are added to the Tenancy (inc. share) Field of every other mortgagee. The total shares must add to 1.

Example:

Alpha Bank Limited and Bravo Bank Limited hold half a share as joint tenants inter-se, holding as tenants in common with Charlie Bank Limited, who hold the other half share. This would be shown as:

Mortgagee	
Name	ALPHA BANK LIMITED
ACN	123123123
Tenancy (inc. share)	JOINT TENANTS INTER-SE 1/2
Name	BRAVO BANK LIMITED
ACN	321321321
Name	CHARLIE BANK LIMITED
ACN	987987987
Tenancy (inc. share)	TENANTS IN COMMON 1/2

Example of two individual mortgagees holding as joint tenants inter-se, holding as tenants in common with a corporation:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Tenancy (inc. share)	JOINT TENANTS INTER-SE 3/5
Given Name(s)	JOAN
Family Name	CITIZEN
Name	BIG INVESTMENT COMPANY LIMITED
ACN	887987987
Tenancy (inc. share)	TENANTS IN COMMON 2/5

[2-4080] Operative words and Terms and Conditions of this Mortgage Panel

The standard Fields of the Operative words and Terms and Conditions of this Mortgage Panel are as follows:

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference

(b) Additional terms and conditions

A description of the debt or liability secured by the mortgage (see [2-2020]) must be detailed under the heading *Terms and Conditions* of this Mortgage by utilising one of the following three methods:

- using a Standard Terms Document without:
 - amendment (e.g. deleting or substituting clauses); and
 - any other description of the debt or liability being entered; or
- using a Standard Terms Document with:
 - amendments (e.g. deleting or substituting clauses); and/or

- additional terms and conditions or another description of the debt or liability; or
- not using a Standard Terms Document and entering the terms and conditions or other description of the debt or liability.

Instructions on how to complete the NMF using the above three methods are provided under the relevant headings below.

Using a Standard Terms Document

Using a Standard Terms Document without amendment or other description of the debt or liability

If a Standard Terms Document is being used without amendment or any additional terms and conditions or other description of the debt or liability (see [2-2020]):

- the dealing number of the Standard Terms Document should be inserted in (a) *Document Reference*; and
- NIL should be inserted in (b) *Additional terms and conditions*.

Example:

Terms and Conditions of this Mortgage	
(a) Document Reference	71234567
(b) Additional terms and conditions	NIL

Using a Standard Terms Document with amendments or with an additional description of the debt or liability

If a Standard Terms Document is being used with amendments or any additional terms and conditions or other description of the debt or liability (see [2-2020]):

- the dealing number of the Standard Terms Document should be inserted in (a) *Document Reference*; and
- Any changes to the Standard Terms Document (e.g. deleting or substituting clauses) or any additional terms and conditions or other description of the debt or liability should be inserted in (b) *Additional terms and conditions*.

The use of a *Form 20 – Schedule* is permitted to include data for (b) *Additional terms and conditions* (see part 20, esp [20-2010]).

Please note that the data that can be inserted for (b) *Additional terms and conditions* in the Webform is limited to 4000 characters. There is no limit to the data that can be inserted for (b) *Additional terms and conditions* in the Microsoft Word Template Form as the panel will expand to include all required data.

Example:

Terms and Conditions of this Mortgage	
(a) Document Reference	71234567
(b) Additional terms and conditions	[Detail amendments to the Standard Terms Document (e.g. deleting or substituting clauses) and/or any additional terms and conditions or other description of the debt or liability]

Example using a *Form 20 – Schedule*:

Terms and Conditions of this Mortgage	
(a) Document Reference	71234567
(b) Additional terms and conditions	See attached Schedule.

Title Reference [12348019]

Operative words and Terms and Conditions of this Mortgage Panel

Terms and Conditions of this Mortgage

(b) Additional terms and conditions

[Detail amendments to the Standard terms Document (e.g. deleting or substituting clauses) and/or any additional term/s and conditions or other description of the debt or liability]

Not using a Standard Terms Document

If no Standard Terms Document is being used:

- NIL should be inserted in (a) *Document Reference*; and
- The terms and conditions or other description of the debt or liability (see [2-2020]) should be inserted in (b) *Additional terms and conditions*.

The use of a *Form 20 – Schedule* is permitted to include data for (b) *Additional terms and conditions* (see part 20, esp. [20-2010]).

Please note that the data that can be inserted for (b) *Additional terms and conditions* in the Webform is limited to 4000 characters. There is no limit to the data that can be inserted for (b) *Additional terms and conditions* in the Microsoft Word Template Form as the panel will expand to include all required data.

Example:

Terms and Conditions of this Mortgage

(a) Document Reference NIL

(b) Additional terms and conditions

[Detail the terms and conditions or other description of the debt or liability]

Example using a *Form 20 - Schedule*:

Terms and Conditions of this Mortgage

(a) Document Reference NIL

(b) Additional terms and conditions

See attached Schedule.

Title Reference [12348019]

Operative words and Terms and Conditions of this Mortgage Panel

Terms and Conditions of this Mortgage

(b) Additional terms and conditions

[Detail the term/s and conditions or other description of the debt or liability]

[2-4090] Mortgagor and Mortgagee executions Panel

For each Mortgagor and Mortgagee the following standard Fields are applicable:

Mortgagor Execution

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994

Executed on behalf of

Signer Name

Signer Organisation

Full Name of Witness

Signer Role

Witness Signature

Signature

Witness Qualifications

Execution Date

Mortgagee Execution

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994

Executed on behalf of

Signer Name

Signer Organisation

Full Name of Witness

Signer Role

Witness Signature

Signature

Witness Qualifications

Execution Date

Complete the applicable Fields for each individual or entity executing the NMF. Any Fields that are not applicable can be left blank or omitted. Some examples have been provided further below.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted except when a marksman clause is required (see [16-2140]).

The NMF requires the completion of a separate witnessing provision for each signature which is required to be witnessed, even if signatures are made in front of the same witness.

For the requirements when executing see Part 61 – Witnessing and Execution of Instruments or Documents.

For a company executing the NMF, the ACN or ARBN does not need to be included in the company name in the relevant Execution Panel if it has been included in the Mortgagor Panel or Mortgagee Panel.

Where a legal practitioner signs a NMF on behalf of a mortgagee the legal practitioner's full name must be printed underneath the signature along with the words, solicitor, barrister or Australian legal practitioner as appropriate. The legal practitioner's signature need not be witnessed. Refer to the example below.

Execution under a registered Power of Attorney

The following requirements apply for an execution carried out by an attorney under a registered power of attorney:

1. The second line of the Mortgagor Signature Details Field or Mortgagee Signature Details Field must include the statement "under power of attorney [DEALING NUMBER]" stating the dealing number of the registered Power of Attorney (underneath "Executed on behalf of [NAME]"); and
2. For a registered Power of Attorney which specifically names the attorneys:
 - i. the Signer Name Field must be the same as the name of the attorney listed in the Power of Attorney; and
 - ii. the Signer Role Field should state "ATTORNEY"; and
3. For a registered Power of Attorney which defines attorneys using a position or role in an organisation (e.g. Mortgage Officer or Tier 2 Attorney in a Bank, Partner in a law firm):
 - i. The Signer Organisation Field must match the name of the organisation listed in the Power of Attorney; and
 - ii. the Signer Role Field must contain the relevant position or role contained in the Power of Attorney.

Example – Execution carried out by a named attorney under a registered power of attorney

Mortgagor Execution			
NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994		Executed on behalf of	JOAN CITIZEN
		under power of attorney	762873635
		Signer Name	ELAINE ATKINS
Full Name of Witness	ALFRED WITNESS	Signer Role	ATTORNEY
Witness Signature	<i>A Witness</i>	Signature	<i>E Atkins</i>
Witness Qualifications	SOLICITOR	Execution Date	27 / 07 / 2017

Example – Execution carried out by an attorney with a position/role defined in a registered power of attorney

Mortgagee Execution			
		Executed on behalf of	BIG BANK LTD
		under power of attorney	762873635
		Signer Name	ALAN ATKINS
		Signer Organisation	BIG BANK LTD
		Signer Role	MORTGAGE OFFICER
		Signature	<i>A Atkins</i>
		Execution Date	27 / 07 / 2017

Example – Execution for an Individual carried out by the Individual

Mortgagor Execution		Executed on behalf of	JOHN CITIZEN
NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994		Signer Name	JOHN CITIZEN
Full Name of Witness	<u>ALFRED WITNESS</u>	Signature	<u>J Citizen</u>
Witness Signature	<u>A Witness</u>	Execution Date	<u>27 / 07 / 2017</u>
Witness Qualifications	<u>SOLICITOR</u>		

Example – Execution by a legal practitioner on behalf of a mortgagee

Mortgagee Execution		Executed on behalf of	BIG BANK LIMITED
		Signer Name	<u>LAURENCE LAIDLEY</u>
		Signer Organisation	<u>LARRY'S LAW</u>
		Signer Role	<u>AUSTRALIAN LEGAL PRACTITIONER</u>
		Signature	<u>L Laidley</u>
		Execution Date	<u>29 / 01 / 2018</u>

Example – Execution by Organisation (Australian Company) executed (without seal) by a director and secretary in accordance with s. 127 of the *Corporations Act 2001* (Cth)*

Mortgagor Execution		Executed on behalf of	XYZ LIMITED
		Signer Name	<u>DANIEL DEAKIN</u>
		Signer Organisation	<u>XYZ LIMITED</u>
		Signer Role	<u>DIRECTOR</u>
		Signature	<u>D Deakin</u>
		Execution Date	<u>27 / 07 / 2017</u>
		Executed on behalf of	XYZ LIMITED
		Signer Name	<u>SEAN SEACOMBE</u>
		Signer Organisation	<u>XYZ LIMITED</u>
		Signer Role	<u>SECRETARY</u>
		Signature	<u>S Seacombe</u>
		Execution Date	<u>27 / 07 / 2017</u>

*Please note that for an execution by a corporation under s. 127 of the *Corporations Act 2001* (Cth) or s. 52 of the *Property Law Act 2023* where there is more than one signatory, if the date the last signer executes the NMF is inserted in the second Execution Date Field, the first Execution Date Field can be left blank or deleted. For example:

Mortgagor Execution	
Executed on behalf of	XYZ LIMITED
Signer Name	<u>DANIEL DEAKIN</u>
Signer Organisation	<u>XYZ LIMITED</u>
Signer Role	<u>DIRECTOR</u>
Signature	<u>D Deakin</u>
Executed on behalf of	XYZ LIMITED
Signer Name	<u>SEAN SEACOMBE</u>
Signer Organisation	<u>XYZ LIMITED</u>
Signer Role	<u>SECRETARY</u>
Signature	<u>S Seacombe</u>
Execution Date	<u>27 / 07 / 2017</u>

[2-5000] eConveyancing

[2-5010] Electronic Conveyancing and Electronic Conveyancing Document

Electronic Conveyancing (or eConveyancing) is the term used to refer to the electronic preparation, lodgement, processing and registration of instruments and other documents (Electronic Conveyancing Documents) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [2-5105 and 62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under the ECNL that is lodged electronically through an Electronic Lodgment Network (see s. 14B of the Land Title Act 1994 and s. 7 of the ECNL).

For more information, refer to Part 62 – eConveyancing.

The terms Electronic Conveyancing and eConveyancing are used interchangeably in this Part and throughout the Land Title Practice Manual.

[2-5100] Scope Restrictions

Refer to the [Titles Queensland website](#) for the list of transactions available through eConveyancing.

[2-5105] Electronic Conveyancing Mandate

The eConveyancing mandate commenced on 20 February 2023 and applies to all industry professionals who are eligible to become subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to Corporate Entities who are lodging a required instrument.

The mandate, introduced by the *Land Title Regulation 2022* provides that certain types of Titles instruments, known as required instruments, must be lodged through an Electronic Lodgment Network (ELN). For more information, refer to Part [62-6000] – eConveyancing Mandate.

The National Mortgage Form (NMF) is a required instrument under the regulation and is therefore required to be lodged through a ELN unless an exemption applies.

Because the Electronic Lodgement Network Operator's (ELNO) regularly update their functionality in conjunction with Titles Queensland, and the Queensland Revenue Office (QRO), a current list of required instruments and their inclusions and exemptions is maintained on the [Titles Queensland website](#) rather than in the Land Title Practice Manual to ensure the information is as current and accurate as possible.

ELN Subscribers should therefore refer to the [Titles Queensland website](#) for the list of required instruments to be lodged through eConveyancing as well as any exemptions that may apply. Specifically, ELN Subscribers should confirm that the instrument is not exempt and is included in the mandate before attempting to lodge the instrument by way of eConveyancing.

[2-5110] Exemptions to Required Instruments

There are two categories of exemptions that may apply to required instruments, these are general exemptions, and instrument specific exemptions.

The general exemptions to the mandate are those which are contained in the regulation and apply to all instruments required to be lodged through eConveyancing. These general exclusions can be found in Part [62-6022] of the Manual and on the [Titles Queensland website](#).

Instrument specific exemptions are those exclusions which apply only to a specific instrument (for example a National Mortgage Form) and a list of these exclusions can be found on the [Titles Queensland website](#) and are updated from time to time as the functionality of each instrument changes.

[2-5115] When an Exemption Applies

In circumstances where an exemption applies, an Exemption Request Form (ERF) should be completed. For Further information refer to Part [62-6040].

[2-5200] Prescribed Requirements – Mortgage Form (electronic)

Under the Participation Rules (Queensland) a Prescribed Requirement is a published requirement of the Registrar that Subscribers to an Electronic Lodgement Network are required to comply with.

The following are the prescribed requirements for a Mortgage Form (electronic):

2 001 For an attachment to include terms and conditions (see [2 5300]):

1. the attachment must be referred to in (b) *Additional terms and conditions* in the *Operative words and Terms and Conditions of this Mortgage Panel*;
2. if reference is made to an attachment in (b) *Additional terms and conditions* in the *Operative words and Terms and Conditions of this Mortgage Panel* a document setting out the terms and conditions must be included as an attachment to the Mortgage Form (electronic); and
3. the attachment must not contain any information other than the terms and conditions being incorporated (any additional information can be removed or redacted).

Example: it is not permissible to include as an attachment a complete scanned copy of a paper National Mortgage Form signed by the mortgagor/s showing all of the panels and the wet signatures of the mortgagor/s unless all information other than the terms and conditions is removed or redacted.

No Prescribed Requirements for 'same terms mortgage'

A 'same terms mortgage' held by a Subscriber under Participation Rule 6.13.1 that is not lodged for registration is not required to meet the requirements in the *Land Title Act 1994* and *Land Act 1994* for instruments that are lodged for registration (including any requirement for an instrument to be in the appropriate form or requirements relating to execution and witnessing). There are no Prescribed Requirements for a 'same terms mortgage'.

[2-5300] Attachments – Mortgage Form (electronic)

An attachment cannot be included with a Mortgage Form (electronic) unless:

- it is in the circumstances detailed in this section (e.g. an attachment to include terms and conditions that is referred to in the relevant panel); and
- the attachment only includes the stated material required in those circumstances (e.g. a document that sets out terms and conditions of the mortgage).

Attachments must be uploaded in portable document format (PDF). For information regarding uploading attachments, refer to the relevant Electronic Lodgment Network Operator.

Terms and Conditions

There is currently provision to include a document that sets out terms and conditions of the mortgage as an attachment.

Queensland Prescribed Requirement 2-001 requires that the attachment:

- must be referred to in (b) *Additional terms and conditions* in the Operative words and Terms and Conditions of this Mortgage Panel; and
- must not contain any information other than the terms and conditions being incorporated (any additional information can be removed or redacted).

Example: it is not permissible to include as an attachment a complete scanned copy of a paper National Mortgage Form signed by the mortgagor/s showing all of the panels and the wet signatures of the mortgagor/s unless all information other than the terms and conditions is removed or redacted.

[2-5400] Execution and Certification

The requirements for digitally signing and making certifications for an Electronic Conveyancing Document are contained in the Participation Rules (Queensland).

[2-5600] Electronic Form

[2-5610] Approved Electronic Form

An instrument of mortgage that is an Electronic Conveyancing Document (eConveyancing mortgage) must be lodged through an Electronic Lodgment Network and be in the form approved by the Registrar under the Electronic Conveyancing National Law (Queensland). The eConveyancing mortgage must be digitally signed by or for the mortgagee as required by the approved form and Participation Rules.

A representation of the electronic form approved by the Registrar under s. 7 of the Electronic Conveyancing National Law (Queensland) is shown on the following page.

Lodger Details

Lodger Code
Name
Address

Lodger Box
Phone
Email
Reference

MORTGAGE

Jurisdiction QUEENSLAND

Privacy Collection Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Titles Queensland website.

Estate and/or interest being mortgaged

FEE SIMPLE

Land Title Reference	Part Land Affected?	Land Description
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Mortgagor

Given Name(s)
Family Name
Capacity

Name
ACN
ARBN
Capacity

Mortgagee

Given Name(s)
Family Name
Tenancy (inc. share)

Name
ACN
ARBN
Australian Credit Licence
Tenancy (inc. share)

Reference:

Page 1 of 2

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference

(b) Additional terms and conditions

Mortgagee Execution

Executed on behalf of

Signer Name

Signer Organisation

Signer Role

Execution Date

[2-5620] Electronic Form Examples

Lodger Details**Lodger Code****Name****Address**

ABC BANK LIMITED
200 ADELAIDE STREET
BRISBANE QLD 4000

Lodger Box**Phone****Email****Reference**

987654321

879845213

SY 300

21/02/2021 09:00:05

MORTGAGE**Jurisdiction**

QUEENSLAND

Privacy Collection Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Titles Queensland website.

Estate and/or interest being mortgaged

FEE SIMPLE

Land Title Reference

12348019

Part Land Affected?**Land Description**

LOT 1 ON RP 11898

Mortgagor**Given Name(s)****Family Name****Given Name(s)****Family Name**

ROBERT JOHN

SMITH

MARY ANNE

SMITH

Mortgagee**Name****ACN****Australian credit licence**

ABC BANK LIMITED

123 456 789

123456

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference 709123465

(b) Additional terms and conditions NIL

Mortgagee Execution

1. The Certifier has retained the evidence supporting this Registry Instrument or Document.
2. The Certifier, or the Certifier is reasonably satisfied that the mortgagee it represents,:
 - (a) has taken reasonable steps to verify the identity of the mortgagor; and
 - (b) holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument or Document.
3. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of ABC BANK LIMITED

Signer Name Peter Smith

Signer Organisation ABC BANK LIMITED

Signer Role AUTHORISED SIGNATORY

Execution Date 21/02/2021

Lodger Details**Lodger Code****Name****Address**

BIG CITY SOLICITORS

123 QUEEN ST

BRISBANE QLD 4000

Lodger Box**Phone****Email****Reference**

SMITH:ABC

879845521

PX 300

21/02/2021 09:00:05

MORTGAGE**Jurisdiction**

QUEENSLAND

Privacy Collection Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Titles Queensland website.

Estate and/or interest being mortgaged

FEE SIMPLE

Land Title Reference

12348019

Part Land Affected?**Land Description**

LOT 1 ON RP 11898

Mortgagor**Name****ACN:**

GRAND DEVELOPMENT CORP PTY LTD

654 512 542

Mortgagee**Name****ACN****Tenancy (inc. share)**

BIG CITY INVESTMENTS PTY LTD

123 456 789

As Trustee

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference 709123465

(b) Additional terms and conditions NIL

Mortgagee Execution

1. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
2. The Certifier has taken reasonable steps to verify the identity of the mortgagee or his, her or its administrator or attorney.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier, or the Certifier is reasonably satisfied that the mortgagee it represents,;
 - (a) has taken reasonable steps to verify the identity of the mortgagor; and
 - (b) holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument or Document.
5. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of BIG CITY INVESTMENTS PTY LTD

Signer Name Peter Smith

Signer Organisation BIG CITY SOLICITORS

Signer Role AUSTRALIAN LEGAL PRACTITIONER

Execution Date 21/02/2021

[2-5700] Electronic Form Notes for Completion

Refer to the table below for notes for the completion of a Mortgage Form (electronic).

PANEL	NOTES																
Mortgagee	<p>Mortgagee name and Trustee capacity</p> <p>Mortgagee</p> <table> <tr> <td>Name</td><td>BIG CITY LENDERS PTY LTD</td></tr> <tr> <td>ACN</td><td>123 456 789</td></tr> <tr> <td>Tenancy (inc. share)</td><td>As Trustee</td></tr> </table> <p>Mortgagee</p> <table> <tr> <td>Given Name(s)</td><td>PETER</td></tr> <tr> <td>Family Name(s)</td><td>TEMPLETON</td></tr> <tr> <td>Tenancy (inc. share)</td><td>As Trustee</td></tr> <tr> <td>Given Name(s)</td><td>MARGARET</td></tr> <tr> <td>Family Name(s)</td><td>TEMPLETON</td></tr> </table> <p>The name of a mortgagee in the <u>Mortgagee Panel</u> is recorded using the following name data fields:</p> <ul style="list-style-type: none"> for each organisation: a <u>Name Field</u> (and if applicable an <u>ACN or ARBN Field</u>); and for each individual: a <u>Given Name(s) Field</u> and a <u>Family Name(s) Field</u>. <p>Only the name of the Mortgagee can be inserted in the name data fields for the Mortgagee. It is not permissible to include other words or symbols that are not part of the name of the Mortgagee in any of the name data fields in this panel (e.g. the trust capacity of a mortgagee or a reference to previously lodged trust deed/instrument).</p> <p>Where a mortgagee will be recorded as holding an interest as a trustee this must be recorded by selecting the trustee capacity for the mortgagee which will be displayed in the <u>Tenancy (inc. share) Field</u> (as shown in the examples above).</p> <p>Note: there is no requirement for the details of a trust to be provided to the Registrar where a mortgagee will be recorded as a trustee so there is no provision for the details of a trust to be provided with a Mortgage Form (electronic).</p> <p>It is not permissible to do any of the following:</p> <ul style="list-style-type: none"> include the trustee capacity of the mortgagee or the name of the trust in the mortgagee name data fields; or include a copy of the trust deed/instrument with a Mortgage Form (electronic) or refer to a dealing where the trust deed/instrument has been deposited in the name data fields in the <u>Mortgagee Panel</u>; or include a Form 20 – Trust Details Form (electronic) with a Mortgage Form (electronic). 	Name	BIG CITY LENDERS PTY LTD	ACN	123 456 789	Tenancy (inc. share)	As Trustee	Given Name(s)	PETER	Family Name(s)	TEMPLETON	Tenancy (inc. share)	As Trustee	Given Name(s)	MARGARET	Family Name(s)	TEMPLETON
Name	BIG CITY LENDERS PTY LTD																
ACN	123 456 789																
Tenancy (inc. share)	As Trustee																
Given Name(s)	PETER																
Family Name(s)	TEMPLETON																
Tenancy (inc. share)	As Trustee																
Given Name(s)	MARGARET																
Family Name(s)	TEMPLETON																

[2-8000] Fees

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60 8000].

[2-9000] Cross References

Part 1 – Transfer

Part 3 – Release of Mortgage

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a Prendre Building Management Statement or Carbon Abatement Interest

Part 14 – General Request

Part 18 – General Consent

Part 30 – Mortgage Priority

Part 49 – Water Allocations

Part 62 – eConveyancing

[2-9050] Notes in text

Note¹ – This numbered section, paragraph or statement does not apply to water allocations.

Note² – This numbered section, paragraph or statement does not apply to State land.

Note³ – This numbered section, paragraph or statement does not apply to freehold land.