

Circular

No. 2016/14

November 2016

Introduction of Priority Notices

From 28 November 2016, Priority Notices can be lodged in NSW. A Priority Notice is a notification of the intended registration of specified dealing(s) with land. Once recorded a Priority Notice will temporarily prevent the registration of other dealings with the subject land (with some exceptions). Priority Notices are provided for in Part 7B of the *Real Property Act 1900*.

The objectives for introducing Priority Notices include:

- providing greater certainty to the transaction for which priority is reserved;
- alerting interested parties who search the Register that an intended dealing or transaction is pending;
- providing increased assurance to incoming parties at a settlement and allowing the settlement to take place; and
- assisting in fraud prevention as details of a pending transaction will appear on a search of the Register, increasing the likelihood of a fraud being detected.

A Priority Notice is different from a Caveat in that a Caveat prohibits the registration of certain dealings pending the perfection of a claimed estate or interest in land, whereas a Priority Notice gives priority to the registration of specified unregistered dealing(s) for a limited period of time.

Priority Notice, Extension of Priority Notice, and Withdrawal of Priority Notice

A Priority Notice, Extension of Priority Notice and Withdrawal of a Priority Notice must be lodged using an Electronic Lodgment Network (*Conveyancing Rule 8.1*).

A Priority Notice:

- has effect for 60 days from the date of lodgment;
- can be extended once only for a period of 30 days by lodgment of an Extension of a Priority Notice; and
- can be withdrawn by lodgment of a Withdrawal of Priority Notice.

A Priority Notice will give priority to the registration of the intended dealing(s) identified in the Priority Notice. Any dealing(s) lodged after the Priority Notice, but before the dealing(s) set out in the Priority Notice, will be processed after the dealing(s) set out in the Priority Notice (with some exceptions – see section 74W(2) *Real Property Act 1900*). A Priority Notice will not prevent registration of dealing(s) in registrable form lodged before the Priority Notice. A person who has lodged a Priority Notice with respect to a proposed dealing cannot lodge another Priority Notice with respect to the same dealing unless all previous Priority Notices with respect to that dealing are withdrawn or have otherwise ceased to have effect.

A person who has lodged a Priority Notice may consent to the registration of dealings not referred to in the Priority Notice.

Recording of Priority Notice on the Register

When a Priority Notice is lodged it is recorded on the Register in the following manner:

FIRST SCHEDULE

JOHN CITIZEN

(T 12345678)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
M 2 AY1234567 MORTGAGE TO ABC BANKING CORPORATION

NOTATIONS

PRIORITY NOTICES:

AZ1234567 EXPIRES 28/1/2017
DISCHARGE OF MORTGAGE AY1234567
TRANSFER TO JANE MARY SMITH

UNREGISTERED DEALINGS: NIL

Removal of Priority Notice by Registrar General

The Registrar General may remove a recording in the Register of a Priority Notice in the circumstances set out in sections 74V(2) and 74X(2) *Real Property Act 1900*.

In particular, if the dealing(s) the subject of a Priority Notice are not lodged within the period during which the Priority Notice has effect, the recording of the Priority Notice will be automatically removed from the Register.

When the dealings the subject of a Priority Notice are registered, the Registrar General will remove the recording of the Priority Notice – there is no need to lodge a Withdrawal of Priority Notice.

Land and Property Information fees as at 28 November 2016

Priority Notice: \$33.80

Extension of Priority Notice or Withdrawal of Priority Notice: \$14.00

More information

For more information see [Registrar General's Directions](#) or contact LPI on T: 1300 052 637 or E: GeneralEnquiry@lpi.nsw.gov.au.