

The certificate of title

In the EC System the certificate of title (CT) is electronic. Land Registry maintains a record of who has “control” over it. This must be a Subscriber. Land Registry must not authorise a dealing in relation to an electronic CT without the controlling Subscriber’s approval. An electronic CT is not created by Land Registry unless the paper equivalent has been produced to Land Registry.

After a transaction is completed in the EC System, the person entitled to the CT can require Land Registry to reissue it in paper. If the person is a client of the Subscriber controlling the electronic CT, the Subscriber must organise this at no cost to the client.

Your rights are protected

Security of the EC System is a very high priority of Land Exchange. However, it has always been the case that unauthorised land transactions can occur. Longstanding protections have been available for those suffering loss as a result of unauthorised transactions under:

- the Transfer of Land Act, and
- the Solicitors’ Fidelity Fund.

In addition, those who suffer loss as a result of a transaction being processed through the EC System may have a right to compensation from the EC Compensation Fund (see the EC System website).

Your personal information

Land Exchange is committed to protecting your personal information consistently with the principles in the Victorian *Information Privacy Act 2000*.

If you are the client of a Subscriber, or you act for a client in dealing with their Subscriber, Land Exchange may collect your personal information.

The personal information Land Exchange may collect about you includes, for example, your name, details about land transactions in which you are involved and details of bank accounts nominated by you for crediting or debiting of payments in the EC System.

Land Exchange collects this information in order to administer land transactions in which you are involved and related purposes. Without it, these transactions may be delayed or may not proceed.

Land Exchange may disclose your personal information to its service providers, Subscribers, persons acting for Subscribers, Land Registry, the State Revenue Office and other government departments and authorities. (Land Registry collects your personal information from Land Exchange under statutory authority and uses it for the purpose of maintaining publicly searchable registers and indexes in Land Registry).

You can gain access to your personal information held by Land Exchange.

Want more information?

Visit the EC System website:
www.landexchange.vic.gov.au/ec

or contact Land Exchange at
ec@landexchange.vic.gov.au.

(For privacy-related queries contact Manager Privacy, Department of Sustainability and Environment, PO Box 500, East Melbourne, Victoria 3002.)

Electronic Conveyancing

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An initiative of
Land Exchange
a business unit of
**Department
of Sustainability
and Environment**

The traditional paper process

The Department of Sustainability and Environment (DSE), through Land Registry, maintains the Register of land dealings in Victoria.

Traditionally, changes to the Register occur after paper documents (such as discharges of mortgage, transfers and mortgages) are lodged with Land Registry. Normally, this follows a “settlement” where bank cheques are handed over in return for the paper documents reflecting the changed interests in the land.

The electronic conveyancing alternative

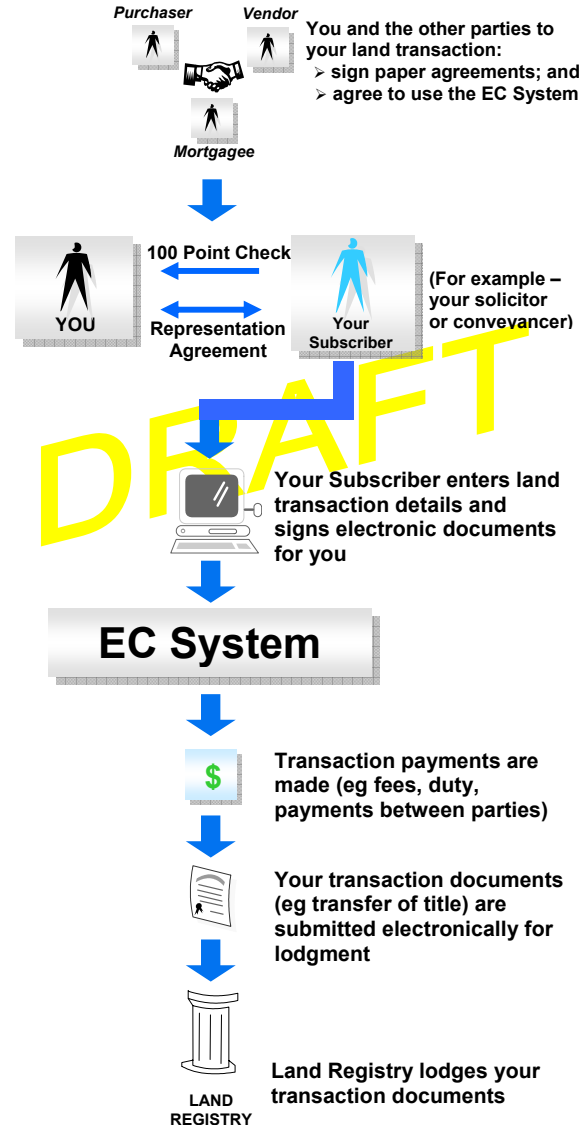
DSE now provides an alternative to this traditional process known as the Electronic Conveyancing (or EC) System. The EC System (operated by Land Exchange) provides an efficient and secure electronic environment for settling land transactions, paying duty and lodging the documents with Land Registry.

In the EC System the paper documents used in the traditional process are replaced with electronic equivalents. “Subscribers” approved by Land Registry (typically, solicitors, conveyancers and banks) have access to a secure website which allows Subscribers to prepare the electronic documents.

What happens at settlement?

Once all parties agree that the electronic documents created in the EC System reflect their transaction, they authorise an electronic settlement (the traditional “physical” settlement does not occur). This always includes lodging the electronic documents with Land Registry and paying duty and fees. Also, the parties can elect to settle the financial aspects of the transaction by using the Reserve Bank Information and Transfer System (RITS). RITS facilitates “real time” transfers of payments and enables the EC System to confirm that payments available for use have been received in the recipients’ accounts before allowing the electronic documents to be lodged with Land Registry.

ELECTRONIC CONVEYANCING AND YOU AT A GLANCE



Important. The traditional paper process continues to operate for those who want to use it.

The EC System covers only those aspects of the conveyancing processes involving financial settlement and lodgment of documents with Land Registry. All other aspects of the conveyancing process (such as preparing and entering into the contract for sale of land and making enquiries about the title to the land being acquired) must be agreed outside the EC System.

What is the role of Subscribers?

Only Subscribers can access the EC System. Anyone who is not a Subscriber must appoint a Subscriber to act for them to process a transaction in the EC System.

Subscribers can act in the EC System either on their own account (for example, a bank would sign a discharge of mortgage for itself) or for others. Typically, Subscribers who are solicitors and conveyancers act for others when authorising transactions in the EC System.

Security of transactions

The following processes have been developed by Land Exchange to give people involved in transactions within the EC System a high level of confidence that the transactions have been properly authorised:

- Before a Subscriber acts for another person they must be satisfied that the person is who they claim to be. If you are a client of a Subscriber, they must ask you to provide “100 point check” verification of identity (there are some exceptions, such as if you are a long term client).
- Subscribers must enter into a “Representation Agreement” with their client. This is an agreement in a form prescribed by Land Registry. It details the transactions for which the Subscriber is authorised to act (this can include a standing authority). Clients should carefully check that the Representation Agreement accurately reflects what they want their Subscriber to do.