

Joint Tenants both Deceased

A guide to preparing the documents

Last Updated May 2022



Preparing the Survivorship and Personal Representative Application

This guide explains the process where there are only **two proprietors/owners** shown as joint tenants on a Certificate of Title and both are deceased.

Where two proprietors/owners are shown as joint tenants on a Certificate of Title and one joint tenant passes away, the surviving Joint Tenant would usually apply to be registered as the sole proprietor by lodging a survivorship application with Landgate.

If this did not occur and both proprietors/owners have passed away without changing the Certificate of Title, the Personal Representative of the last surviving joint tenant is required to apply for survivorship on behalf of the last deceased proprietor/owner.

A Personal Representative is also known as an executor(s) shown in the probate document or administrator in a letters of administration document issued by the Probate Office.

The Personal Representative is required to complete the Application by Survivor – this places the property into the name of the last surviving joint tenant.

In addition to the Application by Survivor, the Personal Representative, at the same time, must also complete an Application by Personal Representative. This application places the property into the name of the executor(s) or administrator. This process must be completed if the property is to be sold or transferred to the beneficiaries.

It is important to read through the whole of this information guide. Being familiar with the important information provided in the guide will assist if you need to contact Landgate to clarify any part of the process. Useful contacts are listed on the back page.

Personal Representative Application process

When a **sole** proprietor/owner or tenant in common land proprietor/owner dies, a specific process need to take place so that the land can be transferred by their executor or administrator, also known as their **personal representative(s)**.

The executor or administrator is required to apply to the Probate Office to be officially appointed as an executor or administrator of the deceased proprietor's will or estate. When satisfied with the documentation provided, the Probate Office will then issue a Grant of Probate or Letters of Administration,

This is the legal document that is required to be produced as evidence with the application by personal representative enabling the name(s) of the executor(s) or administrator(s) to be placed on the Certificate of Title of the deceased.

The application by personal representative must be lodged to enable the executors/administrators to deal with the land of the deceased proprietor. This includes selling the property or transferring the property to any beneficiary of the deceased proprietor's estate.

Preparing the Survivorship and Personal Representative applications when two joint tenants have passed away

This step-by-step guide is designed to show you how to prepare and lodge a survivorship application and an application by personal representative (together) when there are **two** proprietors registered as joint tenants and **both** proprietors have passed away.

These application should only be made:

- Where the Certificate of Title states the two proprietors are joint tenants and both are deceased: or
- Where joint tenancy is deemed as no reference is shown in the registered proprietor's section of the title and both proprietors are deceased.

The application by Personal Representative must be lodged with the Survivorship application.

If you are completing the forms yourself, we advise you to exercise great care as the documents involved are legally binding. A competent professional, such as a solicitor or settlement agent, should always be considered when preparing any land transaction document.

What you should know about a Certificate of Title

Certificate of Title, otherwise known as Title Deeds, are issued by Landgate with one original and the **option** to have a **duplicated** title issued. Original titles are always kept at Landgate. The duplicate title (if issued) would usually be kept by the proprietor/owners or by a lending institution as security for a loan.

Many lending institutions request the **non-issue** of a duplicate title when they register a mortgage. This means that when a property is under mortgage, there is a possibility that a duplicate title has not been issued.

Where a duplicate title has **not** been issued, the original title would include a note in the statements section indicating the **non-issue** of the duplicate title. The note in the statements section would be shown as 'DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING M1494040'.

There are important differences between the original title and the duplicate title. The duplicate title does not show all limitations and encumbrances. For example, caveats, notifications, memorials and property seizure and sale orders are only shown on the original title held by Landgate and not on the duplicate title.

Some limitations or encumbrances (such as those stated above) may prevent the registration of an application or other interests on a Certificate of Title. For this reason, it is recommended that a copy of the original Certificate of Title be obtained from Landgate, to assist in completing the Transfer of Land form. We commonly refer to this as a 'title search'. A title search will show if a title has been issued or is **non-issue** and will show the spelling of the names of the registered proprietors/owners.

For a fee, you can conduct a title search and [obtain a copy of the Certificate of Title](#).

What do I need for my application?

- Verification of Identity (VOI) – the identity of the person(s) signing as applicants must be verified
- Evidence of death of the first deceased joint tenant
- Original Probate or Letters of Administration for the last deceased joint tenant
- Title Search (recommended) – used to complete the application and statutory declaration forms
- Forms: Transmission and Survivorship e-Forms (or paper Application Forms A1/A2) and Statutory Declaration Form B3 – a separate one to accompany each application

- Duplicate Certificate of Title (if issued)
- Registration Fees payable to Landgate

Verification of Identity – (VOI) Identifying the Applicants

A self-represented party is responsible for ensuring their own identity has been independently verified and complies with Landgate's VOI practice. Self-represented parties can have their identity verified at a participating Australia Post office. Australia Post charges a fee for this service.

For information regarding the Verification of Identity Practice refer to the [Verification of Identity webpage](#) on the Landgate website.

Evidence of death for the first deceased joint tenant

This is usually provided by producing the original death certificate that has been issued by the office of the Registrar of Births, Deaths and Marriages. However, an original probate document issued by the Probate Office is also acceptable as evidence for the application.

A copy of the death certificate or probate document certified by a Justice of the Peace or a similarly qualified person is not acceptable.

Landgate is required to sight the **original** death certificate or **original** probate document. If the application is lodged in person, the original evidence will be returned at the time of lodgement. If the application is posted to Landgate, the original evidence will be returned to the customer with their receipt. A copy certified by Australia Post, a licensed settlement agent or a legal practitioner will also be accepted (refer to [Land Transactions Policy and Procedure Guide DOC-04 Statutory Declarations and Supporting Evidence](#)).

Original Probate or Letters of Administration for the last deceased joint tenant

Landgate will require the **original** probate or **original** letters of administration document to be lodged as evidence with the application.

The original probate or letters of administration can be sighted by a Landgate officer and returned at lodgement if the application is being lodged in person. If the application is being posted to Landgate, the original evidence will be returned when the registration process is completed.

A copy of the probate or letters of administration document certified by a Justice of the Peace or a similarly qualified person is not acceptable.

Title Search – A copy of the current original Certificate of Title

A title search is optional, however highly recommended, as the search provides you with a complete up-to-date copy of the title at the date and time the title search is conducted.

For a fee, you can conduct a title search online and [obtain a copy of a Certificate of Title](#).

Transmission e-Form, Survivorship e-Form (or paper Application for Personal Representative Form A1, Survivorship Form A2) and, with each form, a separate Statutory Declaration Form B3

The Transmission and Survivorship e-Forms and the Statutory Declaration Form B3 are available online via Landgate's Land Titling Forms web page, or from a Landgate office. Those specific to this application are:

- Survivorship e-Form (or paper Form A2)
- Transmission e-Form (or paper Form A1)

- Statutory Declaration Form B3 to accompany each application

Please note that only **original** signed forms can be lodged for registration and all forms must be printed on white A4 size paper in duplex style, so both sides of the paper are printed upon.

The Duplicate Certificate of Title

- **If issued** and there is no mortgage on the property, the hard copy duplicate title must be produced with the application document. NOTE: A photocopy or a copy certified by a Justice of the Peace or a similarly qualified person is **not** acceptable for registration purposes.
- **If issued** and the property is under mortgage the financier holding the mortgage will need to produce the duplicate title to Landgate prior to the lodgement of the application document. There is an additional registration fee known as a **production fee** payable to Landgate when the duplicate title is produced separately from the application.
- If the status of the duplicate title is **non-issue** and the property is under mortgage, then an original signed letter of consent from the financier authorising the registration of the transfer is required. The original signed letter must be lodged with the application document.
- If the status of the duplicate title is **non-issue** and the property is not under mortgage, then the original signed application document, together with relevant evidence is all that is required to be lodged with Landgate.

Registration Fees

View the current Registration and Search Fees that can be paid by cash, credit card, EFTPOS, or by cheque/money order made payable to **Landgate**. Fees must be paid when lodging the documents in person or included if posting the documents to Landgate.

Further Reading

For further information on these transaction types and further document requirements, please see the following links:

- [Land Transaction Registration Policy and Procedure Guides](#)
- A Guide to basic requirements for the preparation of paper documents "[Getting it Right – Reference Guide](#)"
- [Land Transaction Toolkit](#)

Steps to lodging an application

1. Complete the application and statutory declaration forms by using the title search. Type or print legibly in dark ink (preferably black) to complete the application and statutory declaration forms, using the examples in this guide to assist.
2. Provide proof of death of the first deceased joint tenant (Death Certificate or Probate document) plus evidence of the last deceased (Probate or Letters of Administration). This is usually provided by producing the **original** death certificate that has been issued from the Office of the Registrar or Births, Deaths and Marriages. An **original** probate document issued by the Probate Office is also acceptable as evidence for the application.
3. If the property is subject to a mortgage, ensure the Duplicate Certificate of Title (if issued) has been supplied to Landgate by the financier; or you have obtained an original signed letter of consent from the lender (if the Duplicate Certificate of Title has not been issued).

4. The original identification 'Statement Self-Represented Party' letter issued by Australia Post must be produced and lodged with the application document.
5. Lodge the original signed application and statutory declaration forms, along with any other evidence that may be required. **Ensure the registration fee payment is enclosed if lodging by post.**
 - In person at one of Landgate's lodgement offices. NOTE: any person can lodge the application document with Landgate; the lodging party does not need to be one of the persons named in the transfer document.
 - By post to:

Landgate Document Lodgement Section
PO Box 2222
MIDLAND WA 6936

NOTE: Duplicate Certificate of Title and original evidence being returned by post will be posted in the normal mail. If you wish to have the duplicate title and/or original evidence returned by registered post, you will need to provide a self-addressed, pre-paid registered post envelope to Landgate with the application document.

Terms of Use

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Important

The information in this document should not be regarded as legal advice. In all matters, users should seek legal advice from an independent legal practitioner.

Title, Application by Survivor Form A2 and Statutory Declaration Form B3

The below examples have been provided to assist in the completion of the required forms. The key for the reference letters is on the relevant for examples.

THIS TITLE HAS BEEN CREATED FOR INFORMATION PURPOSES ONLY

REGISTER NUMBER 1580/P22396	
DUPLICATE EDITION 4	DATE DUPLICATE ISSUED NA



RECORD OF CERTIFICATE OF TITLE UNDER THE TRANSFER OF LAND ACT 1893

B C
VOLUME FOLIO
3332 339

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, easements and depth limit contained in the original grant (if a grant inroad) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

LAND DESCRIPTION:

A LOT 1580 ON DEPOSITED PLAN 22396

REGISTERED PROPRIETOR: (FIRST SCHEDULE)

E FRANK PETER SMITH
ANNA SMITH
BOTH OF 13 CROWN STREET, ALLANBROOK
AS JOINT TENANTS

(T M123455) REGISTERED 28 AUGUST 2015

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS: (SECOND SCHEDULE)

1. M123456 RESTRICTIVE COVENANT BURDEN. REGISTERED 28.8.2015.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimension or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

----- END OF CERTIFICATE OF TITLE -----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 3332-339.
PREVIOUS TITLE: 3332-000.
PROPERTY STREET ADDRESS: 244 ROLLING CIRCUIT, HELENA HILLS
LOCAL GOVERNMENT AREA: CITY OF SWAN

NOTE 1: DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING M000000

THIS TITLE HAS BEEN CREATED FOR INFORMATION PURPOSES ONLY

Application by Survivor Form A2

FORM A2

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1982

APPLICATION BY SURVIVOR TO BE THE REGISTERED PROPRIETOR OF LAND

DESCRIPTION OF LAND (Note 1)

Lot 1580 on Deposited Plan 22396	EXTENT	VOLUME	FOLIO
A	Whole	3332	339
		B	C

APPLICANT (Note 2)

Neil Frederick Goods of 145 Wide Road, West Cannington as Executor (or Administrator where applicable) of the estate of Frank Peter Smith deceased.

D

DECEASED PROPRIETOR (Note 3)

Anna Smith of 13 Crown Street, Allanbrook

(Show the name and address exactly as it is shown on the current title)

E

DATE OF DEATH (Note 4)

Second of January Two Thousand and Seventeen

F

The APPLICANT as **the EXECUTOR** of surviving joint tenant HEREBY APPLIES to **HAVE FRANK PETER SMITH** be registered as the proprietor by survivorship of the land above described by virtue of the death of the above-named deceased.

H Amendment to wording shown in bold above must be hand written into the existing clause and then initialled by applicant

I Dated this _____ day of _____ Year _____

SIGNATURE OF APPLICANT/S (Note 5)

J

Applicant's Signature

A – Land description to be copied from Certificate of Title

B – Volume number to be copied from Certificate of Title

C – Folio number to be copied from Certificate of Title

D – State full name and address of Executor (or Administrator) and then write “as Executor (or Administrator) of the full name of last deceased joint tenant” (check example document)

E – State the full name and address of the first deceased proprietor, as shown on the Certificate of Title

F – State the date of death of the first deceased registered proprietor as shown on evidence of death

H – Amend this clause (operative clause) as indicated in bold by hand, include Executor or Administrator and the name of the last deceased proprietor, then initial amendments

I – Insert the date application is signed by applicant or when stat dec is signed

J – Applicant signing section for application and declarant's signing section for stat dec

Statutory Declaration Form B3 to accompany the Application by Survivor form

FORM B3

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED
OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005

STATUTORY DECLARATION

I Neil Frederick Goods of 145 Wide Road, West Cannington, Personal Trainer. **K**

Sincerely declare as follows -

I am the executor (or administrator) of the will of Frank Peter Smith, deceased, who died on 23 March 2018. Probate was granted to me on 30 August 2018.

The said Frank Peter Smith was one of the registered proprietors of the land being Lot 1580 on Deposited Plan 22398, the whole of the land comprised in Certificate of Title Volume 3332 Folio 339, with his joint co-proprietor Anna Smith

On 2 January 2017 his co-proprietor Anna Smith passed away and produced with this declaration is a "Landgate sighted" copy of her death certificate.

The person described as Anna Smith of 13 Crown Street, Allanbrook as shown on Certificate of Title Volume 3332 Folio 339 is one and the same person as Anna Smith shown on the "Landgate sighted" copy of the death certificate.

The joint tenancy with the deceased proprietor of the land described above had not been severed at the date of death of Anna Smith the first deceased proprietor

I am now applying to have Frank Peter Smith registered as the sole proprietor of the land in Certificate of Title Volume 3332 Folio 339 by survivorship.



This declaration is true and I / WE know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the Oaths, Affidavits and Statutory Declarations Act 2005 at (place)

on I day of 20 by -

J

Signature of person making the declaration (sign in the space above)

In the presence of -

Signature of authorised witness (sign in the space above)

M

(Print the full name, Address and qualification of authorised witness in the space above)

K – Print full name address and occupation of declarant (person making stat dec)

L – Rewrite statements by substituting details of Executor (or Administrator), property details, deceased proprietors' information. **(Include all statements and clauses as shown in the example stat dec)**

I – Insert the date application is signed by applicant or when stat dec is signed

J – Applicant signing section for application and declarant's signing section for stat dec

M – Signature of qualified witness, then **clearly print** the full name address and qualification of the witness. If more than one declarant, the witness must sign separately for each declarant.

Application by Personal Representative form

FORM A1

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1983

APPLICATION BY PERSONAL REPRESENTATIVE TO BE THE REGISTERED PROPRIETOR OF LAND BY TRANSMISSION

DESCRIPTION OF LAND (Note 1)

A Lot 1580 on Deposited Plan 22396	EXTENT	VOLUME	FOLIO
	Whole	3332	339
		B	C

APPLICANT (Note 2)

D Neil Frederick Goods of 145 Wide Road, West Cannington

DECEASED PROPRIETOR (Note 3)

E Frank Peter Smith of 13 Crown Street, Allanbrook
(Show the name and address exactly as it is shown on the current title)

DATE OF DEATH (Note 4)

F Twenty Third March Two Thousand and Eighteen

DATE OF GRANT (Note 5)

G Thirtieth of August Two Thousand and Eighteen

The APPLICANT as Personal Representative of the above named deceased HEREBY APPLIES to be registered as the proprietor of the interest of the said deceased in the land above described.

H Dated this _____ day of _____ Year _____

SIGNATURE OF APPLICANT/S (Note 6)

I Applicant's Signature – no witness required

A – Land description to be copied from Certificate of Title

B – Volume number to be copied from Certificate of Title

C – Folio number to be copied from Certificate of Title

D – State full name and address of Executor (or Administrator)

E – State the full name and address of the last deceased proprietor, as shown on the Certificate of Title

F – State the date of death of the last deceased registered proprietor as shown on Probate/Letters of Administration

G – State the date of issue of the Probate/Letters of Administration

H – Insert the date the application is signed or when stat dec is signed

I – Applicants signing section for application and declarants signing section for statutory declaration

Statutory Declaration to accompany the Application by Personal Representative Form

FORM B3

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED
OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005

STATUTORY DECLARATION

I Neil Frederick Goods of 145 Wide Road, West Cannington, Personal Trainer. **J**

Sincerely declare as follows -

I am the executor (or administrator) of the will of Frank Peter Smith, deceased, who died on 23 March 2018. Probate was granted to me on 30 August 2018.

The said Frank Peter Smith was the registered proprietor of the land being Lot 1580 on Deposited Plan 22396, the whole of the land comprised in Certificate of Title Volume 3332 Folio 339, wherein he was shown at a former address of 13 Crown Street, Allanbrook.

The Frank Peter Smith of 13 Crown Street, Allanbrook as shown on Certificate of Title Volume 3332 Folio 339 is one and the same person as Frank Peter Smith shown on the Grant of Probate (or Letters of Administration) produced with this declaration.

I make this declaration in support of my application to be registered as the proprietor of the land in Certificate of Title Volume 3332 Folio 339 by transmission.

↑K

This declaration is true and I / WE know that it is an offence to make a declaration knowing that it is false in a material particular.
This declaration is made under the Oaths, Affidavits and Statutory Declarations Act 2005 at (place)

on **H** day of 20 by -

I

Signature of person making the declaration (sign in the space above)

In the presence of -

Signature of authorised witness (sign in the space above) **L**

(Print the full name, Address and qualification of authorised witness in the space above)

J – Print full name address and occupation of declarant (person making stat dec)

K – Rewrite statements in statutory declaration by substituting details of Executor (or Administrator), property details, deceased proprietors' information. **(Include all statements and clauses as shown in the example stat dec)**

H – Insert the date the application is signed or when stat dec is signed

I – Applicants signing section for application and declarants signing section for statutory declaration

L – Signature of qualified witness, then **clearly print** the full name address and qualification of the witness. If more than one declarant, the witness must sign separately for each declarant.

Contact List

Landgate Contacts

**Landgate Office Hours 8.30am to 4.30pm
(Lodgement Hours 8.30am to 4.30pm)**

**Landgate – Midland Head Office
1 Midland Square
MIDLAND WA 6056**

TEL +61 (0)8 9273 7373

Email: customerservice@landgate.wa.gov.au

Website: www.landgate.wa.gov.au

**Postal Address: PO box 2222, MIDLAND WA
6936**

Document Lodgement Sites

**Document lodgement hours strictly 8.30am to
4.30pm**

**Landgate – Midland Head Office
1 Midland Square
MIDLAND WA 6056**

**Landgate – Perth Business Office
200 St Georges Terrace
PERTH WA 6000**

**Australia Post Verification of Identity
Tel: 1300202287**

Other Useful Contacts

**Department of Finance
Revenue WA
3rd Floor, 200 St George Terrace
PERTH WA 6000
Tel: +61 (0)8 9262 1100
Website: www.wa.gov.au**

**Department of Planning
140 William Street
PERTH WA 6000
Tel: +61 (0)8 6551 9000
Website: www.planning.wa.gov.au**

**Family Court
150 Terrace Road
PERTH WA 6000
Tel: +61 (0)8 9224 8222
Website: www.familycourt.wa.gov.au**

**Probate Office
11th Floor, 28 Barrack Street
PERTH WA 6000
Tel: +61 (0)8 9421 5152
Website: www.supremecourt.wa.gov.au**

**Registry of Births, Deaths and Marriages
141 St Georges Terrace
PERTH WA 6000
Tel: +61 1300 305 021
Website: www.bdm.dotag.wa.gov.au**

**State Administrative Tribunal
6th Floor 565 Hay Street
PERTH WA 6000
Tel: +61(0)8 9219 3111
Website: www.sat.justice.wa.gov.au**



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