Joint Tenants both Deceased
A guide to preparing the documents
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 needs 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 applications 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 proprietors 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 Certificate of Title**

Certificate of Title, otherwise known as Title Deeds, are issued by Landgate with one original and the option to have a duplicate title issued. Original titles are always kept at Landgate. The duplicate title (if issued) would usually be kept by the proprietor/owner 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 M149404’.

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
- 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 solicitor, 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.

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 solicitor, 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.

Application for personal representative Form A1, Survivorship Form A2 and with each form, a separate Statutory Declaration Form B3

All freehold land registration forms are available online here or from a Landgate office. Those specific to this application are linked below.

- Survivorship Form A2
- Personal Representative 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 document in person or included if posting the documents to Landgate.

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 the death of the first deceased joint tenant (Death Certificate or Probate document) plus evidence for the
last deceased (Probate or Letters of Admin). This is usually provided by producing the original death certificate that has been issued from the Office of the Registrar of 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.

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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

A Statutory Declaration is required by any person making the Application by Survivor:

- Identification of the land by its volume/folio reference
- Name of deceased proprietor (tenant) and reference to proof of death supplied (Death Certificate or Probate)
- Entitlement to the land by survivorship

**FORM A2 WESTERN AUSTRALIA TRANSFER OF LAND ACT 1893 APPLICATION BY SURVIVOR TO BE THE REGISTERED PROPRIETOR OF LAND**

**FORM B3 WESTERN AUSTRALIA TRANSFER OF LAND ACT 1893 OATH, AFFIDAVIT AND STATUTORY DECLARATIONS ACT 2005**

**STATUTORY DECLARATION**

I, Neil Frederick Goods, 145 Wilde Road, West Cannington, Personal Trainer.

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 22396, being the whole of the land in Certificate of Title Volume 3332 Folio 339, with his co-proprietor Anna Smith. On 2 January 2017 the said Anna Smith died and produced with this declaration a certified copy of the death certificate confirming this fact.

The said 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 as described on the death certificate. I am applying to have the said Frank Peter Smith registered as the sole proprietor of the land in the said Certificate of Title by survivorship.

This declaration is true and I declare 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 _______ day of _______ 20______.

By -

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

Signature of authorised witness (sign in the space above)  

(Print the full name, address and qualification of authorised witness in the space above)
Title, Application by Personal Representative Form A1 and Statutory Declaration Form B3

A Statutory Declaration is required by any person making the Application by Personal Representative:

- Identification of the land by its volume/folio reference
- Name of deceased proprietor (tenant) and reference to Probate
- Entitlement to the land by transmission

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**Statutory Declaration**

**WESTERN AUSTRALIA**

I, ____________________________, being the ____________________________, of ____________________________, make this declaration under the Oaths, Affidavits and Statutory Declarations Act 2005 at ________________.

I am the executor (or administrator) of the will of Frank Peter Whiskey, deceased, who died on 23 March 2020.

I make this declaration in support of my application to be registered as the proprietor of the land being Lot 1580 on Deposited Plan 22396, being the whole of the land in Certificate of Title Volume 3332 Folio 339, as described in the Grant of Probate document.

I hereby declare that the following statement is true:

- The said Frank Peter Whiskey was registered as the proprietor of the land being Lot 1580 on Deposited Plan 22396, being the whole of the land in Certificate of Title Volume 3332 Folio 339, as described in the Grant of Probate document.
- The said Frank Peter Whiskey was formerly of 13 Crown Street, Allanbrook, late of 344 Rolling Circuit, Helena Hills.

I agree to be bound by the provisions of the Oaths, Affidavits and Statutory Declarations Act 2005.

I declare and confirm that I am the person named above and that I have read and am able to sign the statutory declaration in the presence of the persons named below.

______________________________

Signature of applicant/declarant

______________________________

Signature of witness

______________________________

Name of witness

Date: ________________________

State capacity as executor or administrator, name of deceased and date of death

Name and address of the deceased as shown on the Title

Date of death stated in words

Date of Grant of Probate stated in words

Substitute relevant details using your copy of the Title, as per example

Date of signing to be shown

Signature of applicant/declarant

Signature of witness, then print full name, address, occupation and/or competency of witness – before signing, refer to competent witnesses on back of Statutory Declaration form
Contact List

Landgate contacts
Landgate Office Hours 8.30am to 5.00pm
(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

Other useful contacts
Department of Finance
State Revenue/Duties (OSR)
200 St Georges Terrace
PERTH WA 6000
Tel: +61 (0)8 9262 1400
Email: duties@finance.wa.gov.au
Website: www.finance.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 St
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: 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

landgate.wa.gov.au