Survivorship - Joint Tenants

A guide to preparing the documents

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Preventing a Survivorship Application - Joint Tenants

This step-by-step guide is designed to show you how to prepare and lodge a simple survivorship application upon the death of one or more proprietors, who are shown on the title as joint tenants.

This type of application should only be made:

» Where the Certificate of Title states the proprietors as joint tenants
» Where joint tenancy is deemed as no reference is shown in the registered proprietors section of the title.

If you are completing the forms yourself, we advise you to exercise 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.

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.

What you should know about Certificate of Title

Certificates 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 a transfer 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 a Record of Certificate of Title.
What if all owners who are registered on the Certificate of Title as joint tenants are deceased and the title was not updated when the first joint tenant died?

When this has occurred, two documents need to be lodged together at Landgate:

(1) a Survivorship Application, and
(2) an Application by Personal Representative.

The process to change the ownership is explained in the Landgate How to Guide – Joint Tenants Both Deceased.

What do I need for my application?

- Verification of Identity (VOI) – the identity of the person(s) signing as applicant(s) must be verified
- Evidence of death of the deceased joint tenant
- Title Search (recommended) – used to complete the application and statutory declaration forms
- Forms – Application by Survivor and Statutory Declaration (B3)
- Duplicate Certificate of Title (if issued)
- Consent to subsequent lodgment where a title shows a registered mortgagee (if non-issue)
- Registration Fees payable to Landgate

**Verification of Identity – (VOI) Identifying the applicant**

A person may be represented or Self-represented. A represented person will be provided a statement of identity from their Agent/Solicitor.

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.

The *original* signed Statement – Self-represented Party letter issued by Australia Post must be produced and lodged with the application document.

Importantly, any applicant (natural person) signing the application outside of Australia is subject to specific identity and witnessing requirements. Persons residing overseas must seek an Industry professional for assistance.
Evidence of Death

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.

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. An Australia Post certified copy will also be accepted.

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 Record of Certificate of Title.

Survivorship Application Form and a 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**
- Statutory Declaration **Form B3**

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: An original signed letter of consent from the financier authorising the registration of the application 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.

- If the duplicate title cannot be located, as it has been lost or destroyed, this application must be accompanied by an Application for Replacement title. The process is explained in the Landgate How to Guide – Replacing a duplicate certificate of title.
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 deceased joint tenant. 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 produced 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 signed 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.
This example is for paper forms only
Completing the Statutory Declaration

A Statutory Declaration is required by any person making the Application by Survivor. Where there is more than one surviving joint tenant, the Statutory Declaration only needs to be completed by one of the survivors. The following should be included.

- Identification of the land by its volume/folio reference taken from your Certificate of Title. See B and C on sample title
- Name of deceased tenant/s and reference to proof of death supplied, either Death Certificate or Grant of Probate
- Your entitlement to the land by survivorship

**FORM B3**

**WESTERN AUSTRALIA**

**TRANSFER OF LAND ACT 1985 AS AMENDED**

**OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005**

**STATUTORY DECLARATION**

**A**

| Name and address and occupation of deceased | 1. Anna Whiskey of 344 Rolling Circuit, Helena Hills, Fitness Trainer. |
| Date of birth |  |

**B**

I am one of the proprietors of the land being Lot 1580 on Deposited Plan 22396 being the whole of the land comprised in Certificate of Title Volume 3332 Folio 339, where I am described at my former address of 13 Crown Street, Allanbrook.

I now reside at 344 Rolling Circuit, Helena Hills.

On 22 January 2020 my co-proprietor Frank Peter Whiskey died and produced with this declaration is a certified copy of the original death certificate.

The person shown Frank Peter Whiskey of 13 Crown Street, Allanbrook on Certificate of Title Volume 3332 Folio 339 is one and the same person as Frank Peter Whiskey described on the death certificate.

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

**C**

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 as it now appears on the face of the declaration.

| Date | 20 |

**D**

**E**

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

**F**

Signature of authorised witness (sign in the space above)

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

Sample only, actual text will vary
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

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

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