

# The Land Victoria Lodging Book

## Section 1 – General Information

### A guide to dealings – Version 4.1

From 26 May 2017, approved forms on the [DELWP WEBSITE](#) must be used instead of forms in the lodging book.

The lodging book should be used as a reference only.

Information in the lodging book is being progressively replaced and included on the DELWP website.

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For more information contact the DSE Customer Service Centre 136 186

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## INTRODUCTION

### PLEASE NOTE:

**The *Transfer of Land Act 1958* and the *Subdivision Act 1988* were amended by the *Land Legislation Amendment Act 2009*, effective 1 May 2010.**

**The amendments and practice changes are not included in this version (Version 4.1) of the Lodging Book. However, a description of the amendments and practice changes can be found in [Customer Information Bulletin 122](#). The relevant changes will be included in Version 4.2 of the Lodging Book, currently being developed.**

This is the fourth edition of The Lodging Book, which was first published in 1991. This edition includes changes and revisions of practices and procedures since the publication of the 2004 third edition and the 2006 third revised edition. A Glossary of Terms commonly used in connection with lodging documents at Land Victoria is located at the end of this section.

Information on Orders to Register, Control Orders (including some simple examples), consents and supporting documents including Powers of Attorney have been included. Examples of how to express various manners of holding of transferees and forms of consideration in transfers are also set out to assist in the preparation of documents.

This book is intended to be a functional guide to formal requirements for the preparation of the regular dealing types and documents lodged at Land Victoria; it is not intended as advice on the content of such documents. Customers who may be unsure about the nature, effect and preparation of documents to be lodged are advised to obtain independent legal advice. If the information on lodging documents that you require is not in this book you should contact Land Victoria on (03) 8636 2010; for STD callers outside the Melbourne metropolitan area the reserved number is (03) 8636 2020.

## HOW TO USE

Each dealing type has been set out on a separate page. The LODGING BOOK VERSION 4.1 – SECTION 2 – APPROVED FORMS consists of the forms approved under Section 121(1) of the *Transfer of Land Act 1958*. Explanatory notes relating to the panels of these forms are set out on the adjacent pages. A Statutory Declaration form has been included as a separate page after both the Approved APR Form (Application by Legal Personal Representative) and the Approved ASP Form (Application by Surviving Proprietor).

Sections 2, 3, 4 and 5 comprise the approved forms; forms prescribed under the Transfer of Land (General) Regulations 2004, Subdivision (Procedures) Regulations 2000, Owners Corporations Regulation 2007 and regulations relating to other Acts, as well as acceptable forms for non-prescribed applications or notifications. The following format has been used in these sections.

<b>FEE:</b>	The Schedule, Item and Section number of the relevant fee regulations under which the current fee can be derived.
<b>DUTY:</b>	Indicates if duty is charged and payable. Enquiries as to amount of any duty payable should be made to the State Revenue Office on 132 161.
<b>FORM:</b>	Refers to the appropriate Approved Form, Prescribed Form (Form or Schedule number of the relevant Regulation or Act) or an acceptable format.
<b>LODGING REQUIREMENTS:</b>	Sets out the documentation required to be lodged.

If any document lodged contains departures from the appropriate Approved Form, e.g. the date of approval has expired, or the document includes features not in the form approved under Section 121, the dealing may be refused at lodgement or the Lodging Party may be required to pay an additional sealing fee under the fees regulations made under the *Transfer of Land Act 1958*.

### **Lodging requirements for plans**

In respect of any application to register plans referred to in the LODGING BOOK VERSION 4.1 – SECTION 4 – SUBDIVISION ACT 1988, there are additional lodging requirements:

- All plans must comply with the relevant regulations;
- Plans are required to be lodged with Plan Acceptance, Land Victoria, Level 9, 570 Bourke Street Melbourne;
- A Plan Lodgement Checklist is to be completed, as applicable for the plan lodged, and presented when lodging plans in person or by correspondence. Copies of the Plan Lodgement Checklist can be obtained from Level 9 Reception. A copy of the current form of the Subdivision Act Plan Lodgement Checklist is included in the LODGING BOOK VERSION 4.1 – SECTION 4 – SUBDIVISION ACT 1988.
- The plan may have been processed in SPEAR (Streamlined Planning through Electronic Applications and Referrals). In this case the Application, Certificate(s) of Title, Consents, Owners Corporation documentation will still need to be lodged with Plan Acceptance. The Licensed Surveyor should be contacted prior to lodgement, to determine what documentation (Certified Plan, Statement of Compliance, Surveyor's Report, Abstract of Field Records etc...) is available on SPEAR, and what additional documentation will be required for lodgement at Plan Acceptance.

### **Notes**

A Privacy Collection Statement is set out on most of the forms displayed in the following sections and the statement should be included on each form lodged at Land Victoria. This is in accordance with the Registrar's compliance with the *Victorian Information Privacy Act 2000*. Each of the forms approved by the Registrar under Section 121 of the *Transfer of Land Act 1958* includes this statement as part of the form.

The legislation referred to in this edition is as of February 2009. The opportunity has been taken to incorporate certain changes in terminology arising from the operation of the *Legal Profession Act 2004* and *Conveyancers Act 2006*. In all other respects, any reference to an Act, Statutory Rule or Regulation should be read as a reference to any corresponding Act, Statutory Rule or Regulation enacted or made after February 2009 and affecting the matters included in this book.

**Additionally, changes to legislation and regulations that are made from time to time may result in changes to the Registrar's Practices and Procedures for lodging documents at Land Victoria. Customers will be advised of such changes through periodic Customer Information Bulletins and Customer Notices.**

## PREPARING DOCUMENTS FOR LODGING

### Paper size and quality

Regulation 6 of the Transfer of Land (General) Regulations 2004 sets out the requirements for Instruments produced on or after the 16 May 2004, when the regulations come into operation.

These are:

- The Instrument must be on good quality International Paper Size A4, measuring 297 millimetres by 210 millimetres. (White paper of not less than 80 gsm is acceptable.)
- Self-correcting typewriter ribbon or correction fluids must not be used.
- All handwriting including all signatures must be in black or blue ink.
- Clear margins of not less than 50 millimetres at the top of the page and 10 millimetres on the left-hand side must be left.
- An Instrument that is wholly or partially a carbon impression must not be lodged as an original.
- If an Instrument consists of more than one sheet of paper, the sheets must be securely fastened together, by stapling in the top left-hand corner.

NOTE: **The printing of all forms must be in black ink only.**

### Headings

The name, phone number, address, reference and customer code of the Lodging Party must be completed at the top of each Instrument.

### Supporting documents

Certified copies and original documents such as Grants of Probate, Powers of Attorney, Agreements, etc. that are presented in support of dealings will be assessed at Lodgement – see notes on Powers of Attorney below.

NOTE: If an acceptable photocopy of a supporting document is unable to be produced the original document will be copied by a Land Victoria officer and returned to the Lodging Party.

## **The Register**

The *Transfer of Land Act 1958* enables the Registrar to keep the Register in any form or combination of forms, and on any medium or combination of mediums; and in any manner that the Registrar decides. At present the majority of the Register is computerised and a small portion remains on paper. Most of the paper titles have been and continue to be progressively converted to the electronic format under the Victorian Online Titles System (VOTS).

The following terminology should be noted:

'folio of the Register' is the term given to the record that was previously called the Certificate of Title (original).

'Certificate of Title' is the term given to the record that was previously called the duplicate Certificate of Title or CT.

## **Powers of Attorney**

An original Power of Attorney, a certified copy or a certified copy of a certified copy may be lodged in support of a dealing where a Power of Attorney is relied on.

The certified copy must be a copy of the original Power of Attorney or the original certified copy (not of a duplicate counterpart), and the certification must be in accordance with Sections 111, and 125ZG and 125ZH [for an Enduring Power of Attorney] of the Instruments Act 1958.

Section 111(1) of the *Instruments Act 1958* reads as follows:

'The contents of an Instrument creating a Power of Attorney may be proved by means of a copy which:

- (a) is a reproduction of the original made with a photographic or other device for reproducing documents in facsimile; and
- (b) contains the following certificate or certificates signed by the donor of the power or by a legal practitioner, financial services licensee, regulated principal, justice of the peace, notary public or any other officer authorized by law to administer an oath or by a person of a prescribed class, that is to say:
  - (i) a certificate at the end to the effect that the copy is a true and complete copy of the original; and
  - (ii) if the original consists of two or more pages a certificate at the end of each page which creates the Power of Attorney of the copy to the effect that it is a true and complete copy of the corresponding page of the original.'

Where a copy of an Instrument creating a Power of Attorney has been made, which complies with subsection (1), the contents of the Instrument may also be proved by means of a copy of that copy if the further copy itself complies with that subsection, taking references in it to the original as references to the copy from which the further copy is made.

## **Orders to register**

An Order to Register is required when a Certificate of Title necessary for the registration of an Instrument is already lodged in Land Victoria and Made Available by the Made Available party. The document may be in the Made Available Document System or in a leader dealing.

The Order to Register is:

- an authority to the Registrar to register a dealing, and
- a direction as to the issue of the Certificate of Title by the Made Available party giving the order.

The order should be endorsed in the space at the foot of the front page of the dealing to be registered, but will be accepted on a separate sheet of paper provided it adequately identifies the Instrument to be registered and sufficiently identifies the party providing the Order to Register.

An Order to Register may direct the issue of the Certificate of Title on completion to either the Lodging Party or to the firm giving the order. A direction for the issue to a third party will be accepted provided the third party accepts the direction either in writing or by themselves producing the order.

An Order to Register cannot be withdrawn after it has been accepted by Land Victoria. A further Order to Register from the new controlling party is required.

### ***EXAMPLES OF STANDARD ORDERS TO REGISTER***

#### **Transfer of whole of the land in a title**

Please register this transfer and issue Certificate of Title to the Lodging Party.

Signed Smith and Co.

#### **Transfer of part of the land in a folio of the Register**

Please register this transfer and issue new Certificate of Title (Transferee's title) to the Lodging Party and return parent Certificate of Title (Transferor's title) to Smith and Co.

Signed Smith and Co.

#### **Second Mortgage**

Please register this dealing and return Certificate of Title to Smith and Co.

Signed Smith and Co.

## **Implied Orders**

In some circumstances, Orders to Register will be assumed by Land Victoria, e.g. a discharge of mortgage or a transmission application that is not endorsed with an order may be followed by a transfer which has an order endorsed. As the registration of the discharge or transmission application is essential to the registration of the transfer no Order to Register is required in respect of the discharge or transmission.

## Control Orders

Control orders are lodged when the control of a dealing already lodged in Land Victoria is to change to another party.

As well as directing control of the dealing(s) to the other party the control order **must** also give a direction regarding the issue of **all** relevant documents (e.g. parent title, new Certificate of Title) controlled by that party.

Control orders **must be lodged with the dealing by the party gaining control**. Control orders will not be accepted when a follower dealing is lodged.

Once the order has been lodged all correspondence and requisitions raised in respect of the dealing(s) will be forwarded to the new controlling party.

### EXAMPLES OF CONTROL ORDERS

To: Registrar of Titles

Please give control of dealings No. AB123456G/7H and issue new Certificate of Title to Jones and Co. and return parent title Vol.3333 Fol.333 to us.

Signed Smith and Co.

To: Registrar of Titles

Please give control of dealing AC234567G and all documents to issue to Jones and Co.

Signed Smith and Co.

## Consents

A Caveator's consent must be drawn in the name of the Caveator(s) and refer to the caveat by its dealing number. It must clearly consent to the registration of dealings, and refer to the dealing numbers. If the consent is produced with the dealing(s) at lodgement, the consent should clearly define the dealing(s), by reference to their type, the parties, and the date.

A statement that contains any form of conditional consent is not acceptable. The consent may be signed by the Australian Legal Practitioner under the *Legal Profession Act 2004* or a Licensed Conveyancer under the *Conveyancers Act 2006* for the Caveator, or the Caveator (proof of identity usually in the form of a Statutory Declaration will be required). A consent signed by an agent for the Caveator will only be accepted if proof of agency is supplied, or is previously known to Land Victoria.

This is an acceptable form of consent:

'We/I ..... as Caveator under caveat (no.....),  
hereby consent to the registration of dealings  
(e.g. Transfer from 'A' to 'B') under dealing (no.....).

Signed by the Caveator, their Australian Legal Practitioner under the *Legal Profession Act 2004* or their Licensed Conveyancer under the *Conveyancers Act 2006*.

Consents for other dealing types should comply with the same requirements as applicable.

## Land descriptions in documents

Incorrect or indefinite land descriptions in documents are the cause of many dealing refusals or requisitions. An example of an indefinite land description is: part of lot 33 on LP123456 being part of the land comprised in folio of the Register Volume 1234 Folio 567.

If the whole of the land in a folio of the Register is to be dealt with only the volume and folio reference should be given.

If only part of the land in a folio of the Register is to be dealt with a description, which clearly identifies the land (including measurements and bearing if necessary), the current volume and folio reference must be given. Any necessary diagram should be endorsed on either an approved A1 Annexure Page or attached page and be clearly referred to in the land description.

The following examples may assist in the preparation of documents.

### **EXAMPLES OF LAND DESCRIPTIONS**

Volume 1234 Folio 568 contains several lots on plan of subdivision LP123456 and one of those lots, lot 22 is being dealt with.

#### **Suggested land description**

*Lot 22 on LP123456 being part of the land comprised in folio of the Register Volume 1234 Folio 568*

Volume 1234 Folio 568 contains several lots on plan of subdivision LP123456 including part of lot 33 and that part of lot 33 is being dealt with.

#### **Suggested land description**

*That part of lot 33 on LP123456 as is comprised in folio of the Register Volume 1234 Folio 568*

Volume 1234 Folio 569 contains several lots on plan of subdivision LP123456 including lot 33. Part of lot 33 has already been transferred and the remaining part of lot 33 is being dealt with.

#### **Suggested land description (Certificate of Title is not produced at lodgement)**

*That part of lot 33 on LP123456 as is comprised in folio of the Register Volume 1234 Folio 569 excepting that part of lot 33 transferred vide AB123456F*

#### **Suggested land description (Certificate of Title produced at lodgement)**

*That part of lot 33 on LP123456 remaining untransferred in folio of the Register Volume 1234 Folio 569*

Volume 1234 Folio 570 contains a parcel of land and several parts have been transferred out and the land remaining is to be dealt with.

**Suggested land description (Certificate of Title is not produced at lodgement)**

*The land comprised in folio of the Register Volume 1234 Folio 570 excepting the land transferred out vide AB123456D AB456987P (set out all the transfers)*

**Suggested land description (Certificate of Title produced at lodgement)**

*The land remaining untransferred and comprised in folio of the Register Volume 1234 Folio 570*

Volume 1234 Folio 571 contains a parcel of land and the part of the land to be dealt with is identified on a plan.

**Suggested land description**

*All that piece of land marked 'A' on the plan attached being part of the land comprised in folio of the Register Volume 1234 Folio 571*

**Considerations and Manner of Holding**

The following examples may assist in the preparation of transfers, but are not exhaustive. Customers are advised to obtain independent legal advice as to the preparation of any documents for lodging.

**Considerations**

The consideration in a transfer **must reflect the factual circumstances that gave rise to the transfer**, the circumstances that entitle the transferee to possession and receipt of the transfer.

Considerations may be solely monetary, solely non-monetary or a combination of both.

**Monetary Considerations**

In respect of transfers that give effect to a purchase by the transferee(s) the total amount paid under the contract of sale [inclusive of GST] should be stated.

In respect of multiple transfers giving effect to a purchase under one Contract of Sale the purchase amount should be apportioned between the transfers so that the appropriate lodgement fee for each transfer may be assessed. Where multiple transfers are lodged each with a consideration such as '\$Y (being the same consideration as expressed in a transfer of even date)'; a monetary consideration must be set out. The lodgement fee will be assessed on the full amount (as set out in **each** transfer) on each transfer.

In respect of a transfer of lot(s) purchased 'off the plan', the consideration is the whole amount payable under the contract of sale. There is no concession on the lodgement fee payable on these transactions.

Where there is more than one monetary amount (e.g. a transfer by direction), the lodgement fee is assessed on the highest amount.

If the transferor is an Incorporated Association or other incorporated body, proof by Statutory Declaration that the persons signing for the body at the date of the execution of the Instrument (giving the date) will be required.

**A 'Nil' or 'Gift' consideration is not acceptable.**

**EXAMPLE OF CONSIDERATION**

**Sever joint tenancy**

**Considerations which may apply**

*\$ amount*

- NOTE: (a) The quantum of the interest must be set out in the land panel and must be proportionate to the number of registered proprietors e.g. One of three joint proprietors may only transfer a third share.
- (b) The transferor panel must state that the transferor(s) is/are joint proprietor(s).

**Non-Monetary Considerations**

**EXAMPLES OF CONSIDERATIONS**

**Devise in a Will**

Transferee(s) is/are entitled by way of devise in a Will.

**Consideration which may apply**

Pursuant to a devise in the Will of **A** deceased.

Where transferee is entitled by way of a devise and re-settlement.

**Consideration which may apply**

Pursuant to a devise in the Will of **A** deceased and a deed of Family Arrangement (or as the case may be) dated the.....

**Intestacy**

Transferee(s) is/are **solely** entitled through intestacy of deceased estate.

**Consideration which may apply**

Being solely entitled to the intestate estate of **A** deceased.

**Appropriation – under a Will**

**Consideration which may apply**

An appropriation in full (or part) satisfaction of the interest of the transferee as one of the beneficiaries of the Will of **A** deceased.

**Appropriation – under an intestacy**

**Consideration which may apply**

An appropriation in full (or part) satisfaction of the interest of the transferee as one of the persons entitled to share in the intestate estate of **A** deceased.

**Trustees**

Transfer to trustees or to change a trustee as retirement of a existing trustee or appointment of a new trustee (i.e. no beneficial ownership passing).

**Consideration which may apply**

The transferee(s) being entitled in equity.

- NOTE: (a) The transfer must be denoted by the State Revenue Office.
- (b) Any reference to trustees is in conflict with Section 37 of *Transfer of Land Act 1958* and is not acceptable.
- (c) A transfer by a transferor(s) to themselves with a view to indicate a change of Trustee is not acceptable.

***Family Law Act 1975 (Commonwealth)***

Transfer pursuant to *Family Law Act 1975* where Order is made by Court.

***Consideration which may apply***

The Order made by Mr/Ms Justice AB pursuant to Section ## *Family Law Act 1975* dated .....

Transfer pursuant to an agreement sanctioned by the Family Law Court.

***Consideration which may apply***

Pursuant to an agreement approved by Order of the Family Law Court pursuant to Section ## *Family Law Act 1975*

NOTE: The agreement is not required.

***Breakdown of marriage/de facto relationship***

***Considerations which may apply***

Breakdown of marriage

Breakdown of a de facto relationship

Divorce settlement

***Change of Manner of Holding***

Transfer to change Manner of Holding between registered proprietors.

***Consideration which may apply***

The desire of the registered proprietor to change their Manner of Holding from:

- (i) joint proprietors to tenants in common in [equal] shares, or
- (ii) tenants in common in [equal] shares to joint proprietors.

NOTE: This transfer need not be submitted to the State Revenue Office.

***Transfers between husbands and wives***

Transfer between husbands and wives by way of gift.

***Considerations which may apply***

A gift to the transferee.

Natural love and affection.

***Marriage***

Transfer where parties intend to marry.

***Considerations which may apply***

An agreement to marry.

***Rectify an error***

Where land was wrongly transferred and the registered proprietor desires to transfer to the rightful owner.

Land was omitted from a prior transfer.

***Consideration which may apply***

To rectify an error. The consideration panel or a separate letter from the Lodging Party should include a written explanation of the error including reference to the dealing number that created the error.

***Release a debt***

Transfer of land to satisfy a debt owing by the transferor to the transferee.

***Considerations which may apply***

\$\$\$ due and owing by the transferor to the transferee and the transferee releases the transferor from all liability there under.

\$\$\$ due and owing by the transferor to the transferee and of the transferee agreeing to accept the land in full satisfaction of this debt.

***Partition agreement***

A transfer to give effect to an agreement to partition between the registered proprietors. The transferee must be one of the transferors.

***Consideration which may apply***

An agreement to partition dated ..... \$X (or \$Nil – as the case may be) being paid for equality of partition.

***Exchange agreement***

A transfer to give effect to an exchange of land with other land.

***Consideration which may apply***

An agreement to exchange the land and in further consideration of the transfer of even date over the land in folio of the Register Vol..... Fol..... \$X (or \$Nil – as the case may be) being paid for equality of exchange.

- NOTE: (a) All transfers giving effect to the exchange must be lodged for simultaneous registration.  
(b) The agreement is not required.

***Sever joint tenancy***

***Considerations which may apply***

My desire to sever joint proprietorship.

- NOTE: (a) The quantum of the interest must be set out in the land panel and must be proportionate to the number of registered proprietors e.g. One of three joint proprietors may only transfer a third share.  
(b) The transferor panel must state that the transferor(s) is/are joint proprietor(s).

***Surviving Joint Purchaser***

***Consideration which may apply***

\$amount paid by **A** and **B** jointly during their lifetime. **A** having died on....., the balance of \$amount being paid by the said **B**.

***Death of Both Joint Purchasers***

***Consideration which may apply***

\$amount paid by **A** and **B** jointly during their lifetime. **A** having died on..... and **B** having paid the balance of \$amount and having died. on.....

\$amount paid by **A** and **B** jointly during their lifetime. **A** having died on..... and **B** having died on....., the balance of \$amount being paid by **C**, the executor of **B**.

## Manner of Holding

### *Joint proprietors*

If two or more parties are set out in the transferee panel and are either described as joint proprietors or no Manner of Holding is set out, the transferees will be registered as joint proprietors (Section 33(4) *Transfer of Land Act 1958*).

### *Tenants in common*

If two or more parties are to be registered as the proprietors as tenants in common they could be in equal or unequal shares. If the shares must be shown in the simplest form.

#### **EXAMPLES OF MANNERS OF HOLDING**

**A** = 25% **B** = 75%

##### ***Should be expressed as:***

**A** as to one equal undivided fourth part or share and **B** as to three equal undivided fourth parts or shares, as tenants in common.

**A** = 30/70 **B** = 15/70 **C** = 25/70

##### ***Should be expressed as:***

**A** as to six equal undivided fourteenth parts or shares, **B** as three equal undivided fourteenth parts or shares and **C** as to five equal undivided fourteenth parts or shares, as tenants in common.

It is possible to have a combination of **tenants in common** and **joint proprietors**.

**A** = 1/3 **B and C** (jointly) = 2/3

##### ***Should be expressed as:***

**A** as to one equal undivided third part or share and **B** and **C** as joint proprietors as to two equal undivided third parts or shares, as tenants in common.

It is also possible for one party to be registered as the proprietor of a share on his/her own and as a joint proprietor of another share.

**A** = 1/4 **A and B** (jointly) = 3/4

##### ***Should be expressed as:***

**A** as to one equal undivided fourth part or share and **A** and **B** as joint proprietors as to three equal undivided fourth parts or shares, as tenants in common.

## Life Estates/Estates in Remainder

Transfers creating a life estate and an estate in remainder should accurately describe the estates or interests intended to be created in the transfer.

### *EXAMPLES*

#### **Life Estate and Remainder Estate**

*AB an estate for his/her life*

*CD an estate in fee simple in remainder expectant upon the determination of the estate for the life of AB*

#### **Estate for Joint Lives and the Lives of Each – Estate in fee simple in remainder**

*AB and CD as joint proprietors of an estate for their joint lives and the life of each of them*

*EF as proprietor of an estate in fee simple in remainder expectant upon the determination of the estate for the joint lives of AB and CD and the life of each of them*

#### **Limitation**

*AB an estate for her life determinable upon him/her marrying again*

*CD an estate in fee simple in remainder expectant upon the determination of the estate for the life of AB determinable upon him/her marrying again*

NOTE: An estate for life for a period of **X** years or until reaching the age of **X** years is **not registrable**.

## EXECUTION CLAUSES AND SIGNING OF APPLICATIONS

### Australian Legal Practitioners or Legal Firms

Land Victoria accepts documents with either the signature of an individual practitioner or a legal firm on behalf of their clients. In all cases, the signature must be legible.

### Licensed Conveyancers

The *Conveyancers Act 2006* introduced a regulatory regime for conveyancers, effective from 1 July 2008.

Numerous Land Victoria applications and Instruments may be signed by an agent on behalf of the applicant or party. Land Victoria now recognises the principal or agency relationship between a licensed conveyancer and his or her client, and does not require proof beyond a recital of the relationship in the application or Instrument.

An example of the recital's acceptable wording in an application or Instrument is:

#### *(Signature of agent conveyancer)*

*Licensed conveyancer OR*

*A person authorised by the*

*Conveyancers Act 2006*

Any other wording that clearly indicates that the signatory is a licensed conveyancer is acceptable. Because a company can be a licensed conveyancer a document may be signed, for example, 'ABC Conveyancing Pty Ltd'. However, it is also acceptable if simply signed 'ABC Conveyancing'.

If the licensed conveyancer is a natural person, the person should legibly sign his or her own name.

The following are some examples of various execution clauses. These examples are not meant to be an exhaustive list and must only be used where appropriate.

### Individuals

Signed by – *full names of party/parties* –  
in the presence of:

NOTE: The witness **must** be an **adult** and **not** be a **party** to the transaction.

#### *Individuals executing under a Power of Attorney*

Signed by (name of donor) by being signed by his/her attorney (name of attorney) under a Power of Attorney dated (date of power), in the presence of:

### **Family Law Act 1975 (Commonwealth)**

Signed by – *full name of registered proprietor* – by being signed in his/her name and on his/her behalf by

– *full name of Registrar*

*(or as case may be)* the Registrar *(or as the case may be)* of the Family Court pursuant to an Order of – *specify judge* – dated – *date* – in the presence of :

*Signature of*

*Registrar*

*(or as case maybe)*

NOTE: A copy of the authenticated order is required.

### **Guardianship and Administration Act 1986**

Signed by – *full name of represented person* – by being signed in his/her name and on his/her behalf by

– *full name of Administrator* – the administrator of his/her estate pursuant to an Order of the

Guardianship and Administration Board/Victorian Civil and Administrative Tribunal *(delete as applicable)* dated – *date* – in the presence of:

*Signature of*

*Administrator*

NOTE: (a) A copy of the authenticated Order is required.

- (b) Proof by Statutory Declaration by someone with the means of knowledge that the order of the Guardianship and Administration Board or the Victorian Civil and Administrative Tribunal has not lapsed or been revoked, and that the represented person is identical one and the same person as the registered proprietor.

## Owners Corporation

### Execution by Owners Corporation under common seal

The common seal of an owners corporation must not be used on a document unless its use for that purpose has been authorised by a resolution of the owners corporation.

The use of the common seal on a document must be witnessed by at least two persons who are owners of separate lots and are members of the owners corporation.

In the case of an owners corporation with only one lot owner, the use of the seal must be witnessed by the lot owner.

If a lot owner is a corporation, a director of the corporation may witness the document on behalf of the corporation.

Each lot owner or director who witnesses the use of the common seal must record next to the seal that he or she has witnessed the use of the seal by:

- (a) signing his or her name; and
- (b) printing in full his or her name and address; and
- (c) stating that he or she has witnessed the use of the seal

### THE COMMON SEAL of OWNERS CORPORATION No.

was affixed in accordance with Sections 20 and 21 of the *Owners Corporations Act 2006* and in the presence of:



\_\_\_\_\_  
Signature of lot owner

\_\_\_\_\_  
Signature of lot owner

\_\_\_\_\_  
Name of lot owner (BLOCK LETTERS)

\_\_\_\_\_  
Name of lot owner (BLOCK LETTERS)

Lot No \_\_\_\_\_

Lot No \_\_\_\_\_

### Execution by Owners Corporation without common seal

.....  
Signature of Delegate appointed by Owners Corporation(s)

Full name:

Usual address:

## Companies

The following forms of execution by a company are based on the requirements under the *Corporations Act 2001* [Commonwealth].

A company may execute a document that is lodged at Land Victoria in two ways that are acceptable –

**1. If a company does not have a common seal –**

- (a) it should execute without a common seal in accordance with Section 127(1) of the *Corporations Act 2001*.
- (b) Land Victoria will also accept one director signing on behalf of a multi-person company, where permitted by the company's constitution.

**2. If a company has a common seal –**

- (a) it may execute by affixing the common seal in accordance with Section 127(2) of the *Corporations Act 2001*; or
- (b) it may execute without a common seal in accordance with Section 127(1) of the *Corporations Act 2001*.
- (c) Land Victoria will also accept one director signing on behalf of a multi-person company, where permitted by the company's constitution.

### How does a company execute using a common seal?

Under Section 127(2) of the *Corporations Act 2001*, a company that has a common seal may execute a document by affixing the common seal of the company in the presence of:

1. two directors of the company; or
2. a director and a company secretary of the company; or
3. the sole director and sole company secretary.

So that the persons signing can be identified, the Registrar requires that they print under their signature their name, usual residential address and the office they hold in the company.

### How does a company execute without a common seal?

Under Section 127(1) of the *Corporations Act 2001*, a company may execute a document without a common seal if the document is signed by:

1. two directors of the company; or
2. a director and a company secretary of the company; or
3. the sole director and sole company secretary.

Persons signing for a company must print under their signature their name, usual residential address and the office they hold in the company.

## General

The *Corporations Act 2001* sets out the means by which a company itself may execute a document. Registration is not merely a matter of lodging a dealing with an appropriate type of execution. The Registrar will only register a dealing when satisfied that it is in registrable form and ought to be registered.

Where the consideration in any transaction by a company is in excess of \$1 million, a copy company search obtained within 14 days prior to the date of the Instrument and certified on each page as a true and correct copy must be produced with the dealing. In accordance with the current practice of Land Victoria, customers may also be required to provide other information should this be thought necessary under Section 104(1) of the *Transfer of Land Act 1958*.

**SUGGESTED COMPANY EXECUTION CLAUSES**

*Company executing without using a common seal*

**Multi-person company – Director and Director or Director and Secretary execute**

Executed by **XYZ Pty Ltd** by being signed by those persons who are authorised to sign for the company:

Director ..... Full Name .....  
Usual Residential Address.....

Director/Secretary ..... Full Name .....  
(Delete as appropriate)  
Usual Residential Address.....

**Sole Person Company**

Executed by **XYZ Pty Ltd** by being signed by the person who is authorised to sign for the company:

.....  
Sole Director and Sole Company Secretary  
  
Full Name .....  
Usual Residential Address .....

**Multi-person company – One director only executes**

Executed by **XYZ Pty Ltd** by being signed by a person who is authorised to sign for the company:

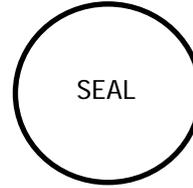
Director ..... Full Name .....  
Usual Residential Address.....

NOTE: Land Victoria also requires a letter from the company's Australian Legal Practitioner or company secretary that the company is a multi-director company, which has a Constitution permitting the seal to be affixed in the presence of one director only.

*Company executing by using a common seal*

**Multi-person company – Director and Director or Director and Secretary execute**

The common seal of **XYZ Pty Ltd** was affixed  
in the presence of authorised persons:

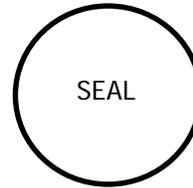


Director ..... Full Name .....  
Usual Residential Address.....

Director/Secretary ..... Full Name .....  
(Delete as appropriate)  
Usual Residential Address.....

**Sole Person Company**

The common seal of **XYZ Pty Ltd** was affixed  
in the presence of the authorised person:

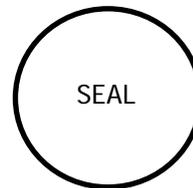


.....  
Sole Director and Sole Company Secretary

Full Name .....  
Usual Residential Address .....

**Multi-person company – One director only executes**

The common seal of **XYZ Pty Ltd** was affixed  
in the presence of an authorised person:



Director ..... Full Name .....  
Usual Residential Address.....

NOTE: Land Victoria also requires a letter from the company's Australian Legal Practitioner or  
company secretary that the company is a multi-director company which has a Constitution  
permitting the seal to be affixed in the presence of one director only.

An execution clause where a person(s) signs 'for and on behalf of' the company indicates agency will  
be refused unless proof of agency is produced.

***Company executing under a Power of Attorney***

**Powers created before 1 July 1980**

*Where an attorney is executing on behalf of a company the following is acceptable:*

Executed by – *company name* – by its attorney –  
*full name* – under Power of Attorney No. .... in the presence of:

*Where a company is executing as attorney for a person, the following is acceptable:*

Signed by – *full name* – by his/her ) *Appropriate*  
attorney – *company name* – under Power ) *execution by*  
of Attorney No. ....: ) *the company*

**Powers created after 1 July 1980**

*Where an attorney is executing for a company the following is acceptable:*

Executed by – *company name* – by its attorney –  
*full name* – under Power of Attorney  
dated ..... in the presence of:

NOTE: A certified copy, or a certified copy of a certified copy of the Power of Attorney must be produced.

*Where a company is executing as attorney for a person, the following is acceptable:*

Signed by – *full name* – by his/her ) *Appropriate*  
attorney – *company name* – under Power ) *execution by*  
of Attorney dated – *date* – . ) *the company*

NOTE: A certified copy, or a certified copy of a certified copy of the Power of Attorney must be produced.

**Powers of Attorney in the Permanent Order Book**

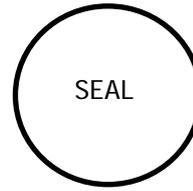
Where a Power of Attorney is lodged in the Permanent Order Book, the execution clause must also contain a statement to the following effect:

'A certified copy of which is filed in the Permanent Order Book (P.O.B.) No....at Page..... Item.....'

## Company in Liquidation

If a liquidator affixes the company seal the following is acceptable:

The common seal of – *company name* – was  
affixed by me – *full name* – the liquidator:  
*Signature of Liquidator*



NOTE: A Statutory Declaration by the Liquidator must be produced.

If a liquidator does not affix the company seal and is signing on behalf of the company, the following is acceptable:

Signed by – *company name* – by being signed in its  
name and on its behalf by – *full name* – the liquidator  
in the presence of:

*Signature of  
Liquidator*

NOTE: A Statutory Declaration by the Liquidator must be produced.

## Statutory Declarations of the Liquidator(s)

### Distribution in specie

*Statutory Declaration confirming company in liquidation – distribution in specie (non-monetary)*

If a transfer of land is to be lodged and it gives effect to the distribution of the surplus assets of a company to the shareholders, the usual Statutory Declaration by the appointed Liquidator(s) will be required:

- (a) As to the appointment and the date of appointment.
- (b) As to who was/were appointed and if more than one, whether or not they were appointed jointly or severally.
- (c) That the appointed person(s) was/were still acting in such capacity when the Instrument was executed, stating date of execution.
- (d) That the Court Order or Instrument pursuant to which the appointment was made (stating which and the date thereof) does not limit the powers of the appointed person(s) to enter into the transaction to which the dealing gives effect.
- (e) The names of all shareholders of the transferor company should be supplied by Statutory Declaration.
- (f) Proof must be furnished that no debts are owing by the transferor company.
- (g) It must be shown by the documents lodged or by evidence by Statutory Declaration that all shareholders have received the assets agreed upon.
- (h) Proof should be furnished that the distribution is being effected in accordance with the provisions of the Constitution or that the Rules make no provision regulating or restricting the distribution of the company's assets on winding up.

## Monetary Consideration

*Statutory Declaration confirming Company in Liquidation – Monetary Consideration.*

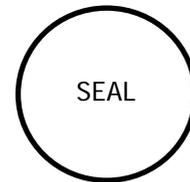
Proof by Statutory Declaration will be required:

- (a) As to the appointment and the date of appointment.
- (b) As to who was/were appointed and if more than one, whether or not they were appointed jointly or severally.
- (c) That the appointed person(s) was/were still acting in such capacity when the Instrument was executed, stating date of execution.
- (d) That the Court Order or Instrument pursuant to which the appointment was made (stating which and the date thereof) does not limit the powers of the appointed person(s) to enter into the transaction to which the dealing gives effect.

### ***Receiver and Manager appointed***

*Where a Receiver and Manager affixes the common seal of a company:*

The common seal of – *company name* – was affixed by – *full name* – , the Receiver and Manager of the company appointed on – *date* – under debenture numbered ..... and registered in the Office of the Australian Securities and Investments Commission in the presence of: *Signature of Receiver and Manager*



NOTE: A Statutory Declaration by the Receiver and Manager must be produced (see below) together with proof of the agency relationship between the Receiver and Manager and the agent.

*Where an agent of a Receiver and Manager executes a dealing the execution clause must clearly demonstrate the chain of authority for the execution:*

The common seal of – *company name* – was affixed by – *full name* – agent appointed on – *date* – of – *full name* – the Receiver and Manager of the company appointed on – *date* – under debenture numbered ..... and registered in the Office of the Australian Securities and Investments Commission in the presence of: *Signature of Agent*



NOTE: A Statutory Declaration by the Receiver and Manager must be produced (see below) together with proof of the agency relationship between the Receiver and Manager and the agent.

*Where a Receiver and Manager signs in the name and on behalf of a company:*

Signed by – *company name* – by being signed in its name and on its behalf by – *full name* – the Receiver and Manager of the Company appointed on – *date* – under Debenture numbered..... and registered in the Office of the Australian Securities and Investments Commission in the presence of:

*Signature of  
Receiver and Manager*

NOTE: A Statutory Declaration by the Receiver and Manager must be produced (see below) together with proof of the agency relationship between the Receiver and Manager and the agent.

*Where an agent of a Receiver and Manager signs in the name and on behalf of a company:*

Signed by – *company name* – by being signed in its name and on its behalf by – *full name* – the agent appointed on – *date* – of – *full name* – the Receiver and Manager of the Company appointed on – *date* – under Debenture numbered .... and registered in the Office of the Australian Securities and Investments Commission in the presence of:

*Signature of Agent*

NOTE:

- (a) A Statutory Declaration by the Receiver and Manager must be produced (see below) together with proof of the agency relationship between the Receiver and Manager and the agent.
- (b) Where the debenture appoints a Receiver, the execution clause used should have the words 'and Manager' removed. For the differences between a Receiver and Manager and a Receiver, it is suggested that legal advice be sought.

**Statutory Declaration of the Receiver(s) and Manager(s)**

*Statutory Declaration confirming company has a Receiver and Manager or a Receiver appointed.*

Where a company is in receivership the usual Statutory Declaration by the Receiver and Manager will be required:

- (a) As to the appointment and the date of the appointment.
- (b) As to who was/were the persons so appointed and if more than one, whether or not they were appointed jointly or severally.
- (c) That the appointed person(s) was/were still acting in such capacity when this Instrument was executed, stating date of execution.
- (d) That the Court Order or Instrument pursuant to which the appointment was made (stating which and the date thereof) does not limit the powers of the appointed person(s) to enter into the transaction to which the dealing gives effect.
- (e) That the transaction giving rise to the dealing was made in connection with the carrying on of the business of the company.

## **Marksperson**

There are circumstances when a person with a disability, such as illness or illiteracy, needs to execute an Instrument by making a mark, or to direct some other person to execute the document on their behalf. Similarly, circumstances arise where through illiteracy or visual impairment, a person must have a document read to them before they execute it or direct its execution. In these cases the execution clause should sufficiently detail the circumstances of both the party and the execution. The witness should be 'qualified' and should state their qualification. A person qualified to take a Statutory Declaration is suitable, but there may be occasions when it would be prudent to have a medically qualified person as witness to the execution.

The following are suggested forms of execution for different circumstances:

### **Person unable to write but able to make a mark:**

Signed by the said – *full names of marksperson* – by making *his/her* mark (*he/she* being prevented through *illness/illiteracy* etc. from signing this document) in my presence:

### **Person unable to read but able to sign:**

Signed by the said – *full name of signatory* – in my presence and I certify that as *he/she* is prevented through *illiteracy/visual impairment* etc. from reading this document, I read the full text of it to *him/her* before *he/she* signed it:

### **Person directs another person to sign:**

Signed by the said – *full name of party* – by being signed by – *full name of signatory* – on *his/her* behalf and at *his/her* direction (**he/she** being prevented through *illness/illiteracy* etc. from signing this document) in the presence of:

#### **NOTE:**

- (a) When signing, the signatory should sign the name of the party; and
- (b) If the party also cannot read the document, there should be added words by which the signatory certifies that the full text of the document was read by him/her to the party before the party directed its execution.

## **AGENCY**

A Caveat or Withdrawal of Caveat may be signed by an agent on behalf of the Caveator upon proof of agency.

Proof of the agency must be supplied.

**SAMPLE PROOF OF AGENCY**

**PROOF OF AGENCY**

I .....

of .....

hereby appoint .....

of .....

(Whose specimen signature appears below) to act as my Agent to sign and lodge Caveats and Withdrawals of Caveat.

Dated: .....

Signed by: .....

Specimen Signature of Agent: .....

NOTE: If a company appoints an agent, the normal execution for the company must be set out.

The Agent appointed must be an individual or a company. A licensed conveyancer can be appointed as an agent.

## LODGING YOUR DOCUMENTS

You can lodge your documents in person at Land Victoria on Level 9, 570 Bourke Street, Melbourne. You may also post them to Land Victoria, PO Box 500, East Melbourne, Victoria, 8002 or via Ausdoc DX250639 Melbourne. Refer to LODGING BY CORRESPONDENCE below.

### Lodging Summary Form

It is the responsibility of a Lodging Party to complete a Lodging Summary Form prior to lodging documents for Bulk Registration.

The Lodging Summary Form must indicate Lodging Party, agent (if applicable) dealing type, fees, and total fees. The Lodging Summary Form can be designed by Lodging Party to allow for specific requirements.

### Lodging by Correspondence

Documents submitted for lodgement through Australia Post or Ausdoc are examined prior to lodgement (including fees, supporting documentation and documents to be made available or in leader dealings). An appropriate correspondence fee for **each Instrument or application** in the lodgement (see Schedule 3 Item 1 Section 120(2) Transfer of Land (Fees) Regulations 2004) must be included with documents lodged by correspondence. This fee is additional to the appropriate lodging fee for the Instrument or application set out in those regulations.

### General

Documents that are deficient in some way or are not accompanied by all necessary supporting documentation or sufficient fees may be refused at lodgement and will be returned to the Lodging Party with a Dealing Refusal Advice.

To enable the efficient processing of lodgements and to reduce the number of documents returned, the following guidelines should be followed:

- (a) Attach all supporting documents (e.g. Statutory Declaration, copy Power of Attorney) to the relevant Instrument or application.
- (b) Documents that are chargeable with duty or require opinion/assessment must have been stamped/denoted by the State Revenue Office.
- (c) Include a completed Lodging Summary form with your lodging – this is not essential for lodging by correspondence. This form must be completed to identify the order in which it is intended the Instruments and/or applications be lodged. The 'YOUR REFERENCE' column should be completed. Lodging fees should be clearly shown.
- (d) Arrange the Instruments in the intended lodging order.
- (e) Ensure that leader dealings and/or Certificate(s) of Title Made Available are in Land Victoria prior to submitting documents for lodgement.
- (f) Check that all Instruments are dated and signed.

### Duty

Duty chargeable under the *Duties Act 2000* on documents lodged for registration must be paid prior to lodgement. Any enquiries in relation to duty, as to whether duty is payable or the amount payable, should be directed to the State Revenue Office on 132 161.

## **Refused Dealings**

Dealings presented for lodgement that have been determined not registrable/recordable must be refused.

When dealings are refused, Land Victoria customers will be provided with a Dealing Refusal Advice. Any dealings that are refused will be marked as such when returned to customers. When that dealing is subsequently re-presented with the defect remedied, the customer should also produce the Dealing Refusal Advice. This will enable the re-presented dealing to be processed more quickly and efficiently.

## **Re-lodgement of Rejected Dealings**

On re-lodgement of a dealing that has previously been rejected, one half of the current lodging fee must be paid. See Section 105(2) of the Transfer of Land Act. A rejected dealing is identified by a red stamp in the right-hand corner of the Instrument as follows:

**RETURNED UNDER SEC. 105 ACT 6399**

*Assistant Registrar of Titles*

## **Re-lodgement of Withdrawn Dealings**

On re-lodgement of a dealing that has been previously withdrawn, one half of the current lodging fee is payable.

## **Payment of Fees**

If you are a regular customer, Land Victoria accepts cash, credit card, debit card, direct debit, bank cheques and lawyers' and conveyancers' trust or office account cheques. Land Victoria does not accept third party or personal cheques, or money orders.

If you are not a regular customer, Land Victoria only accepts cash, credit or debit card for payment of your transaction. Land Victoria does not accept cheques of any description, or money orders from non-regular customers.

If paying by credit card the Lodgement Summary Form details must include the card type, the name of the cardholder, and the number and expiry date of the card. The Lodgement Summary Form must also be personally signed by the cardholder. A photocopy of the form is not acceptable.

## **Return of Obsolete Paper Certificates of Title**

Land Victoria will not return an 'old-style' paper/parchment Certificate of Title to a customer unless specifically requested in writing ('Bulk' process) or verbally ('over-the-counter' process) at the time of lodgement. The controlling party of the Certificate of Title is responsible for determining the proprietor's requirements.

## RECTIFICATIONS

Where an error has been made by Land Victoria in the registration of an Instrument, a request for rectification may be made. The Certificate of Title to be amended together with a letter outlining the amendment required and copies of supporting evidence should be produced.

The documents should be taken to Rectifications, Specialist Registration, located on Level 9, 570 Bourke Street, Melbourne. An initial check will be made and, if the error cannot be immediately corrected, a receipt for the document including a dealing number will be given to the Lodging Party.

### Approval of Forms for Individual Use

Section 121(7) *Transfer of Land Act 1958* enables a person to seek approval to print and/or make the form available electronically for use by that person or their business.

To obtain approval of a form under Section 121(7), a letter of undertaking on the applicant's letterhead for approval is required in the following format:

I/We apply for approval and authority to print and use pursuant to Section 121(7) of the *Transfer of Land Act 1958* the form(s) referred to in the schedule set out below.

The forms approved will be printed by means of *Laser Printer/Commercial Printer*.

I/We in consequence of the approval sought undertake the following:–

- (a) To print or make available electronically the form(s) only as approved.
- (b) To notify the Land Registration Services of any change of equipment affecting the printing of such approved form(s) and to provide samples of forms printed on such equipment for inspection.
- (c) To include the approval number on all forms printed pursuant to this approval.

*SCHEDULE*  
*(Set out Form types for approval)*

The application must be accompanied by an example of the proposed form(s) (a photocopy or fax is not acceptable) prepared in the format proposed to be used and lodged with the Forms Officer, Specialist Registration, Level 9, 570 Bourke Street, Melbourne.

Approval of a form under Section 121(7) may only be granted for a period of up to **two years** (see Regulation 11(3) Transfer of Land (General) Regulations 2004). The fee is set out in Schedule 2 Item 92 Section 121(7) Transfer of Land (Fees) Regulations 2004.

Approval of a form and a licence to sell the form may be granted under Section 121(4) *Transfer of Land Act 1958*. The fee is set out in Schedule 2 Item 91 Section 121(4) Transfer of Land (Fees) Regulations 2004.

This type of approval usually applies to printers and licensees.

## RECEIPT FOR PURCHASE OF CROWN LAND (TREASURER'S RECEIPT)

Section 39 of the *Transfer of Land Act 1958* reads as follows:

- '(1) Upon submission of a receipt of the Minister administering the *Conservation, Forests and Land Act 1987* for the full purchase money of any land sold by Her Majesty in fee together with any Instrument dealing with such land the Registrar shall make a recording of such Instrument upon such receipt and thereupon every such Instrument shall be held to be duly registered.
- (2) Upon the registration of the Crown grant of the land the Registrar shall make in the Register a recording of every Instrument entered on such receipt.'

If a person who is entitled to a Crown grant requires the recording of an Instrument before the grant is made, they may apply to the Department of Treasury and Finance for a Receipt. The Receipt is produced to Land Victoria by the Lodging Party at the time of lodgement of an Instrument affecting the receipt.

As Volume and Folio references will not be allocated until after lodging of the Instrument, the description of land in the Instrument being lodged must show the Crown description of the land being purchased, e.g. Crown Allotment 1 Section 2 Parish of Jika Jika.

NOTE: No fee is required on the production of the Receipt, normal lodging fees for the Instrument will apply.

Control orders over Instruments affecting Receipts will be accepted in the usual manner.

## ADVERSE POSSESSION APPLICATIONS

### Introduction

Under Section 62 of the *Transfer of Land Act 1958*, the Registrar may grant an application and make an order vesting land under the operation of the Act in an applicant who makes application under Section 60, if satisfied that the applicant has acquired title by possession. Where the possessory land is not under the operation of the Act, application is made under Section 15.

An application under Section 26P to remove a 'warning as to dimensions' (see LODGING BOOK VERSION 4.1 – SECTION 3 – TRANSFER OF LAND ACT 1958) can also include additional possessory land. Such additional land is treated in the same way as if the land were the subject of either a Section 15 or 60 application, depending on the status of that land.

The following outlines in general terms the requirements and matters that must be proved to the Registrar's satisfaction before an application for title based on Adverse Possession will be granted under Sections 15, 60 or 26P with additional land. It is intended to be read as a guide, not to list every requirement for all applications.

### In summary it must be proved that:

- (a) The applicant is, as at the date of the application (and at the date of the making of the vesting order), in exclusive possession of all the land applied for.
- (b) The applicant, either alone or together with other persons through whom the applicant claims, has been in exclusive possession continuously for at least 15 years.

The *Limitation of Actions Act 1958* states that the following land cannot be subject to Adverse Possession:

- (i) Crown land;
- (ii) Land owned by the Public Transport Corporation or Victorian Rail Track;
- (iii) Land owned by a Water Authority or a licensee (both as defined by the *Water Act 1989*);
- (iv) Land owned by Melbourne Water Corporation; or
- (v) Land under the operation of the *Transfer of Land Act 1958* of which a council (as defined in the *Local Government Act 1989*) is the registered proprietor.

This Act also states that an owner of a lot affected by an Owners Corporation cannot adversely possess any part of Common Property affected by the Owners Corporation.

If application is made for the grant of an unencumbered title, the applicant must also prove that any encumbrances existing over the interest of the dispossessed registered proprietor have been determined or extinguished by the applicant's possession.

Where the encumbrance is an easement (e.g. rights of carriageway, drainage etc.), proof of non-user for at least **30 years** is required to constitute sufficient evidence of abandonment to allow its removal.

If the land the subject of the application is known as a road on Land Victoria records, the applicant should obtain a letter from council. This letter should state that the land is **not** (part of) a road as defined by the *Road Management Act 2004*.

The term 'possession' means a visible and effectual dominion or control by a person who intends to act as owner and who holds himself or herself out as owner. This can be shown by an applicant who occupies or uses the land with the intention of acting as owner. The applicant may also demonstrate possession by exercising ownership rights in other ways, such as receiving rents and profits from tenants or licensees or by allowing others to occupy or use the land. 'Possession' does not mean and should be distinguished from 'occupation'.

### **Method of Proving Adverse Possession**

Because of the many ways in which an applicant may prove Adverse Possession, it is difficult to cover every possible set of circumstances in which the Registrar might be prepared to make a vesting order. In each case, it is up to the applicant and his or her legal advisers how best to present the applicant's case.

If the evidence provided by the applicant does not convince the Registrar that title by Adverse Possession has arisen, the application will not be granted, even though the applicant may have satisfied the formal requirements for the application.

If, conversely, a practitioner believes that his or her client has acquired title by Adverse Possession, the practitioner should not be deterred from making out a case for consideration by the Registrar despite the fact that the evidence may not completely satisfy the formal requirements. For example, where the application pertains to land that has been covered for at least 15 years by structures, the Registrar may be satisfied with lesser proofs than those usually required.

Despite evidence that would otherwise be insufficient, the Registrar may be prepared to make a vesting order upon payment of a larger contribution to the Consolidated Fund if the circumstances of the applicant's Adverse Possession demonstrate a clear and incontrovertible intention by the applicant (and those through whom he or she claims) to occupy or use land claimed in the applicant's own right and a public and ongoing display of that intention for at least 15 years.

Initially, an interview with an officer in Land Victoria to discuss the nature of the applicant's case may be of benefit in these circumstances.

Set out under 'PROOFS' (see following pages) are the matters that Land Victoria requires for a typical Adverse Possession application. It is hoped that these will provide practitioners with a guide that can be used when preparing proofs for a client claiming title to land by Adverse Possession.

### **Identification of the land**

Generally a person proposing to apply for title on the basis of possession (whether or not the land is under the operation of the *Transfer of Land Act 1958*) is required to provide a plan prepared by a Licensed Surveyor in support of their application. Exceptions to this requirement are:

#### **Land applied for is wholly enclosed:**

- by land to which the applicant has title, or
- by government roads, or
- by Crown Lands, or
- a combination of any or all of the above

### **Application is made:**

- by a mortgagee in possession; or
- by a mortgagor seeking to remove an outstanding mortgage that is statute barred; or
- by one or more co-proprietors against the other co-proprietor(s).

Where a person is proposing to apply for title on the basis of possession, it may be possible for that person to use an aerial photograph in the place of a survey plan. For information regarding the use of aerial photographs, see REQUEST TO WAIVE SURVEY.

Where a survey plan is used it should reflect current circumstances. If the plan is more than two years old or there is other evidence available to the Registrar indicating that occupation has changed since the date of the last survey, the surveyor may be required to update observations and re-certify the survey. All plans of survey must be certified by a Licensed Surveyor and be supported by an Abstract of Field Records and a report by the Licensed Surveyor. The plan should clearly and separately define the land claimed.

### **Consolidated Fund Contribution**

The Registrar may grant an application subject to payment of a contribution to the Consolidated Fund in circumstances where there is some risk to which the fund may be exposed. If a contribution is assessed it would generally be from about 0.5 to one (1) per cent of the value of the land claimed.

### **General Law Land**

Where the land sought to be claimed by Adverse Possession is General Law land (i.e. land not under the operation of the *Transfer of Land Act 1958*), application must be made under Section 15 of the Act.

The application must be supported by:

- A survey plan or aerial photograph (see IDENTIFICATION OF THE LAND)
- Search of Title [Section 26J of the *Transfer of Land Act 1958*] (see the LODGING BOOK VERSION 4.1 – SECTION 3 – TRANSFER OF LAND ACT 1958)
- Legal Practitioner's Certificate [Schedule 5A of the *Transfer of Land Act 1958*] (see the LODGING BOOK VERSION 4.1 – SECTION 3 – TRANSFER OF LAND ACT 1958)
- Deeds or evidence (including names and addresses of abutting owners and occupiers).

### **Limitations on Examination**

Whatever method is chosen by a legal practitioner to prove his or her client's Adverse Possession, Land Victoria will not process applications that:

- do not disclose a case for a vesting order to be made; and/or
- are not accompanied by documentation sufficient to support a case.

Failure to disclose a prima facie case or to provide the documentation necessary will result in the application being refused at lodgement or rejected and fees being forfeited pursuant to the provisions of Section 105 of the *Transfer of Land Act 1958*.

To prevent applications being refused at lodgement, practitioners seeking to have the Registrar consider their client's application on the basis of lesser proofs than would usually be the case should ensure that they support the application by a letter detailing the basis of the applicant's claim.

## Proofs

### Proofs and items ordinarily required by the Registrar in the case of – A. *WHOLE PARCELS (OR SUBSTANTIAL PART/S)*

#### 1. Evidence of Applicant and Prior Possessors

Statutory Declaration/s by the applicant and (if necessary to provide evidence for at least the last 15 years) by each prior adverse possessor for their respective periods of possession that:

- explain the circumstances in which possession commenced;
- establish that such possession was exclusive and continued subsequently without interruption;
- describe the use made of the land and state who occupied or used it and whether their occupation or use was continuous, uninterrupted and exclusive;
- either –
- show that the land was completely enclosed (either by itself or together with other land), by fences, walls or buildings which remained on the same lines as shown on the survey plan or aerial photograph used to identify the land and which were adequately maintained to exclude people other than those in occupation;

or –

where the land is unfenced or only partly enclosed, indicate how exclusive possession was demonstrated and maintained;

- indicate the means of access to the land;
- describe any improvements on the land and the circumstances in which these improvements were made;
- indicate who paid the rates; and
- the applicant has not acknowledged the title of the registered proprietor in respect of the land claimed or any part thereof.

The applicant's declaration must:

- state the value of the land being claimed and provide evidence (as exhibits) documenting the basis upon which this value is calculated (e.g. rates notice, sworn valuation);
- give the postal address of the land claimed, or the property of which it forms part; and
- give the name and address of the municipality of the district in which the land is located.

Where the period of possession relied upon is less than 30 years and the registered owner is a natural person, the applicant's Statutory Declaration must also:

- state that the applicant has no knowledge of any circumstances or disability on the part of the registered proprietor or any other person previously entitled to bring any action for recovery of the land which might have extended the limitation period for doing so beyond 15 years; and

- give details of any dispute by, or contact with, the registered owner or any other person claiming an interest in the land.

The declaration/s must identify the land claimed by reference to the plan of survey or aerial photograph as an exhibit (see IDENTIFICATION OF THE LAND).

2. Evidence of Disinterested Witness(es)

A Statutory Declaration by one disinterested witness which:

- identifies the land claimed by reference to the plan of survey or aerial photograph as an exhibit (see IDENTIFICATION OF THE LAND);
- establishes that he or she has known the land (or the property of which it forms part) for at least 15 years and explains how the witness has acquired that knowledge (e.g. by describing his or her opportunities of observing it during that time);
- covers, at a minimum, those parts of the evidence pertaining to occupation, use, enclosure, access and improvements required of the applicant in the applicant's Statutory Declaration above.

Where an assignment or a chain of assignments of possessory rights (see ASSIGNMENT OF POSSESSORY RIGHTS) is available but the applicant cannot provide Statutory Declarations from all previous possessors, practitioners may overcome this difficulty by providing evidence from an additional disinterested witness that satisfies, at a minimum, those parts of the evidence pertaining to occupation, use, fencing, access, improvements and identification referred to above that are within the witness' knowledge.

3. Evidence by Applicant's Current Practitioner

Where the period of possession relied upon is less than 30 years and the registered owner is a natural person, a Statutory Declaration by the applicant's current practitioner that he or she has made diligent and thorough enquiries and:

- is satisfied that the applicant and (if applicable) any other persons through whom the applicant claims, has or have been in Adverse Possession of the land for at least the last 15 years;
- has no knowledge of any circumstances or disability on the part of the registered proprietor or any other person previously entitled to bring an action for recovery of the land which might have extended the period of limitation for doing so beyond 15 years; and
- give details of any dispute by, or contact with, the registered owner or any other person claiming an interest in the land.

4. Assignment of Possessory Rights

Where the applicant has not been in possession for at least 15 years an assignment or chain of assignments of the possessory rights of the person or persons through whom the applicant claims should be produced. Each assignment should be by deed and must be duly stamped or denoted by the State Revenue Office.

5. Rating Evidence

A letter from the rate collector (or other appropriate officer) of the municipality in which the land is situated which:

- identifies the land claimed (e.g. by annexure of a copy of the plan of survey); and
- gives particulars of the person or persons who during the last 15 years have been recorded in the municipal records as the rated owner/s.

In some instances council will be unable to provide such information and a letter from the appropriate council officer stating why this is the case should be lodged.

**B. STRIPS AND SLIVERS**

In the case of small pieces of land enclosed with other land owned by the applicant where there is no inconsistency between the chain of possession to the strip or sliver and descent of title to the land owned, no formal assignments of possessory rights will be required. In these cases the proofs and items required are:

1. Evidence of Applicant and Prior Possessors

Statutory Declaration/s by the applicant and (if necessary to provide evidence for at least the last 15 years) by each prior adverse possessor for their respective periods of possession to:

- explain the circumstances in which possession commenced;
- describe the use made of the land;
- describe the position, nature and (where known) the age of the fencing, walls or buildings enclosing the outer boundary or boundaries of the land claimed;
- state the value of the land claimed and the basis on which that value is calculated; and
- the applicant has not acknowledged the title of the registered proprietor in respect of the land claimed or any part thereof.

The declaration/s must identify the land claimed by reference to the plan of survey or aerial photograph as an exhibit (see IDENTIFICATION OF THE LAND).

Where the applicant cannot provide Statutory Declarations from any of the prior adverse possessors, the Registrar may require an increased contribution to the Consolidated Fund or further evidence from additional disinterested witnesses or a combination of both.

2. Descent of Title

The descent of title, as shown by the folio of the Register or a search of title (as the case may be), to the remaining land within the boundaries enclosing the claimed land must be consistent with the chain of possession shown in the other evidence produced by the applicant.

3. Consent of Registered Proprietor or Optional Alternative Proofs

either –

- A consent and acknowledgment under seal by the registered proprietor of the claimed land stating that the applicant or prior adverse possessors through whom the applicant claims have possessed the land adversely to the title of the registered proprietor and his, her or their predecessors in title during at least the last 15 years and that the title of the registered proprietor to the claimed land has been extinguished by the applicant.

or –

- A Statutory Declaration by one disinterested witness, which identifies the land claimed and establishes the witness' means of knowledge (in the same way as required in EVIDENCE OF DISINTERESTED WITNESSES above) and describes the position, nature and (where known) the age of the fencing, walls or buildings enclosing the outer boundary or boundaries of the land claimed.

4. Evidence by Applicant's Current Legal Practitioner

Where the period of possession is less than 30 years and the registered owner is a natural person, a Statutory Declaration by the applicant's legal practitioner must be produced, stating that he or she has made diligent and thorough enquiries and he or she:

- is satisfied that the applicant and (if applicable) any other persons through whom the applicant claims, has or have been in Adverse Possession of the land for at least the last 15 years, and
- has no knowledge of any circumstances or disability on the part of the registered proprietor or any other person previously entitled to bring an action for recovery of the land which might have extended the period of limitation for doing so beyond 15 years.

5. Where strips and slivers are concerned, rating evidence is not required.

### **Lodgement**

For applications under Section 60 of the *Transfer of Land Act 1958*, the lodgement checklist should be completed and lodged with the application documents.

For applications under Section 15 of the *Transfer of Land Act 1958*, an appointment should be made with the Application and Survey Branch on (03) 8636 2010.

For applications under Section 26P of the *Transfer of Land Act 1958*, which includes additional TLA land, the lodgement checklist (see p.103 Section 3) should be completed and lodged with the application documents.

For applications under Section 26P of the *Transfer of Land Act 1958*, which include additional land not under the operation of the TLA, an appointment should be made with the Application and Survey Branch on (03) 8636 2010.

## Request to waive survey

Guidance Notes on the Use of Aerial Photography in Support of Adverse Possession Applications

Sections 15 and 60 of the *Transfer of Land Act 1958*

### Introduction

Generally a person proposing to apply for title on the basis of possession (whether or not the land is under the operation of the *Transfer of Land Act 1958*) is required to provide a plan prepared by a Licensed Surveyor in support of their application.

Exceptions to this requirement are:

- (a) where the application is made by a mortgagor or mortgagee in possession;
- (b) where the application is made by one or more co-proprietors against the other co-proprietors;
- (c) where the land applied for is wholly enclosed by land to which the applicant has title;
- (d) where the land applied for is wholly enclosed by Crown land or government roads, or
- (e) where the land applied for is wholly enclosed by a combination of Crown land, government roads and land to which the applicant has title.

The exceptions in items (c), (d) and (e) are limited in their scope. In these, a survey plan would not generally be required unless, upon examination of existing survey information and the information supplied, survey difficulties arise in defining the land applied for.

Where a person is proposing to apply for title on the basis of possession, it may be possible for that person to use an aerial photograph in the place of a survey plan. The Registrar's powers to make such a dispensation are contained in Sections 60 and 95 of the *Transfer of Land Act 1958*.

Survey can only be waived in cases in which all the boundaries of the land claimed are previously known to this office i.e. for whole parcels, not part(s) of parcels.

Currently there is no fee for Land Victoria to consider a 'Request to Waive Survey' (RWS).

The steps involved are as follows:

- (a) acquiring an aerial photograph of the land claimed
- (b) preparing a transparent overlay
- (c) submitting the RWS
- (d) the Registrar consents to the RWS
- (e) the Registrar may accept the RWS subject to the submission of additional information
- (f) the RWS is not consented to as the information provided is not considered suitable
- (g) preparation of evidence of possession.

### DETAILS OF LODGING A REQUEST TO WAIVE SURVEY (RWS)

#### 1. Acquiring an aerial photograph of the land claimed

The applicant acquires an aerial photograph of the land claimed from a recognised supplier (e.g. Qasco VicImage). The photograph must be taken vertically – oblique photographs are not suitable.

The most recent photograph is normally required and it should disclose that the land subject to the proposed application is occupied to the exclusion of all other parties. A further photograph of the land as it was 30 years ago or more may also be a useful exhibit in some cases.

2. Preparing a transparent overlay

Once the aerial photograph is received, the Applicant prepares a transparent overlay for the photograph and signs both.

A clear plastic film should be attached to the photograph by staples and the occupation enclosing the subject land drawn on this film. The line work should be done with a drafting pen using black ink.

The occupation on the boundaries of the total enclosure and the means of ingress to the enclosure should be neatly and accurately drawn on the tracing overlay together with an arrow indicating the approximate direction of North.

3. Submitting the RWS

Before making a formal application for title, the applicant should write to the Registrar of Titles using the form set out in Schedule 1 to these Notes, requesting that survey be waived and that the enclosed aerial photograph and overlay be accepted in place of a survey plan in the application for title to the land.

The photograph and overlay should not be folded. They should be rolled and, if necessary, forwarded by 'Postpak' tube or its equivalent. If these are folded, accurate fixing of occupation on the boundaries from them may become impossible, requiring a further aerial photograph and overlay.

The request should be sent to:

Land Victoria  
Application and Survey Branch  
Level 11, 570 Bourke Street  
Melbourne 3000

4. The Registrar consents to the RWS

If the Registrar consents to accept an aerial photograph in lieu of a survey plan, the aerial photograph and overlay will be returned to the applicant along with a letter granting the RWS. The applicant makes an application for title on the basis of possession in the usual way. (See 'Preparation of evidence of possession' below).

5. The Registrar may accept the RWS subject to the submission of additional information

Where the land claimed is not readily identifiable or the enclosing occupation is unclear or obscured, ground photos clarifying the situation may be helpful. These photos should be clearly identified and some method of indicating their location should be provided (e.g. sketch plan etc). In some circumstances the Registrar may require other information such as Statutory Declarations from abutting parties. (See 'Preparation of evidence of possession' below).

6. The RWS is not consented to as the information provided is not considered suitable

Should the aerial photograph and any additional information be insufficient to support the applicant's application, the Registrar of Titles will refuse the RWS and return this photo and require the applicant to obtain a plan prepared by a Licensed Surveyor in support of his or her application.

7. Preparation of evidence of possession

Should consent be given to the RWS, the following processes should be followed:

- (a) The aerial photograph with overlay should be exhibited to the declarations in the same way that a plan of survey is exhibited. It should be noted that the overlay and photograph (and any plan of survey) should show the total land in the possession of the applicant. That is, the total land in the enclosure, although the applicant may not be claiming all of it.

Frequently, the applicant will already have title to much of the enclosed land, and application for title will be made only for the remainder.

- (b) Exhibit Notes

The usual signed 'exhibit note' is not needed on the overlay. The exhibit note should be on the back of the photo. The person taking the Statutory Declaration should, however, sign the overlay when signing the exhibit note.

- (c) Fences and Boundaries

The type and apparent age of fences and other forms of boundary demarcation are normally noted on a plan of survey and referred to in the Surveyor's Report. It is important that this information is given in evidence where there is no survey. It is acceptable to show the type of fences or other demarcation by exhibiting a photograph of it.

The Application and Survey Branch of Land Victoria may be consulted if difficulty is encountered in describing the type of boundary.

To describe the land in a subsequent application or solicitor's certificate, in addition to the Crown description and the title reference the following should be added – 'and being the possessory land identified in the request to waive survey ref RWS No .....

Evidence of the granting of the RWS – usually by the inclusion of a copy of the confirming letter – should be provided with the other documents when the Section 15 or Section 60 Application is formally lodged at Land Victoria. At that time further documentation will be needed to satisfy all other criteria concerning supporting evidence.

**Schedule 1**

Request to Waive Survey for a proposed Adverse Possession application

To the Registrar of Titles

APPLICANT: Name .....  
Address .....  
Contact Phone No .....

LAND: Crown Allotment (Whole/Part) .....  
Crown Portion/Section .....  
Parish of.....  
Certificate of Title Volume .....Folio.....  
or Memorial .....Book No .....

The land is not enclosed with other land

**or**

The land is enclosed with other land being

- (i) Crown land
- (ii) Government road
- (iii) Land in Certificate of Title Volume .....Folio .....
- (iv) Land in Memorial .....Book No.....

PERIMETER (fencing or other):

North .....  
South .....  
East .....  
West .....

ADJOINING OWNERS (if known):

North .....  
South .....  
East .....  
West .....

ENCLOSED HEREWITH IS:

An aerial photograph upon which the subject land has been clearly identified on the overlay in ink.

Signature of Applicant or Agent .....

## STATUTORY DECLARATIONS

A Statutory Declaration should be made in a form and declared before a person in accordance with the relevant law of the Commonwealth, State or Territory where it is made.

An example of an acceptable form of Statutory Declaration for Victoria is as follows.

### VICTORIA

There is no prescribed form for a Statutory Declaration in Victoria. The following form is one recommended by the Department of Justice.

*I, (name and address), do solemnly and sincerely declare that (here state the facts) and I solemnly and sincerely declare that this declaration is signed with my name and handwriting, I acknowledge that this declaration is true and correct in every particular and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.*

*Declared at.....  
in the State of Victoria  
the            day of            20*

*Signature of Declarant*

*Signature of witness  
Full name (printed)  
Address  
Qualification*

NOTE: The witness in Victoria **must** include after his or her signature their name, address and qualification in a legible manner.

## GLOSSARY OF TERMS

<b>Administrator</b>	Person entitled to administer a deceased estate (usually under Letters of Administration in accordance with the provisions of the <i>Administration and Probate Act 1958</i> ) or a Represented Person's estate (pursuant to an order made under the <i>Guardianship and Administration Act 1986</i> or Victorian Civil and Administrative Tribunal Order).
<b>Adverse Possession</b>	Occupation of land by a person who is not the registered owner without the owner's consent or knowledge. After a prescribed period a person who claims to have acquired land under the <i>Transfer of Land Act 1958</i> by Adverse Possession may apply pursuant to Section 60 of the <i>Transfer of Land Act 1958</i> to have the land vested in them. The <i>Limitations of Actions Act 1958</i> identifies land that cannot be claimed by Adverse Possession. e.g. Crown land, railway land, refer to Act for further information.
<b>Appropriation (Deceased Estate)</b>	The application of the property of the deceased in its actual condition in satisfaction of a legacy. For example, a person dies leaving four properties in total to four beneficiaries. The beneficiaries, rather than having all the property transferred into their names, may receive a property each; the property is appropriated to each of them.
<b>Application and Survey Branch [APS]</b>	Land Victoria branch processing dealings such as New Title Applications, Creations of Easement, Adverse Possession applications, amendment of Title Plans, Local Government Act dealings.
<b>Australian Legal Practitioner (ALP)</b>	An Australian lawyer who holds a current local practising certificate or a current interstate practising certificate Part 1.2.3 <i>Legal Profession Act 2004</i> .
<b>Bulk Registration</b>	Land Victoria service area processing <i>Transfer of Land Act 1958</i> and associated Acts' dealings 'off-line', and not in over-the-counter Registration.
<b>Case</b>	A single dealing or a group of dealings in a lodgement affecting the same folio(s) of the Register.
<b>Caveat</b>	A notification lodged under a number of sections of the <i>Transfer of Land Act 1958</i> in which a Caveator notifies their claim to an interest in the land in a folio of the Register.
<b>Certificate of Title</b>	A document that is a printed duplicate of a folio of the Register and is used as a record and evidence of interests in land. In most cases its lodgement/production is a prerequisite to registration of a dealing.

<b>Consideration</b>	An amount or statement of 'consideration' included in transfers, mortgages and other transactional documents; the consideration is usually monetary and otherwise it must reflect the factual circumstances agreed between the parties.
<b>Consolidated Fund Contribution</b>	A contribution made to the Consolidated Fund when land is brought under the operation of the <i>Transfer of Land Act 1958</i> and is based on the value of the property. A contribution may also be required when a replacement Certificate of Title is granted, or in a Section 15 or 60 application.
<b>Control Order</b>	A direction from the controlling party of a dealing that alters the control of that dealing – and see <b>Made Available</b> .
<b>Controlling Party</b>	The party responsible for a dealing, usually the party lodging an Instrument for registration with the Certificate of Title, and the party entitled to receive the Certificate of Title when issued from Land Victoria.
<b>Customer Code</b>	Up to five-character numeric plus alpha suffix issued by Land Victoria to identify customers.
<b>Dealing</b>	Any Instrument or application, together with any supporting documents lodged with it, and any documents from the Register fitted to it after lodgement. Until registration/recording it is known as an <b>unregistered dealing</b> .
<b>Dealing Number</b>	Alphanumeric identifier given to each dealing at lodgement, e.g. AB897605V. The last digit acts as a check for verification during subsequent keying of the dealing number.
<b>Dealing Refusal Advice</b>	Advice to the customer setting out the deficiencies in documents presented for lodgement; the Advice is attached to dealings returned.
<b>Devise</b>	A clause or direction in a Will which allows real property to be disposed of. When Probate (or Letters of Administration) has been granted, land may be transferred out of a deceased estate to the person(s) entitled under Will.
<b>Estate</b>	An interest in land.
<b>Estate in fee simple</b>	The largest estate (or interest) in land known to the law that can be held by a person.
<b>Executor</b>	A person appointed to execute the terms of a Will of a deceased person and entitled to deal with a deceased person's estate.

<b>Final Search</b>	Discloses any dealings that affect the document being searched which have been lodged, registered, rejected or withdrawn within 100 days prior to the final search. Generally a final search will follow a Register search and will obviate the need to examine the title a second time, the title having originally been inspected in the Register Search. A Final Search consists only of a computer printout, though any unregistered dealing may be inspected.
<b>Folio [of the Register]</b>	A division of the Register that relates to one or more parcels of land – see Section 27 <i>Transfer of Land Act 1958</i> .
<b>Follower Dealing</b>	A dealing that awaits registration/recording of a previously lodged dealing containing the requisite folio of the Register.
<b>General Law Land</b>	Land alienated by the Crown prior to 1 October 1862 that remains subject to the general law (including Acts and judgments by courts) of the State; this land is not under the operation of the <i>Transfer of Land Act 1958</i> .
<b>General Law System (or Old Law System)</b>	Dealings with land under this system are governed mainly by the provisions of the <i>Property Law Act 1958</i> , which provided prior to 1 January 1999 for the recording of deeds (to determine priority between deeds); the Register kept by the Office of the Registrar-General under the <i>Property Law Act 1958</i> , was closed from that date and all dealings are now recorded on the register under the <i>Transfer of Land Act 1958</i> . The State does not guarantee title for land not under the <i>Transfer of Land Act 1958</i> . The 'title' to 'general law' land consists of a bundle of documents known as a chain of title, commencing with a Crown Grant with new deeds added each time the land is dealt with. The chain may be broken if there is a missing or forged deed that creates uncertainty of title.
<b>Interest Folio</b>	A folio that does not contain the full fee in the land, e.g. One equal undivided half part or share.
<b>Intestate</b>	Dying without leaving a Will.
<b>Issue</b>	The return of a Certificate of Title to the Made Available/Controlling party (parties).
<b>Issuing Order</b>	Order from a Made Available/Controlling party that directs when a Certificate of Title is to issue to another party.
<b>Joint Proprietors/Joint Tenants</b>	Ownership of land by two or more persons where there is a right of survivorship, i.e. on the death of one joint owner the land as a whole passes to the survivor(s).

<b>Land Registration Services [LRS]</b>	A division of Land Victoria that provides registration services for land dealings and plans, and maintains the records and information relating to land under the <i>Transfer of Land Act 1958</i> .
<b>Leader Dealing</b>	Dealing which contains a Certificate(s) of Title required in a Follower dealing.
<b>Legal Practitioner's Certificate</b>	For Land Victoria purposes, a certificate under Section 16, 26 or 89A <i>Transfer of Land Act 1958</i> .
<b>Letters of Administration [LTA]</b>	If a deceased person has not made a valid Will, a person, usually a relative of the deceased, may apply to the Supreme Court for Letters of Administration of the estate of the deceased.
<b>Licensed Conveyancer (LC)</b>	A person who holds a licence, other than a licence that is suspended, granted under Part 2 of the <i>Conveyancers Act 2006</i> to carry on a conveyancing business.
<b>Life Estate</b>	An estate that lasts for a limited time, e.g. for life only. The life estate is not an estate in fee simple.
<b>Lodgement/Lodging</b>	This is the submission of dealings to Land Victoria for registration/recording. It is also used to describe the group of dealings presented by a Lodging Party at the one time for lodging.
<b>Lodging Party</b>	A customer who lodges a dealing at Land Victoria either personally, or through an agent, or by correspondence.
<b>Lodgement Summary Form</b>	A listing of the dealings in a lodgement prepared by the Lodging Party and presented with documents for lodging.
<b>Made Available (system)</b>	Certificate(s) of Title deposited with Land Victoria to enable the lodgement of future dealings by other customers.
<b>Manner of Holding</b>	The way in which two or more proprietors hold or are to hold land e.g. jointly or as tenants in common in equal or unequal shares.
<b>Marking</b>	The location in Land Victoria of a Dealing/Case.
<b>Not in Common Ownership [NICO]</b>	A plan of subdivision affecting land in different proprietorship may result in the creation of new NICO folio(s).
<b>NUA</b>	'Not under the Act' – Land not under the operation of the <i>Transfer of Land Act 1958</i> ; general law land.
<b>Over-the-counter [OTC] Registration</b>	Land Victoria's area for processing and where applicable immediately registering/recording dealings direct with customers.

<b>Parcel</b>	Individual piece(s) of land described in a folio of the Register.
<b>Parent Folio</b>	Folio of the Register from which another folio(s) is derived, e.g. as a result of a subdivision.
<b>Permanent Order Book [POB]</b>	Properly certified copies of Powers of Attorney that are regularly used in dealings in Land Victoria and filed in the Permanent Order Book. The number of the entry in the POB is used to describe the Power of Attorney in execution clauses on documents lodged.
<b>Power of Attorney</b>	An Instrument creating an authority for one person to execute documents on behalf, or to act on behalf, of, another person; a Power of Attorney may be general, specific, enduring or limited.
<b>Pre-Lodgement Enquiry</b>	Check made prior to the lodgement of a dealing to confirm the presence in Land Victoria of stated 'made available' documents and to confirm the leaders referred to in the Lodgement Summary Form.
<b>Proprietor</b>	See Registered Proprietor.
<b>Register</b>	Register of land under the operation of the <i>Transfer of Land Act 1958</i> kept by the Registrar of Titles. The Register consists of folios of the Register, each of which relates to one or more parcels of land.
<b>Register Search</b>	A report on the information contained in a folio of the Register. The report also currently includes details of all, if any, unregistered/unrecorded dealings affecting the document being searched as well as all dealings registered, withdrawn or rejected in the preceding 125 days.
<b>Registered Proprietor</b>	Any person recorded in the Register or in a registered Instrument to be the proprietor of an estate or interest in land – see Section 3 <i>Transfer of Land Act 1958</i> .
<b>Rejection</b>	A dealing accepted for lodgement and subsequently found to be deficient in some way may be rejected and returned to the controlling party if the deficiency is not corrected within a specified period of time – see Section 105 <i>Transfer of Land Act 1958</i> .
<b>Search Certificate (General Law)</b>	Certificate that records the results of the search of General law land at the Registrar-General's Office and required to be lodged to support an application to bring land under the operation of the <i>Transfer of Land Act 1958</i> (conversion).

<b>Search [Folio]</b>	Searches of folios of the Register are conducted to ascertain details concerning a parcel of land e.g. registered proprietor, land description, encumbrances etc. A search may also involve the inspection of any unregistered dealings in the Register and registered Instruments and caveats currently affecting any interest in that land. See also – Register Search and Final Search.
<b>Specialist Registration</b>	A unit in Dealing Registration Branch, Land Victoria, examining complex, irregular dealings, court actions, rectifications and providing advice to customers.
<b>Subdivision Branch</b>	Land Victoria's service area processing dealings lodged under the <i>Subdivision Act 1988</i> .
<b>TLA</b>	<i>Transfer of Land Act 1958</i> .
<b>Tenants in Common</b>	Indivisible ownership of land by two or more persons, each entitled to occupy the whole of the land in common with the others. On the death of one, their share passes, not to the survivor(s), but to the deceased's estate.
<b>Unregistered Dealing</b>	Dealing which is being processed in Land Victoria and not yet registered/recorded.
<b>Unregistered Dealing Search</b>	Search to determine the existence (and content) of any dealing within Land Victoria which has not been registered/recorded but which could affect a particular folio.
<b>Volume/Folio</b>	Numbering system used for folios for freehold land parcels, Crown grants and Crown leases.
<b>VOTS</b>	The Victorian Online Titles System (VOTS) is a business system that facilitates and supports the business operations of Land Victoria.
<b>Withdrawn Dealing</b>	A dealing removed by the controlling party prior to registration/recording.

NOTE: All Act references are to Victorian Acts unless otherwise stated.