

Guide to application by surviving proprietor

This guide sets out the requirements to lodge an Application by surviving proprietor (ASP) form, under the *Transfer of Land Act 1958*.

An ASP is used by the surviving proprietor(s) when two or more people are registered as joint proprietors of land, mortgage, charge or lease.

Do not use the ASP form if the deceased proprietor is registered as a tenant in common. The Application by Legal Personal Representative (APR) form must be used by the executor(s) or administrator(s) of the deceased proprietor's interest.

Documents required by Land Victoria

Application by surviving proprietor – ASP form

The ASP form must be fully completed and is available on the [Transfer of Land Act](http://www.delwp.vic.gov.au/property-forms) page at www.delwp.vic.gov.au/property-forms>Transfer of Land Act>Deceased estate.

Certificate(s) of Title

The Certificate(s) of Title must be supplied. It/they will be:

- in possession of the lodging party; or
- held by a financial institution, legal practitioner or other party who must provide Land Victoria with the Certificate(s) of Title to enable the transaction to be lodged.

In most cases, the party providing the Certificate(s) of Title will charge a fee.

After your transaction has been processed, a new Certificate of Title will be issued.

Verification of identity

All parties to a conveyancing transaction must have their identity verified.

When a conveyancer or lawyer represents a client, the conveyancer or lawyer is responsible for verifying their client's identity. For further information, refer to [Guide to verification of identity for paper conveyancing transactions for conveyancers, lawyers and mortgagees](#) available at www.delwp.vic.gov.au/property-forms>Verification of identity.

If a party to a conveyancing transaction is not represented by a conveyancer or lawyer (a non-represented party), verification of identity needs to be undertaken by Australia Post – the Approved Identity Verifier. In addition, Australia Post will witness the non-represented party signing any conveyancing documents. For further information, refer to [Guide to verification of identity for people not using a conveyancer or lawyer](#) available at www.delwp.vic.gov.au/property-forms>Verification of identity.

Statutory declaration

A completed and signed statutory declaration in support of an Application by Surviving Proprietor must accompany the application. The statutory declaration form is located directly below the application on the website. See also, 'How to complete the statutory declaration' later in this guide.

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Land tax Notice of Acquisition

A completed and signed Notice of Acquisition must be supplied.

For more information on the land tax Notice of Acquisition, contact:

State Revenue Office
121 Exhibition Street
Melbourne Vic 3000
T:132 161

W: www.sro.vic.gov.au

Additional information

Rating bodies

Each rating body (water, sewerage, council etc.) needs to be notified of the change of ownership. To notify these bodies a copy of the completed land tax Notice of Acquisition should be sent.

Fees

Land Victoria fees are payable at lodgement.

Acceptable payment methods and lodgement fees are available on the [Forms, guides and fees](http://www.delwp.vic.gov.au/property-forms) page at www.delwp.vic.gov.au/property-forms>Payment and lodgement.

Before lodging at Land Victoria

Prior to lodgement, the lodging party must also be in possession of the Certificate(s) of Title or ensure that the Certificate(s) of Title has/have been provided to Land Victoria through the nomination process.

To ascertain whether or not the Certificate(s) of Title has/have been nominated, a single Property Transaction Alert on Title or one or more Pre-lodgement Check(s) can be made through [LANDATA®](http://www.landata.vic.gov.au).

Customers who subscribe to a Property Transaction Alert on Title are notified by email when a Certificate of Title has been nominated at Land Victoria.

A Pre-lodgement Check is made prior to lodgement to confirm that the Certificate(s) of Title has/have been nominated, to inform of a prior dealing affecting that title or to provide details of the controlling party of Certificate(s) of Title.

A Property Transaction Alert on Title or Pre-lodgement Check(s) product can be obtained through:

- Document Tracking at www.landata.vic.gov.au or
- a [title information broker](http://www.delwp.vic.gov.au/property) found at www.delwp.vic.gov.au/property>Property information>Buying and selling property>Brokers and data service providers.

How to complete the ASP form

This form should be completed online and printed for lodgement.

If the form is being completed manually rather than online:

- the writing must be clear and legible and in BLOCK LETTERS
- only use black or blue pen
- correction fluid must not be used
- the back of the form must not be used.

If there is insufficient space in any panel an Annexure Page (A1) must be used, which is available on the [Forms, guides and fees](http://www.delwp.vic.gov.au/property-forms) page at www.delwp.vic.gov.au/property-forms>Annexure Page pdf form.

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The points below assist in completing the ASP form

Lodged by

This section is to be completed by the party lodging the application at Land Victoria.

Please insert the following:

- name, telephone number and postal address for contact details or for the return of any documents
- customer reference and your Land Victoria customer code (if applicable).

Land

Insert Volume and Folio number(s) of affected title(s), e.g. Volume 12345 Folio 125.

Multiple titles, numbered consecutively, may be inserted as a single range entry, e.g. Volume 12345 Folio 125-132.

If the application is over a mortgage, charge or lease insert the instrument number and affected title(s), e.g. AJ125345L affecting Volume 10554 Folio 785.

Applicant

Insert the full name(s) and address(es) of the applicant(s). The address(es) provided will be where notices are mailed in the future.

If an applicant's name differs from that shown on the title, then a recital is required, e.g. Mary Smith formerly Mary Brown.

Please note that a 'care of' or 'post office box' is not an acceptable address.

Deceased

Insert the full name of the deceased. If the deceased's name differs from that shown on the title, then a recital is required, e.g. Mary Smith formerly Mary Brown.

Date

Insert the date the form is signed by the applicant, e.g. DD/MM/YYYY.

Signature of applicant

The form must be signed by the applicant(s), a legal practitioner, a licensed conveyancer or an agent of the applicant.

Signature requirements are:

- applicant signs – no witness required
- signature of the applicant's Australian legal practitioner (under the Legal Profession Uniform Law Victoria) – full name and address must be given
- signature of the applicant's licensed conveyancer (under the *Conveyancers Act 2006*) who must state he/she is a licensed conveyancer
- signature of agent – letter of agency must be supplied.

Application by surviving proprietor supporting statutory declaration

The statutory declaration that accompanies the ASP form is sufficient proof of death of the joint proprietor. A full death certificate or extract is not required. The declaration is usually made by the applicant, but can be made by any person who has sufficient means of knowledge.

How to complete the statutory declaration

- Insert the full name and residential address of the person making the statutory declaration.
- Clause 1 – insert the full name of the deceased proprietor and the date of death.
- Clause 2 – insert the Volume and Folio number(s) of the affected title(s).

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- Clause 3 – requires the person making the declaration to state their means of knowledge, e.g. ‘the deceased proprietor was my wife/husband and I attended her/his funeral’.
- Insert where the declaration is being signed, e.g. Melbourne.
- Insert date the declaration is being signed.
- The person signing the declaration must do so in front of a qualified person under the *Evidence (Miscellaneous Provisions) Act 1958* – a full list can be found at www.justice.vic.gov.au>Justice system>Legal assistance>Statutory declarations.
- The witness must sign and insert his/her full name, address and qualification.

Multiple joint proprietors, all deceased

If two or more people are registered as joint proprietors and all of them are deceased, the Application by surviving proprietor (ASP) form cannot be used; instead, the Application by legal personal representative (APR) form must be used. The applicant(s) must be the executor(s) or administrator(s) of the last of the deceased joint proprietor. The lodging requirements are detailed in the Guide to application by legal personal representative.

Contact us

For [location and contact details](#), refer to www.delwp.vic.gov.au/property>Contact us.

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