

Guide to considerations in transfers

Selecting a consideration

This brochure is a general guide to the most common considerations in a paper transfer.

The list below is not exhaustive but may help in selecting an appropriate consideration.

The consideration in a transfer must reflect the factual circumstances appropriate to a transfer.

'Nil' is not an acceptable consideration.

Requirements differ for each transfer form

Land Use Victoria has several different transfer forms.

The main one Transfer of Land form is an interactive form. You can select either 'monetary' or 'non-monetary' using the radio buttons. If 'monetary' is selected, a field will appear, into which the consideration amount can be entered. If 'non-monetary' is selected, a drop-down box will appear with the three most common non-monetary considerations, as well as a fourth selection 'other, please specify'. Select the consideration most appropriate to the circumstance. If 'other, please specify' is selected, a free-text panel will appear, into which the consideration should be entered.

The *Transfer of Land – Creating an easement form* and *Transfer of Land by Mortgagee or Annuitant form* have free-text panels into which the consideration is entered, either monetary or non-monetary.

Monetary considerations

Transfers that give effect to a purchase by the transferee(s) should set out the amount paid as the consideration. Use whole dollars only, e.g., \$350,000 (do not use cent amounts or decimal points).

Multiple transfers under one contract

If multiple transfers give effect to a purchase under one contract of sale, the purchase amount should be apportioned between the transfers so that the appropriate registration fee can be assessed.

If multiple transfers are lodged each with a consideration of '\$XXX (the dollar amount in figures), being the same consideration as expressed in a transfer of the same date', the registration fee will be charged on the full amount (as set out in each transfer) of each transfer.

Multiple considerations in one transfer

If more than one transaction is evidenced in one transfer, both considerations need to be set out, e.g. 'Devise in the will of [name] deceased, and \$XXX paid by the transferee'.

Non-monetary considerations

Circumstances	Suggested wording for considerations
<p>Change manner of holding</p> <p>Transfer to change the manner of holding between two or more registered proprietors.</p>	<p>Desire to change the manner of holding.</p>
<p>Breakdown of marriage or de facto relationship (regardless of gender)</p>	<p>Breakdown of marriage.</p> <p>Breakdown of a domestic relationship.</p>
<p>Family Law Act</p> <p>Transfer pursuant to the <i>Family Law Act 1975</i>, when an order is made (or sanctioned) by the court.</p>	<p>Order pursuant to Section [number] of the <i>Family Law Act 1975</i> dated dd/mm/yyyy.</p>
<p>Marriage</p> <p>Transfer when parties intend to marry.</p>	<p>An agreement to marry. A marriage to be solemnised between [name] and [name].</p>
<p>Transfers between spouses or domestic partners (regardless of gender)</p>	<p>Desire to make a gift.</p> <p>Natural love and affection.</p>
<p>Chattels exchanged for land</p> <p>Transfer when chattels are exchanged for land.</p>	<p>The transferee having agreed to give to the transferor (before the execution of this transfer) certain goods, the value of which is agreed to be \$XXX.</p>
<p>Devise in a will</p> <p>The transferee is entitled by way of a devise in a will.</p>	<p>Devise in the will of [name] deceased.</p> <p>Devise in the will of [name] deceased and a deed of family arrangement (or as the case may be), dated dd/mm/yyyy.</p>
<p>Intestacy</p> <p>Transferee is solely entitled through intestacy of a deceased estate.</p>	<p>Being solely entitled to the intestate estate of [name], deceased.</p>
<p>Exchange agreement</p> <p>Transfer to give effect to an exchange of land with other land.</p> <p>Note: all transfers constituting the exchange of land must be lodged for simultaneous registration.</p>	<p>An agreement to exchange the land and in further consideration of the transfer of the same date over the land in Volume [number] Folio [number] \$XXX (or \$Nil – as the case may be) being paid for equality of exchange.</p>
<p>Not in Common Ownership transfer (NICO)</p> <p>Transfer to resolve the resulting proprietorship from a plan of subdivision or consolidation made</p>	<p>A desire to realign the boundaries</p>

Title

Circumstances	Suggested wording for considerations
by the registered proprietors of two or more titles held in different ownership.	NICO Transfer
Partition agreement	
Transfer to give effect to an agreement to partition between the registered proprietors.	An agreement to partition, dated dd/mm/yyyy, \$XXX (or \$Nil – as the case may be), being paid for equality of partition.
Circumstances	Suggested wording for considerations
Rectify an error	
If land was wrongly transferred and the registered proprietor wants to transfer it to the rightful owner, or land was omitted from a prior transfer.	To rectify an error. (Include an explanation of how the error occurred, including reference to the instrument number –if any – that gave rise to the error.)
Release a debt	
Transfer of land to satisfy a debt owing.	\$XXX due and owing by the transferor, the transferee, the transferee releases the transferor from all liability. \$XXX due and owing by the transferor to the transferee, the transferee agrees to accept the land in full satisfaction of the debt.
Trustees	
Transfer to trustees or change of a trustee.	The transferees being entitled in equity.
Severance of joint tenancy	
Transfer by one joint proprietor to sever the joint tenancy.	Desire to sever the joint tenancy.

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