

# Guide to replacing a lost or destroyed Certificate of Title - Unrepresented parties

**Note: From 1 August 2019 conveyancers or lawyers representing clients in an Application for a new paper Certificate of Title in place of one lost or destroyed must lodge via the electronic lodgement network (PEXA), unless an exemption applies. For exemptions refer to the Request to accept paper lodgement form.**

**This guide sets out the requirements to lodge an Application for a new paper Certificate of Title in place of one lost or destroyed – form 10, under the Transfer of Land Act 1958.**

**Land Use Victoria issues a paper Certificate of Title to the person who last lodged documents at Land Use Victoria for registration. This is usually one of the registered proprietors (owners), the mortgagee (bank or other lender), or a lawyer or conveyancer for the registered proprietors or mortgagee.**

**You can identify the party to whom a paper Certificate of Title is issued by doing an issue search at Land Use Victoria.**

## Documents required by Land Use Victoria

### Application for a new paper Certificate of Title in place of one lost or destroyed – form 10

If lodging in paper, this form must be fully completed and is available on the Transfer of Land Act page at [www.propertyandlandtitles.vic.gov.au/property-forms>Transfer of Land Act>Transfer](http://www.propertyandlandtitles.vic.gov.au/property-forms>Transfer of Land Act>Transfer).

### Statutory declaration

A completed and signed statutory declaration is required from all the registered proprietors, explaining

what happened to the Certificate of Title after it was issued by Land Use Victoria. The statutory declaration form is located directly below the application on the website. Also see 'How to complete the statutory declaration' later in this guide.

A statutory declaration is also required from the party to whom the Certificate of Title last issued, detailing how that party disposed of the missing Certificate of Title. Statutory declarations will also be required from any party who may have had subsequent possession of the missing Certificate of Title.

### 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.propertyandlandtitles.vic.gov.au/property-forms>Verification of identity](http://www.propertyandlandtitles.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.propertyandlandtitles.vic.gov.au/property-forms>Verification of identity](http://www.propertyandlandtitles.vic.gov.au/property-forms>Verification of identity).

### Issue Search

If an online Issued Document Enquiry does not indicate the last issuing party, a manual Issue Search Request – available from Land Use Victoria reception counter –

# Guide to replacing a lost or destroyed Certificate of Title - Unrepresented parties

will need to be produced. This usually applies to documents prior to 1984.

## Company Search

If the registered proprietor of the land is a company, a company search identifying the company's officers (one of whom should be making the statutory declaration) will be required.

## Fees

Land Use Victoria fees are payable at lodgement.

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

Land Use Victoria may requisition an additional assurance contribution payment after lodgment, if the application is assessed as high risk.

## Applications when any registered proprietor is deceased

If any registered proprietor is deceased, a form 10 must be accompanied by the appropriate application to remove the name/s of the person/people deceased. The Application by a Legal Personal Representative (APR), or Application by Surviving Proprietor (ASP) and their guides are also available on the website.

## Before lodging at Land Use Victoria

Prior to lodgment, an up-to-date title search and issue search must be obtained.

## How to complete the application 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.propertyandlandtitles.vic.gov.au/property-forms) page at [www.propertyandlandtitles.vic.gov.au/property-forms](http://www.propertyandlandtitles.vic.gov.au/property-forms)>Annexure Page PDF form.

## The points below assist in completing the application

### Lodged by

This section is to be completed by the party lodging the application at Land Use 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 Use Victoria customer code (if applicable).

# Guide to replacing a lost or destroyed Certificate of Title - Unrepresented parties

## 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.

## Applicant

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

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

## Signed

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.

## How to complete the statutory declaration

- Insert the full name and residential address of the person making the declaration. If the registered proprietor is described by any different names in any of the documents submitted, this should be explained by statutory declaration.
- Documents – the Land Use Victoria issue search and copies of relevant documents and correspondence should be referred to in one or more statutory declarations. If the statutory declaration refers to these or other documents, you must sign a certificate attached to the document identifying it as an exhibit to the statutory declaration. The authorising witness must sign the certificate and insert their qualification as a statutory declaration witness. Clause 1 – If the land is subject to a contract of sale, the statutory declaration must also state the contract price and name of purchaser. A copy of the contract should be produced with your application.
- Clause 2 – include the date when and to whom Land Use Victoria last issued the paper Certificate of Title and attach the issue search results. Note: if a caveat affects the land a statutory declaration must be provided stating that the paper Certificate of Title is not in the possession of the caveator(s) or in the possession of the legal practitioner for the caveator(s).
- Clause 3 – the statutory declaration must trace the custody of the paper Certificate of Title from the time it was last issued from Land Use Victoria until loss or destruction was discovered. If a paper Certificate of Title is believed to have been lost while in the custody of a mortgagee (for example a bank), the mortgagee must state if monies are owing on the loan; that the relevant records of the mortgagee still exist; and that the records show that the certificate was not released from the custody of the mortgagee. In the case

# Guide to replacing a lost or destroyed Certificate of Title - Unrepresented parties

of destruction, the remains of the old certificate must be produced or accounted for and copies of any correspondence about insurance claims must be supplied. In the case of theft, details of the report to police must be supplied; and copies of correspondence about insurance claims must be supplied. In any case where the mortgagee's records have been destroyed (for example after repayment of a loan), further proof is required that the certificate was not released from the mortgagee's custody.

- Clause 4 – include details about when, where and by whom the paper Certificate of Title was last seen. If you have no personal knowledge because, for example, you are an executor of a deceased proprietor, you must state your belief that the missing paper Certificate of Title has not been deposited as a security or held by another by way of lien. You must also explain the reasons for your belief. In the case of a witness who is deceased, unavailable or uncooperative, inability to obtain a statutory declaration must be substantiated with copies of correspondence, death certificates or other appropriate evidence attached to your own statutory declaration.
- Clause 5 – you must state that the missing certificate has not been deposited as a security or held by another by way of lien.
- Clause 6 – one or more statutory declarations must detail who looked where to find the missing paper Certificate of Title. If you have failed to look in any obvious places – e.g. safety deposit box, personal papers or your bank if

the mortgage was paid out and the paper Certificate of Title was not returned – you will be required to look there and submit a further statutory declaration.

- Clause 7 – you must state in your statutory declaration that you undertake to return the missing paper Certificate of Title to the Registrar of Titles in the event that it is ever found.
- For all other requirements for completing a valid statutory declaration please refer to <https://www.justice.vic.gov.au/statdecs>

## Contact us

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

© The State of Victoria Department of Environment, Land, Water and Planning 2021



This work is licensed under a Creative Commons Attribution 4.0 International licence. You are free to re-use the work under that licence, on the condition that you credit the State of Victoria as author. The licence does not apply to any images, photographs or branding, including the Victorian Coat of Arms, the Victorian Government logo and the Department of Environment, Land, Water and Planning (DELWP) logo. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>

### Disclaimer

This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

### Accessibility

If you would like to receive this publication in an alternative format, please telephone the DELWP Customer Service Centre on 136186, email [customer.service@delwp.vic.gov.au](mailto:customer.service@delwp.vic.gov.au), or via the National Relay Service on 133 677 [www.relayservice.com.au](http://www.relayservice.com.au). This document is also available on the internet at [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au).