

Application for a Replacement Certificate of Title, form 12PV: Instructions for Completion

GENERAL INSTRUCTIONS

1. For the purposes of these instructions, a “private person” is a natural person (i.e. not a corporation) who is not the holder of a document collection box at LPI.
2. For current fees call LPI or visit the Department of Lands website (see instruction 21 below).
3. A replacement certificate of title will not be issued until LPI fully investigates the application. If LPI considers the evidence furnished insufficient to support the application it will exercise its discretionary power under section 111(2) of the Real Property Act 1900 to require the applicant to provide further evidence, and this may delay the issue of a replacement certificate of title.

INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM

4. Complete the form in dense black or dark blue ink. If handwriting, use block capitals only.
5. Do not use an eraser or correction fluid to make alterations: rule through rejected material and initial the left-hand margin.
6. If the space provided at any point is insufficient, insert “See Annexure” at that point and include the required material on white A4 paper at least 80gsm (ordinary copier paper satisfies these requirements) using one side only. Insert a heading beginning “Annexure to ...” and specifying the type of form, the date and the parties to the transaction. Identify the material included, where possible by referring to the relevant marginal heading on the form. In the case of signatures which could not be fitted in the space provided, reproduce the text and layout used on the form. Number all pages in sequence with the form using the format “Page ... of ...”, the number to be placed at the foot of the form in the centre. The first and last pages must be signed by the parties and any witness. Securely attach the additional pages to the upper left-hand corner of the form: a Nalclip is preferred; stapling should be avoided.
7. Insert the total number of pages, including any additional pages (see instruction 6 above), in the space provided at the foot of the form.
8. The following instructions relate to the marginal letters on the form.

(A) Certificate of title

Insert the identifier or Volume and Folio number of the certificate of title for which a replacement is required.

More than one certificate of title may be included in the application provided that all the certificates of title:

- i. show the same registered proprietors; and
- ii. were lost, destroyed, stolen, damaged or defaced in the same circumstances.

(B) Lodged by

This section must be completed by the person or firm lodging the form at LPI (“the lodging party”). If the lodging party does not have a LPI document collection box, leave the relevant panel blank. If the lodging party has a Listed Lodging Party Number (“LLPN”) insert it as the first item of the first line in the relevant panel; use the following format: “LLPN: 123456. Provision of a reference is optional.

(C) Registered Proprietor

Insert the full names of all the registered proprietors appearing on the certificate of title. Address and occupation are not required. In the case of a private company, include the ACN or ARBN. If the name of a registered proprietor has changed since the certificate of title was issued, refer to instruction 9(c)i below.

(D) Applicant

Insert the full name. Address and occupation are not required. In the case of a private company, include the ACN or ARBN.

The applicant may be—

- a registered proprietor shown on the certificate of title,
- a lending institution holding a registered first mortgage over the land in the certificate of title, or
- a party who had custody of the certificate of title at the time of it was lost, stolen, destroyed, damaged or defaced.

See instruction 8(F) below and letter (F) on the form.

(E) Misaid, destroyed, stolen, damaged, or defaced

Tick one only.

(F) The applicant is ...

Tick one only. If “other” is selected, fully specify the basis on which the applicant claims to be entitled to apply.

(G) Execution

The completed form must be executed by or on behalf of the applicant. Any witness must be an adult who knows the person executing and is not an applicant. Where the form is executed:

By an individual on his/her own behalf The signature must be witnessed.

By an attorney The power of attorney must be registered at LPI. In addition to the attorney's signature, a statement in the following format must be added: "John Smith by his attorney Jane Smith pursuant to power of attorney Book 1234 No. 567". The signature must be witnessed. (See also instruction 9(c)v below).

Under authority Disclose the nature of the authority. The signature must be witnessed.

By a solicitor, licensed conveyancer or barrister on behalf of the applicant Add the signatory's full name and capacity in block capitals. It is not necessary for the signature to be witnessed.

By a corporation The form of execution must include reference to the power or authority relied on by the signatories. Where an authorised officer signs, the signature must be witnessed.

ADDITIONAL DOCUMENTATION WHICH MUST ACCOMPANY THE APPLICATION

❖ **except** in the cases referred to in instructions 14–15 below)

Evidence relating to the loss or destruction of the certificate of title

9. The following evidence **must** accompany the application when lodged at LPI:

(a) Current Local Council rate notice for the land in the certificate of title

A copy certified by a prescribed functionary (see instruction 17 below) to be a true copy is also acceptable.

If the address for service of notice shown on the rate notice has changed since the rate notice was issued, refer to instruction 9(b)ix below.

(b) Statutory declaration by **all** the registered proprietors

The statutory declaration must:

- i. give all the relevant facts in as much detail as possible; simply stating that the certificate of title "is lost" or "cannot be found" is insufficient;
- ii. trace the chain of custody of the certificate of title from the time it last left LPI after registration of a transaction (e.g. a discharge of mortgage) to the last person known to have had possession of it;
- iii. fully describe the circumstances of the loss of the certificate of title;
- iv. in the case of theft, specify the police station at which the theft was reported and the "event number" assigned to the matter by the police;
- v. state that the certificate of title is not held by any person or corporation as security for a loan or for any other purpose;
- vi. state that no registered proprietor has been bankrupt or insolvent;
- vii. state that no registered proprietor's estate has been assigned for the benefit of creditors; and
- viii. state that the land in the rate notice is identical with the land in the certificate of title.
- ix. give the applicant's current address if the address for service of notice shown on the rate notice lodged as evidence with the application has changed (see instruction 20(b) below).

(c) Additional evidence required in the circumstances specified

Where—

- i. *The name of a registered proprietor has changed since the issue of the certificate of title or of any document to be lodged with the application as evidence or as proof of identity (see instructions 9–13):*
The applicant must do one of the following—
either lodge with the application a completed change of name (form 10CN) and notice of sale: in that case, an additional lodgment fee will be charged and the replacement certificate of title will be issued in the new name;
or lodge with the application a statutory declaration setting out the circumstances of the change of name: in that case, no additional lodgment fee will be charged and the replacement certificate of title will **not** be issued in the new name.
- ii. *The last person known to have had possession of the certificate of title is someone other than a registered proprietor:*
A statutory declaration by that person giving full details of how it came into that person's possession and how it was lost or damaged; and, in the case of loss, what steps have been taken to locate it.
- iii. *The certificate of title is thought to have been lost in the post or at a Document Exchange:*
A written reply to enquiries directed to the relevant organisation, and the result of searches conducted.

- iv. *The certificate of title has been destroyed in a fire:*
The Fire Brigade's report of the fire.
- v. *The applicant's attorney has signed the application:*
The original power of attorney document or a copy certified by a solicitor or a justice of the peace to be a true copy together with a statutory declaration to the effect that that the power of attorney has not been revoked.

Company as applicant

10. In addition, where the applicant is a company—
- (a) An Australian Securities and Investment Commission search certificate less than 28 days old showing the company's current registered address must be provided; and
- (b) The authorised officer who makes the required statutory declarations on behalf of the company must provide proof of identity in the form of a driver's licence or a passport.

Proof of the applicant's identity

11. Documents required

Where the applicant is an Australian citizen or a foreign national, documentary proof of identity from each of categories 1–3 below must be provided. Where the applicant is a New Zealand national, a total of three documents from categories 2 and 3 must be provided. **NOTE:** The same document may not be used in more than one category; for example, a personal reference used to satisfy the requirement for a category 2 document may not also be used to satisfy the requirement for a category 3 document.

	Australian Citizens	New Zealand Nationals	Foreign Nationals
Category 1	<ul style="list-style-type: none"> Australian standard birth certificate Australian citizenship certificate 	Not applicable	<ul style="list-style-type: none"> Current entry visa Current resident visa
Category 2	<ul style="list-style-type: none"> Current Australian passport Current Australian driver's licence Current Photo Card issued by the New South Wales Roads and Traffic Authority Current Birth Card issued by the New South Wales Registry of Births, Deaths and Marriages Personal reference (only acceptable if the applicant does not possess any of the above) 	<ul style="list-style-type: none"> Current Passport Current Australian driver's licence 	<ul style="list-style-type: none"> Current passport Current Australian driver's licence
Category 3 (NB: the document from this category must show the applicant's current address)	<ul style="list-style-type: none"> Current rate notice Current bank statement Personal reference 	<ul style="list-style-type: none"> Personal reference Current rate notice 	<ul style="list-style-type: none"> Personal reference

12. Where a personal reference is proffered

Any personal reference provided as proof of identity must be:

- (a) on form 10-1210 Personal Reference included with this kit and also available from the Department of Lands website; or
- (b) drawn in the same terms as form 10-1210 and be formatted in a similar way; and
- (c) given by an Australian citizen; and
- (d) given as a statutory declaration; and
- (e) accompanied by evidence of the referee's identity consisting of one item from each of categories 1, 2 and 3 referred to in instruction 11 above, excluding a personal reference.

Proof of lodging party's identity

13. Any private person (see instruction 1 above) lodging the application at LPI on behalf of the applicant must provide identification in the form of a driver's licence or a passport.

ADDITIONAL DOCUMENTATION WHICH MUST ACCOMPANY THE APPLICATION

where the applicant is a lending institution holding a registered 1st mortgage over the land in the certificate of title

14. The applicant must provide a statutory declaration by an authorised officer giving details of the loss, destruction or damaging of the certificate of title and, in the case of loss, the steps taken to locate it.

where the applicant is a lending institution (other than one referred to in instruction 14), trustee institution, solicitor or licensed conveyancer having had custody of the certificate of title at the time it was mislaid, destroyed, stolen, damaged or defaced.

15. The following must be provided:

- (a) A statutory declaration made on behalf of the lending institution by a solicitor or authorised officer who has the requisite knowledge giving details of the loss, destruction or damaging of the certificate of title and, in the case of loss, the steps taken to locate it;
- (b) A statutory declaration by the registered proprietor(s) confirming that the certificate of title was held by the applicant; and
- (c) A current Local Council rate notice for the land in the certificate of title (see instruction 9(a) above).

GENERAL MATTERS RELATING TO ADDITIONAL DOCUMENTATION

16. Every statutory declaration lodged with the application must be witnessed by a prescribed functionary before lodgment at LPI. In New South Wales the prescribed functionaries are:

- a practising solicitor,
- a justice of the peace,
- a notary public,
- a commissioner of the court for taking affidavits, or
- a person otherwise authorised to administer an oath.

NOTE: LPI does not provide the services of a prescribed functionary.

17. Every copy of an original document lodged with the application as evidence or proof of identity (see instruction 9–15 above) must be certified to be a true copy by a prescribed functionary (see instruction 16 above) before lodgment at LPI.
18. Official documents lodged with the application as evidence or proof of identity, e.g. a birth certificate:
- (a) will be validated with the relevant authority;
 - (b) if an original document, will be photocopied and returned;
 - (c) if a copy, must be certified to be a true copy by a prescribed functionary (see instruction 16 above).

LODGMET OF THE APPLICATION

19. The completed form together with the necessary evidence (see instruction 9–18 above) must be lodged by hand at LPI, Queens Square, 1 Prince Albert Road, Sydney (adjacent to Hyde Park Barracks). It will not be accepted through the post.

DELIVERY OF THE REPLACEMENT CERTIFICATE OF TITLE

20. The replacement certificate of title will be delivered as follows—

- (a) **Where the lodging party is the holder of a LPI document collection box:**
It will be delivered through the lodging party's document collection box.
- (b) **Where the lodging party is not the holder of a LPI document collection box and the applicant is a private person:**
It will be posted by registered mail to the address for service of notice shown on the rate notice lodged as evidence with the application (see instruction 9(a) above) or, if that address has changed since the rate notice was issued, to the address given in the applicant's statutory declaration (see instruction 9(b)ix above). The person accepting delivery from Australia Post will be required to sign a receipt.
- (c) **Where the lodging party is not the holder of a LPI document collection box and the applicant is a corporation:**
It will be posted by registered mail to the address shown on the Australian Securities and Investment Commission search certificate (see instruction 10(a) above).

If you have any questions about this form or privacy matters, please call Department of Lands, Land and Property Information Division, Client Services on 02 9228 6713 or visit our website at www.lands.nsw.gov.au.