

Application for replacement

Certificate of Title



Info Sheet

www.nswlrs.com.au

January 2018

This Info Sheet sets out Frequently Asked Questions about how to prepare and lodge an *Application for Replacement Certificate of Title* (form 12PV, **Application**) for registration with NSW Land Registry Services (NSW LRS), under section 111 of the *Real Property Act 1900*.

You should use an Application:

- Where you are the owner of the land (either as a private person or as a corporation) and your current Certificate of Title for the land has been mislaid, destroyed, stolen, damaged or defaced, and
- you intend to:
 - prepare and lodge the Application yourself, or
 - ask another private person to lodge it on your behalf, or
 - use a solicitor or licensed conveyancer to prepare and lodge it on your behalf.

An Application form and instructions for completion can be obtained on our website www.nswlrs.com.au.

I cannot locate the Certificate of Title to my land. How can I get a replacement?

If you cannot locate your Certificate of Title you can complete an Application and lodge it with NSW LRS. But before you do so you must ensure that you have conducted a thorough search of your records and any place where you store important documents to ensure that the Certificate of Title cannot be located.

If your land is currently mortgaged then the Certificate of Title should be in the possession of the mortgagee (the lender).

If, after carrying out the search, your Certificate of Title is lost or in the event that the Certificate of Title has been destroyed, stolen or is damaged or defaced

you may apply for a replacement using an Application.

Should an Application be used for all requests for a Certificate of Title?

No, it should only be used if your Certificate of Title is destroyed, stolen, lost, damaged or defaced.

If you require a new Certificate of Title for any other reason (for example the creation of a consolidated title) then a Request (form 11R) should be used. Additional information concerning the different types of Requests can be found on our website www.nswlrs.com.au.

Who can make an Application?

The Application must be made by at least one of the registered proprietors. Information concerning other parties who may make an Application can be found on the Registrar-General's Guidelines.

What evidence must accompany my Application?

It must be accompanied by:

- the current (being no older than 12 months from the rating date) local council rate notice for the land in the Certificate of Title. A photocopy will be accepted provided it has been certified by a solicitor or justice of the peace.

However a certificate under section 603 of the *Local Government Act 1993* will not be accepted.

- a statutory declaration by all of the registered proprietors, and anyone known to have had possession of the title. The statutory declaration(s) must:
 - trace the chain of custody of the title to the person last known to have had possession of it,

- give as much detail as possible regarding all facts. It is not sufficient to merely state that a Certificate of Title 'is lost' or 'cannot be found',
 - fully describe the circumstances regarding the loss of the Certificate of Title,
 - 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,
 - give particulars of any unregistered mortgage, charge or covenant charge affecting the land. In this case, an additional statutory declaration by the mortgagee or chargee is required, stating that they are not in possession of the Certificate of Title,
 - state that the Certificate of Title is not held by any person or corporation as security for a loan or any other purpose,
 - state whether the registered proprietor/s has/ have been bankrupt (or insolvent where the registered proprietor is a corporation),
 - state that the land in the attached rates notice is identical with the land in the Certificate of Title,
 - 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.
- your usual practice with regard to safe custody of similar documents and whether the practice was followed in this case,
 - when and where the Certificate of Title was last seen and the circumstances under which it was then referred to,
 - whether any other person had access to the Certificate of Title and, if so, what enquiries have been made of that person,
 - your conclusion as to the reason for the loss.

If the Certificate of Title was lost when in the custody of a person other than yourself, a statutory declaration from that person will also be required.

Who can sign an Application?

The Application must be signed by you and witnessed, or it may be executed on your behalf by an attorney, solicitor or licensed conveyancer and witnessed.

Where your attorney has signed the Application, the original of the Power of Attorney must be sighted when lodging the form.

The name, address and daytime telephone number of the witness to your signature must be shown on the Application.

You and any person lodging the Application on your behalf (other than a solicitor, licensed conveyancer, law stationer or financial institution that has a NSW LRS document collection box) must lodge photo and other identification with the Application.

What is a statutory declaration?

A sample statutory declaration suitable for use with an Application is included below.

What photo and other identification do I need?

The Conveyancing Rules standardised the formal verification of identity and authority (right to deal) requirements. The table shows what identification documents you will need to supply with your Application. If you lodge original passports, drivers' licences, etc. they will be copied and returned. The copied documents will be stored as evidence and will not be available on the public record.

If you wish to lodge copies instead of original documents, they must be certified in NSW by one of the following:

Under normal circumstances, an attorney pursuant to a Power of Attorney cannot complete the statutory declaration on behalf of the registered proprietor. NSW LRS may based on the circumstances of the registered proprietor's inability to complete the statutory declaration, determine whether such evidence is acceptable.

Otherwise the attorney must declare the statutory declaration in their own right as attorney acting on behalf of the registered proprietor and that the Power of Attorney has not been revoked. The original Power of Attorney or a copy certified by a solicitor or Justice of the Peace to be a true copy must be furnished .

If the Certificate of Title has been lost under circumstances for which there is no apparent explanation, you should also state:

- a justice of the peace
- a notary public
- a commissioner of the court for taking affidavits
- a solicitor authorised by subsection (1) of section 27, Oaths Act 1900 to take and receive any affidavit
- another person by law authorised to administer an oath.

The evidentiary documents you produce to support your Application will be validated with the appropriate authorities.

The documents produced must be current, except for an expired Australian Passport which has not been cancelled and was current within the preceding 2 years.

All requirements in one of the categories listed must be met as a minimum:

Category	Minimum Document Requirements
	For Persons who are Australian citizens or residents:
1	Australian Passport or foreign passport plus Australian drivers licence or Photo Card plus change of name or marriage certificate if necessary.
2	Australian Passport or foreign passport plus full birth certificate or citizenship certificate or descent certificate plus Medicare or Centrelink or Department of Veterans' Affairs card plus change of name or marriage certificate if necessary.
3	Australian drivers licence or Photo Card plus full birth certificate or citizenship certificate or descent certificate plus Medicare or Centrelink or Department of Veterans' Affairs card plus change of name or marriage certificate if necessary.
4	a) Australian Passport or foreign passport plus another form of government issued photographic identity Document plus change of name or marriage certificate if necessary. b) Australian Passport or foreign passport plus full birth certificate plus another form of government issued identity Document plus change of name or marriage certificate if necessary.
5	a) Identifier Declaration plus full birth certificate or citizenship certificate or descent certificate plus Medicare or Centrelink or Department of Veterans' Affairs card plus change of name or marriage certificate if necessary. b) Identifier Declaration by a Person specified in Verification of Identity Standard paragraph 4.4(e) plus Medicare or Centrelink or Department of Veterans' Affairs card plus change of name or marriage certificate if necessary. <i>Note: Refer to Verification of Identity Standard paragraph 4.*</i>

	For Persons who are not Australian citizens or residents:
6	a) Foreign passport plus another form of government issued photographic identity Document plus change of name or marriage certificate if necessary. b) Foreign passport plus full birth certificate plus another form of government issued identity Document plus change of name or marriage certificate if necessary.

*Paragraph 4.4(e) NSW Participation Rules for Electronic Conveyancing

Marriage Certificate from Registry, Births, Deaths and Marriages must be provided. A ceremonial marriage certificate is not acceptable as supportive evidence.

A document containing text in a foreign language must be accompanied by an English translation. The translation must be signed on each page by the interpreter and be identified as an accurate translation of the document.

What is an Identifier Declaration?

If categories 1 to 4 cannot be met then Category 5(a) may be used by providing an Identifier Declaration. An Identifier Declaration certifies the identity of the person being referenced. The identity of the declarant must be supported by original or certified copies of documentation that meets all of the requirements in one of the categories numbered 1 to 4 in the table.

The Identifier Declaration is in the form of a Statutory Declaration detailing the following:

- the Identity Declarant's name and address; and
- the Identity Declarant's occupation; and
- the Identity Declarant's date of birth; and
- the nature of the Identity Declarant's relationship with the Person Being Identified; and
- that the Identity Declarant is not a relative of the Person Being Identified; and
- that the Identity Declarant is not a party to the Conveyancing Transaction(s) the Person Being Identified has or is entering into; and
- the length of time that the Identity Declarant has known the Person Being Identified; and
- that to the Identity Declarant's knowledge, information and belief the Person Being Identified is who they purport to be.

If category 5(a) cannot be met, Category 5(b) may be used. The Identifier Declaration must be made by a person who is an Australian Legal Practitioner, a Bank Manager, Community Leader, Court Officer, Doctor, Land Council Officeholder, Licenced Conveyancer, Local Government Officeholder,

Nurse, Public Servant or Police Officer. For more information refer to Paragraph 1, Schedule 8 in NSW Participation Rules for Electronic Conveyancing.

If I appoint someone else to lodge my Application for me, do they have to provide any proof of their identity?

Yes, if you appoint someone who is not a solicitor or licensed conveyancer they must provide their driver's licence or passport, in addition to the evidence provided to prove your identity.

NSW LRS will take appropriate measures to ensure that you are aware that the Application is being made on your behalf by this person.

If you use a solicitor or licensed conveyancer who regularly lodges documents for registration, who has an NSW LRS document collection box, they will not have to provide proof of their identity to NSW LRS.

My Certificate of Title was lost in the mail. Is any additional evidence required?

Where a Certificate of Title has not been received by registered post within one month following registration of an instrument, a replacement Certificate may be obtained at no cost upon receipt of the following evidence:

- a statutory declaration from the lodging party stating that relevant inquiries were made with the post office and the registered post article containing the Certificate of Title has not been located,
- a corroborating statement from the post office confirming that the registered post article could not be located.

Where one month has elapsed following registration of the instrument, an Application should be lodged and the prescribed lodgment fee paid. The Application must be accompanied by all evidential and identity documents together with a letter from Australia Post indicating that you have reported the loss of the Certificate of Title in the mail and detailing efforts made by that organisation to locate it.

My Certificate of Title has been stolen. Is any additional evidence required?

In addition to the normal evidence required you must attach the police report or a police event

number (from the relevant police station) relating to the theft.

My Certificate of Title was destroyed in a fire. Is any additional evidence required?

In addition to the normal evidence required, you must attach a report from Fire & Rescue NSW.

I have my Certificate of Title, but it has been damaged or defaced and I would like to replace it.

In addition to the normal evidence required, you must attach the damaged or defaced Certificate of Title.

I am lodging the Application as attorney for the registered proprietor. Is any additional evidence required?

You must lodge the original Power of Attorney with the application, as well as providing proof of your identity.

I have changed my name since the current Certificate of Title was issued. What do I need to do to have the replacement Certificate of Title issued in my new name?

You should lodge a completed *Change of Name* (form 10CN) and *Notice of Sale* form and required evidence with your application. An additional fee will be payable.

I am lodging an Application where a mortgage is noted on the register. Is any additional evidence required?

When a mortgage is noted on the register, the mortgagee may be holding the Certificate of Title as security. The lodgment of an Application may therefore be unnecessary. Enquiries should be made to the mortgagee before lodging an Application.

When an Application is made by the registered proprietor where a mortgage is noted on the register, the usual statutory evidence and council rates notice must be furnished. The statutory evidence must trace the searches undertaken to locate the Certificate of Title and the reasons for lodging the Application in view of a registered mortgage.

Statutory evidence will be also required from the mortgagee stating that they are aware of the

Application and are not in possession of or aware of the location of the Certificate of Title.

If a mortgage that has been repaid but it is still noted on the title then a *Discharge of Mortgage* form (O5DM) completed by the mortgagee must be lodged with the Application.

How do I lodge the Application at NSW LRS?

You should take the Application and evidence to:

NSW Land Registry Services
1 Prince Albert Road, Queens Square
Sydney NSW 2000

Postal lodgments are not accepted.

The prescribed lodgment fee must be paid. Additional fees may be payable in cases in which the Application is for a manual folio.

To find out the current lodgment fee for an Application visit our website www.nswlrs.com.au.

What happens after I have lodged my Application?

The documents will be examined and if in order a new edition of the Certificate of Title will be issued.

What do I do if the missing Certificate of Title is subsequently discovered?

You should inform NSW LRS that the missing title has been discovered. If this is done:

- before the replacement Certificate of Title has been issued, then action on the Application will be discontinued,
- after the replacement Certificate of Title has been issued, then the old title must be produced at NSW LRS where it will be cancelled.

Further information

Further information can be obtained by visiting our website: www.nswlrs.com.au.

Or contact the NSW LRS Customer Service Centre on T: 1300 052 637 or email GeneralEnquiry@nswlrs.com.au.

I want to lodge an Application which is held in the name of a company. What do I need to do?

You must meet the same requirements as those set out above as well as the following:

The statutory declaration must be made by an officer of the company authorised under section 127(1) of the *Corporations Act 2001* or other power or authority of the company. In all instances their position and authority to do so on behalf of the company must be stated.

Photo and other identification documents for the authorised officer must be provided to the same standards as are applicable for private persons.

In addition, an Australian Securities and Investment Commission search certificate less than 28 days old showing the company's current registered address must be provided. The replacement Certificate of Title will be mailed to this address.

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Statutory declaration

Oaths Act 1900, NSW, Eighth Schedule

I/We, (name/s in full)

.....

do solemnly and sincerely declare that:

1 I/We am/are the registered proprietor/s of the property situated at and known as(address), which has Certificate of Title reference

2 I/We purchased the property on or about (date) and have held the Certificate of Title in (location/s) since that time.

3 I/We have made a thorough search of said locations and have been unable to find the Certificate of Title.

4 I/We (name/s) the registered proprietor/s am/are the only person/s in possession of the land.

5 The Certificate of Title is not held by any person or corporation as security for a loan or for any other purpose whatsoever.

6 I/We have never been bankrupt or insolvent and have not assigned my/our estate for the benefit of creditors.

7 Annexed hereto and marked with the letter "A" is a true copy of a current local Government Rates Notice for the land, and I/we declare that this notice refers to the land in the missing Certificate of Title reference.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900.

Declared at: on

[place]

[date]

.....

[signature of declarant]

in the presence of an authorised witness, who states:

I,, a,

[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and

2. *I have known the person for at least 12 months OR *I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was

[describe identification document relied on]

.....

[signature of authorised witness]

[date]