

WITNESSING AND IDENTITY VERIFICATION REQUIREMENTS FOR TRANSFER OF LAND DOCUMENTS EXECUTED OUTSIDE OF AUSTRALIA

Summary

The following requirements only relate to transfer of land documents where the Seller (Transferor/s) executes the transfer outside of Australia. The requirements are summarised as follows:

- transfer of land documents executed by Seller/s (transferors) outside of Australia are required to be witnessed by an Australian consular officer;
- prior to witnessing the execution of the transfer of land, the Consular Officer is to undertake an identity check of the transferor(s) and provide certified copies of all the identity documents sighted; and
- Conveyancers then provide the original certified copies of the identity documents, sighted by the Consular Officer who witnessed the transfer of land, to the Registrar of Titles at the time of lodging the transfer of land at Landgate.

Identification Documents Required

The person who is being identified should produce to the person who performs the identification, all the current and original identity documents specified either in Category 1 or Category 2 as detailed in the table below:

| Category | Minimum Document Requirements |
|----------|---|
| 1 | 1. Australian or Foreign Passport plus 2. Drivers Licence or other equivalent Photo ID issued by a Government body plus 3. current Rates Notice for the property issued by the local government |
| 2 | 1. Australian or Foreign Passport or Birth Certificate if a Passport has not been issued plus 2. Drivers Licence or other equivalent Photo ID issued by a Government body plus 3. current Rates Notice for the property issued by the local government |

Note: If the land owner does not have a current Rates Notice, a letter from the relevant local government stating the name of the land owner/s as recorded on the local governments records will suffice.

Information regarding the Consulate

An Australian consular officer is defined by section 145(4) of the TLA as a person appointed to hold or act in any of the following offices (being an office of the Commonwealth) in a country or place outside the Commonwealth, such as:

- ambassador
- minister
- high commissioner
- head of mission
- commissioner
- chargé d'affaires
- consul or secretary at an embassy
- high commissioner's office
- legation or other post
- consular-general
- consul
- vice-consul,
- trade commissioner, and
- consular agent

Consular services currently provided overseas to Australians include legal / notary services such as witnessing documents related to the sale or purchase of land in Australia. Note that in some countries the Canadian Embassies provide consular services to Australians. Consular Officers at those Embassies may fall within the definition of a Consular Officer detailed above and will satisfy the new identity verification and witnessing requirements detailed in this CIB. A Consular Officer at the Australian Commerce and Industry Office in Taipei, Taiwan will also be accepted. Please refer to the latest information on the Department of Foreign Affairs and Trade's web site <https://www.dfat.gov.au/missions/>.

We strongly encourage you to contact the Consulate you intend to visit prior to travelling to that Consulate, to confirm that notary services are provided and will be available at the time of your intended visit.

Seller Checklist – FAQ's

What do I take to my appointment with the Consular Officer?

You must take the following ORIGINAL documents for the Consular Officer to identify you, and the property being sold

1. A current and original rate notice issued by the local Government Council for the property being sold. The rate notice must clearly show the address of the property being sold. It is appreciated that the notice may not be issued in the name of the Seller, however it must be sighted to connect the person presenting as the transferor with the property being sold.

If an original rate notice is not available as the property is not 'rateable', an original, signed letter from the local Government Council stating that a rates notice is not issued for that property will be accepted.

AND for EACH Seller that is required to sign the Transfer of Land document, you must provide to the Consular Officer:

2. Current and original Passport

If a passport is not available, an original birth certificate can be used, although this is not preferred.

3. Current and original Drivers License with Photo

If a photo drivers licence is not available, another form of photographic identification, issued by a government authority can be used. At least one piece of identification used must contain a photograph of the transferor being identified.

What if the Seller is a Company?

If the Seller is a Company, or other incorporated body, the Consular Officer must identify the natural person signing the transfer of land document on behalf of the company, so you must identify yourself as an individual person as shown above.

A Company search will be conducted by us as your settlement agent to verify that you are authorised to sign on behalf of the company.

Before I leave the Consular Office, what must I have completed?

The original signed Transfer of Land document, signed by all sellers and witnessed by the Consular Officer

A certified copy of the original rates notice

Certified multiple forms of identification for each and every Seller that signed the Transfer of Land document

Instructions for the Consular Officer

For EACH Seller (transferor) the Consular Officer is required to:

1) Identify the transferor prior to witnessing execution of the transfer of land by sighting all of the following current and original documents:

a) current and original rate notice issued by the local Government Council for the property being sold. The rate notice must clearly show the address of the property being sold. It is appreciated that the notice may not be issued in the name of the transferor however it must be sighted to connect the person presenting as the transferor with the property being sold; and

b) current and original passport of the transferor; and

c) current and original driver's licence for the transferor.

If a passport is not available, an original birth certificate can be used, although this is not preferred. If a driver's licence is not available another form of photographic identification issued by a government authority can be used. At least one piece of identification used must contain a photograph of the transferor being identified.

If an original rate notice is not available as the property is not 'rateable' an original, signed letter from the local Government Council stating that a rates notice is not issued for that property will be accepted.

Where a transferor is a company or other incorporated body, the Registrar of Titles requires the identity of the natural person executing the transfer of land document on behalf of the transferor to be verified by an Australian Consular Officer using the documents identified above. Refer to the Registrar of Titles' Land Titles Registration Practice Manual (section 1.10) for the Registrar's requirements for executing documents

by companies and other incorporated bodies. The Manual is available online at www.landgate.wa.gov.au.

2) After sighting the identity documents, take a copy of each document sighted and certify that the copy is a true and correct copy of the original document presented.

On the certified copy of the documents the Consular Officer must clearly state their name, position and consular office where the certification took place, as well as the date and time of the certification.

3) After being satisfied that the person is who they claim to be (based on the identity documents provided), witness the transferor execute the transfer of land document. All of the required witness details must be clearly printed on the transfer of land form. The Registrar of Titles will issue requisitions to the lodging party where witness details are incomplete or not clearly printed.

4) Provide the witnessed transfer of land document together with the certified copies of the identification documents to the transferor(s).

In exceptional circumstances, the Registrar of Titles may be satisfied with an alternate witness within the meaning of Section 145 (1)(b) of the TLA. The requirement of a transferor to travel some distance to a Consular Office will not, on its own, be considered as an exceptional circumstance. Any request seeking the Registrar of Titles' approval to use an alternate witness must be made in writing prior to the execution of the transfer of land document. All such requests must identify the land by volume and folio number as well as state the name of the registered proprietor and settlement date. E-mail requests can be made to advice@landgate.wa.gov.au.

It is the responsibility of the Seller/s (transferor/s) to provide the original executed transfer of land form and the original certified copies of the identity documents to their Conveyancer.

In circumstances where the execution of a transfer of land document is not required to be witnessed, but will be executed by the transferor outside of Australia, an identification check must be performed by an Australian Consular Officer in accordance with items 1 and 2 above. The transferor must provide the original certified copies of the identity documents to their Conveyancer.

