



Ownership Types

Land and property can be owned in several different ways, and by more than one person.

What are the different types of land ownerships?

Land and property can be owned by one person, which is called Sole Ownership, or by two or more. When property is owned by two or more people, there are two different types of joint ownership:

- Tenants in Common
- Joint Tenancy

When two or more people are buying property they need to consider, whether to buy as Tenants in Common or Joint Tenants. These are the two ways in which several people can hold title to property in South Australia and there are important legal differences between Tenants in Common and Joint Tenants.

What are Tenants in Common?

A Tenant in Common is often used where the buyers of property are friends, business associates or relations and they have pooled their funds to purchase the property.

Married couples may also own property as Tenants in Common.

Unlike Joint Tenants when one proprietor dies, that person's interest does not automatically vest in the other Tenant(s) in Common. The Executor or Administrator must administer the will or letters of administration of the deceased proprietor. Tenants in Common may hold property in equal shares or the shares can be apportioned to reflect each owner's contribution.

Tenants in Common can request to have a separate Certificate of Title for their share of the property. This is authorized by section 74 of the Real Property Act 1886. Fees are applicable for the issue of new titles.

What are Joint Tenants?

Joint Tenant ownership is more commonly used by married couples and others in similar relationships. It is a feature of a joint tenancy that when one owner dies, the survivor is automatically entitled to become the owner of the deceased's interest in a property. Joint Tenants have one Certificate of Title issued.

Upon the death of a Joint Tenant, the survivor may apply to the Lands Titles Office to become the registered proprietor of the deceased person's interest. Joint Tenants have and equal interest in the whole of the property unlike Tenants in Common who have distinct shares in property.

Can I hold as a Joint Tenant within a Tenancy in Common?

Tenants in Common can be joint owners of their share. For example: A & B own a half share as Joint Tenants and C owns the other half. If A dies, A's share vests in B. Upon registration of A's death, the registered proprietors are B of a half share and C of the other half share as Tenants in Common.

Is there a limit on the number of Tenants in Common and amount of shares?

There is no limit on the number of proprietors that can be included as Tenants in Common. The minimum number is Two.

Similarly, there is not restriction on the amount of shares held by each proprietor. I could be a very large share – for example 999 undivided 1000th parts – or a very small share, such as 1 undivided 1000th part.

How do you become registered as either a Joint Tenant or a Tenant in Common?

When you buy a property your Conveyancer should ask you how you wish to hold the property. This mode of holding will be stated on the Transfer document prepared by your Conveyancer. At settlement, the transfer document is lodged at the Lands Titles Office

and ownership details will be noted on the Certificate of Title upon registration of this document.

It is important that you understand the difference between the two ownership types and that you give your Conveyancer clear instruction. If in doubt contact your Conveyancer for clarification.

Can I change ownership type after the Transfer is registered?

Yes, however another Transfer document will need to be lodged at the Lands Titles Office to enable this to occur. Fees will apply.

When one of the registered proprietors has died, how can their name be removed from the Certificate of Title?

If a person listed on a Certificate of Title as a registered proprietor dies, certain forms need to be completed and lodged with the Lands Titles Office.

For : Sole Ownership and Tenants in Common

A Transmission Application by person representatives (Application Form A1) must be lodged for registration at the Lands Titles Office. Evidence of death is required in the form of the Probate or Letter of Administration and Registrar's certificate of Assets and Liabilities (or photocopies) must be produced.

For: Joint Tenancy

An Application to Register Death by Survivor (Application Form A2) must be lodged for registration at the Lands Titles Office. Evidence of death is required either in the form of a Death Certificate, probate or Letters of Administration. A photocopy is acceptable.

For Further Information please contact M Kley Pty Ltd – Registered Conveyancers

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Information Courtesy of Land Services Group