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## SPOUSE TRANSFER INFORMATION SHEET

For a Transfer of land to be registered at the Land Titles Office (LTO), it must first pass through the State Revenue Office (SRO). All Transfers of Land attract Stamp Duty, unless the Transfer falls within an exemption.

### Stamp Duty

Spouse Transfers in relation to the Principal Place of Residence are exempt from Stamp Duty, but must still be submitted to the SRO with a Statutory Declaration confirming marriage (legal or de facto) or the breakdown of the marriage. The Transfer of Land is stamped "exempt" and may then go to the LTO for registration. The new Title then issues to our office, we send you a copy and the original is held in safekeeping. This process usually takes less than one month to complete.

Spouse Transfers in relation to all other properties apart from the Principal Place of Residence attract stamp duty and must be submitted to the SRO for assessment.

### If there is a Mortgage

If the property is subject to a mortgage it is possible that the lender may accept the stamped Transfer for lodging at the LTO, however most lenders require us to arrange LTO lodging and registration. Some lenders also require new mortgage documents to be signed. If there is a mortgage our first step is to write to the lender, send a copy of the proposed Transfer and seek the lender's consent to the Transfer. A consent fee of approximately \$300 is usually required by the lender to consider this request and often one month passes before the lender responds.

Presuming that the lender consents to the Transfer, it is then necessary for the lender to physically take the Title to the LTO. This is done either by the Head Office of the lender or through a lodging agent and the lender may charge an additional "production fee" of up to \$200 to do so. The consent fee and production fee must be paid before the Title will be made available.

After registration of the Transfer the Title issues back from the LTO to the lender to be held as security until the loan is repaid. Because of the involvement of a lender, this process can take between 2 and 3 months to complete. We advise rating authorities of the new ownership at the conclusion of the transaction.

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### **Capital Gains Tax ('CGT')**

There will be no CGT if the property being transferred is the Principal Place of Residence, however, if the property is an investment property or a holiday home, the Spouse Transfer will be a CGT event and you must obtain specific advice from an accountant before deciding to proceed with that transfer.

### **Goods and Services Tax ('GST')**

GST only applies when monetary consideration is paid, which is not usually the case in spouse transfers.

### **Our costs**

#### **If there is no mortgage**

If there is no mortgage over the property and the Certificate of Title is available for lodging at the LTO with the Transfer, our costs are:

Professional fees	\$880
With a Land Titles Office fee	\$99 (approx.)
Searching and lodging fees	\$80 (approx.)
PEXA fees	\$276 (approx.)
<b>TOTAL COSTS</b>	<b>\$1,335 (approx.)</b>

#### **If there is a mortgage**

If there is a mortgage and it is necessary for us to liaise with a lender our costs are:

Professional fees	\$1,320
With a Land Titles Office fee	\$99 (approx.)
Searching and lodging fees	\$80 (approx.)
PEXA fees	\$276 (approx.)
<b>TOTAL COSTS</b>	<b>\$1,775 (approx.)</b>

In this case the bank will normally also charge approximately \$500.00.

\* If there are consent orders or a binding financial agreement to comply with regarding the spouse transfer, there may be additional costs.

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