

FINAL PROPERTY ORDERS

Note – Final property orders – to be made at the final hearing – may be sought in a marital or de facto claim by an applicant in their Initiating Application (or, for later applications, Application in a Case) or by a respondent in their Response to Initiating Application (or Response to Application in a Case) (“forms” above).

Precedents for routine final property orders are set out below, for you to select the ones you need. Simply download and attach them (headed “Final orders sought”) as an attachment to your Application or Response, inserting “See attachment” under the form’s section for “final orders sought”.

For any superannuation orders, simply add them at the end of the following orders.

For any final child orders, add them at the start or end of your financial orders.

1. That the Respondent [full name] and Applicant [full name] do all acts and sign all documents as are necessary to transfer to the Applicant at the expense of the Applicant all of the Respondent’s right, title and interest in the property situate at [address] in the [State/Territory] of [insert] and more particularly described in Certificate of Title Folio Identifier [insert].
2. That the Applicant and Respondent do all acts and sign all documents as are necessary to transfer to the Respondent at the expense of the Respondent all of the Applicant’s right, title and interest in the property situate at [address] in the [State/Territory] of [insert] and more particularly described in Certificate of Title Folio Identifier [insert].
3. In consideration and exchange for the transfer referred to in Order 1 hereof the Applicant shall pay to the Respondent the sum of \$[amount] within 30 days after the date of these Orders (“the settlement date”).
4. In consideration and exchange for the transfer referred to in Order 1 hereof the Respondent shall pay to the Applicant the sum of [insert] within 30 days after the date of these Orders (“the settlement date”).
5. To complete the transfer (by “the transferor”) and the payment (by “the transferee”) the following shall apply:
 - (a) Settlement will take place on the settlement date.
 - (b) The transfer documentation will be prepared by the transferee’s solicitor and delivered to the transferor’s solicitor for signature by the transferor no later than 14 days prior to the settlement date.
 - (c) If the transferee requires the return of the transfer for stamping purposes then:
 - (i) The transferee’s solicitor will advise the transferor of this requirement at the time the transfer documentation is delivered.

- (ii) The transferor will then sign and deliver the transfer to the transferee's solicitor no later than 14 days prior to the settlement date.
 - (iii) The transferee's solicitor will hold the transfer in escrow and use this transfer for stamping purposes only pending settlement.
- (d) If the property is encumbered by mortgage then:
 - (i) The Respondent and Applicant will sign an authority and any other document required by the mortgagee to release the mortgage.
 - (ii) The Respondent and Applicant will sign an irrevocable authorisation and direction (such document to be prepared by the transferee's solicitor) to enable the mortgagee to release to the transferee's solicitors any documents held by the mortgagee relating to the fire policy in respect of the property and deliver such authorisation to the mortgagee no later than 10 days prior to the settlement date.
 - (iii) The transferee will arrange for the mortgagee to attend on the settlement date for the purpose of delivery of title, executed Release of Mortgage and other required documentation.
- (e) If the Certificate of Title to the property is held by someone other than the transferor or transferee or mortgagee, then the parties will:
 - (i) Sign an irrevocable authorisation and direction (such document to be prepared by the transferee's solicitor) to release the Certificate of Title to the transferee's solicitor and deliver the authorisation document to the transferee's solicitor no later than 10 days prior to the settlement date.
 - (ii) The transferee's solicitor will use the authorisation and direction to obtain and hold the Certificate of Title (in escrow) pending the settlement.
- (f) Pending the transfer [or sale of the property under Order 8]:
 - (i) The [Applicant/Respondent] shall have the sole right to occupy the property and during such right of occupation the [Applicant/Respondent] shall be responsible for all mortgage payments, rates and outgoings of the property as they fall due up to and including the settlement date.
 - (ii) The parties hold their respective interest in the property upon trust pursuant to these Orders.
 - (iii) Neither party shall encumber the property without the consent in writing of the other party or any mortgagee.
 - (iv) Each party will cause to be repaired any damage to the property caused by them, such repair to be at such party's own expense.
 - (v) The [Applicant/Respondent] shall pay to the [Respondent/Applicant] the sum of \$[amount] per week by way of interim maintenance, ceasing upon the settlement date.