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| What is NICO |
| This fact sheet contains information on not in common ownership (NICO) titles created from plans of subdivision and consolidation. |

**What is a NICO plan?**

A NICO plan is a subdivision or consolidation by the registered proprietors of two or more titles held in different ownership.

For example:

APPLE STREET

Arthur Albert of 10 Orange Street Melbourne
is the registered proprietor of the land in
Vol 1234 Fol 567.
(subject to mortgage ZZ444 to Australia Bank).

Bill Brown

Vol 9874

Fol 563

No. 12

Arthur Albert

Vol 1234

Fol 567

Mortgage ZZ444

No. 10

Bill Brown of 12 Orange Street Melbourne

is the registered proprietor of the land in

Vol 9874 Fol 563.

APPLE STREET

Original title boundary

**Boundaries of lots in new subdivision**

ORANGE STREET

Arthur and Bill have agreed to alter the boundary
between their properties.

This can only be achieved by completing a two
lot NICO plan of subdivision.

LOT 2

LOT 1

The boundary between the properties is
altered to a new position – creating lots 1 and 2.

ORANGE STREET

Proprietorship of lots in new plan

A plan of subdivision or consolidation changes boundaries; it does not alter proprietorship.

As shown in the next diagrams, the proprietorship for lots 1 and 2 is NICO. Lots 1 and 2 both comprise parts of the land previously contained in each of Vol 1234 Fol 567 and Vol 9874 Fol 563.

The proprietorship of lots 1 and 2, both being NICO, will be shown on the new titles as:

As to the land formerly contained in Volume 1234 Folio 567

Sole proprietor – Arthur Albert of 10 Orange Street Melbourne

As to the land formerly contained in Volume 9874 Folio 563

Sole proprietor – Bill Brown of 12 Orange Street Melbourne

LOT 1

ORANGE STREET

APPLE STREET

Part of the land in

Vol 9874 Fol 563

(Bill Brown) (no mortgage)

Part of the land in

Vol 1234 Fol 567

(Arthur Albert)

(mortgage ZZ444 to Australia Bank)

Original title boundary

LOT 2

ORANGE STREET

APPLE STREET

Part of the land in

Vol 9874 Fol 563

(Bill Brown) (no mortgage)

Part of the land in

Vol 1234 Fol 567

(Arthur Albert)

(mortgage ZZ444 to Australia Bank)

Original title boundary

What is a NICO title?

A NICO title is a title created from a lot on a plan of subdivision or consolidation where the land is owned collectively by different registered proprietors of former titles.

Transferring a NICO title

As a plan of subdivision or consolidation does not transfer proprietorship, it is necessary to resolve the proprietorship of the NICO titles by means of a transfer of land.

When transferring a NICO title, all registered proprietors of the new lot must join in as transferors.

In the above example, lots 1 and 2 would be transferred in the following manner:

Lot 1

Arthur Albert and Bill Brown (Transferors)

to

Arthur Albert (Transferee)

Lot 2

Arthur Albert and Bill Brown (Transferors)

to

Bill Brown (Transferee)

When transferring, the whole of the new lot must be dealt with.

The Transfer of Land form(s) should be lodged at Land Use Victoria with the plan of subdivision. The form is available on the [Fees, guides and forms](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms) page at www.land.vic.gov.au

Transfers resolving NICO proprietorship are lodged using the generic residual document ‘Record-Notice-Transfer of Land Act – Section 104’. If a discharge of mortgage and/or new mortgage are to follow the transfer these are ‘stand-alone’ transactions, mandated for electronic lodgment and must be lodged electronically after the NICO proprietorship has been resolved.

New Certificates of Title issue in accordance with the business rules for new folios.

In the Arthur Albert and Bill Brown example outlined earlier:

* Transfers would be lodged using the generic residual document to resolve the NICO proprietorship for both lots 1 and 2
* Lodge a new mortgage over lot 1 to follow the transfer in the ELN.

Mortgages and NICO titles

As Arthur Albert’s title was subject to mortgage ZZ444, the NICO title created for lots 1 and 2 would be encumbered by that mortgage over only part of the new lots (see diagrams on previous page).

In these circumstances, the mortgagee (e.g. Australia Bank) would not be able to exercise its power of sale if the mortgagor defaults.

Assuming that the Australia Bank, through the nomination process, is the nominating party for the parent Certificate of Title Vol 1234 Fol 567, both new Certificates of Title for lot 1 and 2, as a result of being encumbered in part by mortgage ZZ444, will issue to the Australia Bank.

The Australia Bank or its representative, would discharge mortgage ZZ444 over lots 1 and 2 electronically and;

* Lodge a new mortgage in the ELN over lot 1 to follow the registration of the transfer resolving NICO proprietorship.

Subdividing existing Not in Common Ownership (NICO) folios

From 3 May 2021, LUV will accept plans of subdivisions affecting NICO folios where a supporting plan diagram overlay is supplied. The plan diagram overlay will depict where the parent title boundaries lie for the new parcels and assist in determining the proprietorship for new folios. Refer to the end of this fact sheet for an example of the required diagram, which can be attached in SPEAR as an additional document by the surveyor.

Example of plan diagram overlap depicting parent title boundaries

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