



Norfolk Island Land Transfer (Mulberry Lane) Ordinance 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance.

Dated 21 June 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Dr John McVeigh
Minister for Regional Development, Territories and Local Government

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Definitions	1
5	Vesting of current Mulberry Lane land in the Commonwealth.....	2
6	Granting of fee simple interest in old Mulberry Lane land to the landholders	2
7	Registering the interests in land etc.....	2
8	Exemption from taxes and fees.....	3
9	Compensation for acquisition of property.....	3

1 Name

This Ordinance is the *Norfolk Island Land Transfer (Mulberry Lane) Ordinance 2018*.

2 Commencement

- (1) Each provision of this Ordinance specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Ordinance	The day after this Ordinance is registered.	27 June 2018

Note: This table relates only to the provisions of this Ordinance as originally made. It will not be amended to deal with any later amendments of this Ordinance.

- (2) Any information in column 3 of the table is not part of this Ordinance. Information may be inserted in this column, or information in it may be edited, in any published version of this Ordinance.

3 Authority

This Ordinance is made under section 19A of the *Norfolk Island Act 1979*.

4 Definitions

- (1) In this Ordinance:

current Mulberry Lane land has the meaning given by subsection 5(3).

landholders means Sandra Williamson and Lauren Hancock.

minerals means minerals in any form, whether solid, liquid or gaseous and whether organic or inorganic.

Official Survey means the Official Survey as existing under section 4 of the *Official Survey Act 1978* (Norfolk Island) immediately before the commencement of this Ordinance.

old Mulberry Lane land has the meaning given by subsection 6(4).

- (2) The *Acts Interpretation Act 1901* does not apply to this Ordinance.

Note: The *Interpretation Act 1979* (Norfolk Island) applies instead (because this Ordinance is an enactment for the purposes of that Act).

5 Vesting of current Mulberry Lane land in the Commonwealth

- (1) The fee simple interest in the current Mulberry Lane land that, immediately before the commencement of this Ordinance, was held as joint tenants by the landholders, as trustees for the Sandy Williamson Super Fund, is vested in the Commonwealth by force of this subsection.
- (2) The current Mulberry Lane land is, by force of this subsection, freed and discharged from all other interests and from all trusts, restrictions, dedications, reservations, obligations, mortgages, encumbrances, contracts, licences, charges and rates, other than a dedication of any part of the land as a public road under the *Roads Act 2002* (Norfolk Island).

Note: The *Lands Acquisition Act 1989* does not prevent or affect the making or operation of this section or section 6: see section 62 of the *Norfolk Island Act 1979* and subsection 5(3) of the *Lands Acquisition Act 1989*.

- (3) The **current Mulberry Lane land** is so much of that parcel of land in Norfolk Island, being Lot 61, sheet 40, section 14, portion 39a10, shown on the Official Survey, as was held in fee simple by the landholders as joint tenants, as trustees for the Sandy Williamson Super Fund, immediately before the commencement of this Ordinance.

Note: The current Mulberry Lane land is part of the land on which Mulberry Lane in Norfolk Island was located at the commencement of this Ordinance.

6 Granting of fee simple interest in old Mulberry Lane land to the landholders

- (1) The landholders are granted, by force of this subsection, a fee simple interest in the old Mulberry Lane land as joint tenants and as trustees for the Sandy Williamson Super Fund.
- (2) The old Mulberry Lane land is, by force of this subsection, freed and discharged from all other interests and from all trusts, restrictions, dedications, reservations, obligations, encumbrances, contracts, licences, charges and rates.
- (3) However, the Commonwealth's rights relating to any minerals in or on the old Mulberry Lane land are not affected by subsection (1) or (2).
- (4) The **old Mulberry Lane land** is so much of that parcel of land in Norfolk Island, being Lot 60, sheet 40, section 14, portion 39a11, shown on the Official Survey, as was not held in fee simple by the landholders as joint tenants, as trustees for the Sandy Williamson Super Fund, immediately before the commencement of this Ordinance.

Note: The old Mulberry Lane land is where part of Mulberry Lane in Norfolk Island was located before Mulberry Lane was realigned onto the current Mulberry Lane land.

7 Registering the interests in land etc.

- (1) This section applies if there is lodged with the Registrar of Titles a certificate that:
 - (a) is signed by the Minister; and
 - (b) identifies an interest in land, whether by reference to a map or otherwise, that has:

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- (i) vested in the Commonwealth under section 5; or
 - (ii) been granted to the landholders as mentioned in section 6; and
 - (c) states that the interest has so vested or has been so granted (as the case requires).
- (2) The Registrar of Titles may:
- (a) register the matter in a way that is the same as, or similar to, the way in which dealings in interests of that kind are usually registered; and
 - (b) deal with, and give effect to, the certificate.
- (3) If subparagraph (1)(b)(ii) applies to the certificate, the certificate is taken to be a deed of grant for the purposes of the *Land Titles Act 1996* (Norfolk Island).
- (4) If subparagraph (1)(b)(ii) applies to the certificate, section 40 of the *Land Titles Act 1996* (Norfolk Island) applies after the lodgement as if:
- (a) that section required the Registrar of Titles to create a single registered title covering the old Mulberry Lane land and any other parcels of land that:
 - (i) are held in fee simple by the landholders as joint tenants, as trustees for the Sandy Williamson Super Fund; and
 - (ii) share a common boundary with the old Mulberry Lane land; and
 - (b) subsection (2) of that section were omitted.
- Note: Under section 40 of the *Land Titles Act 1996* (Norfolk Island), the Registrar of Titles may create a single registered title for 2 or more parcels of land that share a common boundary and that are held in fee simple by the same registered owner.
- (5) A document that appears to be a certificate referred to in subsection (1):
- (a) is taken to be such a certificate; and
 - (b) is taken to have been properly given;
- unless the contrary is established.

8 Exemption from taxes and fees

No tax or fee (however described) is payable in relation to the vesting or granting of an interest in land under this Ordinance.

9 Compensation for acquisition of property

- (1) Land must not be acquired under this Ordinance otherwise than on just terms.
- Note: This subsection is required by subsection 62(2) of the *Norfolk Island Act 1979*.
- (2) For the purposes of subsection (1), subsections (3) and (4) have effect.
- (3) If the operation of this Ordinance would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (4) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Supreme Court of

Section 9

Norfolk Island for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.