

Feedback on proposed changes to the *Registrar's Requirements for paper conveyancing transactions*



Department
of Transport
and Planning

Introduction

Land Use Victoria (LUV) sought stakeholder feedback on proposed changes to the *Registrar's Requirements for paper conveyancing transactions* (Registrar's Requirements), as set out in draft version 9.

Twenty-four submissions were received from the following organisations:

Conveyancers/Lawyers

- Law Council of Australia
- Law Institute of Victoria
- Australian Institute of Conveyancers – Victorian Division
- Banking and Finance Services Law Association Ltd
- Minter Ellison
- Cornwalls
- Walrus Committee
- Lanne Conveyancing

Banking/Finance

- Australian Banking Association
- Mortgage and Finance Association of Australia
- Australia Finance Industry Association
- Customer Owned Banking Association Ltd

Surveyors/Developers

- Urban Development Institute of Australia
- Association of Consulting Surveyors Victoria
- The Institution of Surveyors Victoria
- Reeds Consulting Pty Ltd

Local Government

- Municipal Association of Victoria
- Casey City Council
- Yarra Ranges Shire Council

Other

- Strata Community Association Victoria



Overview of stakeholder feedback

Some respondents were fully supportive of the changes proposed. Most respondents confined their comments to some, but not all, proposed changes, indicating support for, or no objection to, the proposed changes not commented on. Some respondents made suggestions for other potential changes to the Registrar's Requirements, which LUV will consider.

Submissions received from local government, conveyancers / lawyers and surveyors / developers focussed on the proposed Registrar's Requirement 16 relating to the recording of approved building envelopes. Respondents consider the proposed change would introduce a level of complexity, when compared to the current processes, that would lead to increased cost and delay in land subdivision processes. Respondents also felt that a building envelope created through the process described in proposed Registrar's Requirement 16 would be more difficult to vary, if variation was necessary.

Stakeholders considered the current process of creating building envelopes in plans of subdivision is preferable as it permits multiple adjustments before finalisation and registration. Concerns were also raised about the impost on councils in having to manage and enforce a larger number of the agreements.

Submissions received from banking/finance bodies and conveyancers/lawyers focussed on the proposed Registrar's Requirement 19 relating to mortgage terms and conditions. Respondents consider the proposed change would adversely impact lenders, by adding time, cost and complexity. Respondents also felt the proposed change did not align with practices in other Australian jurisdictions and was, therefore, not conducive to national consistency.

LUV intends to make the amendments to the Registrar's Requirements as set out in **Appendix 1** only.

Next steps

LUV proposes to further consider and as necessary engage directly with the respondents that made submissions regarding proposed Registrar's Requirement 16 and 19. LUV will work with those respondents to gain acceptance of the proposed changes or, alternatively, to develop other agreed approaches to achieve positive outcomes for the Victorian community.

The next version of the Registrar's Requirements **will not** include the changes proposed to Requirements 16 and 19.

LUV intends to proceed with all remaining proposed amendments.



Appendix 1

Proposed change	Outcome						
1. Definitions (proposed amended Registrar's Requirement 2.1)	LUV will proceed with the addition of the definition of 'PDF'.						
2. Verification of identity (proposed amended Registrar's Requirement 3.1)	LUV will proceed with its proposed amendment.						
3. Electronic Instruments (proposed amended Registrar's Requirement 6.2)	LUV will proceed with its proposed amendment.						
4. Mandate for all remaining instrument types capable of being lodged electronically (proposed amended Registrar's Requirement 6.5(h))	<p>LUV will proceed with its proposed amendment. The effective date will be the date of publication of version 9 of the Registrar's Requirements expected to in February 2024. As new instruments become available, electronic lodgment will be mandatory with sufficient notice.</p> <p>Please note, where an instrument cannot be lodged electronically due to a system limitation, the Record – Notice Transfer of Land Act - Section 104 residual document (Generic Residual Document) may be used.</p>						
5. Mandate for lodgment using SPEAR (Registrar's Requirement 6.6)	<p>LUV will proceed with this amendment.</p> <p>The effective dates will now be:</p> <table border="0"><tr><td>a) All customers who lodge plan and survey-based applications (proposed amended Registrar's Requirement 6.6(d))</td><td><ul style="list-style-type: none">All instruments capable of being lodged using SPEAR must be lodged in the SPEAR ELN.</td><td>4 March 2024</td></tr><tr><td>b) SPEAR ELN Subscribers (proposed amended Registrar's Requirement 6.6(e))</td><td><ul style="list-style-type: none">All lodging parties who are at the time of lodgment SPEAR ELN Subscribers, must lodge using the SPEAR ELN if their instrument is capable of lodgment using SPEAR</td><td>The day Version 9 of the Registrar's Requirements is published expected to be by February 2024.</td></tr></table> <p>Please note, where an instrument cannot be lodged electronically due to a system limitation, the Generic Residual Document may continue to be used.</p>	a) All customers who lodge plan and survey-based applications (proposed amended Registrar's Requirement 6.6(d))	<ul style="list-style-type: none">All instruments capable of being lodged using SPEAR must be lodged in the SPEAR ELN.	4 March 2024	b) SPEAR ELN Subscribers (proposed amended Registrar's Requirement 6.6(e))	<ul style="list-style-type: none">All lodging parties who are at the time of lodgment SPEAR ELN Subscribers, must lodge using the SPEAR ELN if their instrument is capable of lodgment using SPEAR	The day Version 9 of the Registrar's Requirements is published expected to be by February 2024.
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Proposed change	Outcome
6. Paper quality and size (proposed amended Registrar's Requirement 10)	LUV will proceed with its proposed amendment.
7. Clarification around the creation of restrictions in plans (proposed amended Registrar's Requirement 12 and Schedule 6)	LUV will proceed with its proposed amendment. Issues were raised about the requirement to avoid repeating conditions from the planning permit and on the limits on the number of pages in plans to be used for restrictions. There are a range of options available to stakeholders in specifying the details of a restriction. These details must be either limited to one page or contained within a Memorandum of Common Provisions (MCP). Repetition of terms gives rise to confusion particularly where they are in conflict and should be avoided or minimised wherever possible.
8. Limits on variations of easement (proposed new Registrar's Requirement 14)	LUV will proceed with its proposed amendment. LUV will accept applications under section 23 of the <i>Subdivision Act 1988</i> to vary an easement term, land affected, parties or purpose that are supported by planning permits that pre-date the effective date for new Registrar's Requirement 14. Alternatively, customers might like to consider lodging applications under section 23 of the <i>Subdivision Act 1988</i> to remove the existing easement and create a new one supported by the same planning permit.
9. Removal of instruments as to part (proposed new Registrar's Requirement 15)	LUV will proceed with its proposed amendment.
10. Recording of Approved Building Envelopes only accepted in an agreement lodged under section 173 of the <i>Planning and Environment Act 1987</i> (proposed new Registrar's Requirement 16)	LUV will not be proceeding with this amendment at this time. LUV thanks stakeholders for their extensive feedback and will consider this feedback further in 2024. If required, LUV will conduct further consultation on this in 2024.
11. Withdrawals of caveat by a deceased caveator's legal personal representative (proposed new Registrar's Requirement 17)	LUV will proceed with its proposed amendment.
12. Leases and sub-leases (proposed new Registrar's Requirement 18)	LUV will proceed with its proposed amendment.



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13. Mortgages and MCPs to be incorporated into mortgages must not include inappropriate matters (proposed new Registrar's Requirement 19)	LUV will not be proceeding with this amendment at this time. LUV thanks stakeholders for their extensive feedback and will consider this feedback further in 2024. If required, LUV will conduct further consultation on this in 2024.
14. Concurrent leases	Although not proposed as a specific amendment at this time, there was support for including a Registrar's Requirement requiring that each concurrent lease be registered or lodged for registration. LUV will include this Registrar's Requirement in Version 9 of the Registrar's Requirements.