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| Guide to Verification of Identity (VOI) |
| For conveyancers, lawyers and mortgagees conducting paper conveyancing transactions |

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**Who does this guide apply to?**

This guide applies to conveyancers, lawyers and mortgagees who are required to take reasonable steps to verify the identity of their client, mortgagor, person to whom a Certificate of Title is provided or any person authorised to sign documents on behalf of a client or mortgagee.

**What are the VOI requirements?**

The Registrar of Titles (the Registrar) has issued the *Registrar’s requirements for paper conveyancing transactions* (Registrar’s Requirements), which, among other things, formalised VOI in Registrar’s Requirement 3.1.2. These requirements apply to any conveyancing document(s) signed on or after 9 November 2015 and relate to all types of paper conveyancing document(s) that can be lodged with the Registrar under the *Transfer of Land Act 1958* (TLA)*, Subdivision Act 1988* or any other legislation.

The legislative requirement for mortgagees to identify their mortgagor came into effect in September 2014 – see sections 87A and 87B of the TLA.

The [Registrar’s requirements for paper conveyancing transactions](http://www.dtpli.vic.gov.au/property-and-land-titles/publications) is available at[Fees, guides and forms (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms) The Registrar’s Requirements are essentially the same as those for electronic conveyancing transactions. The Australian Registrars’ National Electronic Conveyancing Council (ARNECC) has published Model Participation Rules *Guidance Note #2 – Verification of Identity*. The guidance note provides additional information about:

* What is verification of identity?
* Why is verification of identity required?
* When is verification of identity required?
* How verification of identity is to be carried out, including how verifications can be conducted overseas.

It also contains frequently asked questions.

The [ARNECC guidance note](http://www.arnecc.gov.au/publications/mpr_guidance_notes) is at [www.arnecc.gov.au](http://www.arnecc.gov.au/)>Publications>MPR Guidance Notes.

## What the Registrar requires

The Registrar does not require evidence of verification of identity at lodgment; however, the Registrar may, when examining an instrument, call for production of the evidence.

If the Registrar, when examining a lodged but unregistered instrument, calls for production of evidence of verification of identity and the evidence is not produced, the Registrar will most likely refuse to continue processing the instrument unless or until being satisfied that it is one made by the party named – see section 27AB of the *Transfer of Land Act 1958*.

The Registrar has no intention to routinely call for production of evidence of verification of identity at lodgment. It will only occur if some other element of the instrument concerned the Registrar.

# Non-represented parties must have their identity verified

If any party to a paper conveyancing transaction is a non-represented party, they must have their identity verified by Australia Post. Australia Post will also witness the non-represented party signing any conveyancing document(s). For additional information, refer to:

[*Guide to verification of identity for people not using a conveyancer or lawyer*](http://www.delwp.vic.gov.au/property-and-land-titles/forms,-guides-and-fees) available at [Fees, guides and forms (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms)

[*Guide to conveyancers*](http://www.delwp.vic.gov.au/property-and-land-titles/forms,-guides-and-fees#verification) *and lawyers when dealing with people who are not represented* at [Fees, guides and forms (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms) The requirement for non-represented parties applies to instruments signed on or after 1 December 2015 – see Registrar’s Requirements 3.1.8 and 3.1.9.

# Transfers and caveats

## Transferors and transferees

In a transfer of land, VOI requirements apply to both the transferor and transferee – whichever party is the client of the conveyancer or lawyer.

## Caveators

In a caveat, it is the caveator whose identity must be verified. The requirement is for a conveyancer or lawyer to take reasonable steps to verify the identity of a client.

# Water Act agreements

Verification of identity requirements extend to agreements under the *Water Act 1989*, for example community agreements and rights of access agreements. These agreements are signed by all landowners but the application form to lodge the agreements is usually signed by a conveyancer or lawyer.

The conveyancer or lawyer needs to take reasonable steps to verify the identity of the person or people they represent. It is up to the conveyancer or lawyer to determine who is/are the client(s).

Once this question is answered, the scope of the requirement should be clear.

# Section 173 agreements under the Planning and Environment Act

Section 173 agreements under the *Planning and Environment Act 1987* are entered into between the council, the landowner and in some cases third parties; but the application form to lodge the agreements is usually only signed by the councillors, the CEO or a council delegate.

The conveyancer or lawyer must verify the identity of the person or people they represent. In relation to the type of agreement discussed, it is up to the conveyancer or lawyer to determine who is the client. Once this question is answered, the scope of the requirement should be clear.

# Government bodies

Verification of identity requirements also apply to government bodies.

The requirement is that a conveyancer, lawyer or mortgagee take reasonable steps to verify the identity of their client or mortgagor. That requirement applies to all clients or mortgagors.

Exceptions apply for Court officers and State Trustees Ltd – see Registrar’s Requirements 3.1.10 and 3.1.11.

# Body corporate or incorporated association

A conveyancer, lawyer or mortgagee must take reasonable steps to verify the identity of their client or mortgagor. If a client or mortgagor is a body corporate or an incorporated association, these steps could include all of the following:

* confirming the existence of the body corporate or incorporated association
* taking reasonable steps to establish the person/people authorised to sign on behalf of the body corporate or incorporated association, or witness the affixing of any seal
* verifying the identity of the individual(s) authorised to sign or affix the seal on behalf of the body corporate or incorporated association.

# Providing Certificates of Title

Registrar's Requirement 3.1.2(c), which mirrors Participation Rule 6.5.1(c), only applies when a Certificate of Title is being given to a client or a mortgagor. It does not apply to parties participating in a settlement, including when a settlement agent is acting for a party in order to collect the Certificate of Title and transfer documentation.

# Verification of Identity Standard

The Verification of Identity Standard is in Schedule 1 in the Registrar’s Requirements and is the same as that in Schedule 8 of the Participation Rules.

# What is meant by ‘authority’ of a client or mortgagor?

Authority relates to a client’s or mortgagor’s right to enter into a conveyancing transaction. This is commonly referred to as the client’s or mortgagor’s 'right to deal'. Verification of the right to deal is closely linked to verification of identity.

This is dealt with in Registrar’s Requirement 3.2 and further information is contained in the ARNECC *Guidance Note #4 – Right to Deal*.

# Retaining supporting evidence

Under Registrar’s Requirement 4.2, evidence must be retained by the conveyancer, lawyer or mortgagee for seven years from the date of lodgment of the instrument.

Further information is contained in the ARNECC MPR *Guidance Note #5 – Retention of Evidence* (see ‘Further information’ below).

The ARNECC MPR *Guidance Note #6 – Compliance Examinations* (see ‘Further information’ below) provides guidance on the type of information you may be requested to provide to the Registrar.

# Privacy obligations

As with other aspects of a conveyancing transaction, retention of personal information gives rise to privacy obligations. Storage of a client’s or mortgagor’s personal information is not a new obligation. Conveyancers, lawyers and mortgagees are already required to retain their client’s or mortgagor’s records and files for seven years.

# Further information

*Registrar’s Requirements for paper conveyancing transactions* under Section 106A of the *Transfer of Land Act 1958* at [Fees, guides and forms (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms)

*Guide to conveyancers and lawyers when dealing with people who are not represented* at [Fees, guides and forms (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms)

*Guide to verification of identity for people not using a conveyancer or lawyer* at  [Fees, guides and forms (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms)

The [ARNECC guidance notes](http://www.arnecc.gov.au/publications/mpr_guidance_notes) are a very useful resource, available at [www.arnecc.gov.au](http://www.arnecc.gov.au/)>Publications>MPR Guidance Notes:

*Guidance Note #1 – Client Authorisation*

*Guidance Note #2 – Verification of Identity*

*Guidance Note #3 – Certifications*

*Guidance Note #4 – Right to Deal*

*Guidance Note #5 – Retention of Evidence*

*Guidance Note #6 – Compliance Examinations*.

# Contact us

For location and contact details, refer to [Contact us (land.vic.gov.au)](https://www.land.vic.gov.au/contact-us)