

Customer Information Bulletin 224

# Christmas and New Year closure

[Secure Electronic Registries Victoria’s](https://servictoria.com.au/) (SERV) offices close for the end-of-year holiday period from 3.30 pm Friday 22 December 2023 and reopen at 8.30 am on Tuesday 2 January 2024. Registration, call centre services, and appointment bookings will be unavailable during this period. The SPEAR Service Desk will also be closed during this time.

Customer queries will be responded to from 2 January 2024 onwards.

Online services, including electronic lodgment and search, will continue to be available as normal during this period.

# Plan lodgment reminder – Council certification

Land Use Victoria (LUV) requires sufficient time to be able to process plans lodged under the *Subdivision Act 1988*. A plan cannot be registered if the certification of that plan has expired at the time of registration.

Customers should therefore allow at least fifteen business days for a plan to be processed after lodgment or risk the plan’s certification expiring while in the queue and lodgment fees being forfeited. Plans will not be expedited on the basis of the certification expiration date.

Please note that submitting a plan through the Record – Notice Transfer of Land Act - Section 104 residual document (Generic Residual Document) through PEXA does not mean that the plan has been lodged. See the guide on [electronic submission of paper instruments](https://www.land.vic.gov.au/land-registration/for-professionals/electronic-submission-of-paper-instruments) for more information. Please [contact this office](https://servictoria.com.au/contact/submit-an-enquiry/) if you have submitted a plan that is approaching fifteen days to expiry while in the Generic Residual Document queue.

# Ceasing the practice of issuing a Final Notice

LUV currently issues Stop Notices (known as requisitions) to lodging parties when an instrument lodged for registration or recording does not meet requirements in some way. The Stop Notices identify the issue(s) affecting the instruments(s) and provide an opportunity to lodging parties to resolve the issue(s) within thirty days or withdraw the instrument. After the expiry of thirty days, historically a Final Notice is issued to lodging parties providing a further thirty days to resolve the issue(s).

The process was established at a time when notices were sent by post and there was a risk that post be delayed or be lost. As LUV has transitioned to emailing Stop Notices to the email addresses provided by the lodging parties, the current practice is now obsolete and causes unnecessary delays in the processing of the instrument and any follower instrument.

LUV will cease the practice of issuing a Final Notice from 1 March 2024. From this date, the Stop Notice will serve as the sole form of notice in the requisition process.

# Authority to act on behalf of another licensed surveyor

In cases when a licensed surveyor is unable to make amendments to plan or survey documents in response to LUV requisitions, under Regulation 17 of the *Surveying (Cadastral Surveys) Regulations 2015* they may authorise another licensed surveyor to amend abstracts of field records, surveyor's reports, or plans on their behalf.

 LUV has recently updated its requirements in this regard. Effective immediately, LUV no longer requires the citing of the written authorisation when a licensed surveyor authorises the task of amending plan or survey documents to another licensed surveyor. Licensed surveyors must maintain their own records of any written authorisations.

# Severance of joint tenancies

A joint tenancy may be severed by the unilateral action of a single joint tenant without the consent or co-operation of the other joint tenants using a unilateral transfer.

Any such joint proprietor may only transfer their notional interest, an interest proportional to that held. For example, one of two joint proprietors may only transfer a half share and one of three joint proprietors may only transfer a third share.

Currently this type of transfer cannot be lodged electronically using an electronic lodgment network (ELN). Instead, it must be prepared using a paper transfer instrument and lodged using the section 104 Generic Residual Document through PEXA.

A transfer will only be considered for registration if:

* the interest share being transferred is in direct proportion to the number of registered proprietors,
* the share portion is set out in the Land panel by selecting Part of the Land and entering the share portion in the Description box,
* the consideration is non-monetary,
* a legal personal representative is not an affected registered proprietor, and
* the Certificate of Title is produced/nominated.

The transfer does not need to be assessed for payment of duty by the State Revenue Office.

On registration, new folios of the Register will be created for the interest being transferred and for the remaining interest(s).

# Leases of flats, apartments, caravan parks etc.

There are a number of folios of the Register over which leases are regularly lodged which are affected by multiple dwellings that have not been the subject of a registered plan, for example, leases of units in a retirement village or sites in a caravan park.

These leases do not always describe the land affected in the same way. Some describe the land affected by referencing a flat number, apartment number or site number. These descriptions cannot be aligned to the diagram location related to the folio.

Past practice has often been to register such leases ‘as to part’ and include an additional entry referring to the description given, for example ‘AS TO SITE: 123’.

To create consistency with other part land descriptions and to permit the leases to be dealt with electronically, this practice will cease.

In future, when registering any such lease, the lease will not be registered ‘as to part’ and no additional entry of the description will be made.

This change does not apply to a lease that describes the land ‘as to part’ and defines the part affected with a standard part land description (such as a lot on plan or a Crown allotment) or by reference to a fully dimensioned lease plan which forms part of the lease.

More information on describing part land in a lease is available in the Guide to Leases available at [Fees, guides and forms (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms).

# Subscribers reminded to deal with control of electronic certificates of title (eCTs) before closing their ELN account.

When Subscribers are considering retirement or otherwise closing their business, they must first deal with any eCTs still held in their control. Options to consider are:

* transferring eCT Control to another Subscriber if appropriate using the administrative notice ‘Transfer control of an electronic certificate of title’.
* requesting the Registrar of Titles to hold control of the eCT(s) using administrative notice ‘Request to transfer control of electronic certificate(s) of title to the Registrar’. To read more about this new feature please refer to [Customer Information Bulletin 223](https://www.land.vic.gov.au/land-registration/customer-information-bulletins/2023/223).

If an ELN account is closed before any eCTs are dealt with, the deactivated Subscriber will lose the ability to transfer control or otherwise deal with those folios as it is not possible to re-open the closed account.

Subscribers should also deal with any paper Certificates of Title (pCTs) they may still hold.

# Electronic lodgment updates

Some Subscribers may have encountered difficulties when attempting to lodge certain applications through PEXA. LUV is investigating these issues and can advise as follows:

* Application - Change of name of Interest holder and if applicable address – This dealing is now fully functional however Subscribers will need to ensure they enter the workspace in the correct capacity so that they can complete the application correctly. Mortgagees must enter the workspace in their capacity as registered mortgagee, and likewise caveators must enter in their capacity as recorded caveator. The name can then be ‘corrected’ using the justification process as described in [Customer Information Bulletin 213](https://www.land.vic.gov.au/land-registration/customer-information-bulletins/2021/213). Other interest holders will need to enter the workspace in the capacity ‘To deal with an interest’ and can then proceed in the same way.

* Leases and Sub-leases – these electronic instruments are available for use for whole folios or ‘as to part’ in certain circumstances – please note that the ‘Estate and/or Interest’ ‘panel’ relates to the nature of the folio of the Register the lease is sought to be registered against (fee simple, leasehold, life estate or remainder expectant) and not the lease itself. Please see the next section on Instruments ‘as to part’ for leases over part of a folio.
* Instruments ‘as to part’ – due to a system limitation, instruments ‘as to part’ can only affect lots on folios of the Register that contain more than one lot or more than one Crown allotment. Instruments that are ‘as to part’ affecting a single lot or single Crown allotment folio must be lodged using the Generic Residual Document until further notice. The [Guide to Residual Documents](https://www.land.vic.gov.au/__data/assets/word_doc/0032/689117/Guide-to-Residual-Documents.docx) has been updated accordingly. LUV will provide a further notification once this system issue is resolved.

# ****Lodging of multiple cases within one**** ****Generic Residual Document****

A customer must only submit a single 'case' when lodging paper instruments using the Generic Residual Document.

A case consists of one or more instruments affecting the same folio(s). For example, a single caveat presented for lodgment would be a case; a combination of dealings such as a discharge of mortgage/transfer of land/mortgage affecting the same folio(s) presented for lodgment would also be a case.

The [electronic submission of paper instruments](file:///C%3A%5CUsers%5Cms77%5CDownloads%5C%3Fa%3D635723) page has been updated to clarify this requirement. Failure to comply with this requirement will result in a lodgment refusal.

# *Contact us*

*For location and contact details, please go to* [*www.land.vic.gov.au/contact-us*](http://www.land.vic.gov.au/contact-us)