Customer Information Bulletin 221

# Update on customer enquiry points of contact

As part of ongoing efforts to improve customer service, customers can now submit their queries via an [online enquiry form](https://urldefense.com/v3/__https%3A/servictoria.com.au/contact/submit-an-enquiry/__;!!C5rN6bSF!FP5tgbldSOqfn5SEj1TaF50HO-GIImhwFoyapCf4YgR5jDEz6us0bXpbRtHFQnMViu93zpEL49fPpZNfZ7N2wVEJK91mOeCnkk6ryAU4MPvldR4$) provided by SERV. Customers are encouraged to take advantage of this secure and efficient platform which is the preferred communication channel. By using the online enquiry form, customers will be provided with a seamless and optimised process for submitting enquiries, while minimising potential communication delays.

For queries relating to all plan based applications, including subdivisions, easements and adverse possession, please submit your enquiry with as much detail as possible using the [online form](https://urldefense.com/v3/__https%3A/servictoria.com.au/contact/submit-an-enquiry/__;!!C5rN6bSF!G6qPKfEQGTVZIoOfe3GXdHOl_2kaXQv8eVGeE93Cx34o6UHk19D31UzUvcbfpXnCBAYnZs99qju_z35_ey7ZZPmXuL3vbRk5m9nOS-qNyJiVdQ$). Land Use Victoria only accepts initial communication via email or the online form. Please note that the customer contact centre is not able to assist in these queries over the phone.

For all enquiries about dealings and responses to requisitions on water shares matters, please email lvwater.register@delwp.vic.gov.au.

For all enquiries about SPEAR, including how to register to become a SPEAR user or to book in for a training session, please contact the SPEAR Service Desk: spear.info@delwp.vic.gov.au.

For all other enquiries about a conveyancing matter not related to any of the above, please use our [online enquiry form](https://urldefense.com/v3/__https%3A/servictoria.com.au/contact/submit-an-enquiry/__;!!C5rN6bSF!G6qPKfEQGTVZIoOfe3GXdHOl_2kaXQv8eVGeE93Cx34o6UHk19D31UzUvcbfpXnCBAYnZs99qju_z35_ey7ZZPmXuL3vbRk5m9nOS-qNyJiVdQ$).

Enquiries on service of court documents and relating to folios of the register affected by a Notice of Action (NARF) must be communicated by email to lv.warrants@delwp.vic.gov.au

**“Navigating the Land Registry: Information for Surveyors” webinar**

On 17 May 2023, Land Registry Services (LRS) hosted the first “Navigating the Land Registry: Information for Surveyors” webinar. This webinar was provided to surveyors and other surveying professionals who support the lodgement of plan-based transactions. LRS provided information on common requisitions and issues that can cause delays in examination as well as an update on the progress towards digital examination.

LRS thanks all those who attended and shared their feedback. A copy of the presentation has been made available on the [Land Use Victoria website](https://www.land.vic.gov.au/land-registration/for-professionals/understanding-plans-of-subdivision-and-consolidation)

The presentation includes information on:

* Section 23 Subdivision Act 1988 easements
* Cross-sections in plans
* Section 32 Subdivision Act 1988 plans
* Owners corporation changes
* Digital examination update

# Requirements for an adverse possession application under section 15 of the Transfer of Land Act

Land Use Victoria is standardising lodgment requirements for adverse possession applications under section 15 of the Transfer of Land Act 1958 (TLA), so that the requirements are consistent with applications under section 60 of the TLA.

If the claimed land is described as a road, right of way or is encumbered by easements of way (for example carriageway, passageway, footway or similar), the application must include a letter from the relevant council stating the claimed land is not a road as defined in the *Road Management Act* *2004*. In accordance with Schedule 5 of the Act, such land cannot be the subject of a claim of adverse possession.

The section 15 checklist has been updated to include this requirement. Please see the section 15 checklist at [Fees, guides and forms (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms) for more information.

# Deceased joint registered proprietors

Customers are reminded that, when a joint registered proprietor has died, an application under section 50 of the *Transfer of Land Act 1958* (TLA) should be lodged by the surviving proprietor(s).

When lodging a survivorship application, it is important that the application correctly states the applicant(s) as the surviving proprietor(s) and the deceased registered proprietor as the deceased. As set out in the [Guide to Dealing Requirements](https://www.land.vic.gov.au/__data/assets/word_doc/0036/597960/Guide-to-dealing-requirements.docx), the Registrar relies on the Evidence of Death dealing requirement and the standard certifications as to correctness given by Subscribers when processing survivorship applications.

Some recent survivorship applications have incorrectly set out the deceased as the applicant. This has resulted in the deceased remaining as registered proprietor and the surviving proprietor(s) being removed from the Register. Then applications under section 58 of the TLA have been lodged to rectify this error.

Unless supported by court order, applications under section 58 of the TLA are discretionary. It is the requirement of the Registrar that ordinary conveyancing practices are exhausted before discretionary applications are made. For example:

1. If a living joint registered proprietor(s) remains on the folio, a further survivorship application to remove the deceased joint proprietor should be made followed by a transfer of the land to return any living proprietor(s) who was/were removed in error.
2. If no living joint registered proprietor(s) remains on the folio, but a grant of probate or letters of administration has been issued in relation to the last deceased registered proprietor, a transmission application under section 49 of the TLA and a transfer under section 45 of the TLA by the legal personal representative to return any living proprietor(s) who was/were removed in error.

Applications under section 58 of the TLA are appropriate only in circumstances when ordinary conveyancing practices are not available to rectify the lodging party’s error.

# Operating requirements for electronic conveyancing

On 4 May 2023, the Registrar of Titles determined Version 6.2 of the Operating Requirements for electronic conveyancing under section 22 of the Electronic Conveyancing National Law (Victoria).

Version 6.2 of the Operating Requirements was published on 15 May 2023, effective 16 June 2023, and is available at [www.land.vic.gov.au/land-registration/publications](http://www.land.vic.gov.au/land-registration/publications).

In determining Version 6.2 of the Operating Requirements, the Registrar adopted the Model Operating Requirements developed and approved by the Australian Registrars' National Electronic Conveyancing Council (ARNECC).

Version 6.2 of the Operating Requirements is a minor release with only one change from Version 6.1 of the Operating Requirements. This change relates to Operating Requirement 5.4.3 and extends the period during which an Electronic Lodgment Network Operator (ELNO) may raise its service fees by no more than the consumer price index (CPI). In Version 6.1 this period expires on 30 June 2023 and in Version 6.2 is extended to 30 June 2024. This step has been taken as in interim measure to ensure ELNO Service Fees remain capped at the rate of CPI increase during the period in which Version 7 of the Model Operating Requirements remains under development by ARNECC.

**Changes to Owners Corporation Additional Information**

Land Use Victoria will be phasing out the requirement for lodging parties to supply Owners Corporation Additional Information (OCAI) OC1 and OC2 forms. This change will take effect in July 2023 when SPEAR Release 5.7 is implemented (exact date to be announced in SPEAR).

From that date, it will be mandatory for applicant contacts (Licensed Surveyors) to provide OCAI instead of lodging parties. Applicant contacts already [enter this information](https://www.spear.land.vic.gov.au/spear/help/pages/Applicant/Add%20OC%20details.htm) in SPEAR when uploading an Owners Corporation spreadsheet.

However, there are some situations where the lodging party will still need to supply OCAI form(s). These are:

* plans already released for lodgment by the Applicant Contact when SPEAR Release 5.7 is implemented; and
* plans where an Owners Corporation spreadsheet was not uploaded in SPEAR.

SPEAR ELN Subscribers will receive a prompt when they must supply the OCAI forms. Non-subscribers will need to refer to the release for lodgment notification sent by SPEAR to determine what is required.

Once the system change is implemented, Applicant Contacts will be able to amend or update the OCAI before lodging the plan or in accordance with LRS requisitions after lodgment.

Please note that there are no changes to Owners Corporation Notification of Making Rules applications (form 27E(1)SA formerly OC5). Lodging parties must continue to submit these forms when necessary.

After the release, Owners Corporation dealing numbers (e.g. OC654321A) will no longer be generated. Customers who wish to obtain a copy of this information can do so through a search of the plan instrument (e.g. PS900500A).

Customers are encouraged to register to become SPEAR ELN Subscribers. Information about how to register, obtain a digital certificate or contact the SPEAR Service Desk is available on the SPEAR website. [www.spear.land.vic.gov.au/spear](http://www.spear.land.vic.gov.au/spear) > [Lodging parties](https://www.spear.land.vic.gov.au/spear/pages/lodging-parties/about-lodging.shtml) > [How do I get started?](https://www.spear.land.vic.gov.au/spear/pages/lodging-parties/how-do-i-get-started.shtml)

**Applications to vest closed roads – section 528 of the Local Government Act 1958 and predecessor legislation**

Land Use Victoria is standardising lodgment requirements for applications under section 528 of the Local Government Act 1958 or any predecessor legislation such as the Local Government Act 1928, so that the requirements are consistent with applications under section 207D of the Local Government Act 1989.

Following the process described in CIB 213 in relation section 207D, a paper application under section 528 (or any predecessor legislation) can only be used to vest land in a council. This means that the council must be listed as both transferor and transferee in all paper section 528 applications lodged on or after 1 October 2023.

Parties are encouraged to lodge these applications electronically in SPEAR using the 207D form. Lodging parties using SPEAR are required to specify the council as the ‘applicant’ rather than transferor and transferee.

Following registration of a section 528 application (or any predecessor legislation), lodging parties will need to use an Electronic Lodgment Network (ELN) such as PEXA or Sympli if they wish to transfer the land vested in a council to another party.

The existing combined paper form to transfer land to a party other than a council will continue to be acceptable for lodgment with Land Use Victoria until 1 October 2023. Any such forms presented after this date will be refused lodgment.

**Removal of aged nominations**

Land Use Victoria is aware of numerous nominations of paper certificates of title (pCTs) that pre-date 1 January 2023, some of which date back to 2015. LUV proposes to remove unused nominations of pCTS made before 1 January 2023

From the date of publication of this CIB, customers who wish to nominate a pCT to a conveyancing transaction are strongly encouraged to convert the pCT to an electronic certificate of title (eCT) and nominate it in an Electronic Lodgment Network such as PEXA or Sympli.

# New resource available: Electronic Submission of paper instruments page

Information to assist professionals when lodging paper instruments through an Electronic Lodgment Network (ELN) has been consolidated on the Land.vic website on the new [electronic submission of paper instruments](https://www.land.vic.gov.au/land-registration/for-professionals/electronic-submission-of-paper-instruments) page. The page supersedes information published in previous Customer Information Bulletins on the use of the Generic Residual Document ‘Record-Notice-Transfer of Land Act - Section 104.

Customers are advised that by submitting a Generic Residual Document they acknowledge that they have read and complied with Land Use Victoria's lodging requirements and guidelines on the [electronic submission of paper instruments](https://www.land.vic.gov.au/land-registration/for-professionals/electronic-submission-of-paper-instruments) page. Failure to comply with these requirements may result in lodgment refusal.

Please see the [Electronic submission of paper instruments (land.vic.gov.au)](https://www.land.vic.gov.au/land-registration/for-professionals/electronic-submission-of-paper-instruments) page for more information.

***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)