|  |
| --- |
| Land Use Victoria Customer Information Bulletin 162, February 2017 |

# Registrar’s requirements for paper conveyancing transactions

Following are requirements and dates on which the next phase of the Registrar’s requirements for paper conveyancing transactions take effect. The next version of the Registrar’s requirements is due to be published in March. The timeline below also includes the implementation date for the National Mortgage Form.

**2017**

26 May

* Implement National Mortgage Form.
* Client authorisation required for paper conveyancing.
* Certifications required for paper conveyancing including those for mortgages under section 74(1A) of the *Transfer of Land Act 1958*.

1 August

* Refinance transactions, where the transacting parties to discharges of mortgage and mortgages are authorised deposit-taking institutions (ADIs) under the *Banking Act 1959* (Cth), to be lodged electronically (both retail and commercial mortgages).

The Registrar is also consulting stakeholders about transitioning to 100% digital lodgement, including proposed dates for electronic lodgement of caveats, standalone transfers, survivorship applications, transmission applications, a combination of these transactions and all remaining transactions. Further details will be published in later Customer Information Bulletins.

## National Mortgage Form

Land Use Victoria (LUV) customers are advised that the Australian Registrars’ National Electronic Conveyancing Council (ARNECC) has published an updated version of the National Mortgage Form Specification (December 2016).

The specification of the National Mortgage Form is to enable financial institutions and other mortgagees to prepare their systems and procedures for 26 May 2017, when new requirements come into place to prepare and lodge real property mortgages in all Australian states and territories.

As previously advised, the National Mortgage Form is a significant national initiative. It standardises the content and presentation of mortgages lodged for registration through all lodgement channels with land registries in all Australian states and territories. The specification sets out the National Mortgage Form’s acceptance and lodgement scenarios in each jurisdiction, and the execution details for the mortgagor and mortgagee for each jurisdiction.

Implementation of the National Mortgage Form in all jurisdictions is scheduled for 26 May 2017, to coincide with PEXA Release 6.0.

Customers will be able to lodge the National Mortgage Form electronically or on paper from this date. During the transition period – 26 May 2017 to 31 December 2017 – customers will be able to lodge on paper both the National Mortgage Form and their existing approved forms. From 1 January 2018 only the National Mortgage Form will be accepted for lodgement. No other types of mortgage forms will be accepted for lodgement.

The Registrar will approve and publish the form for use in Victoria.

* The [specification](https://www.arnecc.gov.au/publications/national-mortgage) is available at [www.arnecc.gov.au](http://www.arnecc.gov.au)>New documents>National mortgage.
* ARNECC has also published a smart form that will allow customers to create the National Mortgage Form on paper from 26 May 2017. The [form](https://www.arnecc.gov.au/publications/forms) is available at www.arnecc.gov.au>Publications>Forms and select the link National Land Registry Forms portal.

## Client authorisations and certifications

The Registrar’s requirement for client authorisations for paper conveyancing transactions will come into effect on 26 May 2017. The client authorisation will authorise a conveyancer or lawyer to act as their client’s agent and sign paper conveyancing transactions on their behalf.

At the same time, the Registrar is proposing to introduce certifications for paper conveyancing transactions. This will require a conveyancer, lawyer, an ADI and Electronic Lodgment Network (ELN) subscriber to provide certifications for each paper conveyancing transaction they sign.

As with the National Mortgage Form there will be a transition period from 26 May 2017 to 31 December 2017. During the transition period customers will be able to lodge new forms containing certifications (having completed a client authorisation) or their existing approved forms. From 1 January 2018 only forms containing certifications will be accepted for lodgement. See the article on ‘Forms’ in this bulletin for further information.

The Registrar recommends that conveyancers and lawyers complete a client authorisation from 26 May 2017 for all transactions because this will support electronic conveyancing and the new paper forms containing certifications.

Client authorisation and certification requirements are already in place for electronic conveyancing transactions. The certifications and signing selections will be included in new versions of forms to be approved and published by the Registrar. Details of the new forms will be advised in the next bulletin.

ARNECC has produced:

* [Model Participation Rules Guidance Notes](https://www.arnecc.gov.au/publications/mpr_guidance_notes) #1 Client Authorisation and #3 Certifications available at [www.arnecc.gov.au](http://www.arnecc.gov.au)>Publications>Model Participation Rules Guidance Notes
* [Guidance Queries](https://www.arnecc.gov.au/publications/mpr_guidance_notes) available at [www.arnecc.gov.au](http://www.arnecc.gov.au)>Publications>Model Participation Rules Guidance Notes.

## Refinance transactions to be lodged electronically

The Registrar is proposing to expand requirements for ADIs to require all refinance transaction instruments –discharges of mortgage and mortgages – signed on or after 1 August 2017 when both parties in the transaction are ADIs, to be lodged using an ELN.

For all mortgagees that are ADIs the following conditions will apply, in addition to the requirements for a discharge of mortgage and mortgage signed on or after 1 August 2016:

* *a discharge of mortgage signed on or after 1 August 2017 must be Lodged using an ELN, except where the discharge of mortgage is to be Lodged with any transfer of land or mortgage to a mortgagee who is not an ADI for the same folio(s) of the Register; and*
* *any mortgage signed on or after 1 August 2017 must be Lodged using an ELN, except where the mortgage is to be Lodged with any discharge of mortgage from a mortgagee who is not an ADI or transfer of land for the same folio(s) of the Register.*

All customers should note that the above requirement for mortgages signed on or after 1 August 2017 will include any mortgage (retail and commercial), not just those to which the National Credit Code applies.

# Forms

The Registrar is making changes to form approvals.

There are three categories of approved forms.

* Registrar’s approved forms – these forms are on the DELWP website for use by customers.
* Individual approved forms – these are forms approved by the Registrar for use by individual conveyancers, lawyers, mortgagees or their organisation.
* Form Providers approved forms – these are forms approved by the Registrar for Form Providers to give to their customers.

## Registrar’s approved forms

The existing forms will be replaced with new forms containing the certifications referred to earlier in this bulletin. The number of forms available will also be expanded to include all forms required for lodgement. The new forms will be approved and available on DELWP’s website from May 2017. Conveyancers and lawyers will need to have completed a client authorisation prior to using the new forms. The Registrar recommends this be done from May because it supports both the new paper forms and electronic conveyancing.

## Individual approved forms

The Registrar has ceased approving individual forms. Previously approved forms can continue to be lodged until 31 December 2017.

From 1 January 2018 only forms containing certifications will be accepted for lodgement. Individual approved forms cannot be amended by adding certifications and seeking a new approval. Also, certifications cannot be provided on an annexure sheet.

## Form Providers approved forms

Form Providers will need to amend their forms by adding certifications and seeking the Registrar’s approval. Existing forms can continue to be lodged until 31 December 2017. From 1 January 2018 only forms containing certifications will be accepted for lodgement. The Registrar has developed a specification to assist Form Providers make the change.

More detail on the new forms will be in the next Customer Information Bulletin.

# Delay to change of practice for Not in Common Ownership (NICO) plans

In response to customer feedback about the lodgement of accompanying transactions with plans of subdivision that create a Not in Common Ownership (NICO) folio (see *Customer Information Bulletin 159*), LUV has delayed implementation while further consultation is undertaken.

Until otherwise notified, when a NICO situation arises as a result of a plan of subdivision, the lodging party will be contacted by LUV staff to advise that upon registration a NICO folio(or folios) will be created. The plan will then be registered.

Please note, however, that a plan affecting an existing NICO parent folio will not be registered until the NICO elements, including proprietorship and encumbrances, have first been resolved.

Further information is available in the guide [What is NICO?](http://www.delwp.vic.gov.au/property-and-land-titles/forms,-guides-and-fees/subdivision-act) available at [www.delwp.vic.gov.au/property-forms](http://www.delwp.vic.gov.au/property-forms)>Subdivision Act>Subdivision and consolidation.

# New lodgement option at Plan Acceptance – plan lodgement drop off

LUV now provides another lodging option for plans and plan-associated dealings at Plan Acceptance.

A drop-off area is located at the counter on Level 23 at 570 Bourke Street to allow lodging parties and/or agents to drop off all required documents. Customers are required to clip together all necessary documents and payment instructions to avoid any unnecessary refusals.

Customers may provide an email address so they can be notified when their lodgement has been processed and is ready for collection at the Level 23 counter.

There are no additional fees for using the drop-off option for lodgement.

# Update on bulk conversion of paper Certificates of Title to electronic Certificates of Title, October 2016

Over time, paper Certificates of Title (pCTs) will be converted to electronic Certificates of Title (eCTs). The Registrar proposes to use section 27BAA of the *Transfer of Land Act 1958* to declare void certain classes of pCTs. Initially, this was limited to pCTs with an ADI as the first registered mortgagee.

Conversion of pCTs with ANZ, CBA, NAB and Westpac and their brands as first mortgagee was completed in October 2016. LUV is now working with other ADIs to arrange conversion of their pCTs. Information on further bulk conversion initiatives will be provided in future Customer Information Bulletins.

Customers should confirm their understanding of the impact of these changes and refer to the following guides:

* Certificates of Title and Administrative Notices
* Attending paper settlement when Certificate of Title is electronic

The [guides](http://www.delwp.vic.gov.au/property-and-land-titles/forms,-guides-and-fees/certificate-of-title-management-and-electronic-conveyancing) are available at [www.delwp.vic.gov.au/property-forms](http://www.delwp.vic.gov.au/property-forms)>Certificate of Title management and electronic conveyancing.

# Confirming note on priority notices

Priority notices were implemented in early December 2016.

A priority notice is a notification of intended dealings with land. Once recorded, a priority notice will prevent the registration of any other dealing over the cited folio for a period of 60 calendar days. This restriction does not extend to instruments not currently requiring a supporting Certificate of Title, for example caveats, warrants and land tax charges.

Priority notices are available for all instrument types. To have effect, the information in the priority notice must be accurate and complete. Amendments or corrections to lodged priority notices will not be permitted. All instruments cited in the priority notice must belong to the same transaction and be set out in the proposed order of lodgement.

Priority notices must be lodged using an ELN, irrespective of whether the intended instrument or transaction will be lodged on paper or electronically. Currently, the only ELN is PEXA. An ELN subscriber can lodge on behalf of a registered proprietor or any incoming party.

Fees apply to the lodgement and withdrawal of priority notices.

[A Guide to priority notices and withdrawals of priority notice](http://www.delwp.vic.gov.au/property-and-land-titles/forms,-guides-and-fees/transfer-of-land-act) is available at [www.delwp.vic.gov.au/property-forms](http://www.delwp.vic.gov.au/property-forms)>Transfer of Land Act.

# Contact us

For [location and contact details](http://www.dtpli.vic.gov.au/property-and-land-titles/contact-us), go to [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact Land Victoria.

# Subscribe

To receive the Customer Information Bulletin online, please send an email to lv.cib@delwp.vic.gov.au with SUBSCRIBE in the subject line – include your name and email address in the body of the email.

|  |  |
| --- | --- |
| © The State of Victoria Department of Environment, Land, Water and Planning 2017  LogoThis work is licensed under a Creative Commons Attribution 4.0 International licence. You are free to re-use the work under that licence, on the condition that you credit the State of Victoria as author. The licence does not apply to any images, photographs or branding, including the Victorian Coat of Arms, the Victorian Government logo and the Department of Environment, Land, Water and Planning (DELWP) logo. To view a copy of this licence, visit http://creativecommons.org/licenses/by/4.0/  Disclaimer  This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication. | Accessibility  If you would like to receive this publication in an alternative format, please telephone the DELWP Customer Service Centre on 136186, email [customer.service@delwp.vic.gov.au](mailto:customer.service@delwp.vic.gov.au), or via the National Relay Service on 133 677 [www.relayservice.com.au](http://www.relayservice.com.au). This document is also available on the internet at [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au). |