|  |
| --- |
| Land Use Victoria Customer Information Bulletin 171, October 2017 |
|  |

# Important dates for electronic and paper transactions

Customers are reminded of significant dates that are fast approaching.

## 1 December 2017

All stand-alone caveats and withdrawals of caveat signed on or after 1 December 2017 must be lodged using the Electronic Lodgment Network (PEXA). This requirement applies to conveyancers and lawyers acting for a party or themselves and PEXA Subscribers.

Non-authorised deposit-taking institutions (non-ADIs) standalone discharges of mortgage, standalone mortgages and refinance transactions (discharges of mortgage and mortgages) signed on or after 1 December 2017 must be lodged using the Electronic Lodgment Network (PEXA). This requirement applies to conveyancers and lawyers acting for a non-ADI and non-ADIs who are PEXA Subscribers.

## 31 December 2017

The transition period for accepting forms not containing certifications ends on 31 December 2017. All forms signed on or after 1 January 2018 lodged for registration must be the new forms that include certifications.

When a conveyancer or lawyer represents a party in the transaction, the form must:

* be signed on behalf of the party by the conveyancer or lawyer
* contain the certifications required by the Registrar’s requirements for paper conveyancing transactions.

Non-compliant forms will not be accepted. More information on completing signing options will be provided in the next bulletin.

# Transition to 100% digital lodgment

The following sets out all the requirements and timelines for transitioning to 100% digital lodgment.

## 2017

### November

Survivorship application functionality will be available in PEXA.

### 1 December

* Standalone caveats and withdrawals of caveat to be lodged electronically. This requirement applies to conveyancers and lawyers acting for a party or themselves and PEXA Subscribers.
* Non-ADI standalone discharges of mortgage, standalone mortgages and refinance transactions are to be lodged electronically. This requirement applies to conveyancers and lawyers acting for a non-ADI and non-ADIs who are PEXA Subscribers.

### 31 December

* Transition period for the national mortgage form (NMF), Client Authorisations and forms not containing Certifications ends.

## 2018

### February

* Transmission application functionality will be available in PEXA.

### 1 March

* All survivorship applications and standalone transfers must be lodged electronically. This requirement applies to conveyancers and lawyers acting for a party or themselves and PEXA Subscribers.

### 1 October

* All combinations of transactions available in PEXA to be lodged electronically. Examples include a case comprising a withdrawal of caveat, discharge of mortgage, transfer and mortgage. This requirement applies to conveyancers and lawyers acting for a party or themselves and PEXA Subscribers.

## 2019

### 1 August

* All transactions to be lodged electronically. This requirement applies to conveyancers and lawyers acting for a party or themselves and PEXA Subscribers.

The exception will be when there is an existing paper instrument that has been signed prior to the date when electronic lodgment of that particular class of instrument or transaction is required.

# Bulk conversion of paper Certificates of Title to electronic Certificates of Title – next round

Land Use Victoria (LUV) will be conducting the next round of bulk conversion of paper CTs (pCTs) to electronic CTs (eCTs) in February 2018. This round of conversion is only available to authorised deposit-taking institutions (ADIs). LUV proposes that the conversion will be based on the first mortgagee on title being equal to the legal entity name or known and agreed former names.

LUV has already converted approximately 1.7 million pCTs to eCTs for the following ADIs:

* NAB
* CBA
* ANZ
* Westpac
* Bendigo and Adelaide Bank
* Rural Bank Limited
* Teachers Mutual Bank
* Auswide Bank Ltd.

For more information and to register interest in the next bulk conversion please contact:

Paul Major

T: 03 9194 0341

E: [paul.major@delwp.vic.gov.au](mailto:paul.major@delwp.vic.gov.au).

Please note: prior to registering their interest with LUV, ADIs wishing to participate in the February 2018 conversion should consider that all legal and former legal entity names must be identified and communicated to LUV by **17 November 2017**.

# Entitlement to sign registry instruments

The Australian Registrars’ National Electronic Conveyancing Council (ARNECC) has published *Entitlement to sign Registry Instruments*, based on advice provided by practitioner regulators. The document is available at [www.arnecc.gov.au/resources/guidance-practitioner-regulators](http://www.arnecc.gov.au/resources/guidance-practitioner-regulators).

For conveyancers in Victoria, Consumer Affairs Victoria has determined that a licensed conveyancer and a non-practitioner employee of a licensed conveyancer may execute an instrument on behalf of a client. In the drop-down list of signing options in paper forms, select either ‘Licensed Conveyancer’ or ‘Conveyancing Practice’.

For lawyers in Victoria, the Victorian Legal Services Board/Commissioner has determined that only an Australian Legal Practitioner (ALP) or a licensed conveyancer employed by an ALP can execute instruments on behalf of a client. A non-practitioner employee of an ALP cannot sign. In the drop-down list of signing options in paper forms, select ‘Australian Legal Practitioner’ or ‘Licensed Conveyancer’.

'Law Practice' is also included in the drop-down list of signing options because it is a national list. This is not relevant to Victoria; however, it may be an appropriate selection in some other Australian jurisdictions.

# Ordering plan numbers for plans of subdivision, plans of consolidation and title plans

Since Land Use Victoria’s move to 2 Lonsdale Street, the process for ordering plan numbers for plans of subdivision (PS), plans of consolidation (PC) and title plans (TP) has changed.

Requests for plan numbers must be emailed to [subdivision.branch@delwp.vic.gov.au](mailto:subdivision.branch@delwp.vic.gov.au).

The email request needs to include:

* the surveying firm or organisation making the request
* the requester’s customer code
* the type of plan numbers being requested
* the quantity of plan numbers required
* the requester’s contact name and phone number so that our cashiers can make contact to finalise payment.

Payment for PS and PC numbers will be made by credit card over the phone. Please do not include credit card details in the email – Land Use Victoria (LUV) cannot accept written down credit card details (to comply with the Payment Card Industry Data Security Standards). Please refer to Customer Information Bulletin 140 (2013) for further information.

TP numbers will continue to be issued at no charge.

For further enquiries, please email [subdivision.branch@delwp.vic.gov.au](mailto:subdivision.branch@delwp.vic.gov.au).

# Reserve with ‘purpose’ on a plan of subdivision

A plan of subdivision that creates a reserve sometimes shows a ‘purpose’ attached to it (e.g. ‘Drainage Reserve No.1’).

It is Land Use Victoria’s preference that reserves are only ever identified on the plan by the parcel description (e.g. Reserve 1). This is because when a plan of subdivision is registered, the folio for the reserve parcel will only ever be issued as ‘Reserve’, followed by the parcel number.

If any other purpose is added to the plan at the insistence of the council or referral authority, it can cause issues once the plan is lodged with Land Use Victoria (LUV).

The definition in Section 3 of the Subdivision Act provides for three uses of a reserve:

* as public open space
* for the use of a public authority
* for the use of a council.

The purpose is therefore unnecessary and not required on the plan itself. It is specified or impliedthrough the body in which the reserve is vested.

If a purpose is shown with a reserve parcel description on a plan of subdivision, LUV will not request the deletion of the additional words. However, any purpose shown is not binding and does not imply any additional rights, such as an easement.

Note: any purposes that are shown cannot be amended or altered once the plan has been registered.

# Land Legislation Amendment Act 2017

The *Transfer of Land Act 1958*, the *Subdivision Act 1988* and the *Valuation of Land Act 1960* have been amended by the *Land Legislation Amendment Act 2017* (the amending Act), which commenced operation on 20 September 2017.

Customers are encouraged to read the amending Act to fully understand the new provisions.

## Transfer of Land Act

The amending Act amends the *Transfer of Land Act 1958* as follows:

* the provisions relating to the conversion of General law land into land under the operation of the *Transfer of Land Act 1958*
* Section 27G to better reflect the processes associated with registering plans under the *Subdivision Act 1988*
* Section 28 to reflect current practices in relation to the processing of Crown grants
* Section 47 to enable vesting orders when the purchaser of property cannot provide proof of payment but the Registrar of Titles is otherwise satisfied there is an entitlement to a vesting order
* Section 52 so that a court order against land (often a warrant) can be removed from the Register of land upon application to the Registrar of Titles of the judgement creditor without full satisfaction of the debt
* Section 59 to simplify the process for persons who have land vested in them
* enable Section 59A to apply when a successor in law is not a body corporate
* Sections 74(1A), 87A and 87B to clarify mortgage provisions to ensure consistency with the Model Participation Rules for electronic conveyancing
* Section 84(2) to enable the Registrar of Titles to remove a mortgage, if a discharge cannot be obtained, and Section 20 of the *Limitations of Actions Act 1958* applies
* Section 89A to include proceedings in the Victorian Civil and Administrative Tribunal (VCAT) if VCAT has jurisdiction
* Section 90 to remove the requirement for a caveator's consent to be lodged with the Registrar of Titles
* Section 91 to permit priority notices to be extended for one period of 30 days
* insert a standardised section permitting the recording of notices of a statutory charge and the removal of those notices
* make numerous miscellaneous and minor amendments.

## Subdivision Act

The amending Act amends the *Subdivision Act 1988* to:

* remove the requirement for certain owners corporation information to be provided in a separate document
* clarify the definitions of limited owners corporation and unlimited owners corporation
* provide clarity and flexibility to the provisions relating to easements implied under Section 12(2) of the *Subdivision Act 1988*
* make numerous miscellaneous amendments.

## Valuation of Land Act

The amending Act amends the *Valuation of Land Act 1960* to enable the provision of releasable information from the valuation record in the same way as the provision of property sales information and consistent with Government policy on information accessibility.

# Contact us

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

|  |  |
| --- | --- |
| © The State of Victoria Department of Environment, Land, Water and Planning 2017  Title: 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). |