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| Land Use Victoria Customer Information Bulletin 164, April 2017 |

# Registrar’s requirements for paper conveyancing transactions

The Registrar of Titles has determined version 3 of the *Registrar’s Requirements for Paper Conveyancing* under section 106A of the *Transfer of Land Act 1958*. Version 3 of the Registrar’s Requirements comes into operation on 27 May 2017 and takes effect as set out in the Registrar’s Requirements.

The *Registrar’s Requirements for Paper Conveyancing* have been amended to incorporate updates:

* from version 4 of the model participation rules for electronic conveyancing
* reflecting some of the timelines for the transition to 100% digital lodgement announced in CIB 163 (see Registrar's Requirement 6) – further details will be provided in the next Customer Information Bulletin.

The Registrar’s *Requirements for Paper Conveyancing* – *Version 3* has been published and is available from 27 April 2017 at [www.delwp.vic.gov.au/publications](http://www.delwp.vic.gov.au/publications).

# Operating requirements and participation rules for electronic conveyancing

The Registrar of Titles has determined version 4 of the *Operating Requirements* for electronic conveyancing under section 22 of the Electronic Conveyancing National Law (Victoria). Version 4 of the *Operating Requirements* takes effect on 27 May 2017.

The Registrar of Titles has determined version 4 of the *Participation Rules* for electronic conveyancing under section 23 of the Electronic Conveyancing National Law (Victoria). Version 4 of the *Participation Rules* takes effect on 27 May 2017.

In determining the *Operating Requirements* and the *Participation Rules,* the Registrar has adopted the model operating requirements and model participation rules developed and approved by the Australian Registrars’ National Electronic Conveyancing Council (ARNECC).

The Operating *Requirements* *Version 4* and the *Participation Rules* *Version 4* are available from 27 April 2017 at [www.delwp.vic.gov.au/publications](http://www.delwp.vic.gov.au/publications).

# SPEAR electronic lodgment network participation rules

Part of the SPEAR (Surveying and Planning through Electronic Applications and Referrals) system is an electronic lodgment network (ELN) for the purposes of the Electronic Conveyancing National Law (Victoria). It will be possible to lodge applications supported by a plan or a survey under both the *Subdivision Act 1988* and the *Transfer of Land Act 1958* using the SPEAR ELN. The Registrar of Titles operates the SPEAR ELN.

The Registrar of Titles has determined Version 1 of the *SPEAR Electronic Lodgment Network Participation Rules* under section 23 of the Electronic Conveyancing National Law (Victoria**)**. Version 1 of the *SPEAR Electronic Lodgment Network* *Participation Rules* takes effect on 27 May 2017.

In determining the *SPEAR Electronic Lodgment Network Participation Rules,* the Registrar has adopted the model participation rulesdeveloped and approved by the Australian Registrars’ National Electronic Conveyancing Council (ARNECC) where applicable.

The *SPEAR Electronic Lodgment Network Participation Rules* *Version 1* is available from 27 April at [www.delwp.vic.gov.au/publications](http://www.delwp.vic.gov.au/publications).

Further details will be provided in the next Customer Information Bulletin.

# New process enables five-day subdivision registration

Land Use Victoria is trialling a new system which aims to improve timeframes for registration of subdivisions of 10 or more lots. The trial is an attempt to get more lots released onto the market more quickly.

The enhanced process will have a target for registration of these plans of five business days from lodgement – provided there are no errors on the plans or any other documents required for registration of the case.

Lodgements that require re-certification or consent to an amendment by a council or any other amendment to the plan or associated documents not satisfied within 24 hours will lose their priority status and be subject to the standard registration timeframes.

Plans of subdivision for over 10 lots make up 15 per cent of all applications, and create around 70 per cent of all new lots. However, around 50 per cent of these lodgements are requisitioned due to errors. The onus is therefore on developers and consultants to ensure plans and all associated documents are correct if they want to receive priority attention.

The new system is on trial until the end of June. It will then be reviewed.

Land Use Victoria encourages everyone involved in lodging plans of subdivision to carefully check all details of the plans and associated documents to avoid them being requisitioned.

The performance target for registration of all other plans is 15 business days from lodgement.

# Applications to record, vary or release a restrictive covenant

Section 88(1) of the *Transfer of Land Act 1958* allows a person to apply to the Registrar of Titles for the recording of a creation, variation or release of a restrictive covenant. All applications under section 88(1) must be supported by a deed signed by the registered proprietors of the benefitted and burdened land. An application form alone is not enough to either create, vary or release a restrictive covenant.

# Enforceability of restrictive covenants and restrictions recorded on a folio

Restrictive covenants are recorded under section 88(1) of the *Transfer of Land Act 1958* or as restrictions on plans under the *Subdivision Act 1988*.

Under section 88(3) of the *Transfer of Land Act 1958* the recording of a restrictive covenant does not give it any greater operation than it has under the common law, that is the instrument or Act creating it. Recording a restrictive covenant does not mean it will be enforceable. When examining a covenant, Land Use Victoria is solely concerned with whether it satisfies the minimum requirements for creating a restrictive covenant, as set out in *Customer Information Bulletin No. 83* (October 2003). When a dispute arises concerning a covenant, it is for a court to determine the enforceability of the provisions. Customers are encouraged to consider the relevant legal principles when drafting a covenant and whether its provisions would be enforced by a court.

# Availability and use of new forms

As advised in *Customer Information Bulletin 163*, the Registrar will make available the National Mortgage Form and all other instruments containing certifications before 26 May 2017. All forms will be published online at [www.delwp.vic.gov.au/property-forms](http://www.delwp.vic.gov.au/property-forms).

For information regarding the development and status of new forms please email [LUV.Forms@delwp.vic.gov.au](mailto:LUV.Forms@delwp.vic.gov.au).

# Land Use Victoria is moving

After more than 15 years at 570 Bourke Street, Land Use Victoria is moving to 2 Lonsdale Street. The move will potentially occur in August but more information will be provided in future editions.

# New website coming soon

The Department of Environment, Land, Water and Planning (DELWP) is currently reviewing its website. The Property and land titles section, which covers Land Use Victoria, will get a new look during May 2017. The web address will remain the same: [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)

# 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 us.

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