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| Land Use Victoria Customer Information Bulletin 175 February 2018 |

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# Registrar’s requirements for paper conveyancing transactions

## Transfers of land and survivorship applications

From 1 March 2018, transfers of land and survivorship applications must be lodged electronically. This requirement applies when a party is represented by a conveyancer or lawyer who signs the instrument on behalf of their client; or, the party is a conveyancer or lawyer, or PEXA subscriber acting for themselves.

Under Registrar’s requirement 6.5 the following exceptions to lodging using an Electronic Lodgment Network (ELN) include:

* a transfer is lodged with any other instrument for the same folio(s), including a survivorship application
* a transfer is of a type that as at 1 March 2018 is not available in PEXA, such as
  + transfers by mortgagees
  + transfers by a minor
  + transfers creating an easement
  + transfers of an interest (e.g. a lease or mortgage)
  + transfers of part of land in a folio of the Register
  + transfers of a tenant in common’s share
  + transfers that cannot be assessed for duty by the State Revenue Office [Duties Online](http://www.sro.vic.gov.au/dutiesonline) – details of the transaction types able to be processed in Duties Online are in the tables of transactions and combinations of transactions available on the SRO website at [www.sro.vic.gov.au/duties-online-transaction-types](https://www.sro.vic.gov.au/duties-online-transaction-types)
  + transfers affecting more than 20 folios
* a survivorship application that is to be lodged with any other instrument, unless the other instrument must be lodged electronically – this includes most discharges of mortgage, mortgages and withdrawals of caveat. If the discharge of mortgage, mortgage or withdrawal of caveat is an instrument required to be lodged electronically, that instrument must be lodged using the ELN. The survivorship application would then also be lodged electronically. In other cases, by way of example, a survivorship application and a caveat may be lodged in paper, as would a survivorship application and a discharge when both are lodged with a transfer (e.g. following a settlement)
* a survivorship application that, as at 1 March 2018, is not available in PEXA, e.g. a survivorship application by an interest holder.

## Creating restrictive covenants in transfers and restrictions in plans

New requirement for creating restrictive covenants in transfers and restrictions in plans are as follows:

* transfers for which any contract is signed on or after 1 July 2018, or when there is no contract of sale, the transfer is signed on or after 1 July 2018 – the details of any restrictive covenants to be created in the transfer must be contained in one or more Memorandum of Common Provisions recorded under the *Transfer of Land Act 1958* (MCP) and referred to in the transfer by the MCP number(s)
* plans first signed by the licensed surveyor on or after 1 July 2018 – the details of any restriction to be created in a plan must be:
  + contained in one or more MCP and referred to in the plan by the MCP number(s); or
  + a short-form restriction limited to a single sheet of a plan; and/or
  + by reference to a planning permit
* any creation of restrictive covenant in a transfer or restriction in a plan must contain the wording, and comply with the requirements, set out in Schedule 6 of the Registrar’s requirements, reproduced below.

**Transfers under the TLA**

The following wording must be used:

The registered proprietors of the burdened land covenant with the registered proprietors of the benefited land as set out in the restrictive covenant with the intent that the burden of the restrictive covenant runs with and binds the burdened land and the benefit of the restrictive covenant is annexed to and runs with the benefited land.

Burdened land: the Land

Benefited land: [*set out*]

Restrictive covenant: MCP [*set out MCP number(s)*]

Expiry date: [dd/mm/yyyy]

**Plans**

The following wording must be used except for the wording in square brackets:

The registered proprietors of the burdened land covenant with the registered proprietors of the benefited land as set out in the restriction with the intent that the burden of the restriction runs with and binds the burdened land and the benefit of the restriction is annexed to and runs with the benefited land.

Burdened land: [*set out*]

Benefited land: [*set out*]

Restriction:

The burdened land cannot be used except in accordance with the provisions recorded in MCP [*set out MCP number(s)*].

[or]

The burdened land cannot be used except in accordance with Planning Permit [set out reference].

[and/or]

[Set out the details of the restriction on up to a maximum of a single sheet of the Plan. The single sheet may include diagram(s). Standard drafting practices apply. The font size must be no smaller than 2.5mm.]

Expiry date: [dd/mm/yyyy].

The new forms of transfer instruments – Transfer of land and Transfer of land – creating an easement, will soon be published on the LUV website for use by customers conducting paper conveyancing transactions.

# Bulk conversion of paper Certificates of Title to electronic Certificates of Title

On 23 February 2018, Land Use Victoria (LUV) facilitated a bulk conversion of paper Certificates of Title (pCTs) to electronic Certificates of Titles (eCTs), when any of the following banks are recorded as the first mortgagee:

* Bank of Queensland
* Community CPS Australia Ltd
* Credit Union Australia Ltd
* Gateway Credit Union Ltd
* Macquarie Bank Ltd
* Suncorp-Metway Ltd.

Under section 27BAA of the *Transfer of Land Act 1958*, the Registrar of Titles has declared by notice in the *Victoria Government* *Gazette* that these pCTs will be void and of no effect on or after 24 February 2018. From then on, the Certificates of Title held by these banks will be eCTs and the relevant bank will be recorded as the eCT Control – the party entitled to control the eCT.

The banks that participated in earlier bulk conversions of pCTs to eCTs are:

* ANZ Banking Group Ltd
* Auswide Bank Ltd
* Bank Australia Ltd
* Bendigo and Adelaide Bank Ltd
* Commonwealth Bank of Australia
* National Australia Bank Ltd
* Rural Bank Ltd
* Teachers Mutual Bank Ltd
* Westpac Banking Corporation.

Any transaction lodged involving a folio of the Register, where one of these banks is first mortgagee, will be supported by an eCT. Only an eCT will issue after a transaction is registered if one of these banks is the incoming first mortgagee.

Customers are reminded to check Register Search Statements (RSS) and Final Search Statements (FSS). If the Certificate of Title is an eCT:

* the RSS will provide the name and VOTS (Victorian Online Title System) customer code of the party recorded as the eCT Control, and the details of any current administrative notices (such as a nomination)
* the FSS will provide the name and VOTS customer code of the party recorded as the eCT Control. If any administrative notices (such as a nomination) have been lodged in the preceding 125 days, the details of the notice(s) will be shown.

Detailed information on the bulk conversion process, Register Confirmation Statements, eCT Control and administrative notices is contained in Customer Information Bulletins 160 (October 2016) and 172 (November 2017).

# New folio output for deceased estates

A change has been made to the folio endorsement that results from processing a transmission application related to a deceased estate, under section 49 of the *Transfer of Land Act 1958*.

Previously, no distinction was made between executors and administrators – all applicants were endorsed as Legal Personal Representative(s). Now, the actual representative capacity, either executor or administrator, is shown. The new endorsement appears on folio searches and Certificates of Title on which any transmission application is processed from 3 February 2018. Any pre-existing endorsements in the Register will be unchanged.

# Electronic lodgment workshops

This item is included at the request of the AIC National

To support the Land Use Victoria (LUV) program and assist with industry’s preparation to meet the 100% digital lodgment timeline, the AIC National is facilitating eConveyancing Accredited (ECA) workshops for conveyancers, lawyers and their staff.

The content will include:

* the rules and legal framework that supports electronic conveyancing and the Registrar’s Requirements
* electronic lodgment and withdrawal of a caveat
* electronic lodgment of a two party transfer and financial settlement
* linked settlements
* electronic automated processes.

For availability and registration, go to [www.eventbrite.com.au/e/electronic-conveyancing-accredited-caveat-workshop-melbourne-tickets-40830056799](http://www.eventbrite.com.au/e/electronic-conveyancing-accredited-caveat-workshop-melbourne-tickets-40830056799).

Pre-course materials will be sent to participants before the workshop. Computers are provided for use at the workshops.

Phone enquiries: Clair 0407 342158 or Rosemary 0458 555243 (AIC National).

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