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| Land Use VictoriaCustomer Information Bulletin 208 |
| November 2020 |

# Christmas and New Year closure

As notified in the last [Customer Information Bulletin 207](https://www.propertyandlandtitles.vic.gov.au/__data/assets/word_doc/0028/493192/CIB207-October-2020-Final-.docx), Land Registry Services offices at 2 Lonsdale Street, Melbourne and 57 Cherry Lane, Laverton remain closed due to the coronavirus (COVID-19) restrictions. Registration, call centre and search services continue to be provided remotely.

Registration and call centre services will be unavailable during the end of year holiday period, from 4.00 pm on Thursday 24 December 2020 to 8.30 am on Monday 4 January 2021. Online services including electronic lodgment will continue to be available during this period.

Customer queries (telephone message or email) will be responded to from 4 January onwards.

# New Land Use Victoria website coming soon

The [Property and land titles](https://www.propertyandlandtitles.vic.gov.au) website is being combined with the [Maps and spatial data](https://www.delwp.vic.gov.au/maps/maps-and-spatial-data) website to form

 a single site for Victorian land and property information.

The changes are based on customer insights and feedback. We worked with more than 2,500 customers and stakeholders to update our content and create a more seamless experience. The new site will make it easier to find land and property information. Features include:

* a user-focused website
* a much simpler menu structure, with tailored content for land registration professionals and individuals
* all lodgment fees, guides and forms in one place and fully searchable
* an HTML Customer Information Bulletin archive that is easier to browse and search
* updated FAQs to answer most questions quickly
* one trusted place for land and property information and tools
* dedicated sections and news for each of the service areas
* latest news and initiatives

A Customer Information Bulletin dedicated to the changes will issue shortly providing more detail. More information can be found on our existing website *https://www.delwp.vic.gov.au/maps/news/pre-launch-article*

# Melbourne Strategic Assessment program – enhancements to SPEAR

Land Use Victoria (LUV) has enhanced SPEAR to support the Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020 (MSA Act) which took effect on 1 July 2020.

When a council issues a Statement of Compliance, SPEAR will now automatically check whether the land being subdivided is affected by a notice under section 45 of the MSA Act. Where a notice exists, SPEAR will provide details of the subdivision to the Secretary of the Department of Environment, Land, Water and Planning. The Secretary must assess and consent to an application in SPEAR before the plan can be lodged at LUV.

Where a notice is to be removed in conjunction with a subdivision, the Secretary will create an application to remove a levy recording under section 47 of the MSA Act within the SPEAR workspace. Lodging parties will be able to view the application to remove a levy recording created by the Secretary and will need to lodge it together with the subdivision application and pay the applicable lodgment fee.

The lodgment fee for an application under section 47 of the MSA Act to remove a levy recording is $98.50 for the 2020-21 financial year.

For more information on the Melbourne Strategic Assessment program, please visit https://www.msa.vic.gov.au/ or email msa.habitatcompensation@delwp.vic.gov.au

# Updates and reminders from Registration Branch

### Statutory declaration reminder

Customers are reminded that a statutory declaration declared on or after 1 January 2020 must comply with the Oaths and Affirmations Act 2018 (the Act) and the Oaths and Affirmations (Affidavits, Statutory Declarations and Certifications) Regulations 2018 (the Regulations). For more information, refer to [Customer Information Bulletin 196.](https://www.propertyandlandtitles.vic.gov.au/__data/assets/word_doc/0033/449934/CIB-196-1.docx)

The purpose of a statutory declaration is to set out the personal beliefs and knowledge of the declarant. An attorney under a power of attorney cannot make a declaration nor sign statutory declaration on behalf of the donor. An attorney may only provide a declaration from their own knowledge or beliefs.

If a statutory declaration is provided that does not comply with the Act and the Regulations, it may not be accepted for lodgment or on lodgment, will be requisitioned. This will cause delays in the processing of the associated instrument.

### Restricted units and accessory lots on plans

Recently, a number of transfers and mortgages have been lodged over restricted lots without including the associated accessory lot. Customers are reminded that folios identified as restricted or accessory lots are subject to the provisions of section 6 and 8 of Schedule 2 of the Subdivision Act 1988. Refer to [Customer Information Bulletin 134](https://www.propertyandlandtitles.vic.gov.au/__data/assets/pdf_file/0025/44926/edition-134_2011.pdf) for more information.

If lodging parties do not include both the restricted lot and the associated accessory lot in an instrument lodged electronically, the instrument will have to be withdrawn and relodged causing unnecessary delay and additional cost.

### Applications to record, vary or release a restrictive covenant

Customers are reminded that creations, variations and releases of restrictive covenants created in plans under the Subdivision Act 1988 and authorised by planning schemes and permits under the Planning and Environment Act 1987 must be dealt with under section 23 of the Subdivision Act 1988 or other plans under that Act. Applications of this nature cannot be made under section 88(1) of the Transfer of Land Act 1958, other than a variation or release by court or VCAT order.

### Trusts in mortgages (and other instruments)

Customers are reminded that mortgage instruments and memoranda of common provisions lodged with this office must comply with section 37 of the Transfer of Land Act 1958. Any reference to a specific trust, trustees or beneficiaries in the mortgage, including in relation to guarantors, responsible entities or credit providers will not be accepted. In addition, the use of initialisms such as ATF or IIOC will be requisitioned.

Any provisions relating to a trust must use contingent wording and be non-specific.

If the above is not complied with, mortgages lodged electronically, including any other instrument lodged with it, will have to be withdrawn and relodged.

The same rules apply to other instruments lodged with the Registrar.

### Deceased estates and lost title applications

Customers have been advised in the past that where there is a deceased estate and a paper certificate of title has been lost, an application under section 31 must be lodged with an application under sections 49 or 50 as the context requires. To facilitate more efficient processing of these dealings, the Registrar has decided that an executor, administrator, trustee or surviving proprietor may be the applicant in the section 31 application for the replacement of a lost paper certificate of title. Please see the Guide to residual documents on the Property and land titles website for information on what is required for each residual document.

The proprietorship will not be updated by the section 31 application. An application to change proprietorship may then be lodged under section 49 or 50 of the Transfer of Land Act 1958.

All of the above applications must be lodged electronically unless a paper exception applies.

### PDF documents provided with electronic dealings

ELN subscribers can upload attachments as PDF images into an electronic workspace. These PDFs can form part of an instrument to be recorded (e.g. a section 173 Planning and Environment Act agreement), which will be imaged, or be supporting documents (e.g. a statutory declaration), which will not be imaged.

Any PDF required for an ‘imaged instrument’ containing images of documents not suitable for recording in the Register (e.g. copies of paper application forms, consents, emails) will not be accepted.

Any diagram that is included within an ‘imaged instrument’ must be in black and white, clearly drawn and legible. Coloured diagrams, plans, renderings and photos are unacceptable. The entire document must be suitable for Land Use Victoria to image and provide as a search product. PDFs must not be encrypted, password protected or have any security settings applied.

‘Imaged instruments’ that do not meet the above requirements will either be refused or requisitioned to be withdrawn and re-lodged.

Subscribers should refer to the Guide to residual documents on the Property and land titles website for information on what is required for each residual document.

# Reminder: Requirements for signing and witnessing instruments lodged in an approved form

A reminder that the COVID-19 Omnibus (Emergency Measures) Act 2020 and COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020 as referred to in CIB 204 have limited application to documents lodged with the Registrar. In particular:

* They **do not vary** or override the requirements in the *Transfer of Land Act 1958* and *Subdivision Act 1988* that instruments be lodged in an approved form. Approved forms have their own signing and witnessing requirements that have not been varied.
* They **do not vary** or override existing requirements relating to verification of identity.

For any supporting documents including deeds and agreements, lodging parties will need to satisfy themselves that they have complied with the Act and Regulations and, if applicable, the *Electronic Transactions (Victoria) Act 2000*.

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