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| Land Use VictoriaCustomer Information Bulletin 187 May 2019 |
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# 1 August 2019 – lodging electronically

From 1 August 2019, for conveyancers, lawyers, authorised deposit-taking institutions (ADIs) and other subscribers to an Electronic Lodgment Network (ELN), all Instruments (including residual documents) available in an ELN will be required to be lodged using an ELN.

This is another significant step in achieving 100% electronic lodgment of Instruments in the Register.

The Registrar will not accept paper lodgment of any such instruments except in cases where the instrument(s) cannot be lodged using an ELN for reason(s) set out in the Request to accept paper lodgment form available at

[www.propertyandlandtitles.vic.gov.au/forms-guides-and-fees/title-management](http://www.propertyandlandtitles.vic.gov.au/forms-guides-and-fees/title-management).

# New functionality in SRO and PEXA ELN

Land Use Victoria, the State Revenue Office and PEXA Ltd have been working to increase functionality in the PEXA ELN. This is another significant step in achieving 100% electronic lodgment of instruments.

## Duties Online

The State Revenue Office is enhancing [Duties Online](https://www.sro.vic.gov.au/dutiesonline) so that complex transactions can be assessed and settled electronically. The enhancements are scheduled to take effect from 17 June 2019. For more information visit https://www.sro.vic.gov.au/duties-online.

## Residual documents

The remaining instrument types (residual documents) will be required to be lodged electronically by conveyancers, lawyers, ADIs and other subscribers to an ELN from 1 August 2019. The first residual document, Application to record a section 173 of the *Planning and Environment Act 1987* agreement, became available in the PEXA ELN on 4 March 2019.

PEXA Ltd has also recently introduced several new instrument types under Residual Documents. The more common instruments available now are:

* AGREEMENT - SECTION 173 - Planning & Environment Act - section 173
* NOTICE - GAIC - Planning & Environment Act - section 201UB
* AGREEMENT - Planning and Environment Act - section 201SLB
* APPLICATION - AMENDMENT BY COURT/VCAT ORDER - Transfer of Land Act - section 103
* NOTICE - Retirement Villages Act - section 9

A guide outlining the requirements for this application (and other residual documents) has been published at [www.propertyandlandtitles.vic.gov.au/forms-guides-and-fees](http://www.propertyandlandtitles.vic.gov.au/forms-guides-and-fees) under the sub-heading ‘Residual documents’. This guide will be updated as other residual documents are made available.

For a full list and more information please visit https://community.pexa.com.au/.

# Removal of warnings on provisional folios after 15 years

The *Transfer of Land Act 1958* (TLA) was amended by the *Land Legislation Amendment Act 2017* to include new section 26Y. This section provides that a provisional folio created from a conversion of general law land becomes an ordinary folio (unless an ordinary folio has been created already) 15 years after the creation of the provisional folio.

Section 26Y has the effect that any warnings on a provisional folio (’Warning as to Title’, ‘Warning as to Dimensions’ and ’Warning as to subsisting interests’) are removed.

The Registrar has started the process of removing warnings from folios more than 15 years old, but this will take some time. Warnings that continue to appear on these folios and diagrams no longer have any effect.

Warnings will remain on the diagram source (plan) except for provisional folios created after May 2019, where no warning will be put on the plan. Where no warnings show on a folio, the notation on the plan should be considered as historical information.

## Effect of section 26Y on Applications for deletion of warning relating to title dimensions (section 26P)

Section 26Y affects applications under section 26P of the TLA (Application for deletion of warning relating to title dimensions), as a folio showing a warning as to dimensions may no longer be subject to the warning. A section 26P application affecting a folio where 15 years has elapsed will not be accepted for lodgment or processing *regardless of whether the folio or diagram source still shows a warning as to dimensions.* The checklist supporting the preparation of section 26P applications (available on the DELWP website) will be updated.

Lodging parties preparing an application under section 26P must undertake a folio search to determine if 15 years has elapsed since the creation of the provisional folio.

Any existing applications under section 26P of the TLA (including applications which have been created in SPEAR but not yet lodged) where the 15-year period has elapsed will need to be altered to an appropriate alternate boundary amendment application (e.g. sections 60, 99, 103, or 15 of the TLA) before they can proceed*.*

# Caveator’s consent - change to requirement to produce consent to Registrar

Currently, when lodging an electronic dealing over a folio affected by a caveat, the subscriber has the option to select a dealing requirement indicating that the subscriber holds the consent of the caveator to the lodging of the dealing.  If it is not selected, then the dealing, when lodged, is held unregistered while notice is given to the caveator under section 90(1) of the TLA.

If the dealing requirement is selected, the dealing, when lodged, is currently held unregistered, awaiting the physical delivery to the Registrar of the consent of the caveator.  When the consent is received, the dealing is registered, and the caveat remains on title.

From 15 June, the requirement for the physical delivery to the Registrar of the consent of the caveator will be removed.  Instead, the Registrar will be relying on the dealing requirement being selected, along with the standard certifications on the dealing, as being evidence that the consent of the caveator is held by the ELN subscriber.  The dealing, when received, will be registered.  Again, the caveat remains on title.

The change does not remove the requirement on the subscriber to obtain the consent of the caveator.  It simply removes the requirement to physically produce that consent to the Registrar. In a compliance examination, the subscriber will be required to produce the consent held.

This change is being made to ensure more efficient processing of electronic dealings, by eliminating the delay currently experienced while the physical consent is produced to the Registrar.

*Note: This change does not apply to dealings lodged in paper, where consent of the caveator is still required to be produced.*

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