Verification of identity for paper conveyancing transactions

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| Land Victoria  Customer Information Bulletin  Edition 153 October 2015 |

Version 1 of the [Registrar's Requirements for paper conveyancing](http://www.dtpli.vic.gov.au/property-and-land-titles/publications) (Registrar’s Requirements) was published on 30 September 2015 and is available at [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au/)>Property and land titles>Property information>Publications.

Among other things, the Registrar’s Requirements formalise verification of identity requirements. However, verification of identity is not new. Prudent practice already required conveyancers, lawyers and mortgagees to take reasonable steps to verify the identity of their client or mortgagor.

The Registrar’s Requirements apply to any instrument signed on or after 9 November 2015 and require a conveyancer or lawyer to take reasonable steps to verify the identity of their client in a conveyancing transaction. When a party to a conveyancing transaction is not represented by a conveyancer or lawyer, the requirement applies to instruments signed on or after 1 December 2015.

Verification of identity requirements are already in place for electronic transactions and their implementation for paper transactions will align both lodgement streams.

Australian Registrars’ National Electronic Conveyancing Council (ARNECC) has published a series of Guidance Notes. The [ARNECC guidance notes](http://www.arnecc.gov.au/publications/mpr_guidance_notes) are available at [www.arnecc.gov.au](http://www.arnecc.gov.au)>Publications>MPR Guidance Notes.

In addition, Land Victoria has published the following guides:

* Guide to verification of identity for paper conveyancing transactions for conveyancers, lawyers and mortgagees
* Guide to verification of identity for people not using a conveyancer or lawyer.

These [guides](http://www.delwp.vic.gov.au/property-and-land-titles/forms,-guides-and-fees) are available at [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au)>Property and land titles>Forms, guides and fees>Verification of identity.

The Guide to verification of identity for paper conveyancing transactions for conveyancers, lawyers and mortgagees includes a comprehensive set of frequently asked questions. The following are a few examples.

What steps do a conveyancer or lawyer need to take to verify the identity of their client (or a mortgagee to identify a mortgagor)?

The conveyancer, lawyer or mortgagee is required to take reasonable steps to verify the identity of a client they represent or mortgagor, in both an electronic and a paper conveyancing transaction. How this is done is up to the conveyancer, lawyer or mortgagee, as long as the steps taken are reasonable in the circumstances. The conveyancer, lawyer or mortgagee may undertake the verification of identity or it can be done by an agent (including an Identity Agent).

Is a conveyancer or lawyer required to use an Identity Agent to have their client’s identity verified (or does a mortgagee need to use an agent to identify a mortgagor)?

The requirement is for a conveyancer, lawyer or mortgagee to take reasonable steps to verify the identity of their client or mortgagor. How this is done is up to the conveyancer, lawyer or mortgagee, as long as the steps taken are reasonable in the circumstances. The conveyancer, lawyer or mortgagee may undertake the verification of identity or it can be done by an agent (including an Identity Agent).

Can an employee of the conveyancer, lawyer or mortgagee conduct verification of identity?

This is a business decision for the conveyancer, lawyer or mortgagee to make. The obligation is on a conveyancer, lawyer or mortgagee to take reasonable steps to verify the identity of their client or mortgagor. How this is done is up to the conveyancer, lawyer or mortgagee, as long as the steps taken are reasonable in the circumstances.

To what paper instruments does verification of identity apply? Is it only transfers, mortgages and caveats, as it is in PEXA?

The requirement relates to all types of paper instruments that can be lodged with the Registrar under the *Transfer of Land Act 1958*, *Subdivision Act 1988* or any other legislation.

How can the verification of identity evidence be stored?

The evidence can be retained in a range of ways. It could be stored electronically and/or by an agent on behalf of a conveyancer, lawyer or mortgagee. However, the medium and means by which documents supporting the conveyancing transaction are to be retained is to be determined by a conveyancer, lawyer or mortgagee in light of the possible need to produce those documents as evidence to a court. Regardless of the way in which it is stored, evidence should be accessible, legible and secure.

Further information is contained in the draft ARNECC guidance note: Retention of Evidence.

Invitation to comment on RIS closes mid-November

Customers are reminded that comments are currently being invited on the Regulatory Impact Statement (RIS) for the proposed Transfer of Land (Fees) Regulations 2015 and Subdivision (Registrar’s Fees) Regulations 2015. The RIS assesses the costs and benefits of the proposed regulations and possible alternative means of achieving the stated objectives.

The closing date for submission of comments is 16 November 2015.

The [RIS document and details on how to provide comment](http://www.dtpli.vic.gov.au/property-and-land-titles/publications) can be found at [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au/)>Property and land titles>Property information>Publications.

Lodgement of dealings by mail – reminder

From 1 January 2016, Land Victoria will no longer accept dealings lodged by mail from customers with a Victorian Online Title System (VOTS) Customer Code. From that date, customers with a VOTS Customer Code will need to lodge dealings in person or through a lodging agent.

Land Victoria plan lodgements

From 1 January 2016, payments for all plan lodgements at Land Victoria must be made at the time of lodgement.

These payments will be processed on Level 23, 570 Bourke Street.

If the correct payment cannot be made at the time of lodgement, lodgements will be refused and all documentation will be returned to the lodging party.

Land Victoria accepts cash, [direct debit](http://www.dtpli.vic.gov.au/property-and-land-titles/land-victoria-direct-debit-form), bank cheques, lawyers' and conveyancers' trust or office account cheques and Visa or MasterCard debit or credit cards from regular customers with a Victorian Online Title System (VOTS) Customer Code.

Land Victoria does not accept third party or personal cheques, or money orders.

From non-regular customers, Land Victoria accepts cash and Visa or MasterCard credit or debit cards.

Land Victoria does not accept cheques of any description or money orders from non-regular customers.

For more information about [payment and lodgement](http://www.delwp.vic.gov.au/property-and-land-titles/forms,-guides-and-fees), go to [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au/)>Property and land titles >Forms, guides and fees>Payment and lodgement

Execution by foreign corporations

Land Victoria has simplified the supporting evidence required for transacting parties that are foreign corporations. These requirements apply to bodies corporate that have been incorporated outside the Commonwealth of Australia, whether or not they have been registered under the Corporations Act 2001.

If such a corporation seeks to execute an instrument, Land Victoria requires a statutory declaration by an Australian Legal Practitioner, stating the following:

*At the date the [instrument] was executed by [name of legal entity], in accordance with the law of the country of incorporation and any charter or other instrument constituting or regulating its affairs, the body corporate:*

*(a) was duly constituted and registered under the name appearing in the relevant instrument*

*(b) had the power to acquire or dispose of the estate or interest the subject of the instrument*

*(c) had validly executed the instrument*

*(d) was bound by the execution*

*(e) was not insolvent.*

If such a corporation is a mortgagee, and only the mortgagor is required to sign the mortgage, Land Victoria requires a statutory declaration by an Australian Legal Practitioner stating the following:

*At the date of the [instrument], the body corporate [name of legal entity] was, in accordance with the law of the country of incorporation and any charter or other instrument constituting or regulating its affairs:*

*(a) duly constituted and registered under the name appearing in the relevant instrument*

*(b) had the power to acquire or dispose of the estate or interest the subject of the instrument*

*(c) not insolvent.*

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For [location and contact details](http://www.dtpli.vic.gov.au/property-and-land-titles/contact-us), go to [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au)>Property and land titles >Property information>Contact Land Victoria.

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