

Customer Information Bulletin 228

June 2024

# Phasing out paper certificates of title

## Changes to new certificates of title in Victoria from 3 August 2024

Since 2000, Victoria has been on a journey to create a future-ready Register of land. Electronic certificates of title (eCTs), verification of identity, client authorisation, certifications and priority notices are now well established. Phasing out paper certificates of titles (pCTs) is the next step in this journey and will continue progress to streamline and modernise Victoria’s land administration.

From 3 August 2024, all new Victorian certificates of title from the Register of land will be electronic.

Existing paper certificates of title will remain valid until they are next required for a conveyancing transaction.

## What do these changes mean for you and your clients/customers?

* Land and property owners do not need to do anything.
* There are no process changes for Subscribers in an Electronic Lodgment Network.
* There will no longer be the option to select a paper certificate of title in the issuing instructions within a workspace. Instead, there already is the option to select the ‘Registrar of Titles’ to hold control of the eCT.
* There are also two Administrative Notices that permit a Subscriber to request control of an eCT from the Registrar or transfer control to the Registrar.

To learn more about these changes, please visit the Land.Vic website [Phasing out paper certificates of title](https://urldefense.com/v3/__https:/t.e2ma.net/click/gfxtsi/0638slf/kim23z__;!!C5rN6bSF!BYE4Gihaa1Uty7dZgpyBWcNzU__4zeJ-dar9wIw9ot_RBsfIaFFCZDSoBWNYayc4_ZLNvQa6UD9jWJpebU3AVBwI3X05W6_D7JMv$) for more information and common questions that may arise. The Guide to Certificates of Title and Administrative Notices for professionals will also be updated and released prior to August 2024.

We are seeking your assistance to ensure information about certificates of title published on your organisation's platforms, including websites and other communications, reflect these updates.

This transition involves coordination with all parts of the electronic conveyancing process to align systems, update practices and adopt change. We value the continued engagement with industry to support progress in electronic ways of working.

If you have questions or require further assistance, please contact us. For queries relating to phasing out of pCTs, please submit your enquiry with as much detail as possible using the [online form](https://urldefense.com/v3/__https:/t.e2ma.net/click/w7xtsi/0638slf/cw323z__;!!C5rN6bSF!HEbYS65-F9JyxLLEUS2xxulbp6ZHjt_rWpOoGWZozVQ4mqhWpK-_H2lakgYyuHetUe4-PFASVheGMAaFN7PD7aKSSqeTqygOnpmA$) provided by SERV.

## Useful website links:

* [Victorian Register of land](https://urldefense.com/v3/__https:/t.e2ma.net/click/gfxtsi/0638slf/4pl23z__;!!C5rN6bSF!BYE4Gihaa1Uty7dZgpyBWcNzU__4zeJ-dar9wIw9ot_RBsfIaFFCZDSoBWNYayc4_ZLNvQa6UD9jWJpebU3AVBwI3X05W0DV7vOE$)
* [Phasing out paper certificates of title](https://urldefense.com/v3/__https:/t.e2ma.net/click/gfxtsi/0638slf/kim23z__;!!C5rN6bSF!BYE4Gihaa1Uty7dZgpyBWcNzU__4zeJ-dar9wIw9ot_RBsfIaFFCZDSoBWNYayc4_ZLNvQa6UD9jWJpebU3AVBwI3X05W6_D7JMv$)
* [CIB 223 – New Administrative Notices](https://urldefense.com/v3/__https:/t.e2ma.net/click/gfxtsi/0638slf/0an23z__;!!C5rN6bSF!BYE4Gihaa1Uty7dZgpyBWcNzU__4zeJ-dar9wIw9ot_RBsfIaFFCZDSoBWNYayc4_ZLNvQa6UD9jWJpebU3AVBwI3X05WzOZusQG$)

# Request to transfer control of electronic certificate(s) of title to the Registrar

The administrative notice for subscribers to 'Request to transfer control of electronic certificate(s) of title to the Registrar' was introduced in October 2023 ([See CIB 223](https://urldefense.com/v3/__https:/t.e2ma.net/click/gfxtsi/0638slf/0an23z__;!!C5rN6bSF!BYE4Gihaa1Uty7dZgpyBWcNzU__4zeJ-dar9wIw9ot_RBsfIaFFCZDSoBWNYayc4_ZLNvQa6UD9jWJpebU3AVBwI3X05WzOZusQG$)).

Subscribers must:

* not transfer control to the Registrar unless expressly instructed to do so by their clients/customers,
* not use this administrative notice and instruct their clients/customers to contact the Registrar requesting a pCT (something the Registrar will not provide), and
* facilitate the return of the pCT to their clients/customers using existing practices.

# Plans of consolidation to be submitted using ePlan from 29 July 2024

Digital submission of plans and survey information in the ePlan format is the next step on the path towards a fully digital land registry in Victoria. Plan and survey information will transition to digital submission from 2024-2032 with progressive ePlan mandates.

Mandates will be phased in gradually to support the transition for industry commencing with plans of consolidation in July 2024. Mandates are expected to expand to all eligible plans under the Subdivision Act 1988 (Subdivision Act) by 2028.

Phase 1 of the ePlan mandate for eligible plans of consolidation commences on 29 July 2024.

The first phase of the mandate is limited to eligible plans of consolidation lodged under section 22 of the Subdivision Act that are first signed by the Licensed Surveyor on or after 29 July 2024.The first signed date is when the plan is authenticated in SPEAR. An ePlan must be submitted for eligible plans of consolidation signed after this date.

ePlan supports both survey and non-survey based plans of consolidation. However, there are some features not currently supported in ePlan which are excluded from the first phase of the mandate. Information about exclusions can be found on the [ePlan mandate](https://www.land.vic.gov.au/surveying/digital-cadastre/eplan-mandate) webpage.

Lodging parties are advised that an ePlan must be submitted by the Licensed Surveyor when the mandate applies. LUV recommends that lodging parties discuss this with the Licensed Surveyor prior to lodgment. Lodgments that do not comply with the mandate may be refused and relodgment may be delayed.

Customers can read more about LUV’s digital plan transition on our [ePlan mandate](https://www.land.vic.gov.au/surveying/digital-cadastre/eplan-mandate) webpage.

# Commercial and Industrial Property Tax

The Commercial and Industrial Property Tax Reform Act 2024 (CIPTR Act) comes into force on 1 July 2024. The CIPTR Act creates two new types of statutory charges that may be recorded on a folio of the Register. The first statutory charge relates to unpaid tax and the second relates to a transition loan provided by the Treasury Corporation Victoria under the CIPTR Act. Both recordings will be made under section 106C of the Transfer of Land Act 1958 (TLA).

For more information on the CIPT and the transition loan please visit the [commercial and industrial property tax reform](https://www.dtf.vic.gov.au/funds-programs-and-policies/commercial-and-industrial-property-tax-reform#question1) page on the Department of Treasury and Finance website.

# Caveats forbidding the granting of an adverse possession application

Under section 61 of the TLA, a person who claims an estate or interest in land the subject of an adverse possession application under section 60 of the TLA may, before the section 60 application is granted, lodge a caveat to forbid the granting of the section 60 application.

A caveat under section 61 of the TLA is not a caveat under section 89 of the TLA. Conversely, a caveat under section 89 of the TLA is not a caveat under section 61 of the TLA. Customers must ensure that they submit the correct type of caveat for lodgment.

To lodge a section 61 caveat electronically, customers need to lodge a residual document application to request action by the Registrar: Application – Caveat – Forbidding Vesting – Transfer of Land Act – section 61. Details about how to make such an application are available in the [Guide to Residual Documents](https://www.land.vic.gov.au/__data/assets/word_doc/0028/493723/Guide-to-Residual-Documents.docx) found at [www.land.vic.gov.au.](http://www.land.vic.gov.au.)

If a section 61 caveat cannot be lodged electronically, a paper application may be submitted for lodgment using the Record Notice - Transfer of Land Act - Section 104 residual document (Generic Residual Document). Customers may refer to the [Electronic submission of paper instrument page](https://www.land.vic.gov.au/land-registration/for-professionals/electronic-submission-of-paper-instruments) for more information.

# Recording of a person’s appointment or capacity as a Legal Personal Representative in the Register

The administrator or executor (Legal Personal Representative) of a deceased registered proprietor may make an application under section 49 of the TLA to be registered as proprietor of the land for which the deceased is registered proprietor.

Section 49 of the TLA is the only instrument that authorises the Registrar to make a recording of a person’s appointment or capacity as a Legal Personal Representative of a deceased proprietor in the Register of land.

## Other instrument types

It is not appropriate to include a person’s appointment or capacity as a Legal Personal Representative in any other instruments, this includes instruments under sections 45, 47 or 58 of the TLA whether lodged electronically or submitted using the Generic Residual Document.

When a person’s appointment or capacity as a Legal Personal Representative is included in such instruments, the Registrar will process the instrument without making a recording of the Legal Personal Representative’s appointment or capacity. Such information should be held off register by the Legal Personal Representative’s conveyancer or lawyer.

# Minors who intend to become a registered proprietor of an estate or interest in land or deal with their registered estate or interest in land

When a minor (an individual under 18 years old) intends to enter into transaction(s) to become a registered proprietor of an estate or interest in land, or is already a registered proprietor and wishes to deal with their estate or interest in land, the following matters (among others) must be considered:

1. whether the Settled Land Act 1958 (the Act) applies; and
2. if the Act applies, whether the powers conferred by the Act allow the trustees of the settlement or other person(s) (trustees) to sign all required documents for the particular transaction(s) proposed.

If the Act applies and the powers conferred by the Act permit the trustees to sign all required documents, including instrument(s) that are to be submitted for lodgment at Land Use Victoria, then please note that the following requirements for electronic and paper conveyancing transactions apply.

## For electronic conveyancing transactions

* The minor must be named as the relevant transacting party (eg applicant, receiving party, or transferee etc) in the instrument(s).
* ‘Minor’ must be selected under ‘Party Capacity to be recorded on Title’.
* The dealing requirement of ‘Evidence of compliance with Settled Land Act 1958' must be selected. The supporting evidence need not be provided to the Registrar but does need to be retained for seven years.
* The trustees must consist of a minimum of two individual trustees or a trustee company. If the trustee is a Subscriber, then they will digitally sign the relevant instrument on their own behalf. If not, they should sign the relevant Client Authorisation permitting their conveyancer or lawyer to sign the electronic instrument on their behalf.

## For paper conveyancing transactions

* The minor must be named as the relevant transacting party (eg applicant, receiving party, or transferee etc) in the instrument(s).
* The instrument(s) must state that they are a minor.
* The trustees must consist of a minimum of two individual trustees or a trustee company. LUV requires the instrument(s) to be signed by the trustees, or their conveyancer or lawyer on their behalf.
* Either a) a statutory declaration evidencing the appointment of the trustees (see below) or b) a copy of the trust deed or court order must be produced.

Previously it was a requirement that all paper instruments be supported by a copy of the trust deed or court order evidencing the appointment of the trustees.

For instruments signed from 1 July 2024, lawyers acting on behalf of a minor in a paper instrument must confirm by statutory declaration that:

* the trustee(s) is/are trustee(s) as defined in section 3 of the Act;
* the requirements of the Act have been complied with; and
* evidence of the appointment of each trustee has been obtained and retained.

A new standard form of [statutory declaration](https://delwpvicgovau.sharepoint.com/:w:/s/ecm_429/EVsDQMPUWIZCjvz4ApcZOGMBvIa-oCt9hJQHUX_iwz9ZvQ?email=Mark.D.Spence%40delwp.vic.gov.au&e=5SgdQQ) ‘Statutory Declaration by ALP - transfer by minor’ can be found at: [Fees, Guides and Forms](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms).

Since the declaration requires interpretation of the validity of trustee appointments in accordance with the Act, the statutory declaration will only be accepted from a lawyer.

Paper instruments from non-lawyers must still be supported by a copy of the trust deed or court order.

# Guide to dealing with restricted, accessory & carpark lots

LUV has published a ‘[Guide to dealing with restricted, accessory & carpark lots](https://www.land.vic.gov.au/__data/assets/word_doc/0036/698580/Guide-to-dealing-with-restricted-accessory-carpark-lots-June-2024.docx)’ available through [the Fees, Guides and Forms page](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms/2024-25-fees) of land.vic.gov.au. Customers are encouraged to refer to the Guide when dealing with restricted, accessory & carpark lots. The Guide sets out the common issues that are encountered when instruments relating to these types of lots are lodged for registration/recording.

To view the full Guide, visit the [Fees, Guides and Forms](https://www.land.vic.gov.au/land-registration/fees-guides-and-forms/2024-25-fees) page on the Land.Vic website.

# New Memorandum of Common Provisions (MCP) form for water share mortgages

Registrar has approved a form for Memorandum of Common Provisions (MCP) for provisions to be incorporated in a mortgage of water shares. This approved form must be used from 1 July 2024.

[Memorandum of common provision for mortgages of water share(s)](https://www.land.vic.gov.au/__data/assets/word_doc/0034/696265/MCP-template-Provisions-for-water-Share-Mortgages.docx) - Section 84P [Water Act 1989](https://www.legislation.vic.gov.au/in-force/acts/water-act-1989/140)

The form can also be found in: [Lodging in the Victorian Water Register](https://www.land.vic.gov.au/land-registration/for-professionals/lodging-in-the-victorian-water-register)

The form has been created to standardise MCPs that are incorporated into a mortgage of water shares.

The MCP must relate to water shares. Any MCP referring to a water right only is not acceptable and will be the subject of requisitions.

# Common issues with creations of easements - clarification

In August 2021, LUV issued Customer Information Bulletin (CIB) 213 which included advice on common issues that result in requisitions of creation of easement instruments under section 45 of the Transfer of Land Act 1958 and section 23 of the Subdivision Act 1988.

CIB 213 states that easements for ‘pipeline and/or ancillary purposes under section 136 of the [Water Act 1989](https://www.legislation.vic.gov.au/in-force/acts/water-act-1989/133)’ or ‘powerline purposes under section 88 of the [Electricity Industry Act 2000](https://www.legislation.vic.gov.au/in-force/acts/electricity-industry-act-2000/089)’ are not acceptable easement purposes in creation of easement instruments under section 45 Transfer of Land Act 1958 or section 23 Subdivision Act 1988.

The article in CIB 213 did not explain how these types of easement can be created which is:

* easements for ‘pipeline and/or ancillary purposes under section 136 of the [Water Act 1989](https://www.legislation.vic.gov.au/in-force/acts/water-act-1989/133)’ can only be created in a plan of subdivision under the Subdivision Act .
* easements for ‘powerline purposes under section 88 of the [Electricity Industry Act 2000](https://www.legislation.vic.gov.au/in-force/acts/electricity-industry-act-2000/089)’ can only be created in a plan of subdivision or consolidation under the Subdivision Act .

# Mandates and other requirements now in effect

All instruments capable of being lodged electronically must now be lodged using an Electronic Lodgment Network.

This includes all available residual documents and plan and survey-based applications. Any instrument that is lodged using the Generic Residual Document that is capable of electronic lodgment, will be refused.

Version 9 of the Registrar's Requirements was published on 25 January 2024 at <https://www.land.vic.gov.au/land-registration/publications>. The following amendments are now in effect:

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| Amendment | Effective Date |
| Clarification of requirements regarding the creation of restrictions in plans including that they are limited to a single plan page. | 4 March 2024 |
| Limitations on variations of easement - the term (length of time), land, parties or the nature/purpose of the easement cannot be varied. | 4 March 2024 |
| Removal of instruments as to part – only permitted from a whole folio or separately transferable parcel. | 4 March 2024 |
| Withdrawals of caveat when the caveator is deceased – are required to be signed by the caveator’s legal personal representative. | 4 March 2024 |
| Leases and sub-leases – cannot be accompanied by a separate paper/PDF lease. | 4 March 2024 |
| Concurrent leases – all relevant leases must be registered. | 4 March 2024 |

Information about how to register to become a SPEAR ELN Subscriber is available on the SPEAR website

<https://www.spear.land.vic.gov.au/spear/pages/lodging-parties/how-do-i-get-started.shtml>

If you have any queries about the above dates may be directed via the [online enquiry form](https://urldefense.com/v3/__https:/t.e2ma.net/click/w7xtsi/0638slf/cw323z__;!!C5rN6bSF!HEbYS65-F9JyxLLEUS2xxulbp6ZHjt_rWpOoGWZozVQ4mqhWpK-_H2lakgYyuHetUe4-PFASVheGMAaFN7PD7aKSSqeTqygOnpmA$).

# Contact us

For location and contact details, please go to <http://www.land.vic.gov.au/contact-us>