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| Land Use VictoriaCustomer Information Bulletin 170, September 2017 |
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# Creating restrictive covenants in transfers and restrictions in plans

Land Use Victoria released a consultation paper on 2 December 2016 on proposed changes to creating restrictive covenants in transfers and restrictions in plans.

Following stakeholder feedback, several alterations were made to the proposal. The new requirements will be included in the Registrar’s requirements for paper conveyancing transactions and take effect from 1 July 2018. The transfer of land forms will be amended to reflect the changes and customers will be advised following their publication.

See [www.propertyandlandtitles.vic.gov.au/publications](http://www.propertyandlandtitles.vic.gov.au/publications) for information about the proposal, including stakeholder feedback.

# Consultation on trial of new process enabling five-day subdivision plan registration

Land Use Victoria (LUV) has been trialling a system to improve timeframes for registration of subdivisions of 10 or more lots. The requirements for the trial were published in [*Customer Information Bulletin 164* and *Customer Information Bulletin 166*](https://www.propertyandlandtitles.vic.gov.au/customer-information-bulletins).

LUV now seeks comment from stakeholders on the trial, including suggested changes and implications if the arrangements were to continue.

Stakeholders are invited to make written submissions to Land Use Victoria by 13 October 2017.

Details of how to make a submission are in the consultation paper at [www.propertyandlandtitles.vic.gov.au/publications](file:///J%3A%5Clvcorp%5CLandvic%5CCOMMUNICATIONS%5CCustomer%20Information%20Bulletin%5C2017%5Cwww.propertyandlandtitles.vic.gov.au%5Cpublications).

The registration arrangements put in place for the trial will remain in place during the consultation process.

# Enduring powers of attorney – confirming a transaction is not a conflict of interest

The *Powers of Attorney Act 2014* (the Act) generally prohibits an attorney under an enduring power of attorney from entering into a transaction on behalf of a principal when a conflict arises between the duty of the attorney to the principal and the interests of the attorney or a relative, business associate or close friend of the attorney – see section 64(1). Section 64(1) does not apply to a gift given under section 67, maintenance under section 68, or acquisition or disposal of jointly owned property.

The Act contains exceptions to this rule. For example, when a transaction is authorised by the principal, the principal (within capacity) validates a transaction or a transaction is authorised by VCAT.

Parties to an instrument must be satisfied that it is permissible under the Act. To avoid a requisition from Land Use Victoria, an Australian Legal Practitioner should confirm in writing that the instrument does not form part of a conflict transaction under the Act. This confirmation should be provided when a dealing is lodged.

# Section 60 applications

Since the end of May, Land Use Victoria Legal has completed the evidence examination of 93 adverse possession applications. Of these, 15 were sent straight to the Applications and Survey Branch for survey examination. The remaining 78 were requisitioned.

Some of the applications were fundamentally flawed. For example, 15 years’ possession not being demonstrated at all through deeds of assignment or the law. In several applications recorded encumbrances were not dealt with effectively – for example, 30 years’ non-use of easements not being demonstrated.

However, many requisitions were for information missing from statutory declarations or missing evidence. The *Guide to evidence supporting an adverse possession claim* is a very useful resource that clearly sets out what is required.

Requisitions result in delays. If they are not answered adequately they ultimately result in the application being rejected, with fees forfeited.

For further information, refer to the *Guide to adverse possession* and the *Guide to evidence supporting an adverse possession claim*, both at [www.propertyandlandtitles.vic.gov.au/forms-guides-and-fees/transfer-of-land](http://www.propertyandlandtitles.vic.gov.au/forms-guides-and-fees/transfer-of-land).

# Answering requisitions, stopped case notices and other correspondence

When responding to a requisition or stopped case notice, correspondence should only be sent to one of the following addresses:

Registrar of Titles
Land Use Victoria
GPO Box 527
Melbourne 3001

OR

Registrar of Titles
Land Use Victoria
DX 250639 Melbourne

Correspondence can also be delivered in person to Level 1, 2 Lonsdale Street, Melbourne 3000 (note our new address).

Correspondence relating to folios of the Register affected by a NARF (Notice of action in respect of a folio) should be sent to one the following addresses:

Warants Officer
Land Use Victoria
GPO Box 527
Melbourne 3001

OR

Warrants Officer
Land Use Victoria
DX 250639 Melbourne

Correspondence can also be delivered in person to Level 1, 2 Lonsdale Street, Melbourne 3000 (note our new address).

**Correspondence should not be emailed direct to the Registrar of Titles or anyone else at Land Use Victoria (unless you are specifically requested to do so).**

Your correspondence will be delayed if you fail to send it to the appropriate address.

# Victorian Water Register – grants of representation for certain water shares

*Customer Information Bulletin 148*, March 2015 provided information on the conversion of take and use licences into water shares. It also reminded customers that a grant of representation is required when a legal personal representative makes an *Application by a legal personal representative in respect of a water share*. This remains the case.

However, the Registrar, Victorian Water Register will not require applicants to produce a grant of representation when:

* 1. a statutory declaration is provided by an applicant stating that:
		1. the applicant is an executor of a deceased water share owner or is entitled to obtain a grant of letters of administration;
		2. the value of the water share is less than the threshold amount referred to in sections 31A and 31B of the *Administration and Probate Act 1958*;
		3. a grant of representation cannot be obtained; and
	2. a copy of the deceased water share owner’s death certificate is produced, together with a copy of the will (when an applicant claims to be an executor).

Before applying to the Registrar in these circumstances, practitioners must satisfy themselves of the applicant’s authority to deal with the water share and their identity.

# Land Use Victoria has moved to 2 Lonsdale Street

Land Use Victoria has moved to 2 Lonsdale Street, Melbourne, at the corner of Spring Street.

## New address, phone and fax numbers

Our postal address and DX have not changed but we have new phone and fax numbers.

Level 1, 2 Lonsdale Street, Melbourne 3000

Postal Address: GPO Box 527, Melbourne 3000 DX 250639 Melbourne

Ph: 9194 0601

Fax: 9194 0616

Office hours: 8.30 am – 4 pm

# Contact us

For [location and contact details](http://www.dtpli.vic.gov.au/property-and-land-titles/contact-us), go to [www.propertyandlandtitles.vic.gov.au/contact-us](http://www.propertyandlandtitles.vic.gov.au/contact-us).

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