

Land Victoria Customer Information Bulletin

Edition 143 May 2014

New lodging fees from 1 July 2014

From 1 July 2014, fees for lodging transactions at Land Victoria will change.

The value of a fee unit, as announced by the Treasurer on 15 April 2014, is \$13.24.

For the most frequent transaction types, fees for paper transactions from 1 July 2014 will be:

Discharge of mortgage	\$111.00
Transfer of land	\$135.20 plus \$2.46 per \$1000 of consideration
Mortgage	\$111.00
Caveat	\$76.90
Transfer (non-monetary)	\$135.20
Withdrawal of caveat	\$76.90
Transmission application	\$96.40
Survivorship application	\$96.40
Plan of subdivision	\$762.20 plus \$166.20 per lot (above 2), plus \$129.50 per owners corporation (above 1), plus \$375.10 if based on survey

For the most frequent transaction types, the fees for electronic transactions from 1 July 2014 will be:

Discharge of mortgage	\$87.60
Transfer of land	\$111.70 plus \$2.46 per \$1000 of consideration
Mortgage	\$87.60
Caveat	\$53.50
Transfer (non-monetary)	\$111.70
Withdrawal of caveat	\$53.50

Fees for search products and services will be announced when available, which is expected to be late May 2014.

PEXA takes over from Electronic Conveyancing Victoria (ECV)

From 16 June 2014 the PEXA system will be available to existing users of ECV to transact caveats and withdrawals of caveat. Transfers of land will be introduced in the fourth quarter of 2014.

Solicitors or conveyancers wishing to transact electronically should contact Property Exchange Australia Limited. Details are on the PEXA website at www.pexa.com.au.

Caveat types

Caveat capability in the PEXA system will allow for most caveat types to be created and the ability to cite one or more of the registered proprietors and/or third parties in the grounds of claim.

To standardise and categorise the grounds of claim and align them with appropriate estate(s) and interest(s), tables provided in the PEXA system operate to ensure a correct claim is always provided to the Registrar for recording.

The PEXA tables group together the grounds of claim and their associated estate(s) and interest(s) by claim category.

New interactive caveat forms

From 1 July 2014 Land Victoria will no longer approve caveat forms in the current style. This applies to new applications and applications to renew a current approval.

When the two-year approval period for any existing caveat form passes, the current form will be considered expired. Any expired form has a 'run-off' period of 12 months, during which time the expired form is still acceptable for lodgement. Once the run-off period passes, an instrument produced using an expired form is generally unacceptable for lodgement.

Later in 2014 Land Victoria will introduce a new interactive caveat form. The new form will feature standardised grounds of claim aligned to the appropriate estate(s) or interest(s), using the same tables available in a PEXA caveat.

Affected customers are encouraged to use the new interactive caveat form when it becomes available.

Caveat endorsement on folio search

To coincide with the introduction of caveat functionality in the PEXA system, the endorsement of a caveat on a folio will change to be more comprehensive than the current endorsement. In most cases, it will not be necessary to obtain a copy of the caveat to understand the caveator's claim. Below is an example of the new folio endorsement:

CAVEAT AK123456C 06/05/2014

Caveator
PETER JOHN SMITH
Grounds of Claim
PURCHASERS' CONTRACT WITH THE FOLLOWING
PARTIES AND DATE.
Parties
THE REGISTERED PROPRIETOR(S)
Date
06/05/2014
Estate or Interest
FREEHOLD ESTATE
Prohibition
ABSOLUTELY
Lodged by
XYZ CONVEYANCING
Notices to
XYZ CONVEYANCING of 1 OXLEY ROAD HAWTHORN VIC
3122

Lodging subdivision applications online

Electronic lodgement of applications to register plans of subdivision at Land Victoria will be introduced in November 2014. This service will be provided in SPEAR (Surveying and Planning through Electronic Applications and Referrals).

SPEAR will offer online application lodgement, including payment from a bank account or over the phone using a credit card. SPEAR will also provide access to survey documents and council decisions, and automatic notification of application progress and document updates. Notification of Land Victoria requisitions and surveyor changes will also be a feature.

This new capability will introduce a new group of SPEAR users – lodging parties – who will need to become familiar with the system and be encouraged to sign up and lodge electronically. A user consultation program is currently being developed to identify the leading industry bodies and

organisations (legal and conveyancing) who will want to be in the initial pilot group to lodge subdivision applications in SPEAR.

An expression of interest will be called in mid-2014.

Further information regarding electronic lodging can be found on the SPEAR website at www.spear.land.vic.gov.au, or contact the SPEAR Service Desk on 8636 3049.

Applications for discharges of mortgages on proof of payment – Registrar’s requirements

Due to a number of recent applications for discharges of mortgages on proof of payment, Land Victoria would like to clarify the process.

This application, which falls under Section 84(2) of the *Transfer of Land Act 1958 (the Act)*, allows the Registrar of Titles (Registrar) to amend the Register if it is proved to his satisfaction that the principal and interest due under a mortgage have been paid to the person entitled to receive them.

Use of section 84(2) can only occur once all ordinary conveyancing practices have been exhausted. This could mean seeking a discharge of mortgage from the legal personal representative of an individual mortgagee or applying to ASIC for a discharge when the mortgagee company has been deregistered.

The granting of a section 84(2) application is discretionary. It generally requires an applicant to provide documentary proof of:

- the amount of principal and interest payable
- the payment having been made
- the inability to obtain a discharge of mortgage for the reasons set out in section 84(2)(b) of the Act.

If the mortgage sought to be discharged is an ‘all moneys’ mortgage, it may be difficult to prove the total amount of principal and interest due under the mortgage. Also, it might be impossible to prove that the registered mortgage was not used later as a further loan facility. In these cases, applicants are encouraged to provide the Registrar with as much evidence as they have.



Contact us – new page online

Land Victoria has a new [Contact us](#) page on the Department of Transport, Planning and Local Infrastructure website at www.dtpli.vic.gov.au/property>Contact us.

Information is included about:

- Land Registration Services
- Valuer-General Victoria
- Office of Survey-General Victoria (including Geodetic Survey)
- Office of Geographic Names

This evidence may include:

- a statutory declaration by the applicant about the specific amount of money payable, which also confirms that the mortgage was not later used as a further loan facility
- an acknowledgement or correspondence from the mortgagee that all money due under the mortgage has been paid.

If it is difficult to provide evidence that the mortgage has been paid, other forms of proof might include:

- a final receipt from the mortgagee
- a balance sheet
- a bank statement
- a photocopy of a discharge of mortgage signed by the mortgagee but not lodged or registered
- evidence of payment from someone with requisite knowledge, for example a former director or employee of the mortgagee, the mortgagee’s successor or liquidator, an Australian legal practitioner or other agent.
- proof from the mortgagor’s Australian legal practitioner or accountant, who negotiated the mortgage or requested a discharge.

In all cases, applicants are again encouraged to provide as much evidence as possible to prove to the Registrar that the mortgage has been repaid.

In some circumstances, alternatives to a section 84(2) application might be available, such as an application under section 60 of the Act.

The page also includes information about opening hours, phone numbers and locations.

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For further information

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Published by the Victorian Government
Department of Transport, Planning and Local Infrastructure, May 2014

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Authorised by the Victorian Government, 570 Bourke Street, Melbourne.

ISSN 1441-1504 PP 349181/01650

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