

# Land Victoria Customer Information Bulletin

Edition 136 June 2012

## Changes to Land Victoria fees from 1 July 2012

In accordance with the *Monetary Units Act 2004*, Land Victoria lodgement fees expressed in number of fee units will increase from 1 July 2012. The Subdivision Act fees that increased in March 2012 will not be changing. New search fees and user charges will also apply from 1 July 2012.

The new fees are available on Land Victoria's webpage at:

[www.dse.vic.gov.au](http://www.dse.vic.gov.au) > Property, Titles & Maps > Land Titles > Forms, guides and fees

## Notice of Acquisition [NOA]

Section 103 of the *Land Tax Act 2005* requires a Notice of Acquisition to be lodged with the Registrar of Titles within one month of a person acquiring a property.

Although this is a 'stand-alone' obligation, most customers find it convenient to submit the Notice of Acquisition with related transaction documents, such as the Transfer of Land. When transaction documents have deficiencies and are not accepted for lodgement, they are returned to the customer; but, any accompanying Notice of Acquisition is retained and processed by the Registrar of Titles. When the transaction documents are re-submitted, a further copy of the Notice of Acquisition is not required.

Photocopies of Notices of Acquisition may be poor quality and illegible and cause difficulty in data capture processes. Customers should ensure that the Notice of Acquisition submitted to the Registrar of Titles is an original document, not a photocopy. Purchasers' representatives should be encouraged to provide original Notices of Acquisition.

A frequently asked question is whether a Notice of Acquisition is required in relation to a purchase of alpine sub-leases. Purchasers' representatives are reminded that the Notice of Acquisition relates to the acquisition of an interest in land and includes alpine resorts leases.

## Section 89A of the *Transfer of Land Act 1958*, reminder

Customer Information Bulletin Edition 132 dated September 2011 contained an article about caveats and their removal.

When an application is made under section 89A and the caveator provides notice to the Registrar that proceedings are on foot, in a court of competent jurisdiction to substantiate the caveator's claim, and includes the proceeding number, the caveat will not lapse.

As explained in the previous article, section 89A(3)(b) is a mechanical section and is satisfied if the Registrar receives the requisite notice. The Registrar does not, and is not required to, assess whether the assertions contained in the notice are correct.

Land Victoria is continuing to receive letters querying whether the proceedings have, in fact, been properly issued, are in a court of competent jurisdiction or substantiate the caveator's claim. The Registrar is not in a position to adjudicate on this.

If the proceedings are later discontinued, withdrawn, struck out or dismissed, an application to have the caveat lapsed may be made under section 89A(7)(b).

## Adverse possession by joint beneficiaries

Beneficiaries of intestate estates in administration cannot assert adverse possession claims against their fellow beneficiaries.

For other adverse possession claims by joint beneficiaries, a determination by the Supreme Court will be required. This is because the Supreme Court exercises jurisdiction over deceased estates under the *Administration and Probate Act 1958* and it would be premature for the Registrar to grant vesting orders under section 62 of the *Transfer of Land Act 1958* as it might conflict with the court's final division of the estate.

## 150 years of Torrens title in Victoria 1862–2012

Prospective applicants should therefore first seek an order from the Supreme Court under section 48(2) of the *Administration and Probate Act 1958*, vesting the property in the applicant by virtue of possessory title. If the court makes the order, it can be used to support an application under section 60 of the *Transfer of Land Act 1958*.

## Accepting Section 45 transfers at Plan Acceptance

Land Victoria advises that, in specific circumstances, Section 45 Transfers of Land (T1) affecting or associated with Plans of Subdivision or Consolidation can now be lodged at Plan Acceptance.

Transfers that may be lodged with a plan include:

- any transfer that gives effect to the vesting and is required to register a Section 35 Plan of Subdivision;
- any transfer that follows a Section 32 Plan resolving a Not In Common Ownership proprietorship with an Owners Corporation; and
- any other transfer presented with a plan or series of plans that is deemed necessary to process or register the plan(s).

Note: Any transfer or other dealing that simply follows a plan should be lodged through the normal Registration queues.

## Other subdivision information

Information relating to subdividing or consolidating property in Victoria is located on Land Victoria's webpage at:

[www.dse.vic.gov.au](http://www.dse.vic.gov.au) > Property, Titles & Maps > Land Titles > Plans of Subdivision and Consolidation

Useful information includes:

- Building Subdivision Guidelines
- Owners Corporation Information
- Interpreting Strata Plans
- Acceptable Easement purposes
- Non-Survey Guidelines

There are also links to:

- Legislation (both subdivision and owners corporation)
- Forms, guides and fees
- SPEAR

Customers are encouraged to access the website for information that will assist them with subdivision and other plan related enquiries.

If you have any feedback on the website's information, please email: [Subdivision.Branch@dse.vic.gov.au](mailto:Subdivision.Branch@dse.vic.gov.au)

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