

## Generic mortgage forms

The Registrar of Titles recently approved two new generic mortgage forms that can be used to lodge mortgages in either the Electronic Conveyancing (EC) system or in paper format.

The forms — a principal sum mortgage form and an all monies mortgage form — both have the approval number 27600610G.

In the EC system the forms will be used for digital mortgage instruments signed by the mortgagee and will be lodged electronically.

The Registrar will also accept both generic forms for lodging in paper, subject to the usual examination process. Samples of the forms are printed on pages 2 and 3 of this bulletin.

In order for the Registrar to examine paper generic mortgages, and for them to be easily searchable once registered, customers are required to:

- use Approved Forms 27600610G (principal sum and all monies generic mortgages)
- use a laser printer to print the forms
- use a laser printer or ink to complete the forms
- use black ink when printing the forms and their contents
- use black or blue ink when completing the forms by hand
- ensure that all signatures and hand-writing are in ink

- only print on one side of a page
- print in portrait
- use size A4 paper
- use white paper
- use paper of not less than 80gsm
- allow for a Land Registry label in margins in the top right-hand corner of each page; dimensions 40mm by 50mm
- left, right and bottom margins should be 10mm
- use Times New Roman font
- use font size of 12 point
- staple the pages together in the top left-hand corner if a mortgage contains more than one page; binding is not acceptable
- number pages at the bottom right of each page if a mortgage contains more than one page, for example 1 of 4, 2 of 4, 3 of 4 and 4 of 4 etc, as applicable
- include, where required, the financial institution's reference on each page in the left-hand corner of the footer
- not use white out or any other impermanent medium
- refrain from making pencil notations on the mortgages.

**The Registrar will also continue to accept all other existing approved mortgage forms in paper format.**

## INSIDE

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## Telephone enquiries

It is important to Land Victoria that we provide prompt, consistent answers to queries from our customers and collate all enquiries we receive.

To ensure a smooth process for all telephone enquiries, including legal enquiries, customers are asked to call Customer Services on 8636 2010.

If required your call will be forwarded to a specific area, or an email will be sent to the appropriate person to ensure you receive the correct information.

# SAMPLE GENERIC MORTGAGE FORM (Principal sum)

Lodged by:  
Name:  
Customer code:

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MORTGAGE OF LAND

Reference:

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Privacy Collection Statement:

The information made under this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry.

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The mortgagor mortgages to the mortgagee the estate and interest specified in the land described subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this mortgage.

The mortgagor covenants with the mortgagee that the provisions of the Memorandum of Common Provisions (MCP) referred to in this mortgage and retained by the Registrar of Titles form part of this mortgage.

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Memorandum of Common Provisions:

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Land: (Unique Land Identifier appropriate to the jurisdiction) and Mortgagor: (full name)

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Estate and Interest being mortgaged: (eg 'fee simple')

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Mortgagee: (full name and address including postcode)

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Principal Sum:

---

How and when principal sum is to be repaid:

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Rate of interest and how payable:

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COVENANTS

Where a MCP is incorporated into this mortgage, the mortgagor acknowledges that they received, read and understood a copy of the MCP before signing this mortgage.

The mortgagor covenants with the mortgagee as follows:

---

Dated:

---

Execution and Attestation:  
Signed by:

---

Order to Register  
Please register and issue CoFT to:  
Signed:  
Customer Code:  
Firm's Name:

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Approval Number: 2760061G  
Office of Titles Victoria

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# SAMPLE GENERIC MORTGAGE FORM (All monies)

Lodged by:  
Name:  
Customer code:

---

MORTGAGE OF LAND

Reference:

---

Privacy Collection Statement:

The information made under this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry.

---

The mortgagor mortgages to the mortgagee the estate and interest specified in the land described subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this mortgage.

The mortgagor covenants with the mortgagee that the provisions of the Memorandum of Common Provisions (MCP) referred to in this mortgage and retained by the Registrar of Titles form part of this mortgage.

---

Memorandum of Common Provisions:

---

Land: (Unique Land Identifier appropriate to the jurisdiction) and Mortgagor: (full name)

---

Estate and Interest being mortgaged: (eg 'fee simple')

---

Mortgagee: (full name and address including postcode)

---

COVENANTS

Where a MCP is incorporated into this mortgage, the mortgagor acknowledges that they received, read and understood a copy of the MCP before signing this mortgage.

The mortgagor covenants with the mortgagee as follows:

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Dated:

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Execution and Attestation:  
Signed by:

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Order to Register  
Please register and issue CoFT to:  
Signed:  
Customer Code:  
Firm's Name:

Approval Number: 2760061G  
Office of Titles Victoria

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## Considerations in transfers and duty assessed

The Registrar has a duty to ensure that the appropriate lodging fees are paid. In determining the lodging fee, staff are required to assess the true consideration. To do this, staff will review what is stated in the consideration panel, the parties and what is set out in the duty assessment notation.

Where the consideration stated is 'a gift' or 'natural love and affection' and the parties appear to be related, the dealing may be accepted at face value, even if there is no exemption from duty. If the parties do not appear to be related, queries may be raised.

Where the consideration is expressed to be an agreement between the parties (even if they are related) and it appears that duty has been paid, staff will not know whether any monetary consideration formed part of the agreement. As a result, the dealing will be refused and both parties or their Australian Legal Practitioner(s) will be asked to confirm whether or not there was a monetary component. If there was a monetary component, the consideration panel will need to be amended accordingly. To avoid such a refusal, it is suggested that the consideration be expressed to make it clear that there was no monetary consideration (if appropriate).

Where the consideration expressed is monetary but the duty assessment shows a higher consideration (whether or not the parties appear to be related), staff will not know whether there is a mistake in the consideration panel e.g. a typographical error or that GST

has been omitted or that there is a non-monetary component which should be fully explained. As a result, the dealing will be refused and both parties or their Australian Legal Practitioner(s) will be asked to clarify the situation and make any necessary amendments. To avoid such a refusal, it is suggested that the consideration be expressed to make the position completely clear.

## First mortgagee's consent to registration of a plan of subdivision

Section 22(1)(da) of the *Subdivision Act 1988* requires the consent of the parties listed in Section 22(1A) to the registration of a Plan of Subdivision. Traditionally, a formal written consent has been sought from a relevant party. If that party is a first mortgagee, that consent document has been additional to the endorsement of an Order to Register on the application and production of the Certificate of Title.

Having regard to the provisions of Section 22(1AB) of the Act, the practice of requiring a formal consent document from a registered first mortgagee will cease. In future, an Order to Register given by or on behalf of the registered first mortgagee, coupled with production of the Certificate of Title, will constitute consent.

The Order to Register must clearly request the Registrar to register the plan and give clear and unambiguous directions as to the issue of the new Certificates of Title.

Customers should note that a formal consent from second and subsequent mortgagees or other encumbrance holders is still required.

## Evidence requirements in Section 22(1B) applications

Section 22(1B) of the *Subdivision Act 1988* provides that where a person who is required to consent to the registration of a plan has not consented, the applicant may apply to the Registrar for service on that person of a notice under subsection (1C).

It is a pre-requisite to the use of Section 22(1B) that consent first be sought. The Registrar considers that the intent of the section is not to remove the obligation to first seek consent, but to facilitate plan registration in circumstances where consent has been sought but refused or not responded to.

Accordingly, future applications under Section 22(1B) must be accompanied by evidence (by way of statutory declaration) as to the attempt(s) made to obtain the relevant party's consent. The statutory declaration should:

- specify the party whose consent was sought and details of their encumbrance
- specify that consent was sought in writing on (date) and delivered to the current address of the encumbrance holder
- specify how address was confirmed as current (personal knowledge, telephone book etc)
- if not sent to the current address, confirm the notice/letter was sent to last known address and advise why not to current address (not in telephone book, on Internet etc)
- specify the response to the notice/letter - either no response or a refusal of consent.

## Customer Information Bulletin on email

If you'd like to receive the *Customer Information Bulletin* electronically or to unsubscribe, send your request via email [trs.enquiries@dse.vic.gov.au](mailto:trs.enquiries@dse.vic.gov.au), telephone (03) 8636 2812, or fax (03) 8636 2250.

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