

# Changes to lodging mortgages and discharges of mortgage

## For mortgagees, conveyancers and lawyers

This guide assists mortgagees, their conveyancers, lawyers and lodging agents understand Land Victoria's changes to lodging requirements for mortgages and discharges of mortgage documents.

### Introduction

The Registrar of Titles (the Registrar) has determined requirements 6 and 7 of the Registrar's Requirements to facilitate changes for lodging mortgages and discharges of mortgage. These requirements particularly affect mortgagees, their conveyancers, lawyers and lodging agents.

### What is changing?

A discharge of mortgage signed on or after 1 March 2016 must be lodged by or on behalf of the mortgagee. The practice of providing a discharge of mortgage to the registered proprietor(s) to lodge at Land Victoria is no longer permitted. The only exception is when the discharge of mortgage is lodged with a transfer of land and/or a mortgage affecting the same folio(s) of the Register.

When the mortgagee is an Australian deposit-taking institution (ADI) under the *Banking Act 1959*:

- a discharge of mortgage signed on or after 1 August 2016 must be lodged using an electronic lodging network (ELN), except when the discharge of mortgage is lodged with any transfer of land or mortgage for the same folio(s) of the Register
- a mortgage to which the National Credit Code applies signed on or after 1 August 2016 must be lodged using an ELN, except when the mortgage is lodged with any discharge of mortgage or transfer of land for the same folio(s) of the Register.

This requirement does not apply if an ELN is not available and has not been available for one clear business day.

Currently, the only ELN is Property Exchange Australia (PEXA). Land Victoria strongly recommends that all ADIs and their conveyancers and lawyers apply as soon as possible to become [PEXA subscribers](http://pexa.com.au/register) (at [pexa.com.au/register](http://pexa.com.au/register)).

### Examples

The following matrix provides examples of transaction types and indicates whether or not they must be lodged electronically from 1 August 2016.

No.	Transaction type	Folio 1	Folio 2	Lodge electronically
1	Discharge of mortgage	✓		✓
2	Mortgage	✓		✓
3	Discharge of mortgage, Mortgage	✓ ✓		X
4	Discharge of mortgage, Transfer of land	✓ ✓		X
5	Transfer of land, Mortgage	✓ ✓		X
6	Discharge of mortgage Transfer of Land Mortgage	✓ ✓ ✓		X
7	Discharge of mortgage, Discharge of mortgage		✓ ✓	✓ ✓
8	Discharge of mortgage, Survivorship application	✓ ✓		✓ ✓

# Changes to lodging discharges of mortgage

## Frequently asked questions

- Q1 A mortgagor arranges to refinance a property with another financial institution to enable completion of major renovations. Will this need to be lodged electronically?**
- A1** If lodged separately, the documents in this transaction must be lodged in PEXA. If lodged together, this transaction can be lodged either in PEXA or on paper.
- Q2 A transferee arranges mortgage finance to complete the purchase of unencumbered property. Does this need to be lodged electronically?**
- A2** When the mortgage is one to which the National Credit Code applies:
- if lodged separately, the mortgage in this transaction must be lodged in PEXA – the transfer can be lodged either in PEXA or on paper
  - if lodged together, the transaction can be lodged either in PEXA or on paper.
- Q3 A mortgagor owns two properties encumbered by mortgages to two different mortgagees. The mortgagor arranges to refinance with a single mortgage over both properties. Does this need to be lodged electronically?**
- A3** When the mortgage is one to which the National Credit Code applies:
- if lodged separately, the documents in this transaction must be lodged in PEXA
  - if lodged together, this transaction can be lodged either in PEXA or on paper.

**Q4 A mortgagee is requested to provide a discharge of mortgage and Certificate of Title to the registered proprietor, who intends to lodge them with a survivorship application over the same folio. Can the mortgagee comply with this request?**

**A4** The mortgagee cannot comply with this request. The mortgagee must first discharge the mortgage then return the unencumbered Certificate of Title to the registered proprietor. The survivorship application and supporting Certificate of Title can then be lodged by, or on behalf of, the registered proprietor.

## Further information

[Registrar's Requirements for Paper Conveyancing](http://www.delwp.vic.gov.au/publications) at [www.delwp.vic.gov.au/publications](http://www.delwp.vic.gov.au/publications).

[Guide to mortgage](http://www.delwp.vic.gov.au/property-forms) and [Guide to discharge of mortgage or charge](http://www.delwp.vic.gov.au/property-forms) at [www.delwp.vic.gov.au/property-forms](http://www.delwp.vic.gov.au/property-forms)>Transfer of Land>Mortgage.

## Contact us

For [location and contact details](http://www.delwp.vic.gov.au/property), refer to [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us.

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