

Introducing priority notices late 2016

Priority notices will be introduced in Victoria in December 2016. A priority notice is a notification of intended dealings with land, which is lodged with the Registrar of Titles at Land Victoria. Once recorded, a priority notice will temporarily prevent the registration of any other dealing over the cited folio. A priority notice will not prevent recording an instrument not currently requiring a supporting Certificate of Title (for example caveats, warrants and land tax charges).

A priority notice will:

- protect the interests of parties to an intended instrument or transaction, from the time the priority notice is lodged until that instrument or transaction is lodged
- alert interested parties who search the Register that an intended instrument or transaction is pending
- assist in fraud prevention because details of an intended instrument or transaction will appear on a search of the Register; therefore, increasing the likelihood of fraud being detected.

Priority notices will extend to all instrument types. The information in the priority notice must be accurate and complete to have effect. Amendments or corrections to lodged priority notices will not be permitted. If necessary, the priority notice can be withdrawn and a new priority notice lodged in its place.

When the intended instrument or transaction is lodged, it must match the details contained in the priority notice; otherwise, the intended instrument or transaction will not be registered or recorded. All instruments cited in the priority notice must belong to the same transaction and be set out in order of lodgement. There will be neither provision in the priority notice to cite particular instruments to which the applicant consents, nor a mechanism for the applicant to provide consent to subsequent instruments.

Priority notices must be lodged using an Electronic Lodgement Network (ELN), irrespective of whether the intended instrument or transaction will be lodged in paper or electronically. An ELN subscriber can lodge on behalf of a registered proprietor or any incoming party. Currently the only ELN is PEXA (Property Exchange Australia). In order to lodge through PEXA you must be a registered subscriber, which can be arranged through their website at www.pexa.com.au.

Priority notices will be effective for 60 calendar days from the day after the date of lodgement.

A priority notice:

- will automatically expire when the intended instrument or transaction is registered, or at midnight on the 61st calendar day after the priority notice is lodged (whichever is the sooner)
- will cease to have effect upon its withdrawal – it must be withdrawn by the same subscriber who lodged it
- can be removed by a court order.

Land Victoria is currently developing a comprehensive guide for customers on the use of priority notices.