

Dealing with Road Status A Land Use Victoria Perspective

Echuca-Moama September 2017



Roscoe Mc James
Land Use Victoria



Environment,
Land, Water
and Planning

ROADS

Some of the more common methods of ROAD status removal.

- Transfer of Land Act 1958.
- Local Government Act 1958.
- Local Government Act 1989.
- Subdivision Act 1988.
- Land Act 1958.
- Road Management Act 2004.
- Planning and Environment Act 1987.
- Other methods may be created for major projects such as CityLink, Urban Land Act, etc.



Understand that we all have our own vested interest when dealing with roads.

- Councils.
- DELWP.
- Land Use Victoria.
- Roads Corporation.
- (Linking Melbourne), Places Victoria.
- Governor in Council.
- Water Authorities.
- Surveyor Generals Office.
- Other organisations that come and go.

- Identify the “ROAD”.
- Is the road a;
 - Road created on early Lodged Plan.
 - Road created on a modern Plan of Subdivision.
 - Laneway occupied by adjoining owner/s.
 - Carriageway Easement labelled as a road on the register.
 - Private Road.
 - A General Law or Old Law Road.
 - Government Road.
 - Un-used government road.
 - A Freeway or Arterial Road.
 - Any combination of a number of the above.



- Removal of Road Status under Section 73 used when encumbrance can be proven to be abandoned or extinguished.
- Can be used to remove carriageway and road status.
- Most commonly used on laneways.
 - Proof of a minimum of 30 years non-use.
 - Letter from council produced indicating road is not a public Highway or on the councils road register within the meaning of RMA 2004.
- Same principles apply under Section 60 TLA.

- Many roads discontinued by councils using these provisions still appear as a road on the register because the transfer under 528(2) has not been lodged with LUV.
- Although the LGA 1958 was repealed, if a gazettal entry was published in the Victorian Government Gazette prior to (7th Dec 1993) then the process can be finalised by a 528(2) transfer .

*Section 25 (2) Local Government (Miscellaneous) Act 1993 (Repeal of 1958 LGA)
Any Act, matter or thing started under that Part may be completed as if that
Part was still in force.*

Local Government Act 1958



**Transfer of Land
Local Government (Miscellaneous) Act 1958**

Lodged at the Land Titles Office by:

Name: Macquarie Lawyers & Strategists
 Phone: (03) 9650 6700
 Address: Level 6/124 Exhibition Street Melbourne Vic 3000
 Ref: 10661
 Customer Code: 301J



The transferor transfers to the transferee for the consideration expressed an estate in fee simple in the land described subject to the encumbrances specified pursuant to the provisions of section 528 (2) of the Local Government (Miscellaneous) Act 1958.

Land: Being Lot 2 on the attached Title Plan TP948267H, being part of a former road contained in Volume 5318 Folio 488

Consideration: \$10,780

Section of the Local Government (Miscellaneous) Act 1958:
 Section 528 (2) of the Local Government (Miscellaneous) Act, 1958

Transferor: DAREBIN CITY COUNCIL
 of 274 Gower Street Preston Vic 3072

Transferee: JAME ANTONIO CHIMIRRI
 3 Cool Street Reservoir Vic 3073

Encumbrances: As to the whole of the land being subject to the right, title, power, authority or interest of Melbourne and Metropolitan Board of Works, as saved by section 528 (2) (e) of the Local Government (Miscellaneous) Act 1958

Date: 17 / 8 / 2012

Execution and attestation

Original Land Transfer
 Stamped with 4150-00
 Doc ID 2594079 - 20 Aug 2012
 SRD Victoria Duty: P460

See Annexure Page 2

ANNEXURE PAGE 2



The COMMON SEAL of
 DAREBIN CITY COUNCIL
 was affixed on 7/8/2012
 with the authority of the Council.



[Signature]

Chief Executive Officer

Signed by JAME ANTONIO CHIMIRRI
 in the presence of:

[Signature]

[Signature]
 Signature of Witness

NICHOLAS BOURJAILI
 Name of Witness
 (please print)

Local Government Act 1958

TITLE PLAN AJ873378B

SECTION 117(1) (a) LOCAL GOVERNMENT ACT 1958

PLAN NUMBER: TP048287H

LOCATION OF LAND

PARISH: MELB
TOWNSHIP: MELB
SECTION: 117(1) (a)
SECTION NUMBER: 117(1) (a)
EAST BOUNDARY: 117(1) (a)
SOUTH BOUNDARY: 117(1) (a)
WEST BOUNDARY: 117(1) (a)
NORTH BOUNDARY: 117(1) (a)

LEGEND

| | | | | | |
|---|-----------------|---|---------------|---|---------------|
| 1 | UNIMPROVED LAND | 2 | IMPROVED LAND | 3 | IMPROVED LAND |
| 4 | UNIMPROVED LAND | 5 | IMPROVED LAND | 6 | IMPROVED LAND |

COOL STREET

CORBEN STREET

SCALE

BARBARA MORGAN

FILE NO. 148

SEALING CODE - 152



LOCAL GOVERNMENT ACT 1958

At the Executive Council Chamber, Melbourne, the twenty-first day of June, 1983

Present:

His Excellency the Governor of Victoria

Mr Simmonds
Mr Cathie

Mr Walker
Mr Mathews

ROAD DISCONTINUED — CITY OF COBURG

Whereas it is provided in section 528 (2) of the Local Government Act 1958, that where a road (whether or not a public highway but not being a road set out on land of the Crown) or any part thereof is not required for public use, the Governor in Council on the request of the council of the municipality in which such road is situated made not less than one month after publishing in a newspaper generally circulating in the district and posting to the registered proprietor (if any) of the land and the owners and occupiers (if

any) of lands abutting or immediately adjacent to the road notice of intention to make such a request may by Order published in the Government Gazette direct that such road or part shall be discontinued and thereupon such road or part shall be discontinued accordingly.

And whereas the Council of the City of Coburg has requested that the Governor in Council direct that roads bounded by Hayken, Elizabeth, Cool and Corben Streets, Coburg East be discontinued and not less than one month previously has published in a newspaper generally circulating in the district and posted to the registered proprietor of the land in the road and to the owners and occupiers of lands abutting or immediately adjacent to the road notice of intention to make such a request.

Now therefore, His Excellency the Governor of the State of Victoria, by and with the advice of the Executive Council thereof, hereby directs:—

(a) that the said roads which are shown by hatching on the plan hereunder shall be discontinued:



(b) that notwithstanding such discontinuance the Melbourne and Metropolitan Board of Works shall continue to have and possess the same right title power authority or interest in or in relation to the whole of the land shown by hatching on the said plan as it had or possessed prior to such discontinuance with respect to or in connection with any drains or pipes laid or to be laid in or over such land for the purposes of drainage or sewerage;

(c) that, subject to any such right title power authority or interest the land in the said roads may be sold by the Council of the City of Coburg by agreement.

And the Honourable Frank Noel Wilson, His Majesty's Minister for Local Government for the State of Victoria, shall give the necessary directions herein accordingly.

TOM FORRESTAL
Clerk of the Executive Council

This Order is in lieu of the Order which appeared in the Victoria Government Gazette No. 90, dated 8 September 1983.

Closure or Discontinuance of a road under the LGA 1989.
Process involves numerous steps for councils;

- Notices
- Referral Authorities interest and reserving rights
- Gazettal publication
- Transfer to adjoining land owners or council

Local Government Act 1989

AG542554G
03/04/2009 12:00 2070

Transfer of Land
Section 207D Local Government Act 1989

Lodged by:
Name: Anthony's
Phone: 94363777
Address:
Ref:
Customer Code: 3616a

Priority Collection
The information and
collected under this
used for the purpose of processing
publicly searchable registers and indices
in the Victorian Land Registry.

The transferor transfers to the transferee for the consideration expressed an estate in fee simple in the land described subject to the encumbrances specified pursuant to the provisions of the specified section of the Local Government Act 1989.

Land: Being Lot 20 on the attached Title Plan TP018463V being part of a former road contained in Certificate of Title Volume 3622 Folio 245 Sub E. 145

Consideration: \$4,180.00

Transferor: DAREBIN CITY COUNCIL, 274 Gower Street, Preston, 3072

Transferee: MARIA FRANCESCA PRIMERANO and CATERINA PRIMERANO both of 3/5 Dundee Street, Reservoir, 3073, as joint proprietors.

Encumbrances: As to the land shown E-1 being subject to the right, power or interest of Yarra Valley Water Limited, as saved by section 207C of the Local Government Act 1989.

The Council has given notice under Section 223 of the Local Government Act 1989 in relation to this action.

Date: 18 / 2 / 2009

Execution and attestation

The COMMON SEAL of DAREBIN CITY COUNCIL was affixed in the presence of:

[Signature]
Chief Executive Officer

DAREBIN CITY COUNCIL
COMMON SEAL

See Annexure Page 2

Amendment in next of collector request, see the dated collection of.

ANNEXURE PAGE 2

Signed by MARIA FRANCESCA PRIMERANO
in the presence of

[Signature]
Signature of Witness

A.F. SAMPASSIOWA
Name of Witness
(please print)

Signed by CATERINA PRIMERANO
in the presence of

[Signature]
Signature of Witness

A.F. SAMPASSIOWA
Name of Witness
(please print)

AG542554G
03/04/2009 12:00 2070

Local Government Act 1989

| TITLE PLAN | | LV USE ONLY | PLAN NUMBER | | | | | | | | | | |
|---|------------------------------------|--|---|---------------------------|---------------------------|-----|------------------------------------|-------------|-------------|------------------------|-------------------------------------|--|--|
| | | EDITION | TP018483V | | | | | | | | | | |
| LOCATION OF LAND PARISH: READINGHAM TOWNSHIP: SECTION: CROWN ALLOTMENT: CROWN PORTION: LV BASE REFERENCE: CHART 26 (1993) LAST PLAN REFERENCE: TP0184 DEPTH LIMITATION: 5001 407 499.1 PARENT TITLE REFERENCE: VL5427 16.26.1 XING CO-ORDINATES: E: 175 094 UPPER CORNER OF LAND IN PLAN: W: 1 875 082 BONE 10 | | WARNING THIS PLAN REPRESENTS AN EXPECTED DIVISION OF LAND AND ANY ONE LOT MAY NOT HAVE BEEN CREATED. CHECK THE LV1 PLAN BOOK FOR CURRENT INFORMATION. NOTATIONS LOT 4 AND LOT 12 HAS BEEN OMITTED FROM THIS PLAN. LOT 16 HAS BEEN OMITTED FROM THIS PLAN AND REALLOCATED AS LOTS 22 AND 23. LOT 8 HAS BEEN OMITTED FROM THIS PLAN AND REALLOCATED AS LOTS 21 AND 22. THIS PLAN IS NOT BASED ON SURVEY | | | | | | | | | | | |
| EASEMENT INFORMATION | | | | | | | | | | | | | |
| LEGEND A - AFFRANCHMENT EASEMENT E - ENCUMBRING EASEMENT B - ENCUMBRING EASEMENT BOUND THIS PLAN HAS BEEN PREPARED FOR LAND INTENTION FOR TITLE DEEDS PURPOSES. CHECKED BY: DATE: / / ASSISTANT REGISTRAR OF TITLES | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th>EASEMENT REFERENCE</th> <th>PURPOSE</th> <th>WITH DETAILS</th> <th>ORIGIN</th> <th>LAND BENEFIT/IN FAVOUR OF</th> </tr> </thead> <tbody> <tr> <td>E-1</td> <td>AS PROVIDED FOR IN BLENZUE LIA 089</td> <td>SEE DIAGRAM</td> <td>SEE LIA 089</td> <td>YORKS VALLEY WATER LTD</td> </tr> </tbody> </table> | EASEMENT REFERENCE | PURPOSE | WITH DETAILS | ORIGIN | LAND BENEFIT/IN FAVOUR OF | E-1 | AS PROVIDED FOR IN BLENZUE LIA 089 | SEE DIAGRAM | SEE LIA 089 | YORKS VALLEY WATER LTD | AG542554G 018/020 108 300 | | |
| EASEMENT REFERENCE | PURPOSE | WITH DETAILS | ORIGIN | LAND BENEFIT/IN FAVOUR OF | | | | | | | | | |
| E-1 | AS PROVIDED FOR IN BLENZUE LIA 089 | SEE DIAGRAM | SEE LIA 089 | YORKS VALLEY WATER LTD | | | | | | | | | |
| SEE SHEETS 2 AND 3 FOR DIAGRAMS | | | | | | | | | | | | | |
| BARKER MONAHAN <small>INCORPORATED IN ENGLAND 25, BRIDGE STREET, LEEDS LS1 3ET TEL: 0113 275 1111 FAX: 0113 275 1112 WWW: WWW.BM.CO.UK</small> | | LICENSED SURVEYOR: DAVID JOHN MONAHAN SIGNATURE: DATE: / / REG. NO: 1078 HONORARY COMPANY REG. NO: 0415 0614/084 | FILE NO: L60 DEALING CODE: L6A SHEET 1 OF 3 SHEETS ORIGINAL SHEET 001 43 | | | | | | | | | | |

| TITLE PLAN | | LV USE ONLY | PLAN NUMBER |
|--|--|---|---|
| | | EDITION | TP018483V |
| | | | |
| AG542554G 018/020 108 300 | | | |
| SEE SHEETS 2 AND 3 FOR DIAGRAMS | | | |
| BARKER MONAHAN <small>INCORPORATED IN ENGLAND 25, BRIDGE STREET, LEEDS LS1 3ET TEL: 0113 275 1111 FAX: 0113 275 1112 WWW: WWW.BM.CO.UK</small> | | LICENSED SURVEYOR: DAVID JOHN MONAHAN SIGNATURE: DATE: / / REG. NO: 1078 HONORARY COMPANY REG. NO: 0415 0614/084 | FILE NO: L60 DEALING CODE: L6A SHEET 2 OF 3 SHEETS ORIGINAL SHEET 002 43 |

Local Government Act 1989



DAREBIN CITY COUNCIL
Road Discontinuance

Under Section 206 and Schedule 10, Clause 3 of the Local Government Act 1989 the Darebin City Council at its Ordinary meeting held on 15 May 2000, formed the opinion that the road shown hatched and cross-hatched on the plan below is not reasonably required as a road for public use and has resolved to discontinue the road and to sell the land from the road by private treaty subject to any right, power or interest in the road held by the Melbourne Water Corporation (Yarra Valley Water Ltd) in respect to the section shown cross-hatched on the plan in connection with any sewers, drains, pipes, wires or cables under the control of that authority in or near the road.

AG542554G



133 G 3 / February 2001

Victoria Government Gazette



PHILIP SHANAHAN
Chief Executive Officer



Significant differences LGA 1958 & LGA1989

- Both provisions bring General Law or Old Law Land under the operation of the Transfer of Land Act upon publication.

Two significant differences exist between old and new provisions:

1. Section 528 LGA 1958 removes the carriageway and road status only. ALL other encumbrances will continue to encumber the new title that will issue.
&
2. If the notice in the Government Gazette directs that the closed/discontinued road is to be retained by council then council must obtain title by applying under Section 54 of the TLA1958. If however council wish to gain title to a road closed/discontinued under LGA 1989 they are both the transferor and the transferee on the 207D Transfer.

Road Exchange

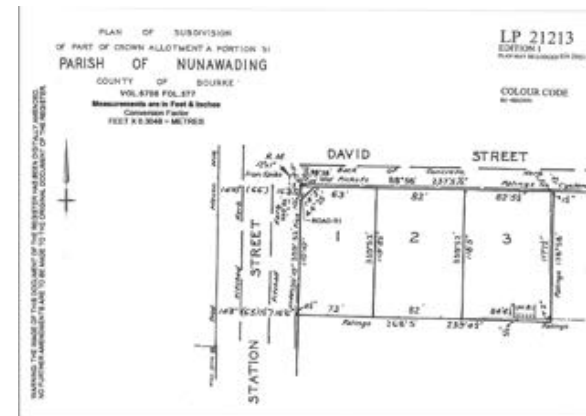
```
graph TD; A[Road Exchange] --> B[Finalise process S. 35 Sub'd Act 1988]; A --> C[Finalise process S. 207E];
```

Finalise process S. 35 Sub'd Act 1988

Finalise process S. 207E

- Section 46A Sub'd Act gives the Registrar some discretionary power in relation to recognition of a road.

| PLAN OF SUBDIVISION | | | | |
|----------------------|-------|--------------|-------|----------------------------|
| LOCATION OF LAND | | NOTATIONS | | |
| PARISH: | | | | |
| TOWNSHIP: | | | | |
| SECTION: | | | | |
| CROWN ALLOTMENT: | | | | |
| CROWN PORTION: | | | | |
| LAST PLAN REFERENCE: | | | | |
| DERIVED FROM: | | | | |
| DEPTH LIMITATION: | | | | |
| EASEMENT INFORMATION | | | | |
| EASEMENT INFORMATION | | | | |
| Easement Reference | From | To | Order | Land benefited or burdened |
| | | | | |
| | | | | |
| | | | | |
| LENGTHS IN METRES | SCALE | SHEET 1 OF 1 | | |



46A Expiry of registered plan

- (1) The Registrar may determine that a plan that was registered before the commencement of section 44 has expired if—
 - (a) no folios for roads, lots or reserves have been created in respect of the plan; and
 - (b) the land has been dealt with without reference to the plan.
- (2) If the Registrar determines under subsection (1) that a plan has expired, the plan is taken never to have been registered.

- Closure of Government Roads.
- Increased relevance to Land Registration Services (LRS) with the creation of Crown Register.



RMA 2004

- Section 12 deals with Discontinuance of roads.
- P & E Act 1987
- Allows council/Minister (Administering RMA) to close and sell unnecessary roads as part of a general planning scheme amendment.
- Similar affect as discontinuance under LGA.

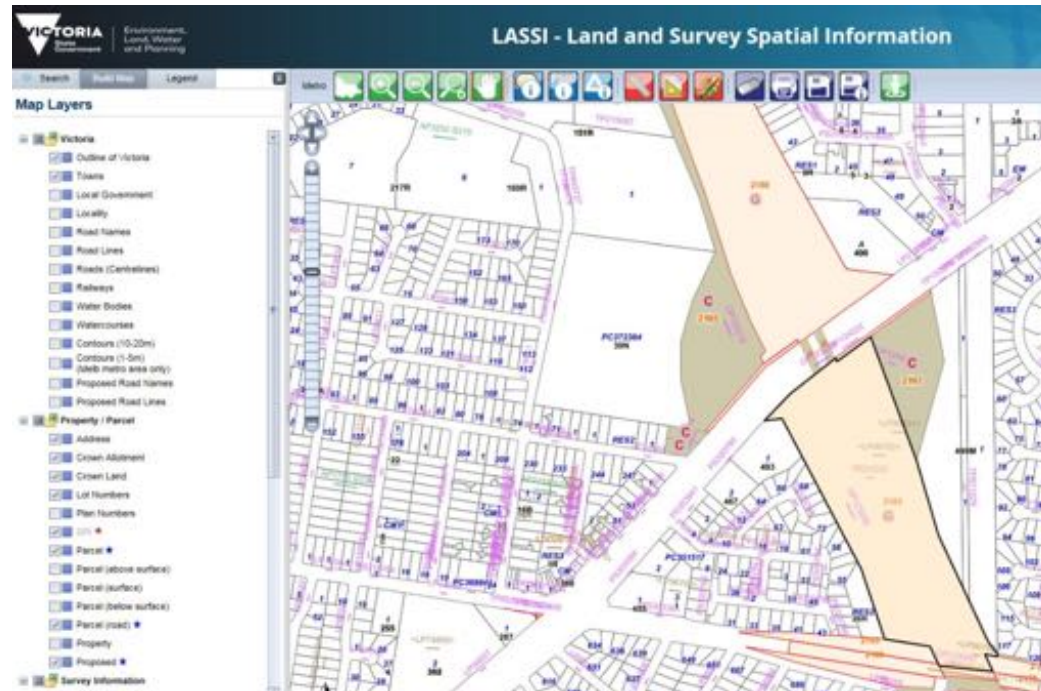
In the Auditor General's report in 2005 identified concerns relating to Crown Land records, particularly:

- Poor reporting by government agencies of changes to Crown Land records placing government decisions at risk.
- An inability to provide a reliable picture of Crown Land responsibilities across agencies lead to ineffective management of the State's assets.
- A lack of confidence in available information resulted in increased cost for all interested stakeholders.

Over ensuing months and years the most appropriate Crown recording system was explored, then on the 13th August 2016 the Crown Land Register went live.

- It is hoped that in the not too distance future that a Government Road Parcels Capture Project will begin.
- The Crown Register/Record is based on the freehold platform and is recorded in VOTS and has an assigned volume and folio reference but is NOT Torrens land.
- The recording method of changes is now based on the 'endorsement' system as per freehold and only current information is portrayed on the face of the crown folio.

Crown Register - Government Roads



- On LASSI Build Map feature select the property parcel folder and then select parcel (road).
- All captured road parcels will have red line boundaries and identified by the letter “G”.

Crown Register - Government Roads

Crown – Recording of a Government Road AQ057836N

Legislation: s.193 Major Transport Projects Facilitation Act 2009

Lodged by
Name: ROADS CORPORATION
Phone:
Address:
Reference:
Customer Code: 00004

The agency lodging this proclamation/declaration notifies the State of Victoria of a land status amendment of the specified Crown land subject to the statutes and encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this instrument.

Land: (Volume and folio reference, SP reference and/or Crown description)

Vol. 11899 Fol. 492, SP 2181(PP)623, Crown Allotment 2183 Parish of Lynnhurst
Vol. 11899 Fol. 493, SP 2181(PP)623, Crown Allotment 2182 Parish of Lynnhurst
Vol. 11899 Fol. 494, SP 2181(PP)623, Crown Allotment 2183 Parish of Lynnhurst

Grounds for Land Status Amendment: [Government Gazette / Order in Council / Act / Plan signed by Surveyor General Victoria]

Government Special Gazette: S421, 4 December 2012 page 5

Date: 19/07/2017

Signature of Land Administrator's Representative
Full name:
Position:
Legal entity:

35051415A
G1
Page 1 of 1
THE BACK OF THIS FORM MUST NOT BE USED

To lodge at Land Victoria, please refer to our contact details at www.delwp.vic.gov.au/Property-and-land-1986.

Crown Dealing

Department of Environment, Land, Water & Planning

Folio Report Page 1 of 1

Produced: 31/08/2017 9:52:37 AM

SP 2181(PP)623
CROWN FOLIO

VOLUME 11899 FOLIO 494

LAND DESCRIPTION

Crown Allotment 2183 Parish of Lynnhurst.
PARCELS TITLED:
"Volume 11781 Folio 120" "Volume 11781 Folio 247" "Volume 11781 Folio 247"
"Volume 11781 Folio 149"
Created by instrument AQ057836N 19/07/2017

CROWN LAND ACQUISITION

ROADS CORPORATION v/ R/ DEODAN STREET DEP VIC S101
ACQUISITION 19/07/2017

STATES, ENCUMBRANCES AND NOTICES

GOVERNMENT ROAD ACQUISITION 19/07/2017

DIAGRAM LOCATION

SEE COLLARSH FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 128 DAYS

| NUMBER | CROWN LAND REFERENCE | STATUS | DATE |
|-----------|-----------------------|------------|------------|
| AQ187618F | CROWN GOVERNMENT ROAD | Registered | 19/07/2017 |
| AQ187138F | CROWN GOVERNMENT ROAD | Registered | 19/07/2017 |

DOCUMENT END

Crown Folio

Department of Environment, Land, Water & Planning

Folio Report Page 1 of 1

Produced: 31/08/2017 12:23:52 PM

VOLUME 11911 FOLIO 054

LAND DESCRIPTION

Lot 1 on Title Plan 354323Q.
PARENT TITLE Volume 08906 Folio 629
Created by instrument AQ132420K 10/08/2017

REGISTERED PROPRIETOR

Sole Proprietor
Sole Proprietor
BUNDEES CITY COUNCIL of BRASLIE AVENUE, RINGWOOD VIC 3134
AQ132420K 10/08/2017

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 88 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP914323Q FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 128 DAYS

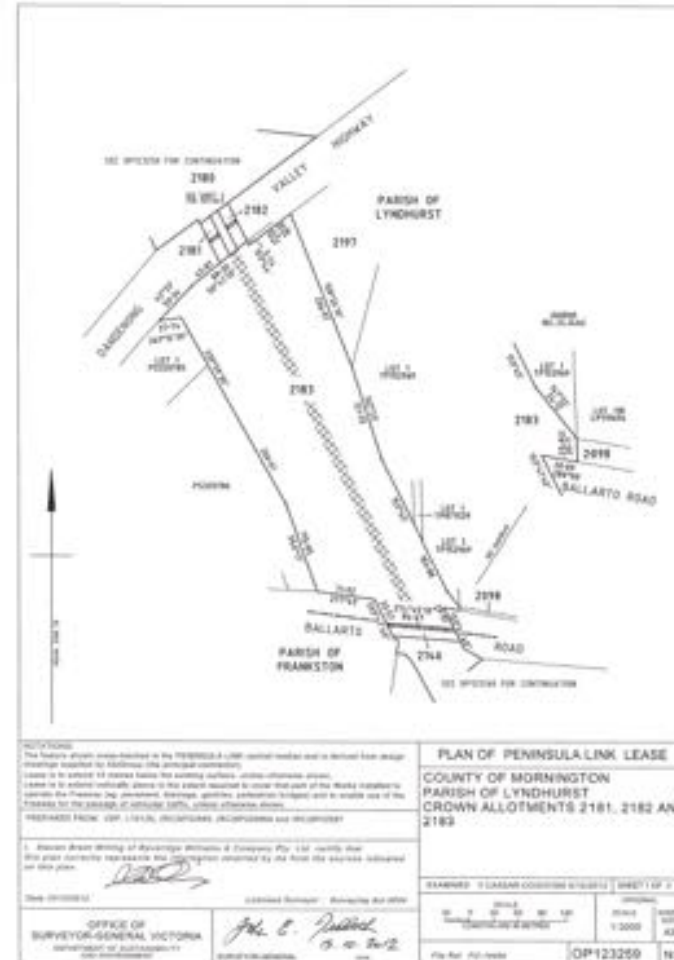
| NUMBER | STATUS | DATE |
|-----------|-------------------------------------|------------|
| AQ132420K | ACQUISITION BY AUTHORITY Registered | 31/08/2017 |

DOCUMENT END

Freehold CoFT

Crown Register - Government Roads

| | | | |
|--|------------------|--|------------------|
| CROWN DIAGRAM | | EDITION 1 | CD115558N |
| LOCATION OF LAND PARISH: LYNHURST (3025) TOWNSHIP: SECTION: CROWN ALLOTMENT: 2181, 2182 & 2183 LAST PLAN REFERENCE: SEE BELOW DERIVED FROM: OP123259 VOL./FOL. / SEE BELOW SP. 2181PP3325, 2182PP3325 & 2183PP3325 | | NOTATIONS | |
| LAST PLAN REFERENCE: CD064330, CD064331, CD064332 & CD064333 VOL./FOL.: 11750345, 11750347, 11750367 11750230 | | THIS PLAN HAS BEEN PREPARED BY LAND VICTORIA FOR CROWN DIAGRAM PURPOSES DRAWN BY: DATE: 08/02/17 | |
| FOR DIAGRAM INFORMATION RELATE TO CROWN ALLOTMENT 2181 to 2183 SEE OP123259 | | | |
| LENGTHS ARE IN METRES | DEALING/FILE No. | CODE: | SHEET 1 OF 1 |





Government
Land, Water
and Planning

DELWP services ▾ DELWP news ▾ DELWP office locations ▾

Search 



Menu

Property and land titles

Land Use Victoria is the Victorian Government's key agency for land administration, property information and facilitating better use of government-owned land.



We have moved, see [Contact us](#).

Forms, guides and fees

Land Use Victoria provides forms for property transactions and dealings, associated guides and fee listings.

Overview and instructions

Instructions for each form can be found in the associated guide.



Transfer of Land Act

Includes property transfers, mortgages, caveat and deceased estates.



Subdivision Act

Forms for subdivisions, owners corporations, and easements.



Title management

Certificates of Title management.



Other Acts

Land Acquisition, the Compensation Act, and Climate Change Act.



Water Registrar forms

Lodge a transaction of a water share with the Water Registrar.



Local Government

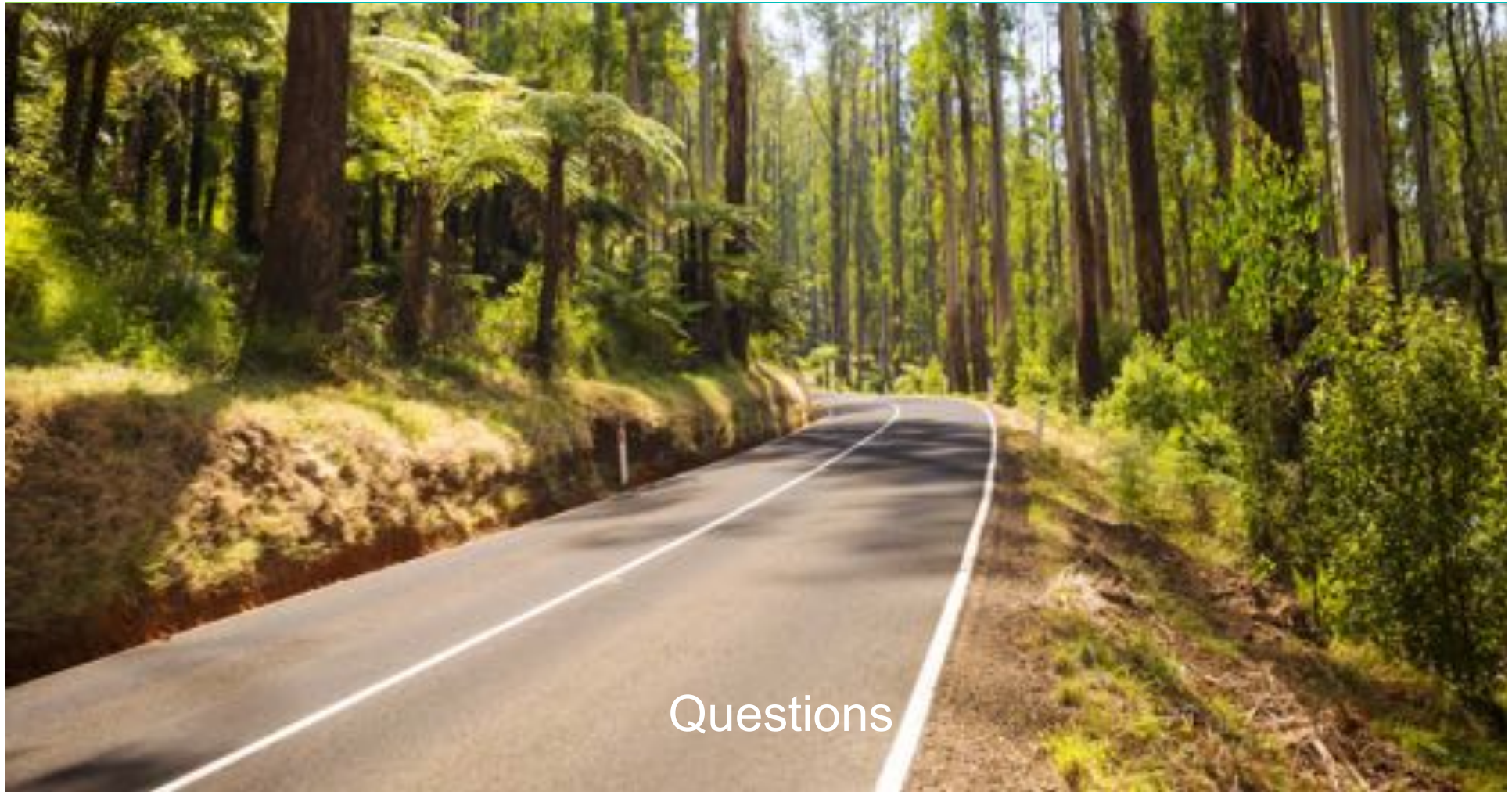
Forms for the Local Government Act and Planning and Environment Act.



Fees and direct debit

Property transaction and search fees, direct debit information.





Questions

Disclaimer

The content of this Land Use Victoria presentation is provided for information purposes only. No claim is made as to the accuracy of its content. Under no circumstances will Land Use Victoria, its agents or employees be liable for the accuracy of the information contained in this presentation nor for the use or reliance placed on it. The information is provided on the basis that all persons accessing the presentation undertake responsibility for assessing the relevance and accuracy of its content. Land Use Victoria does not endorse any of the other information contained elsewhere in this website.

Copyright

Apart from fair dealing for the purposes of private study, research, criticism or review as permitted under the Copyright Act 1968, no part of this presentation may be reproduced, copied, transmitted in any form or by any means (electronic, mechanical or graphic) without the prior written permission of the State of Victoria. All requests and enquiries should be directed to Land Use Victoria.