

# CONVEYANCING RULES WAIVER

New South Wales  
Section 12E *Real Property Act 1900* (NSW)

## Title

This instrument is Conveyancing Rules Waiver CR 1/2018 – Non ELN-Enabled Jurisdictions.

## Revocation

This waiver replaces and revokes Conveyancing Rules Waiver CR 1/2017 from the date of commencement of this waiver.

## Enabling Provisions

1. Under section 12E of the *Real Property Act 1900* (“RPA”), the Registrar General (“Registrar”) has determined and published Version 4 of the Conveyancing Rules which came into effect on and from 15 May 2018.
2. Section 12E(10) of the RPA permits the Registrar to waive compliance with all or any provisions of the Conveyancing Rules if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

## Affected Requirement

Conveyancing Rule 8.2 (“CR 8.2”)

## Explanatory Statement

Under CR 8.2, where the relevant instrument was signed on or after 1 August 2017, a discharge of mortgage to an ADI, a mortgage to an ADI or any combination of mortgage and discharge of mortgage where each of the mortgagees in a refinance transaction are ADIs (“Rule 8.2 Transactions”), must be lodged using an Electronic Lodgment Network (“ELN”), except where the mortgage or discharge of mortgage is to be lodged with any other dealing affecting the same folio(s) of the Register. This requirement extends to all mortgagees from 1 July 2018, whether the mortgagee is an ADI or not.

The Registrar understands that certain Rule 8.2 Transactions involve land securities located in jurisdictions where land registries are not enabled for electronic lodgment through an ELN (“Non ELN-enabled Jurisdictions”). Non ELN-enabled Jurisdictions are currently Northern Territory, Tasmania and the Australian Capital Territory.

The Registrar is of the view that the application of Rule 8.2 to the Rule 8.2 Transactions involving land in Non ELN-Enabled Jurisdictions may give rise to increased costs and delay if the mortgagee is required to split the documentation relating to the transaction to enable manual lodgment in one jurisdiction and electronic lodgment where available.

The Registrar has determined that a waiver commencing on 15 May 2018 should be granted so that Rule 8.2 Transactions involving land in Non ELN-Enabled Jurisdictions need not be lodged electronically.

### **Waiver**

The Registrar grants all mortgagees a waiver of the obligation to comply with CR 8.2 where the relevant transaction involves a land security located in a Non-ELN Enabled Jurisdiction.

### **Commencement**

This waiver commences on 15 May 2018.

### **Period during which this waiver applies**

This waiver operates until the earlier of:

- (a) the commencement of an amended version of the Conveyancing Rules which contains the above as a specific exemption from the obligation to lodge instruments electronically; or
- (b) the publication of a revocation of this waiver by the Registrar.

**Dated:** 15 May 2018

**Signed by:**



**Jeremy Cox**  
**Registrar General**