



Finance,  
Services &  
Innovation

# New Regulatory Arrangements for the NSW Land Titles System and Conveyancing Transformed

Office of the Registrar General  
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29 July 2017

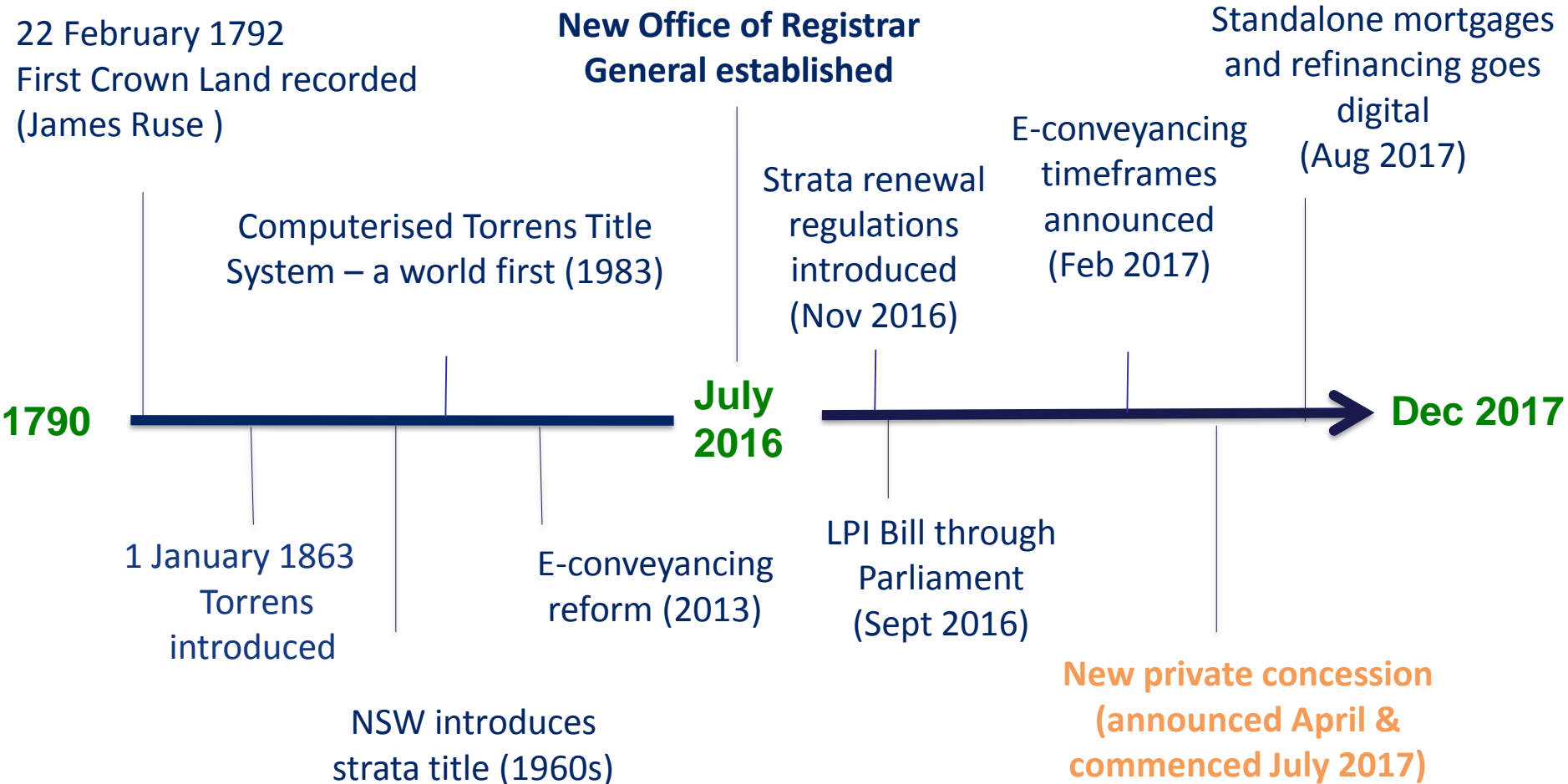
[www.registrargeneral.nsw.gov.au](http://www.registrargeneral.nsw.gov.au)  
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# AIC - Greater Sydney Regional Day

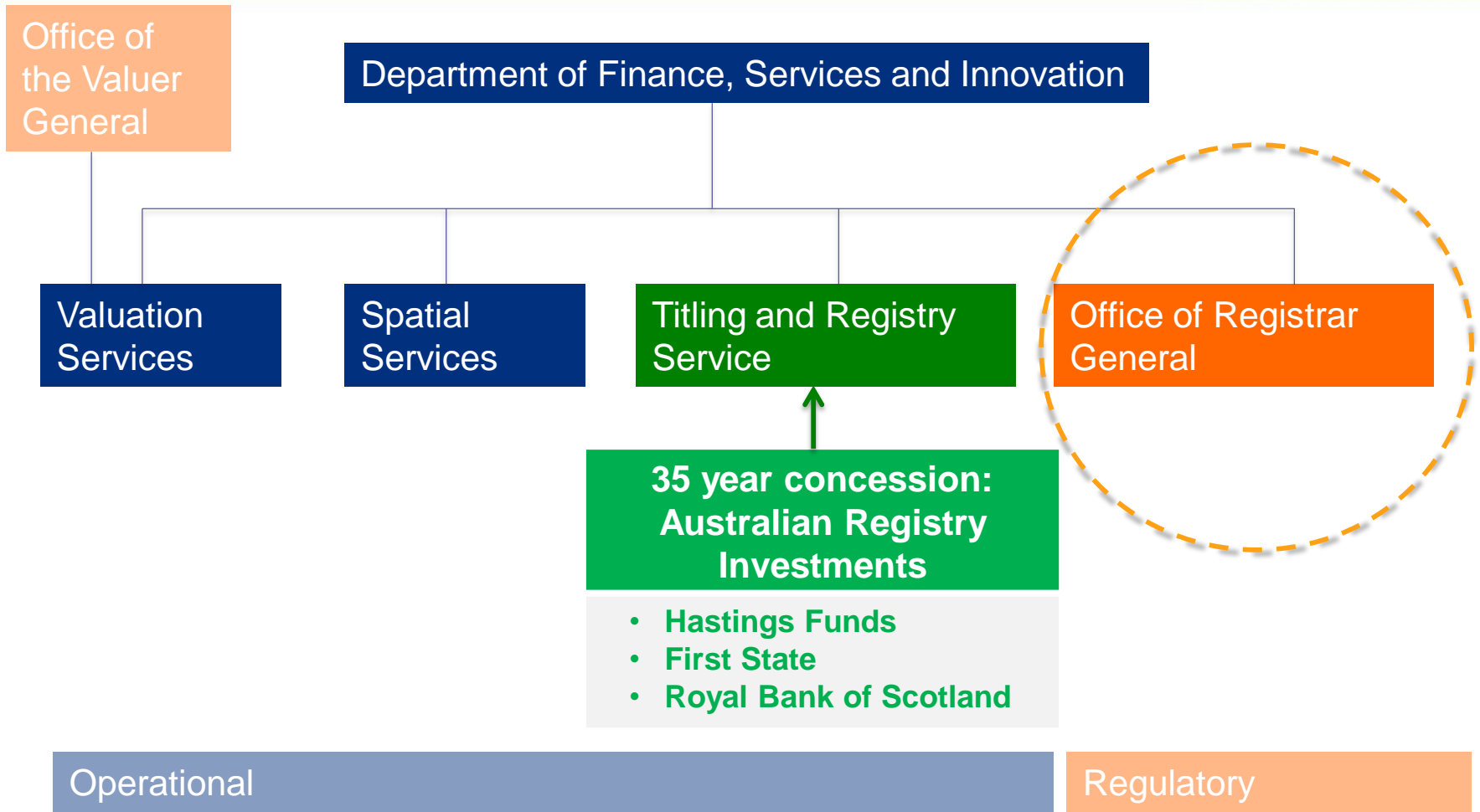
## Office of the Registrar General

1. Restructure and concession of LPI
2. Electronic conveyancing implementation in NSW

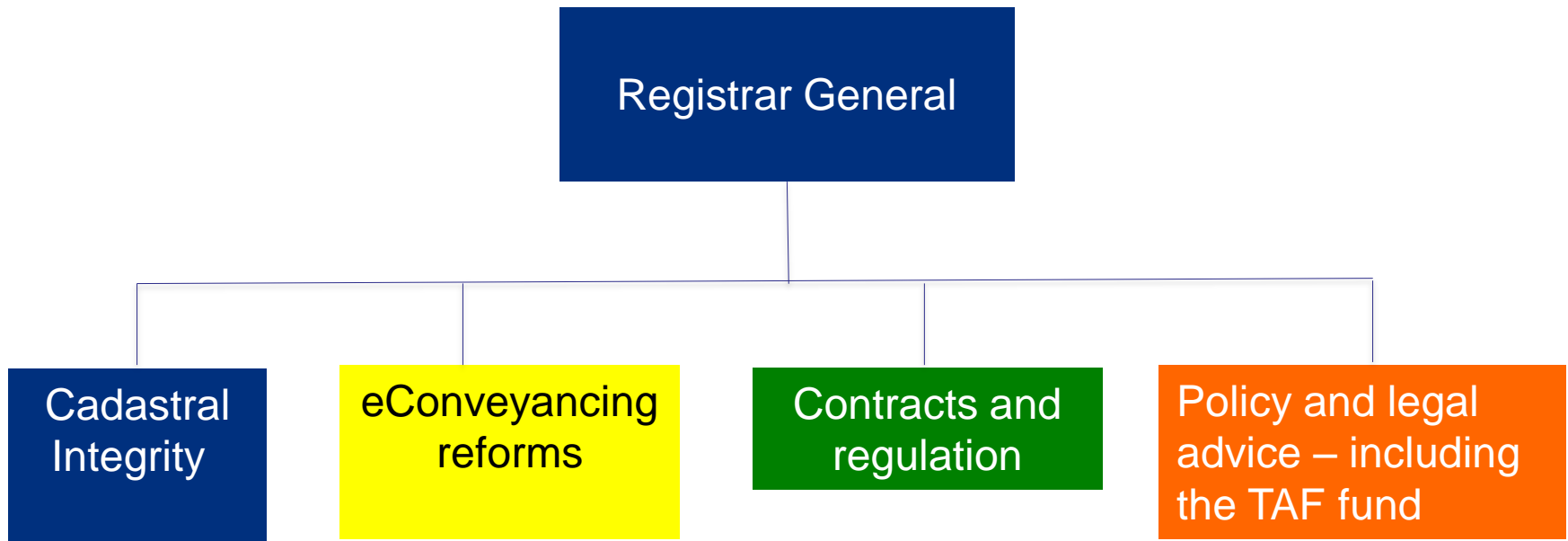
# The land title system has been changing constantly



# NSW has introduced a new regulator operator model to drive an efficient, digital and customer focused land title system



ORG is a regulator, advisor and litigator, working to ensure the integrity of NSW's land title system



# NSW Treasury has selected Australian Registry Investments (ARI) to operate NSW's land title system for 35 years

## ARI consortium

- Funds managed by Hastings Fund Management (total 70%)
  - This includes 20% stake held by RBS Group Pension Fund
- First State Super (30%)

paid \$2.6 billion to operate LPI—and receive its revenue—for 35 years.

**ARI does not own the registry or the data that goes with it. These remain the property of the NSW Government.**

Our regulatory focus will be on making sure the operator meets the deed's objectives

**Deed's objectives**

- 1. Maintain integrity, security performance and availability of Registers, core services and systems**
- 2. Ensure registers are accurate and up to date**
- 3. Maintain confidence with customers and NSW public**
- 4. Promote improvements, innovation and increased efficiency using greater expertise and investment in technology**
- 5. Minimise errors and frauds**
- 6. Protect current competition in down stream services**

# Some of our controls



Issue	Examples of controls
<b>Prices</b>	Annual increases for core services (those LPI is currently doing) capped by CPI
<b>Knowledge</b>	Performance indicators with penalties attached to under-performance (services at least at today's standards). Four year guarantee for LPI award staff
<b>Data integrity</b>	Data must stay in Australia. Daily back-up. ORG copy. Operator is a standalone entity. Certified security at international standards (e.g. ISO 27001)



## Some of our controls (cont.)



Issue	Examples of controls
<b>Privacy</b>	<ul style="list-style-type: none"><li>• No change. Operator subject to Commonwealth and State privacy legislation.</li><li>• The register will also be public and searchable, as it is today</li></ul>
<b>Visibility of data</b>	ORG access to LPI data. Strong quality assurance regime (eg regular and ad hoc audits and extensive reporting requirements)
<b>Foreign ownership</b>	<ul style="list-style-type: none"><li>• Operator must be a stand-alone business, with resources separated from the rest of its business.</li><li>• ARI: domiciled in Australia; over 75% Australian-owned; 100% Australian managed.</li></ul>

## Some of our controls (cont.)



Issue	Examples of controls
<b>Torrens Assurance Fund</b>	<ul style="list-style-type: none"><li>• No change.</li><li>• State guarantee of title continues.</li><li>• ORG to manage fund.</li></ul>
<b>Fraud and errors</b>	<ul style="list-style-type: none"><li>• Operator liable if underinvesting in systems and staff training. Penalty regime and KPIs.</li><li>• Audits, reporting and ORG administrative reviews</li></ul>

# Electronic Conveyancing - What's happened to date

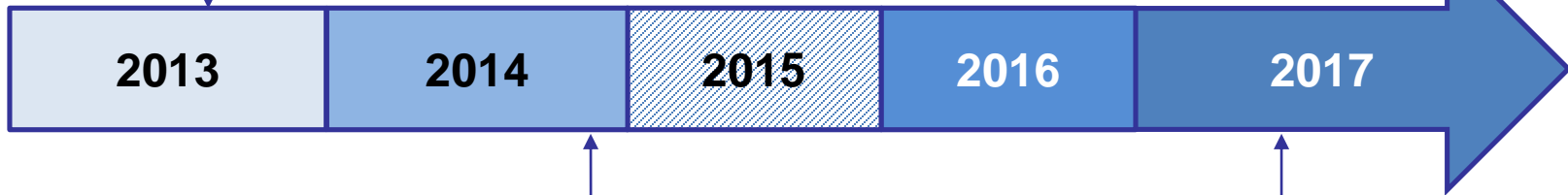
**October 2013**

Who? Big 4 Banks  
(optional)

Mortgages & Discharges

**November 2016**

Who? Everyone (mandatory)  
Priority Notices



**November 2014**

Who? Solicitors & conveyancers (optional)  
Transfers, Caveats & Withdrawals of Caveat  
First electronic settlement

**1 March 2017**

Who? ADIs (mandatory)  
- Standalone discharges  
- Standalone residential mortgages

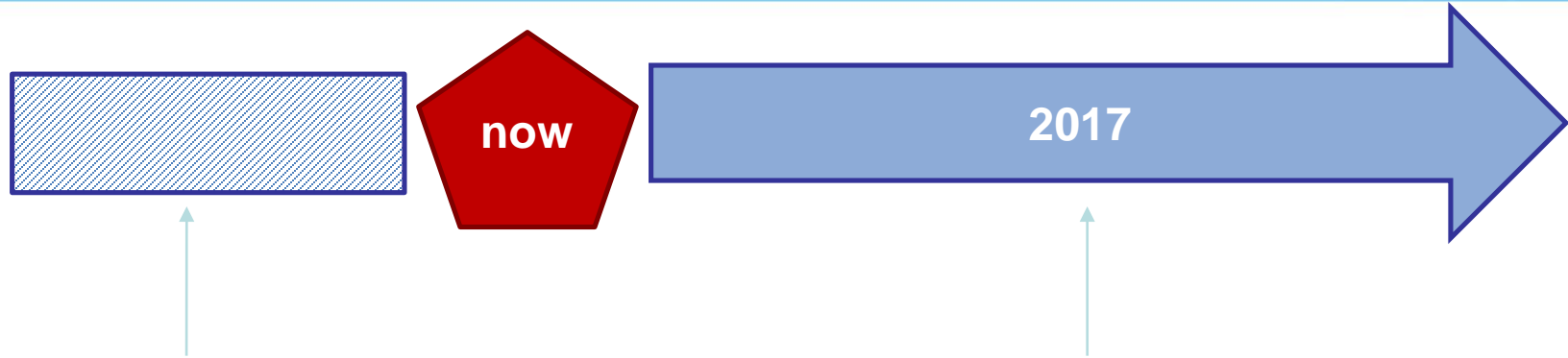
# Strong political backing



28 February 2017 - Victor Dominello, Minister for Finance, Services and Property said:

*“...the Government has committed to a detailed timetable for the introduction of paperless conveyancing. By July 2019, all standard property transactions in NSW will be conducted electronically, and all Certificates of Title will be phased out in favour of e-Titles.”*

# What's coming up... 2017



## **1 March 2017**

Who? ADIs (mandatory)

- Standalone discharges
- Standalone residential mortgages

## **1 August 2017**

Who? ADIs (mandatory)

- All refinancing transactions
- All standalone mortgages (residential and commercial)

*eCT program (ADIs): ADIs will receive an eCT on registration of a paper transaction (where they remain first Mortgagee)*

# What's coming up... 2018 (“Stage 2”)



## **1 July 2018**

Who? Solicitors & conveyancers  
(mandatory)

- Standalone Caveats
- Standalone Transfers
- All Discharges, Mortgages and Refinances (ADIs and non-ADIs)



## **October 2018**

eCT program (ADIs):

*All paper CTs held by ADIs will have been cancelled (ADIs will be issued with eCTs)*

eCT program (non-ADIs):

*Start cancelling paper CTs and issuing eCTs to non-ADIs*

# What's coming up... 2019



2019

85%  
Paperless  
Conveyancing



**2019**

Who? Everyone (mandatory)

All mainstream conveyancing to be lodged electronically - combinations of Discharge, Transfer and Mortgage cases

eCT Program: Paper CTs to be removed completely

**Mid-2019:**

**Residual Document strategy**

The next 10% of dealings (e.g. Change of Name, Notice of death)

# More information and support

- ORG website: [www.registrargeneral.nsw.gov.au](http://www.registrargeneral.nsw.gov.au)
- ARNECC Model Participation Rules Guidance Notes:
  1. Client Authorisations
  2. Verification of Identity
  3. Certifications
  4. Right to Deal
  5. Retention of Evidence
  6. Compliance Examinations

[https://www.arnecc.gov.au/publications/mpr\\_guidance\\_notes](https://www.arnecc.gov.au/publications/mpr_guidance_notes)



# Verification of Identity



## Verification of Identity (VOI) Rules

# Verification of Identity (VOI) Rules

- Due diligence requirement to know your client
- Formal VOI requirements currently apply for:
  - mortgagees to identify the mortgagor – s 56C Real Property (RP) Act
  - attesting witnesses – s 117 RP Act
  - electronic transactions - Rule 6.5 NSW Participation Rules
  - All conveyancing professionals – Rule 4.1 NSW Conveyancing Rules (V3) effective from **26 November 2016**

# Verification of Identity (VOI) Rules

- Significant fraud mitigation and consumer protection measure
- Apply to solicitors and conveyancers
- Formal (standardised) Verification of Identity (VOI) requirements for all conveyancing transactions
- Consistent national requirements
- Paper and electronic conveyancing



# VOI - What is required?

**You must take reasonable steps to verify the identity of your client [R 4.1.2]:**

- either by:
  - applying the VOI Standard (deemed to be reasonable steps)
  - or in some other way that constitutes reasonable steps [R 4.1.4]

and

- ensure the client is a legal person and has the right to enter into the transaction [R4.3.2]
- Note: Further steps may be required – not just ticking the box



# VOI - Conveyancing Rules

## R 4.1.5 - When are further checks required?

Where you know or ought reasonably to know that:

- any identity Document produced by the Person Being Identified is not genuine; or
- any photograph on an identity Document is not a reasonable likeness of the Person Being Identified
- the Person Being Identified and/or the Identity Declarant does not appear to be the Person to which the identity Document(s) relate;
- it would otherwise be reasonable to do so.



# VOI - Conveyancing Rules



## The VOI Standard - SCHEDULE 8 – NSW Participation Rules

- Requires **face-to-face - in-person** interview
- Hierarchy of ID documents, highest possible category must be used
- Documents must be current (except Passport currency < 2 years old)
- Where Documents contain photographs the Identity Verifier must be satisfied that the Person Being Identified is a reasonable likeness (for example the shape of his or her mouth, nose, eyes and the position of his or her cheek bones) to the Person depicted in those photographs

# VOI - Conveyancing Rules



## What if you can't meet the VOI Standard?

### Take Reasonable steps

- You have to judge what is reasonable in the particular circumstances
- If your client doesn't have full documents consider Category 5 an Identifier declaration - essentially a referee
- Do what you are able to do – if you have done all you can and you are satisfied, in the circumstances, you are likely acting reasonably.

# VOI - Conveyancing Rules



## Options for conducting VOI:

- Do it yourself
- Do it yourself Using Software solution
- Use an Identity Agent
  - ZipID
  - IDSecure
  - Australia Post



# VOI - Useful Links



## Identity Agents and identity software

### Australia Post

<http://auspost.com.au/travel-id/buying-or-selling-property.html>

### IDSecure Pty Ltd

<http://www.idsecure.com.au/>

### ZipID Pty Ltd

<https://zipid.com.au/>

## Identity Software provider

### Infotrack

- <https://www.infotrack.com.au/products/disruptive-technology/idfy-voi/>

# Questions?

