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Office of the Registrar General - eConveyancing monthly update

October 2018

Topics covered in this edition:

- *Almost 2 million titles now electronic*
- *Take up is accelerating - NSW reaches almost 60 per cent electronic*
- *Electronic lodgement network operators systems working together ('interoperability')*
- *What our subscriber audits are showing – and a new training video*
- *Proper use of waivers - evidence from the last two months*
- *More resources to help*

Dear colleagues

Almost 2 million titles now electronic – a 'big September'

I'm really pleased to inform you the conversion of all banks' mortgaged paper titles to electronic titles ('eCTs') in September went very well.

On behalf of the NSW Government, thanks again to all those involved who helped make this happen from the banks and other financial institutions, the Law Society of NSW, Australian Institute of Conveyancers (AIC NSW), NSW Land Registry Services, and PEXA.

This has been a huge effort. Most of all, investing in building awareness so everyone knew what they needed to do before the conversion took place. Like many parts of eConveyancing, it has

been an 'all hands on exercise'—and we've now achieved another critical milestone together—a big step closer to 100 per cent digital in NSW.

This 'win' in September might have also crowded out a little the numbness for some of us that came with the various grand-final results that also happened in September.

So what now happens to all other paper titles not held by banks?

To support a more efficient and secure land title system, the NSW Government has mandated that by 1 July 2019 there will be no paper titles.

There are several options for dealing with phasing out paper titles not held by banks. The challenge is how to treat the consent process when someone is dealing with their title. Currently if a person wanted to give their consent to their title being used, they would physically hand it over to the party who wishes to use it, or produce it at the Land Registry. In the world of eCTs, there is no physical paper to hand over.

The Office of the Registrar General (ORG) aims to release a discussion paper by the end of the year for your input. In the meantime, if you have any thoughts about the move from paper to eCTs that should be considered in the paper, please let us know.

Please get used to CoRD Holder Consents

Before the September conversion there was approximately 320,000 eCTs in NSW. Now there are close to 2 million. This means the chances of a practitioner dealing with an eCT is now almost certain, particularly if you're acting for clients buying and selling property involving a mortgagee.

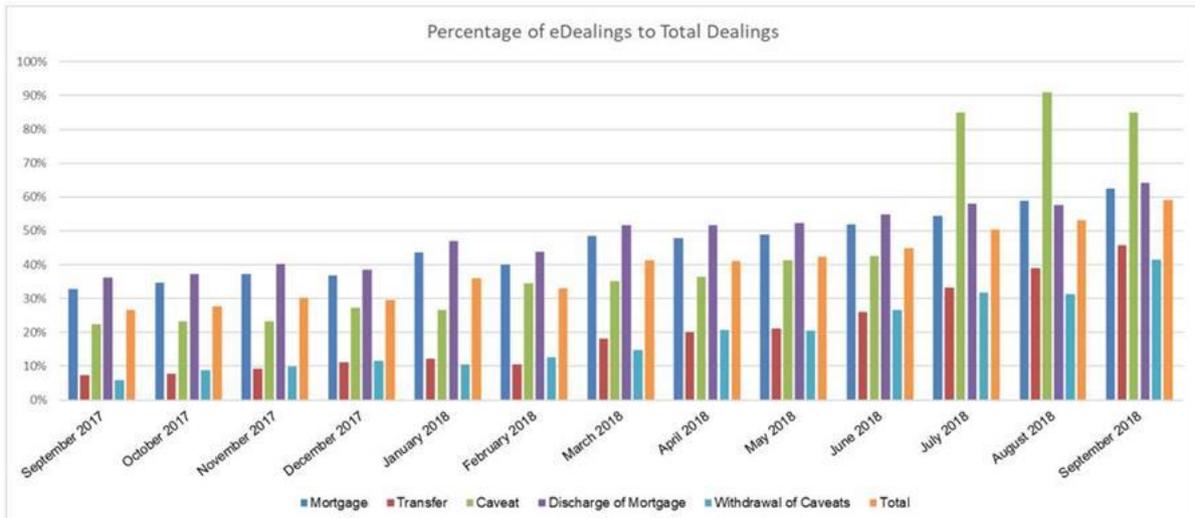
The banks have advised that the best practice is to submit the request for CoRD Holder Consent at least 7 days out from settlement. Of course the earlier the better.

Our website also has lots of resources and information on the move to [eCTs](#). Of course, please do not hesitate to contact the ORG if you need more information at: ORG-eConveyancing@finance.nsw.gov.au

Take up is accelerating - NSW reaches close to 60 per cent electronic

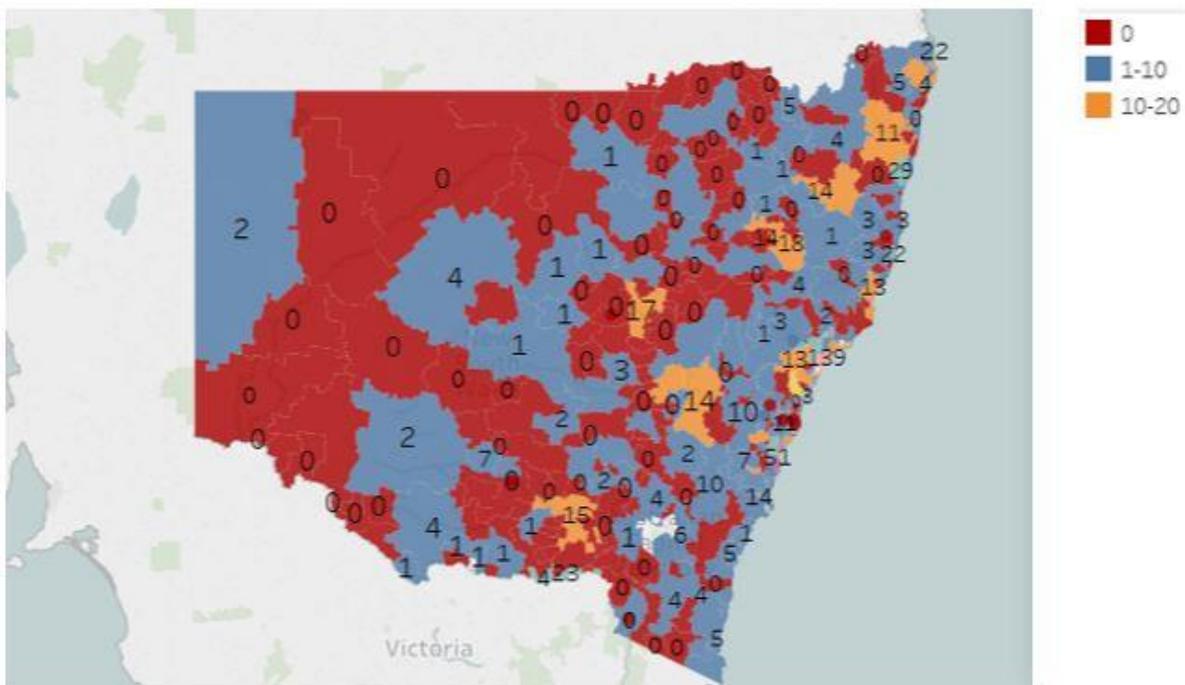
In September, 59 per cent of all possible lodgments in NSW were lodged electronically. This included:

- 63% of all mortgages;
- 46% of all transfers;
- 85% of all caveats;
- 64% of all discharges of mortgage; and
- 41% of all withdrawals of caveat.



At this rate by early 2019 around 70% of all lodgments will be electronic. We have come a long way since February 2017, when fewer than 10 per cent of lodgments were electronic.

Take-up is also relatively evenly distributed across NSW. In the chart below, we want to see at least blue everywhere, which signals where eConveyancing is taking place.



Electronic lodgement network operators systems working together ('interoperability')

People often ask me what happens with take-up accelerating with the current sole operator, yet new operators are entering the market?

The answer is we are very pleased to see both—that is, lawyers and conveyancers are moving digital, and equally, the success of this reform is attracting new electronic lodgement network operators to provide choice to customers in NSW.

New operators bring competition—which gives practitioners and financial institutions the right to choose the operator that suits them best when lodging and settling property transactions.

To ensure that markets operate efficiently in the interests of consumers we need a secure model of interoperability, particularly when a transaction involves multiple parties. Interoperability means two ELNO platforms working together so you don't have to have separate systems for different ELNOs.

Many of you, and industry, have raised the importance of establishing this framework soon. In NSW you have asked whether it will be in place before the mandates.

To this end, we are working with ARNECC, current and potential operators, NSW Land Registry Services and the financial, legal and conveyancing industry to develop an interoperability solution that is in place promptly as we move toward our mandated timeframe in NSW.

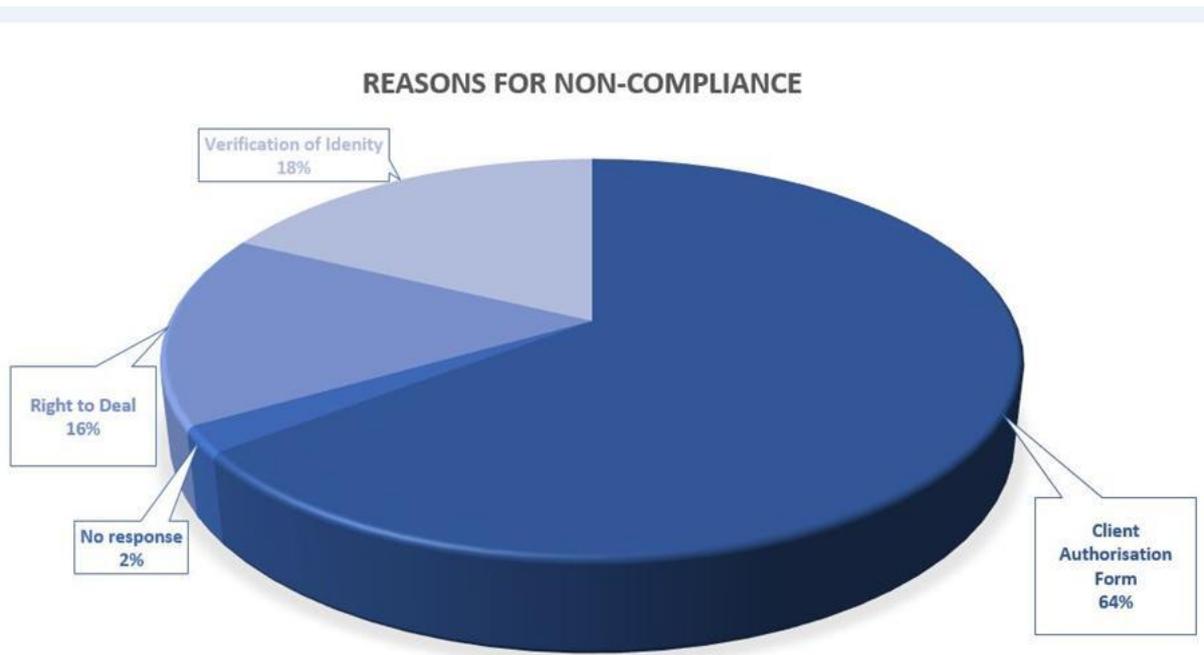
The model must be seamless for practitioners and financial institutions, with appropriate regulations and simple business rules. Please contact me if you would like to discuss this further.

Meanwhile, of the two new operators, Sympli plans to commence a soft launch in some jurisdictions towards the end of 2018, aiming for a full launch around the end of first quarter 2019. Lextech is planning to enter the market in NSW in the second half of next year.

What our subscriber audits are showing – and a new training video

As you know, we audit all lawyers and conveyancers who are subscribers using a lodgment operator. Our aim is for all subscribers to be audited over a three-year period.

So far NSW has audited over 750 firms. Please find a breakdown below of areas where non-compliance is occurring mostly.



We are working with you to improve compliance. When we contact firms and individuals who have not complied, we provide information to clarify the process, and offer advice and tools in order to assist comply properly when undertaking your next similar dealing.

As you know, we have partnerships with the Law Society and AIC NSW to roll out training on regulations and compliance. We update these workshops with key themes coming from these audits.

The subscriber audit process brings a much greater level of quality assurance than for paper transactions—and is another reason eConveyancing can improve the integrity of the NSW land title system more generally.

How to complete a client authorisation form – new training video

Through this auditing process we are learning a lot about where practitioners are making the most mistakes.

The areas where errors occur mostly is the Client Authorisation Form ('CAF') – in fact 64 per cent of mistakes are due to a CAF not being correctly completed, or in some cases, not being done at all.

As you know, the CAF is critical to this reform. It is the document that legally authorises a subscriber to sign, prepare and conduct the financial transactions on behalf of the client.

To help practitioners fill in the CAF correctly we have produced a ['How-to do a CAF' video](#).

We would like to hear your feedback on the usefulness of this resource. If you have any suggestions for more videos covering other areas of eConveyancing, [please let us know](#).

Proper use of waivers – evidence from the last two months

The Conveyancing Rules allows the Registrar General to waive the requirements of documents to be lodged electronically. This helps us manage a small number of unique circumstances that fall outside of the mandated requirements.

When you lodge a document in paper that should have been lodged electronically, you must attach a 'conveyancing rules waiver form', and tick the waiver (or exclusion) box.

The statistics indicate some instances where waiver forms are not being used properly. Some forms are being used to avoid electronic lodgment, even though the dealings could have lodged electronically.

We are considering ways to tighten the requirements to avoid this from happening. This could include replacing the tick-a-box form with a statutory declaration. However, such steps could create a burden on practitioners doing the right thing.

We would be grateful for your feedback on how to best minimise these practices. I am also happy to meet with you if you are using the waiver to get around lodging electronically to hear more about what we can do to support your transition.

Please also don't forget the waiver form is filmed with the dealing.

More resources to help you with the transition

In the meantime, please visit one of our workshops to support your transition. You can get information on these and lots of additional resources on our website—for example:

- [Training workshops](#)
- [FAQs and training videos](#)
- [Timeline for transition](#)
- [Subscriber compliance](#)
- [Legal framework](#)
- [Other news](#)

If you have other topics that you'd like us to cover or eConveyancing issues that you're wanting further help with, please contact the [ORG eConveyancing team](#).

Kind regards

Jeremy Cox
NSW Registrar General