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NSW eConveyancing news

March 2019

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Dear colleagues

Rapid technological change is happening across pretty much all industries in Australia—perhaps faster than ever before. We like borrowing the term hyperbolic change to describe this—that is, digital change is not just happening, it is accelerating each year.

Now, more than ever we expect to manage our lives around technology. For example, greater access, fewer errors, more transparency. And this is what eConveyancing is bringing.

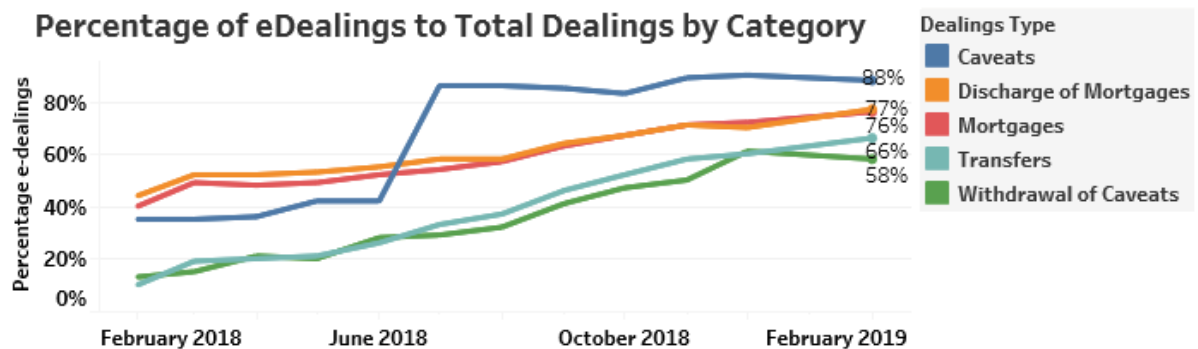
The numbers show the pace of take-up in NSW. This last 12 months has seen a jump from 35 per cent to almost 75 per cent of all possible documents being lodged electronically.

We are now about 100 days out from 30 June 2019, when more dealings in NSW must be lodged electronically in NSW. This 'monthly update' is to provide you with information to help you with your transition to digital. In between, please let ORG know if you need more information.

Almost 75 per cent of possible dealings are lodged electronically

In February 2019, 74 per cent of all possible dealings in NSW were lodged electronically. This included 66 per cent of transfers. Specifically:

- 76 per cent of mortgages;
- 88 per cent of caveats;
- 77 per cent of discharges of mortgage; and
- 58 per cent of withdrawals of caveat.



Please find more statistics, including a breakdown of subscriber uptake by area code, on our [statistics page](#).

IPART issues paper on pricing regulation for electronic conveyancing services

At the end of last year, the Premier commissioned the Independent Pricing and Regulatory Tribunal (IPART) to investigate pricing of eConveyancing services in NSW. Prices need to be set fairly – to protect customers, and to reflect ELNO's, registries and revenue office investment in complex IT infrastructure.

Yesterday IPART issued its [Issues Paper](#). IPART is seeking feedback on the issues raised in the issues paper. When IPART issues its final report, we will use this in our regulation of the pricing of eConveyancing services in NSW.

Intergovernmental Agreement (IGA) review update

As we reported last month the independent reviewer of the eConveyancing Intergovernmental Agreement (IGA) has released an Issues Paper. The IGA Review Paper is available on the reviewer's [Dench McClean Carlson \(DMC\)](#) or [ARNECC websites](#). DMC would welcome your

feedback on the Paper. Please feel free to contact Anne Larkins on 03 8617 8160 (alarkins@dmcca.com.au) or Cameron Geddes on 0417 653 118 (cgeddes@dmcca.com.au).

New ELNO conditions in NSW in effect

From 1 March 2019, ELNOs operating in NSW must comply with new NSW licence conditions. The licence replaces the previous state bilateral agreement.

The licence sits alongside the Operating Requirements and the Participation Rules, which also apply to ELNOS operating in NSW. Generally, the licence conditions provide more detail on the Operating Requirements—for example, they include more detail on IT testing requirements, on governance arrangements, and on how we would review any ‘value added services’ that ELNOs develop.

The licence conditions are published on our website bringing greater transparency. This is a similar to the approach taken in other competitive markets, such as energy. You can find more information about the NSW licence conditions on the [ORG website](#). Licence conditions will be published for all ELNOs in NSW.

Update on interoperability

Interoperability allows practitioners in a multi-party transaction who subscribe to a new ELNO to continue to act in that transaction whether the other participants use the same ELNO or a different ELNO.

We have established several independently chaired industry working groups to investigate more deeply a base-line model for a national interoperability solution—to help inform decisions about the way forward with interoperability. All information generated from these working groups will be submitted to the IGA review (see above). Please contact [ORG](#) if you have any questions on this work.

Update on subscriber audits and resources to help you

So far, NSW has conducted 923 audits of subscriber compliance with the various eConveyancing rules. The audits show:

- Around 15 per cent of these have been found to be non-compliant.
- Of these non-compliant cases:
 - 71.4 per cent are for incorrect Client Authorisations
 - 14.3 per cent for incorrect Verification of Identity and
 - 14.3 per cent for incorrect Verification of Right to Deal.

We all share the desire to bring compliance up to 100 per cent. To help achieve this, please use our [subscriber checklist](#). We hope this makes the compliance process simpler. Other resources to help you comply with the eConveyancing rules are:

- [How-to complete a Client Authorisation Form video](#)
- [Training workshops](#)
- [FAQs](#)

For more information about compliance examinations, please see the [guidance notes from ARNECC](#). Please let [ORG](#) know if you need any further help or resources to support you with your compliance.

Electronic caveats case

The [recent case of Guirgis v JEA Developments Pty Ltd](#) highlights the obligations of a practitioner when certifying an electronically lodged caveat and the importance of making proper inquiries to ascertain whether the caveator had an interest in land.

Please visit the [eConveyancing news](#) sections of our website to find out more about this case, and what you can do to avoid this from happening to you.

New advanced accredited workshops

We are pleased to announce new advanced workshops will be available soon providing practical hands-on guidance through more technical scenarios, in addition to the original introduction course. These advanced workshops will be around two hours long. Further information on these new workshops will be available soon. In the meantime, please find more information on our existing [eConveyancing workshops](#). We run courses in partnership with the Australian Institute of Conveyancers (NSW) and NSW Law Society.

Digital contracts legislation

The *Conveyancing Legislation Amendment Act 2018* was passed in November 2018, removing lingering barriers that had prevented a fully electronic conveyancing process in NSW.

The amendments make it certain that land transaction documents that support an electronic registry instrument can also be in electronic form. The Act confirms that deeds and contracts for the sale of land can also be created in electronic form. The requirement for deeds to be witnessed has been retained but witnessing can be signified by electronic means.

For more information, please visit [ORG website](#).

More resources to support your transition to digital

It is hard to believe, but 1 July 2019 is fast approaching—which means taking any final steps toward eConveyancing. Now is the time for practitioners (or staff) not yet registered with an Electronic Lodgment Network Operator to get ready. The final step in mandating is only about three months away. Please find some resources to help you with a smooth transition to eConveyancing:

- ['How-to complete a Client Authorisation Form' video](#)
- [Training workshops](#)
- [FAQs](#)
- [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](#).

Kind regards

A handwritten signature in blue ink, appearing to read 'Jeremy Cox', with a large, stylized initial 'J'.

Jeremy Cox
NSW Registrar General