

Customer Information Bulletin

BULLETIN No. 211
16 APRIL 2012

INFORMATION SESSION - NATIONAL E-CONVEYANCING

Landgate will be holding an information session on Wednesday 2 May 2012 between 1pm and 2:30pm at Landgate Cloisters 200 St Georges Terrace Perth.

This session will be your opportunity to gain a greater understanding of the National E-Conveyancing legal framework. The session is also designed to assist stakeholders to formulate their feedback on two key documents being the Model Operating Requirements (MOR) and the Model Participation Rules (MPR) which are detailed later in this bulletin,

To attend this session please RSVP by Monday 30 April 2012 to:

Kathy Evans - kathy.evans@landgate.wa.gov.au or

Gael Simpson - gael.simpson@landgate.wa.gov.au

BACKGROUND

National E-Conveyancing is part of the Council of Australian Governments' reform agenda under the National Partnership Agreement to Deliver a Seamless National Economy.

An Intergovernmental Agreement for an Electronic Conveyancing National Law (IGA) has now been signed by all States and Territories with the exception of South Australia which is in the process of obtaining signing approval and the Australian Capital Territory which does not intend, at this stage, to participate in National Electronic Conveyancing. The IGA provides the framework for the implementation and ongoing management of the regulatory framework for National E-Conveyancing and, in particular, an Electronic Conveyancing National Law (ECNL).

National E-Conveyancing in Australia will be delivered through an online business platform. The entity that provides and operates an Electronic Lodgement Network ("ELN") will be called an Electronic Lodgement Network Operator ("ELNO"). The first National E-Conveyancing platform will be called Property Exchange Australia or PEXA, and will be provided and operated by the first ELNO, National E-Conveyancing Development Limited ("NECDL").

PEXA will essentially be a web-based "hub" for parties to a conveyancing transaction to electronically prepare and settle the transaction and to electronically lodge the documents for registration at the appropriate Land Registry. PEXA will not directly alter or update the data held by a Land Registry, nor create a national Land Torrens title register. It is a gateway or channel for documents to be presented for lodgement with the existing Land Registries. In addition to providing a gateway for lodgement of documents with the Land Registries, PEXA is expected to provide a mechanism for the settlement of the financial aspects of a conveyancing transaction. The financial settlement component of the system will be separate from the interaction with the Land Registry, and the Land Registry will not have any involvement in, control over or regulation of it.

Because of security requirements, only registered "Subscribers" (generally lawyers, conveyancers and lenders) will be entitled to use the system on behalf of their clients or on their own behalf. It is not intended that the electronic conveyancing system be available for use by members of the general public unless they are represented by a Subscriber.

A Subscriber representing a client will enter into a Client Authorisation authorising the Subscriber to act for the client in an electronic transaction. Before entering into the Client Authorisation, the Subscriber must verify the identity of the client in accordance with Verification of Identity Rules.

A Subscriber will create electronic documents (eg. Land Registry instruments and instructions, settlement schedules) in an electronic workspace shared with other Subscribers acting in relation to, or involved in, a conveyancing transaction. Various data and lodgement verification checks will occur before settlement. The electronic documents will be signed by the Subscriber affixing a digital certificate to the documents. If the conveyancing transaction is complete and ready to settle, on the nominated settlement date financial settlement will occur automatically by electronic funds transfer and the documents will be forwarded to the Land Registry for lodgement.

KEY LEGAL FRAMEWORK DOCUMENTS FOR NATIONAL E-CONVEYANCING RELEASED

Three key legal framework documents for National E-Conveyancing were released on 30 March 2012. Those documents are the proposed Electronic Conveyancing National Law (ECNL), the Model Operating Requirements (MOR) and the Model Participation Rules (MPR).

The proposed ECNL has been released as part of continuing early consultation with stakeholders before formal consultation on the ECNL commences on the release of a Regulation Impact Statement relating to the proposed ECNL later in the year.

The proposed MOR and MPR have been released for formal consultation with stakeholders. An outline of the MOR and the MPR is set out below.

Model Operating Requirements (MOR)

The ECNL will confer on the Registrar of Titles the power to determine operating requirements which will apply to an ELNO, the entity that is granted an approval under the ECNL to provide and operate an ELN.

The operating requirements will have statutory force pursuant to the ECNL. In addition, the operating requirements will be incorporated as contractual terms in an operating agreement between the Registrar (or Land Registry in Western Australia's case) and an ELNO. The ECNL also empowers the Registrar to make amendments to the operating requirements from time to time. In determining the operating requirements, the Registrar must have regard to any model operating requirements developed by the Australian Registrars National Electronic Conveyancing Council (ARNECC) established under the IGA.

ARNECC's proposed Model Operating Requirements are available on ARNECC's website: <http://www.arnecc.gov.au>. Submissions on the Model Operating Requirements close on 11 May 2012 after which responses will be considered by the States and Territories.

Model Participation Rules (MPR)

The ECNL will confer on the Registrar of Titles the power to determine participation rules which will apply to Subscribers.

The participation rules will have statutory force pursuant to the ECNL. In addition, the participation rules will be incorporated as contractual terms in a participation agreement between the ELNO and its Subscriber. In determining the participation rules, the Registrar must have regard to any model participation rules developed by ARNECC.

ARNECC's proposed Model Participation Rules are available on ARNECC's website: <http://www.arnecc.gov.au>. Submissions on the Model Participation Rules close on 11 May 2012 after which responses will be considered by the States and Territories.

A handwritten signature in black ink, appearing to read 'J. Villani', with a long horizontal flourish extending to the right.

JEAN VILLANI
DIRECTOR REGISTRATIONS
DELEGATED REGISTRAR OF TITLES
16 APRIL 2012

