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Are you up to date with the new e-conveyancing transition timetable?

By Gabrielle Lea

The full transition timetable to electronic conveyancing was announced by the NSW Government on 28 February 2017. This follows the earlier announcement in July 2016 of the NSW Government's intention to accelerate the transition to electronic conveyancing. There are a number of important milestones allowing for a step-by-step transition. By 1 July 2019, any conveyancing transaction that can be lodged electronically must be lodged electronically. The transition timetable has two stages, with a number of major milestones within each stage.

Snapshot

- A timetable transforming NSW from paper conveyancing to online property transactions has been released by the NSW Government.
- By 1 July 2019, most standard property transactions in NSW will be conducted electronically, and all paper Certificate of Titles will be phased out.
- If you have not already prepared your practice for e-conveyancing, consider starting soon.
- After 1 July 2018: paper CTs held by other non-ADI bodies will begin to be replaced.
- From 1 July 2019: all transfers, mortgages, discharges of mortgage or combinations of these for the same folio must be lodged electronically except where lodged with another dealing for the same folio and that other dealing cannot be lodged electronically (ie virtually all standard conveyancing transactions to be done electronically with rare exceptions).
- 1 July 2019: all remaining paper CTs will be cancelled.

Stage one of the transition timetable

Stage one began on 1 March 2017 and mainly covers stand-alone mortgages, discharges of mortgage and refinances. If you haven't already encountered an electronic certificate of title ('eCT'), you probably will soon because:

- From 1 July 2017: an electronic certificate of title (eCT) will be issued when an electronic transaction is lodged and the mortgage is an Authorised Deposit-Taking Institution ('ADI').
- After 1 August 2017: an eCT will issue even when a paper transaction is lodged and the mortgage is an ADI.

For guidance on the changes to settlement and lodgement of dealings and plans involving an eCT, see the Land and Property Information fact sheet 'Attending a paper settlement when the Certificate of Title (CT) is in electronic format' (www.lpi.nsw.gov.au/publications/fact_sheets).

Stage two of the transition timetable

Stage two deals with mortgages where the *National Credit Code* does not apply and also where the mortgagee is not an ADI. It also covers caveats, transfers, and general conveyancing transactions. Highlights of the stage two timetable are as follows:

- From 1 July 2018: caveats or transfers must be lodged electronically, except where lodged with another dealing for the same folio (ie captures stand-alone caveats or transfers).
- From 1 July 2018: all mortgages, discharges of mortgage, or combination of these for the same folio must be lodged electronically, except where lodged with another dealing for the same folio (ie captures stand-alone mortgages, discharges or refinances).
- By October 2018: remaining CTs held by ADIs will be replaced with eCTs resulting in a bulk cancellation of paper titles.

Implementation of the transition timetable

The *Conveyancing Rules*, made under section 12E of the *Real Property Act 1900*, implement the various milestones of the transition timetable and provide additional guidance. Version 2.1 of the *Conveyancing Rules* was published by the Office of the Registrar on its website on 12 April 2017 and came into effect on and from 19 May 2017.

Sources of further information

NSW Government websites: further information about the transition is available on the Land and Property Information website and the Office of the Registrar General website. The Registrar General's Guidelines (formerly Registrar General's Directions) also provide useful information about electronic dealings and the regulatory framework for electronic conveyancing adopted in NSW.

ARNECC website: as electronic conveyancing has been developed nationally, information about the framework and guidance notes are also available at the Australian Registrars' National Electronic Conveyancing Council (ARNECC) website.

Property Exchange Australia Ltd: information about preparing and registering for electronic conveyancing is also available on the Property Exchange Australia ('PEXA') website. PEXA is an Electronic Lodgement Network Operator ('ELNO') established pursuant to the *Electronic Conveyancing National Law* (NSW). PEXA has 'Direct Specialists' who are lawyers and conveyancers who can come to your practice and guide you through the PEXA registration process, assist you to adapt your business to e-Conveyancing and help you complete your first online transactions. See: www.pexa.com.au/lawyers-conveyancers#getting-started-lawyers-conveyancers. **LSJ**