

STRATEGIC STATEMENT

ARNECC has made substantial progress in establishing the national regulatory framework for electronic conveyancing

For over 150 years, land registries have played a critical role in the effective functioning of Australia's property market by successfully sustaining high levels of public confidence in the land titles administration system. Now, as this system makes the transition to the digital world, it is crucial that these high levels of confidence are maintained. ARNECC has a key role to play in this process.

The Australian Registrars National Electronic Conveyancing Council (ARNECC) was established in 2011 by an Intergovernmental Agreement (IGA) that committed all participating States and Territories to provide governance for the development, implementation and management of the regulatory framework for a national system of electronic conveyancing, and in particular to:

- Work collaboratively to ensure that business practices are consistent where possible
- Ensure that all stakeholders continue to be consulted in an effective manner in connection with the implementation and operation of the regulatory framework.

The members of ARNECC are the Registrars (or their equivalent) in each State or Territory that is a party to the IGA. ARNECC has no authority beyond that of its individual members.

To date, ARNECC has made substantial progress in establishing the national regulatory framework for electronic conveyancing. Some of the highlights:

- The Electronic Conveyancing National Law (ECNL) has been enacted in all participating States and Territories.
- Two sets of rules have been made (and twice revised) pursuant to the ECNL:
 - Model Operating Requirements (MOR), which sets out the requirements of Electronic Lodgment Network Operators (ELNO)
 - Model Participation Rules (MPR), which sets out the rules for subscribers to an Electronic Lodgment Network (ELN).
- One ELNO – Property Exchange Australia Ltd (PEXA) – has been approved to operate in four of the seven jurisdictions and has commenced operating in those jurisdictions.

ARNECC will continue to play a key leadership role in consolidating these gains and developing public confidence in electronic conveyancing

While many of the foundations of an effective national e-conveyancing system are now in place, take-up rates are low. There remains significant work to encourage those involved in conveyancing switch to electronic conveyancing.

ARNECC recognises the important leadership role it needs to continue to play in increasing the take-up of, and sustaining public confidence in, electronic conveyancing.

To give more definition to this leadership role, this Strategic Statement:

- outlines the key priorities on which ARNECC will focus its effort and resources over the next twelve months, and
- describes what else ARNECC intends to pursue to ensure the long-term success of electronic conveyancing.

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- Supporting the acceleration of take-up of electronic conveyancing
- Establishing an effective compliance and enforcement program
- Ensuring the roll-out to remaining jurisdictions is completed.

Priority #1: Support acceleration of take-up of electronic conveyancing

At present less than 5 per cent of in-scope transactions are being completed electronically. Given the significant investment to date of resources and reputation by ARNECC members in electronic conveyancing, there is now some urgency for encouraging an acceleration of its take-up.

In 2016, ARNECC will focus more effort on accelerating the take-up of electronic conveyancing, beginning with the development of a take-up plan. This plan will set take-up targets, and be based on an analysis of the barriers to, and incentives for, take-up. As part of the development of this plan, ARNECC will review its current work program to ensure effort on current issues is consistent with accelerating take-up.

By the end of 2018, ARNECC aims to have 60 per cent of in-scope transactions being completed electronically.

Priority #2: Establish an effective compliance & enforcement program

ARNECC's focus to date has been on establishing the regulatory framework. ARNECC recognises however the importance of compliance with the regulatory framework to confidence in and take-up of electronic conveyancing. It is important therefore that ARNECC is pro-active in ensuring the regulatory framework is being observed.

In 2016, ARNECC will focus on establishing and implementing an effective compliance and enforcement program, with the aim of ensuring the right practices and behaviours take hold early in the use of electronic conveyancing. This will begin with the development of a compliance and enforcement plan that will outline agreed methodologies and arrangements for implementation, including how to deal with resourcing requirements. This plan will be developed in consultation with industry.

Priority #3: Ensure the roll-out to remaining jurisdictions is completed

Four jurisdictions currently have electronic conveyancing available – New South Wales, Victoria, Queensland and Western Australia – with South Australia scheduled to commence in May 2016. To meet ARNECC's commitment to the establishment of national electronic conveyancing (and the associated aspirations of the harmonisation of electronic transactions), it is important that the electronic conveyancing platform is rolled out to the other two jurisdictions that have signed the IGA – Tasmania and the Northern Territory. While there is a tentative timetable for this roll-out, there is risk that these timelines will be pushed out due to other priorities.

In 2016, ARNECC will focus on ensuring the roll-out to the remaining jurisdictions is completed, working closely with those jurisdictions and PEXA to develop an implementation timetable that locks in the key dates for completing the roll-out. ARNECC will ensure the implementation timetable is published.

By the end of 2018, ARNECC aims to have electronic conveyancing available in all of the States and Territories that have signed the IGA.

ARNECC is also concerned to ensure that it is putting in place the foundations for long-term success

In focusing on these key priorities, ARNECC is also aware that the environment in which it operates is increasingly dynamic, and that it is important to anticipate, and be prepared for, disruptive changes that could have implications for the longer-term success of electronic conveyancing.

These possible changes include:

- Disruptions associated with the increasing impact of digital technologies in the property and financial services sectors.
- The prospect of reform in land registries, including the outsourcing and/or privatisation of some functions, potentially making the harmonisation of reforms more challenging.
- The intention of PEXA to float on the Stock Exchange, and the associated investor scrutiny of the regulatory framework.

While these developments will not distract ARNECC from the key priorities outlined above, there are some pieces of work that ARNECC intends to undertake to help ensure the long-term success of electronic conveyancing.

In particular, ARNECC will:

- Continue to look for opportunities to improve consistency of practice where this makes sense.
- Identify the most appropriate regulatory model for the long term.
- Understand the pathways to the full digitisation of conveyancing transactions.

Priority #4: Continue to look for opportunities to improve consistency of practice where this makes sense

ARNECC recognises that it has not made the progress that was initially expected in achieving consistency in business practices. Nevertheless, ARNECC continues to have aspirations towards increasing consistency and has made several significant advances. Development of the National Mortgage Form (NMF) and the National Priority Notice (NPN) are examples of effective collaboration to date. Ultimately however, ARNECC recognises that its slower than expected experience in collaborating to achieve consistency in business practices is not unusual.

To maximize effort in this area, ARNECC intends to narrow the focus of collaboration to a small number of high-payoff areas. ARNECC will work to identify these areas and strengthen its efforts in achieving consistency of practice across jurisdictions.

Priority #5: Identify the most appropriate regulatory model for the long term

While there are unlikely to be significant changes in the regulatory functions of ARNECC in the short-term, ARNECC is now turning its attention to what will be the most appropriate regulatory model for the future.

This is partly in response to uncertainties about whether current arrangements are sustainable in the medium to long term given:

- **Resource constraints:** To date the establishment of the regulatory framework has largely been achieved through the discretionary effort of ARNECC members.

- **Capabilities:** New capabilities may be required for extending the historic regulatory role of ARNECC members.
- **Perceived conflicts of interests:** ARNECC members' focus on the integrity of their registers necessarily influences their approaches to industry regulation, particularly with respect to risk.

To address these issues, ARNECC will commission an analysis of what changes, if any, to the current regulatory governance model may be required in the future.

Priority #6: Understand the pathways to the full digitisation of conveyancing transactions

While there are likely to be number of barriers to accelerated take-up of electronic conveyancing, one of the reasons for complacency may be the understanding that the traditional paper-based lodgement will continue to be available, particularly for low volume transactions.

To test the assumption that there needs to be a paper-based system, ARNECC is interested in better understanding what are the costs of maintaining two systems for participants. In particular, ARNECC is interested in quantifying the marginal costs of and justifications for continuing to support paper transactions as volumes decline.

As a first step, ARNECC will undertake an analysis of transactions that are currently out of scope for electronic conveyancing. ARNECC will then determine whether there would be value in commissioning an economic analysis of the benefits and costs of achieving full digitisation of conveyancing transactions.

To deliver these priorities, ARNECC is ensuring governance and resourcing arrangements are appropriate

As part of its commitment to the delivery of the priorities outlined in this Strategic Statement, ARNECC is strengthening its governance processes, and improving its resourcing arrangements. Specific initiatives include:

- Translating this Strategic Statement into a project plan for the delivery of these priorities, and using the plan to monitor performance.
- Increasing the frequency of ARNECC meetings, with each meeting featuring an appropriate balance between strategic and operational issues.
- Providing clear work priorities, oversight and support for the Australian Registrars Working Group (ARWG).