LOD-01 Lodging of Electronic Documents

Version 1 - 21/07/2017

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1 Overview

In 2008, a Council of Australian Governments’ (COAG) agreement challenged all states to introduce electronic conveyancing as part of the Commonwealth’s push towards a national seamless economy.

Since then Landgate has engaged with stakeholders to develop electronic conveyancing as an initiative to increase productivity, improve the security and integrity of land tenure information, and bring the conveyancing industry into the digital age.

The Australian Registrar’s Electronic Conveyancing Council (ARNECC) is the regulatory structure that was established to regulate the process of electronic conveyancing. The legislation adopted states that electronic dealings are to be processed through an Electronic Lodgement Network (ELN) that has the capability of providing the facility for funds transfers. The entity that owns the ELN is an Electronic Lodgement Network Operator (ELNO). Currently there is only one ELNO – Property Exchange Australia (PEXA).

In 2014, Landgate received its first transaction via PEXA. Since then, Landgate has made lodgement of the following documents possible electronically:

- Discharge of Mortgage
- Mortgage
- Transfer
- Caveat
- Withdrawal of Caveat
Electronic conveyancing delivers benefits to all stakeholders across the industry by:

- Determining settlement preparedness of each party well before the agreed date.
- Eliminating the need to attend settlements in person.
- Making settlement funds available immediately.
- Maintaining the accuracy of the Land Titles Register.
- Providing better security and robustness of the system.

2 Model Operating Requirements (MOR)

ARNECC has developed Model Operating Requirements (MOR) to assist ELNOs in understanding what is expected of them. Each state then adopts its own requirements version to incorporate state-specific legislation. ELNOs are required to comply with the Registrar’s Participation Rules in each jurisdiction.

In Western Australia, ELNOs are required to comply with the WA Operating Requirements (WAOR).

To review and download the WA MOR and related Guidance Notes please click on the below links:

Western Australian Participation Rules

Model Operating Requirements - Guidance Notes

3 Model Participation Rules (MPR)

In order to conduct property transactions electronically, conveying industry representatives are required to become a Subscriber with the ELNO. ARNECC has developed Model Participation Rules (MPR) to assist Subscribers in understanding what is expected of them. Each state then adopts its own requirements version due to the different legislation and organisational structure across the states. In Western Australia, Subscribers are required to comply with the WA Participation Rules (WAPR).

To access the WAPR or related Guidance Notes, please click on the below links:

Western Australian Participation Rules

Model Participation Rules Guidance Notes

Additional information on becoming a Subscriber in PEXA can be obtained from Section 4 Access to Electronic Conveyancing below.

4 Access to Electronic Conveyancing

Currently Property Exchange Australia (PEXA) is the only ELNO. Conveyancers, lawyers and financial institutions must become a Subscriber in PEXA before being able to lodge eligible documents electronically. It is free to become a Subscriber.

Section 4 of the WAPR outlines eligibility criteria to become and remain a subscriber to an ELNO.
5 Landgate’s Role

The following services are provided by Landgate to enable lodgement of electronic documents:

- **Land Title Reference Verification (LRV)** - When commencing an electronic transaction, the Subscriber will be able to check whether the title or titles to be dealt on are able to be processed electronically. Once the title details are entered into the ELNO a request will be made for Landgate to verify that firstly, the title is valid and secondly, that it can be transacted on electronically. Where there is more than one title in the transaction all titles must be capable of being processed electronically. If this is not the case, then the transaction will not be able to be processed via the ELNO and paper lodgement will be necessary.

- **Registry Information Supply (RIS)** - Once the land title/s suitability for electronic transacting has been confirmed, the ELNO will request a RIS. The certificate of title data supplied by Landgate to the ELNO in response to this request will enable the preparation of document types that are able to be lodged via the ELNO. The RIS will also include details of any activity on the title/s for the last 60 days.

- **Title Activity Check (TAC)** - The TAC service checks with Landgate for any changes to the registry information initially supplied to the ELNO workspace. This service is to be used as required for due diligence purposes by participating Subscribers to ascertain whether there has been any change to the land title information. Multiple TACs may be requested during the life of the workspace. In the weeks leading up to settlement the TAC is run weekly; daily during the week of settlement and then an hour before settlement is due. TACs will be triggered automatically by the system or requested manually by a Subscriber.

- **Lodgement Verification (LV)** - The objective of this service is to request Landgate to validate that a given lodgement case is acceptable for lodgement. This service is invoked automatically by the ELNO when:

  - All documents in the lodgement case (the lodgement instructions, all registry documents or administrative notices) have been prepared, are complete, but not yet necessarily certified or signed
  - All documents in the lodgement case have been certified and signed by all the relevant subscribers
  - A TAC response of ‘Yes’ is returned in a lodgement case involving settlement

- **Lodgement Verification Status (LVS)** - This service provides a means for Landgate to communicate back to the originating ELNO workspace the status of a lodgement verification request. Upon receipt of a lodgement verification request, Landgate will complete verification of all documents in the lodgement case and confirm their acceptability for lodgement. Landgate will compile the lodgement verification compliance report, lodgement fee estimate and send the lodgement verification status advice to the ELNO. If the lodgement case:

  - passes verification – Landgate returns a successful lodgement verification compliance report (compliance indicator = “Yes”). This includes warning and information messages.
  - fails verification – Landgate will return an unsuccessful lodgement verification compliance report (compliance indicator = “No”). This includes error and warning messages which detail required
documents missing from the lodgement case as well as documents in the lodgement case which fail verification, and reason(s) why identified documents are not eligible for lodgement.

Some examples of critical errors which would result in documents being unacceptable for lodgement include but are not limited to:

- the land title is not current
- the land title is not valid
- incorrect fees paid
- digital signature is missing
- subscriber organisation in the digital signature does not match execution
- subscriber does not exist. A title status can change from 'able to be dealt with electronically' to 'unable to be dealt with electronically' during the life of the workspace. This can happen as a result of the title becoming ‘in order for dealing’ due to a recent lodgement that is as yet registered. Subscribers should investigate any returned warning and take appropriate action as required.

- Lodgement (L) – This service provides a means for the ELNO to submit a case for lodgement.
- Lodgement Case Status (LCS) – This service provides a means for Landgate to communicate back to the originating ELNO workspace the status of a lodgement case. Notwithstanding prior successful lodgement verification, Landgate may or may not accept a case for lodgement. The lodgement case status returns the status of the case (Not Accepted, Lodged, Completed).

6 Electronic Document Eligibility Criteria

The ELNO system has the capability to process the following document types:

- Discharge of Mortgage
- Mortgage
- Transfer
- Caveat
- Withdrawal of Caveat

This is dependent on all parties involved in the transaction being eligible to use the system as well as the certificate of title being eligible for electronic lodgement.

Here’s how to determine whether your transaction is eligible:

Transfers

- Does the Certificate of Title validation in PEXA allow for that Certificate of Title to be electronically transacted?
- Is there a contract of sale or a written agreement involved?
- Is it dealing on the whole of the land?
- Is the consideration monetary, gift or natural love and affection?
- Can the duty be assessed via Revenue Online (ROL)?
- Are all parties to the deal eligible subscribers?

Caveats

- Does the Certificate of Title validation in PEXA allow for that Certificate of Title to be electronically transacted?
- Is it over the whole of land?
- Does it apply to all registered proprietors?
- Are you representing all caveators?

Withdrawal of caveats

- Does the Certificate of Title validation in PEXA allow for that Certificate of Title to be electronically transacted?
- Is it over the whole of land?
- Are you representing all named caveators in withdrawal?
- Name must be the same or justified to be the same

7 Waivers

Under section 27(1) and (2) of the Electronic Conveyancing Act, a waiver from the obligation to comply with a provision of the participation rules and the operating requirements may be granted if it is reasonable in all circumstances.