



**AUSTRALIAN BANKERS'
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The Secretary,
Agriculture, Resources and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000 Address

Email: arec@parliament.qld.gov.au

Dear Recipient,

Electronic Conveyancing National Law (Queensland) Bill 2012

The Australian Bankers' Association (ABA) appreciates the invitation of your Committee to provide comments on the Bill and for the additional time in which to do this.

The ABA is the peak national body representing 24 banks that are authorised by the Australian Prudential Regulation Authority to carry on banking business in Australia. The ABA's membership includes the four major Australian banks, foreign banks that are represented and carry on banking business in Australia as Australian banks and former regional banks that now operate nationally.

We wish to emphasise the national importance of the Council of Australian Government's (COAG) project to develop a single national electronic conveyancing system for Australia.

The ABA strongly supports this significant micro-economic reform.

1. Background

Since 2004 the ABA has had a direct role in working with the states and territories for the development of a national electronic conveyancing system. Until relatively recently, it had seemed that this could not be achieved cooperatively with the jurisdictions.

In 2007, the ABA requested the Commonwealth Government place the national electronic conveyancing system project on COAG's micro-economic reform agenda which includes the delivery of a seamless national economy.

Since COAG has had oversight of the project there have been significant moves forward in developing the national system. The expectation is that in the second quarter of 2013 the first tranche of the national system will become operational and provide for standalone mortgages and discharges of mortgages in electronic form for lodgement with land registries that are ready to accept those transactions in that form. Victoria is to be the first jurisdiction to trial the system with Queensland planning to commence in September 2013.

A significant development occurred in January 2010 with the incorporation of National E-Conveyancing Development Limited (NECDL) to develop the national electronic conveyancing system. We understand that an inter-governmental agreement has been signed by jurisdictions, including the Queensland government. The inter-governmental agreement provides a governance framework for completion of this reform project.

NECDL was established under a governance agreement between the Victorian, New South Wales and Queensland Governments and provides for other states and territories to join the system as and when they are ready to do so. The Victorian, New South Wales and Queensland Governments are shareholders in NECDL, together with the four major Australian banks, all of which have provided substantial seed funding for the project. Further investors in the project are anticipated and this week it was announced that Link Group had become an investor.

In 2012, the Australian Registrars National Electronic Conveyancing Council (ARNECC), which comprises the state and territory land titles officials, developed a model or template bill for establishing a consistent national legislative framework for the national system including model operating and participation rules for the operation of the national system.

The template bill was passed by the New South Wales parliament in November 2012 and a corresponding Bill was introduced into the Victorian Parliament in 2012 which has been passed by the Assembly with the second reading speech moved in the Council on 7 February.

2. The national electronic conveyancing system

The ABA welcomes the Queensland Government's early decision to introduce the Bill into the Queensland parliament which has followed the national legislative template.

The national system is a commercial venture. Its success depends upon national participation, uptake of the system by the jurisdictions and the finance and conveyancing industries and a nationally consistent legislative and operating scheme.

The benefits of the national system will be tangible and deliverable.

For example, there are developments nationally to make it easier for consumers to switch their home loan accounts from one financial institution to another. The national electronic conveyancing system will enable customers who wish to switch their providers to be able to do so more quickly and effectively than under the current manual based conveyancing system.

In addition, the system will enable participants to enhance their services to their clients with conveyancing transactions being settled electronically, obviating the need for settlement bank cheques and for parties to the transaction having to leave their offices to attend settlement. Issues with conveyancing documentation will be able to be resolved prior to settlement, which means more settlements proceeding on time and without the need for the often time consuming exercise of arranging for all parties to be at one settlement venue at a specific date and time. This is often a source of major frustration for legal practitioners and their clients.

The disappointment experienced by some consumers with what is perhaps their most important financial and personal commitment, the purchase of a home, where settlement is abandoned because of a last minute hitch in settlement documentation, should be significantly reduced.

Lodgement with land registries and the collection of revenue by government agencies will be seamless and virtually immediate after settlement.

It is expected that the national system will reduce the cost of registration in land registries because land registries will be able to operate more efficiently.

With a nationally consistent legislative framework established, the ABA sees the next stage towards national consistency is for jurisdictions to develop practices and processes that are nationally consistent particularly, for example, for the validation of the identity of parties to a conveyancing transaction which has been agreed through the ARNECC process as a national model.

In addition to individual jurisdictions needing to amend their respective land titles legislation to enable lodgement of electronic conveyancing transaction instruments, the ABA looks forward to amendments to land titles legislation that will recognise and provide for efficiencies in the creation, execution and retention of mortgage instruments through the maximum possible utilisation of electronic techniques so as to facilitate a largely paperless conveyancing environment and avoid barriers to achieving this objective.

For example, these amendments could make provision for electronic signatures, the abolition of witnessing of signatures because of the more regulated and limited access of subscribers to an electronic lodgment operating system, the abolition of certificates of title, the creation of nationally standard forms of mortgage and electronic means for the retention of documents.

The ABA commends the national system to your Committee and for the constructive contribution, cooperation and participation of the Queensland government in this important initiative and its work as a member of ARNECC and the States Project Team.

If the Committee considers that the ABA could be of assistance in this inquiry by participating in Committee hearings we would be pleased to do so. In this case please contact me on 02 8298 0406 or by email to igilbert@bankers.asn.au

Yours sincerely,



Ian Gilbert