

Lessons from the Kiwi experience of E-conveyancing

Presented to the Australian Law Management Group of the Law Council of Australia

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Topics to cover today:

- System Manager Role/Internal Policies
- Internal Checklists to support certifications
- Precedents/Training
- Accounts/IT/HR
- Costs
- Outsourcing



1. System Manager role/Internal Policies

- Pivotal role
- Overall implementation/ongoing admin
- Required for admin by Landonline
- Wide liaison - up, down and across
- Understanding of settlement process/legal and practical issues

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2. Internal Checklists to support certifications

Transferor Certifications

Default

I certify that I have the authority to act for the Transferor and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Mortgagee Certifications

Default

I certify that I have the authority to act for the Mortgagee and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

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2. cntd: Certifications to Land Registrar

- Liability of lawyer
 - Expanded specific personal certifications
 - Reliance on client identity and witness, firm processes, training, storage, insurance policy etc
 - Loss of individual license with LINZ
- Liability of firm
 - Loss of firm license with LINZ
 - Firm processes, training, storage, insurance policy etc

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3. Precedents/Training/ Settlement Process

- Agreements for Sale and Purchase – optional and then compulsory
- Internal Checklists
- Initial/Ongoing training
- No face-to-face settlements/bank cheques
- Undertakings: Prescribed format/complex transactions

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4. Accounts/IT/HR

- Access to system for accounts staff
- Matching monthly account registration fees with client billings
- Software and hardware upgrades
- Manual uploads of Digital Certificates/laptop access
- Security of passwords storage

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5. Costs

- Actual licence fees for firm and users
- Unrecoverable search fees
- Hidden costs

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6. Outsourcing

- To whom?
- Of what?
- Dislocation/lack of understanding

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Summary

- This is not a simple process change
- Wide effects across all practice areas
- Training, precedents, audit

Dedicate resources to implementing it NOW!

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