
Appendix 1 – Response from Department of Customer Service

Department of Customer Service
Office of the Secretary



Our reference: COR-05878-2024

Mr Bola Oyetunji
Auditor-General for New South Wales
Audit Office of New South Wales
Level 19, Darling Park Tower 2
201 Sussex Street
Sydney NSW 2000

By email: mail@audit.nsw.gov.au

Re: Response – Performance Audit – Regulation of the land titles registry

Dear Mr Oyetunji,

I refer to your letter dated 19 December 2024 attaching the Audit Office's final report on its performance audit of the Office of the Registrar General (ORG)'s regulation of the NSW land titles registry.

Thank you for the opportunity to provide a formal response on behalf of the Department of Customer Service (DCS). This letter is provided as a joint response of the Secretary of DCS and NSW Registrar General, Danusia Cameron, noting that while DCS is the auditee, Ms Cameron has statutory accountability for a range of matters which are the subject of the Audit Office's recommendations, as described below.

We welcome the review by the Audit Office, and the Audit Office's conclusion that ORG has implemented an effective system, as well as supporting processes, to oversee and monitor the integrity and security of the NSW land titles registry.

We accept the recommendations in the Audit Office's report. As we implement these, we note that:

- Responsibility for Recommendations 1, 2 and 6 of the report, relating to the preparation and publication of ORG's regulatory approach and a regulatory charter; and the audit of ORG's subscriber compliance function, fall within the ambit of the regulated functions and duties of the Registrar General.
- Recommendations 3 to and including 5, relating to review of ORG's skills and capabilities, clarifying certain privacy and data matters and the application of the NSW Cyber Security Policy, are interdependent with other DCS teams, policies and resources. The Secretary will ensure support from DCS to assist with the implementation of the recommendations.

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In all cases, the Registrar General will lead the work within DCS to satisfy the requirements of the recommendations, in a manner consistent with the Concession Deed and legislative framework. The attachment sets out further comments on implementation and some findings of the report.

We would like to thank the Audit Office for the insights offered throughout the audit and in the final report. These will assist ORG continue to improve the effectiveness with which it performs its critical role, supporting the integrity of NSW's land titles system.

If you have any questions, please contact Danusia Cameron, Registrar General at [REDACTED]

Sincerely,



Graeme Head AO
Secretary



Danusia Cameron
Registrar General

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Attachment

Recommendations 1 and 2

ORG has briefed a regulatory expert to provide advice and guidance on developing ORG's regulatory approach, which engagement is ongoing. This engagement will assist ORG to:

- identify the policies, plans and other tools it needs to exercise its regulatory powers and duties more effectively;
- develop a regulatory charter; and
- identify key capability and skills gaps that it needs to fill to perform more effectively as a regulator.

ORG's approach to regulatory functions and powers, and the regulatory charter, will be published on ORG's website. ORG notes the Audit Office's comments regarding transparency and will continue to review what additional regulatory materials are published on its website and are raised with stakeholders.

As noted in the Audit report, ORG continues to focus on oversight of NSW LRS's plan examination function. In 2025, ORG intends to conduct an audit of how NSW LRS performs this role. ORG is reviewing the plan examination reporting it receives from NSW LRS, including what statistics are provided in relation to errors in plans. ORG will also review existing policies to ensure they provide sufficient clarity to stakeholders regarding ORG's approach, for example, in relation to critical errors on plans.

Recommendation 3

As noted above, ORG has engaged a regulatory expert to assist identify key capability and skills; ORG will also work with DCS People & Culture on this review.

Going forward, we anticipate that ORG will continue to draw on the expertise in DCS, including the DCS Cyber Security team.

Recommendation 4

In relation to rights to use data, ORG is continuing to develop the data principles referred to in the Audit report. ORG is supporting work between NSW LRS and ELNOs to clarify their respective data rights and use. ORG will continue to work with government agencies to ensure rights are clear.

In relation to application of privacy legislation to the land titles registry, ORG will arrange for specialist analysis, and work with the DCS Privacy team and NSW LRS to implement any appropriate changes. In relation to other participants in the land titles system:

- The regulation that applies to Electronic Lodgment Network Operators (ELNOs) and subscribers to electronic conveyancing (lawyers, conveyancers and banks) provides that ELNOs and subscribers must comply with privacy law and the Registrar General conducts compliance reviews of both these participant groups to seek assurance they comply with their obligations.
- Under the Concession Deed, the Registrar General approves the standard information broker agreement that NSW LRS has with brokers; these standard terms contain privacy requirements.

Recommendation 5

ORG supports greater clarity regarding cyber security protections and will continue to work with Cyber Security NSW and the DCS Cyber Security team in relation to application of the Cyber Security Policy.

Page 33 of the Audit report notes that "ORG assesses and monitors how the private operator responds to vulnerabilities identified by its penetration testing program.... However, the effectiveness of this monitoring has been hampered by the ORG's lack of a central registry of issues

or vulnerabilities". For completeness, ORG maintains issues registers in relation to NSW LRS and regularly reviews these in the ongoing governance meetings; these include issues and vulnerabilities identified by the penetration testing program.

Recommendation 6

Following implementation in 2024 of a new technology system for the subscriber compliance function, in 2025, ORG will focus on realising the benefits of the new system and identifying any incremental process improvements. Later in 2025, ORG will commission an audit of the effectiveness of the system.

ORG anticipates this audit of the subscriber compliance process will build on previous analysis of this function. In 2019, ORG engaged Protiviti to conduct a review of the subscriber compliance function; and in 2024, ORG reviewed issues with the subscriber compliance function as part of developing the new technology system.

Clarifications

In relation to the Torrens Assurance Fund, ORG notes the following clarifications:

- Page 4: "Errors in dealings can ... create a financial liability for the NSW Government through potential claims against the Torrens Assurance Fund (which provides the State's financial guarantee of property title)". ORG notes that NSW LRS indemnifies the NSW Government where a Torrens Assurance Fund claim is due to NSW LRS, such as where NSW LRS breaches the Concession Deed, makes a misrepresentation or engages in negligent, fraudulent or dishonest conduct.
- Page 10: "There are a range of exceptions where compensation is not payable from the TAF. For example, if the loss is a result of fraud or negligence by a solicitor or licensed conveyancer...". ORG notes that liability may be reduced if loss is a result of fraud or negligence by a solicitor or conveyancer, though this is not necessarily the case.

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