



# Regulation of the land titles registry

PERFORMANCE AUDIT | 12 FEBRUARY 2025

NEW SOUTH WALES AUDITOR-GENERAL'S REPORT

## ROLE OF THE AUDITOR-GENERAL

The roles and responsibilities of the Auditor-General and the Audit Office, are set out in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

We conduct financial or 'attest' audits of state public sector and local government entities' financial statements. We also audit the Consolidated State Financial Statements, a consolidation of all state public sector agencies' financial statements.

Financial audits are designed to give reasonable assurance that financial statements are true and fair, enhancing their value to end users. Also, the existence of such audits provides a constant stimulus to entities to ensure sound financial management.

Following a financial audit the Audit Office issues a variety of reports to entities and reports periodically to Parliament. In combination, these reports give opinions on the truth and fairness of financial statements, and comment on entity internal controls and governance, and compliance with certain laws, regulations and government directives. They may comment on financial prudence, probity and waste, and recommend operational improvements.

We also conduct performance audits. These assess whether the activities of government entities are being carried out effectively, economically, efficiently and in compliance with relevant laws. Audits may cover all or parts of an entity's operations, or consider particular issues across a number of entities. Our performance audits may also extend to activities of non-government entities that receive money or resources, whether directly or indirectly, from or on behalf of government entities for a particular purpose.

As well as financial and performance audits, the Auditor-General carries out special reviews, compliance engagements and audits requested under section 27B(3) of the *Government Sector Audit Act 1983*, and section 421E of the *Local Government Act 1993*.



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In accordance with section 38EC of the *Government Sector Audit Act 1983*, I present a report titled '**Regulation of the land titles registry**'.

A handwritten signature in black ink, reading 'Bola Oyetunji'.

**Bola Oyetunji**  
Auditor-General for New South Wales  
12 February 2025

## RECONCILIATION STATEMENT

We pay our respects and recognise Aboriginal peoples as the traditional custodians of the land in NSW who have cared for and protected the environment, waterways, and sacred sites over many millennia. We honour and thank the traditional custodians of the land on which our office is located, the Gadigal people of the Eora Nation, and the traditional custodians of all the lands on which our employees live and work. We pay our respects to their Elders past and present, and to the next generation of leaders.

We acknowledge that our long history of helping to foster accountability and transparency in the government and Parliament is also shared with the histories of colonisation and the resulting disadvantage of Aboriginal and Torres Strait Islander peoples in this state.

We embrace our role in holding government agencies to account for the delivery of effective services for Aboriginal and Torres Strait Islander peoples. We are committed to ensuring that our audits are culturally responsive, respectful and inclusive, and that we engage with Aboriginal and Torres Strait Islander peoples and communities in a meaningful and collaborative way.

We recognise the ancestral tie of Aboriginal and Torres Strait Islander peoples to this land, and we acknowledge that we have much to learn from their wisdom, rich and diverse culture, languages, knowledge and practices.

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## **Section 1 –**

Regulation of the land titles  
registry

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# 1. Executive summary

## Context

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The land titles registry is a collection of registers established under the *Real Property Act 1900* and related legislation. Its primary purpose is to support the Torrens Title system of land titling, which has existed in NSW since 1863. The Torrens Title system encourages investment in property by enabling the registration of dealings that create legal rights for landowners and the protection of those legal rights by the State guarantee of title.

The NSW Government, through the Registrar General, operated, maintained and regulated the land titles registry from 1863 until 2017. These functions were undertaken by the NSW Land and Property Information (LPI) business unit of the Department of Finance and Services (now, the Department of Customer Service (DCS)) between 2011 and 2017. Since the early 1980s, the system of lands titles has been progressively moved from a paper-based system to a digital one.

Following a competitive bidding process in late 2016, the NSW Government granted a private company, Australian Registry Investments, the right to operate the titling and registry operations of LPI under a 35-year concession commencing 1 July 2017. Australian Registry Investments trades under the name NSW Land Registry Services (NSW LRS).

NSW Treasury was responsible for managing the bidding process and preparing the enabling legislation to support the concession. The concession deed was executed between the then Minister for Finance, the Registrar General and the successful bidder.

While NSW LRS is the private operator of the land titles registry in NSW, the Government continues to own the land titles registry and guarantees title under the *Real Property Act 1900*. The granting of the concession established a ‘regulator–operator’ model for land titles management, with functions split between the Office of the Registrar General (ORG) and the private operator.

The ORG is the regulator, responsible for ensuring that the private operator maintains the land titles registry and operates in accordance with the requirements of a governing concession deed, enabling legislation for the concession and other related legislation, principally the *Real Property Act 1900*. The ORG also has various roles and responsibilities regarding how other users of the land titles registry access the system and use data sourced from the system. The private operator’s responsibilities include maintaining the land titles registry, facilitating the registration of property transactions, and providing access to property information through a range of search services.

## Audit objective

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This audit examined the effectiveness of the ORG in overseeing and monitoring the operation and maintenance of the land titles registry by a private operator to ensure the integrity and security of the registry. The audit also recognised the role played by other participants that engage in the wider land titles system.

## Conclusion

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The Office of the Registrar General has implemented an effective system and supporting processes to oversee and monitor the integrity and security of the land titles registry. However, the ORG should better define and communicate its regulatory approach, including how it uses its compliance and enforcement powers to ensure predictable, consistent and proportionate regulatory decision making over the course of the concession. In addition, the ORG should:

- more clearly define and articulate the application of the NSW Government's Cyber Security Policy, including clarifying responsibility and accountability for the security of the land titles registry
- settle and communicate its approach to data use rights for all parties, including those rights applicable to the private operator and to third parties, such as government agencies and electronic lodgment network operators (ELNOs)
- ensure that it has the appropriate skills and capability to provide effective regulation in an increasingly complex and technology driven environment.

## Key findings

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### **The ORG has implemented an effective system and supporting processes to oversee and monitor the integrity and security of the land titles registry**

The land titles registry is a critical piece of the State's IT infrastructure, containing a large volume of personal and business information relating to property. It underpins significant economic activity.

The ORG has implemented a governance structure to oversee and monitor the concession that allows regular, senior level and proactive engagement between the ORG and the private operator. It maintains thorough records of discussions and decisions. The ORG also engages on a regular and structured basis with other participants in the land titles system, including other government agencies, industry stakeholders and the ELNOs.

The ORG has a structured forward calendar to ensure that the private operator fulfils its mandated reporting and compliance obligations under the concession deed. This includes the private operator's obligation to: maintain business plans and technology roadmaps, which are actively reviewed by the ORG for their adequacy; and report quarterly against key performance indicators and errors in core data.

Through the Joint Consultative Committee (JCC) and the Operations and Performance Committee (OPC), the ORG has focused on the private operator's continuous improvement. Overall, the quality of dealings and plans registered on the land titles registry has improved over the term of the concession. The ORG provides direct assurance of the private operator's survey plan registration through an audit program based on structured and published procedures.

The ORG has ensured the operator meets its concession deed obligations to conduct regular security testing and works with the operator to review the adequacy of that testing. The ORG and the private operator convene at least quarterly via the Information Technology sub-committee, supported by IT expertise from the DCS, particularly the Office of the Chief Information Security Officer.

Privacy issues are addressed proactively and at senior levels between the ORG and the private operator. Assessment of the privacy impact of new initiatives is embedded in the process that the private operator must follow when seeking approval to market new products.

### **The ORG has made relatively limited use of regulatory enforcement tools available to it under the concession deed**

At the time of this audit, the regulator-operator model of oversight (by the regulator) and operations and maintenance (by the private operator) of the land titles registry was seven years into the 35-year concession term. With some exceptions, the ORG has made limited use of the compliance and enforcement tools available to it under the concession deed, such as penalties or targeted and proactive audits or reviews of the land titles registry's operations.

This audit has not reviewed the merits of individual regulatory or enforcement decisions, which are a matter for the ORG. However, the ORG has not developed policies and processes to explain its regulatory posture and to guide its compliance and enforcement decision making over the course of the concession. Doing so would be valuable in ensuring that decision making is consistent, predictable, transparent and proportionate.

### **There is limited transparency to Parliament and the community about the concession deed and the ORG's approach to regulation**

The land titles registry contains significant spatial, financial, commercial and personal data. Despite its importance, there is relatively little publicly available detail about the concession or the ORG's approach to the regulation of the private operator and other system participants.

All documents relating to the granting of the concession, including those prepared at the bidding stage of the transaction, are subject to a 'conclusive presumption of overriding public interest against disclosure' under the *Government Information (Public Access) Act 2009*, unless approved by the NSW Treasurer. Consequently, these documents are not generally publicly available. This includes the concession deed that governs the current regulator-operator arrangements. The policy reason for this arrangement is unclear.

This limits transparency for stakeholders about how the concession is arranged and how effectively the ORG monitors and oversees the concession.

The ORG has only published the operator's performance against 15 service level key performance indicators (KPIs) of the 27 defined in the concession deed. This selection was based on its assessment of what it considers of interest or comprehensible to stakeholders. In total, the 27 KPIs have 61 metrics.

### **There is uncertainty in areas such as cyber security, rights to use data and privacy that should now be resolved as the operation of the concession continues to mature**

The concession has created unique and complex functional and governance arrangements for the delivery of an essential service to the people of NSW. The audit found there is scope for the ORG to clarify the matters listed below.

- How does the concession deed define the rights of system participants to use data obtained from the land titles registry for other purposes, including new services and products, in a manner that both meets the rights of the private operator and is consistent with the NSW Government's Open Data policy?
- What is the responsibility of each party to the concession to ensure compliance with the NSW Government's Cyber Security Policy, including to address the requirements of the policy that apply to third-party service providers?
- How do the *Privacy and Personal Information Protection Act 1989* (NSW) and *Privacy Act 1988* (Cth) interact in their application to the private operator and the land titles registry? While the policy and legislative intent that both Acts would apply to the private operator is clear, how they concurrently operate in practice needs clarity. This includes, most fundamentally, whether complaints by an individual about an alleged breach of their privacy should be directed to the NSW or the Commonwealth Privacy Commissioner, and which protections and remedies apply.

### **The ORG has not conducted a thorough review of the subscriber compliance examination process, which is an important process for promoting confidence in the integrity of dealings**

Under the concession, the private operator is responsible for registering dealings in property, such as transferring ownership or registering a mortgage on a property. Dealings are lodged by 'subscribers', such as solicitors, conveyancers and banks.

The accuracy of dealings is critical to providing certainty and security for property owners, the financial system and other parties, including the NSW Government. Errors in dealings can have significant financial and personal consequences, as well as 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).

The registration of dealings is a legislative function of the Registrar General. However, since 2017, the responsible Minister has delegated the activity to the private operator. The private operator may refer non-compliant subscribers to the ORG for possible enforcement action.

The operator conducts a subscriber compliance examination program that assesses how well a sample of subscribers understands and complies with their obligations when lodging dealings. This is an important process for promoting confidence in the integrity of dealings.

Over the course of the concession, the ORG has worked with the private operator to resolve a range of issues with how the compliance examination process is delivered. For example, in one instance, errors in the examination process meant four subscribers were incorrectly suspended from lodging dealings for registration.

Subscriber compliance plays a critical role in electronic conveyancing and ensures the security of the system. In 2022, the ORG stated that it would conduct an end-to-end review, but this has not yet occurred.

**Audits conducted by the ORG have found 'critical errors' in approximately 1.5% of plans selected randomly and 4.6% of higher-risk plans, which can have serious consequences for impacted property owners**

In addition to relying on the professional capabilities and diligence of registered surveyors, the integrity of property plan data held on the land titles registry requires the private operator to meet its obligation under the concession to accurately examine plans for errors before they are registered. If a plan is registered with an error, the error may not be found until that plan is drawn upon for another transaction on or near that property.

The ORG undertakes annual audits of registered plans. These audits assess whether plans comply with requirements included in a range of specified legislation and standards.<sup>1</sup> An average of 11,000 plans are registered by the private operator annually, with approximately 172 plans audited by the ORG each year (equivalent to around 1.5% of plans registered annually). This sample is approximately an equal mix of randomly chosen plans and plans assessed as potentially high risk.

Between 2017 and 2023, the ORG's audit program found approximately 29% of audited plans were non-compliant with at least one requirement. Moreover, approximately 3.4% of all audited plans contained what the ORG describes as a 'critical error' that could have a significant impact on a third party. These errors include, for example, plans with overlapping property boundaries, which consequently degrades the integrity of the cadastre (that is, the State's map of property boundaries). The rate of plans containing a critical error varied between plans chosen randomly (1.5%) and plans selected using a risk-based approach (4.6%).

The ORG has focused on ensuring that the private operator has adequate capability to conduct plan examinations and there has been an overall decrease in the rate of non-compliant plans since the start of the concession. In 2021, the ORG required the private operator to prepare a detailed resolution strategy and implementation plan to improve the plan examination process. Despite these and other related efforts in recent years, the ORG has not been fully satisfied with the private operator's plan examination process and its improvement remains an annual priority for 2025. The quality of plan examination is also not a specific KPI in the concession deed, which limits the ORG's ability to use its monitoring and enforcement powers.

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<sup>1</sup> The legislation and standards are set out in section 6 of the ORG's *Audit Survey Procedures*.



## Recommendations

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### **The ORG in the Department of Customer Service should, by 31 December 2025:**

1. prepare and publish its approach to exercising its regulatory functions and powers to ensure consistency, predictability and proportionality in compliance and enforcement decisions, including by developing:
  - a) compliance and enforcement policies and procedures to guide its decision making in the use of its powers
  - b) a risk based and proactive forward workplan of reviews, audits and other active regulatory and compliance activities
2. publish a 'regulatory charter' as defined in the concession deed to ensure greater transparency in the regulatory arrangements for the land titles registry
3. review the skills and capabilities required to regulate in a complex, technology driven commercial sector and ensure that it has adequate planning and strategies to address any gaps
4. in consultation with relevant stakeholders, ensure greater clarity about:
  - a) parties' rights to use data obtained from the land titles registry
  - b) the application of NSW and Commonwealth privacy legislation to the land titles registry
5. in relation to cyber security:
  - a) clarify and establish roles, responsibilities and governance to ensure compliance with the NSW Cyber Security Policy, including the requirements relating to third-party service providers
  - b) ensure that any exceptions to the NSW Cyber Security Policy are documented and approved by an appropriate authority through a formal process

### **By 30 June 2026:**

6. perform an audit of the subscriber compliance process to determine:
  - a) the effectiveness of the subscriber compliance system, including to address any matters raised in this report
  - b) whether the division of responsibilities between the private operator and the ORG for the subscriber compliance process continues to be appropriate.

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## 2. Introduction

### The land titles registry is a collection of registers that record property-related information

The registers collectively referred to in this report as the ‘land titles registry’ include the:

- **Torrens Title Register** – the primary register for land held in NSW under the *Real Property Act 1900*
- **Register of Plans** – comprises plans, that is a representation of a property’s boundary, submitted for registration by registered surveyors
- **General Register of Deeds** – established under the *Registration of Deeds Act 1825*, this was the first land register in NSW recording deeds in the system used prior to the introduction of the Torrens Title System, and includes the register of Causes Writs and Orders, Bills of Sale, Register of Resumptions, Powers of Attorney and other miscellaneous deeds
- **Central Register of Restrictions** – where participating organisations maintain up to date information about possible, or actual, interests they hold against NSW properties (for example for heritage or infrastructure reasons).

### The 35-year concession for a private company to operate and maintain the land titles registry

In April 2017, the NSW Government granted a 35-year concession<sup>2</sup> to a private operator to operate and maintain the titling and registry services business area of NSW Land and Property Information (LPI). The private operator paid the State \$2.6 billion for the concession, as well as committed to pay \$8 million (indexed) annually in consideration for the ORG to perform the regulatory and enabling functions contemplated by the concession deed.

The private operator has the right to generate revenue by selling land information products and services, including through search and subscription fees, as well as by charging administrative fees, such as for registering land titles and other transactions. Each year, the operator facilitates over four million searches on titles and images, records 900,000 updates to land title records and creates 50,000 new titles.

NSW Treasury managed the bidding process for the concession and prepared the enabling legislation, the *Land and Property Information NSW (Authorised Transaction) Act 2016*. The concession deed was executed between the Minister for Finance, the Registrar General and the successful bidder.

The successful bidder was Australian Registry Investments (ARI), which in turn established NSW Land Registry Services (NSW LRS or ‘the private operator’) as a private, single purpose company to operate and maintain the land titles registry. ARI is a consortium of institutional investors and superannuation funds, which at the time of this audit included Aware Super, Macquarie Infrastructure Fund and UTA Registry Investments Trust.

The NSW Government retains ownership of the land titles registry, including the information it contains.

The land titles registry is a critical information asset for NSW as it is the basis of private ownership of property, which in turn supports property-related economic activity. In 2016, it was estimated that the land titles system underpinned over \$130 billion dollars of economic activity in NSW each year. As of 2023, the total value of land in NSW was approximately \$2.8 trillion.

The land titles registry is a ‘crown jewel’ IT asset under the NSW Government Cyber Security Policy. The land and titling information maintained by the private operator is provided to other government departments and agencies, such as Revenue NSW, Spatial Services and the Valuer General.

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<sup>2</sup> The other areas of LPI were retained within government, namely Valuation Services (including the Valuer General) and Spatial Services (including the Surveyor General).

A key assurance provided by the NSW Government when granting the concession was that the ORG would be responsible for the regulation of the performance of the private operator under the concession deed. The ORG is a business unit in the Fair Trading and Regulatory Services division of the Department of Customer Service ('the department'). The Registrar General is a statutory position and has a range of responsibilities, including under the *Real Property Act 1900*. The establishment of an 'office' to support the Registrar General accompanied the granting of the concession in 2017.

The ORG is not a separate auditable entity under the *Government Sector Audit Act 1983*. As such, the auditee for this performance audit is formally the Department of Customer Service.

NSW Treasury is also an auditee as it managed the scoping study, bidding process, legislation development process and the development of the concession arrangements. NSW Treasury does not have an ongoing role in the routine oversight and monitoring of the land titles registry. The audit has made no recommendations for NSW Treasury and the agency has elected not to provide a formal response to the audit.

### **Objectives of the concession**

The concession deed includes a statement of the Government's objectives for the concession. These objectives include achieving the following:

- a) maintaining the security, integrity, performance and availability of the registers, core assets and core services
- b) ensuring the registers are accurate and up-to-date, including that they accurately reflect all registered documents, plans and other matters that are required to be recorded in them
- c) maintaining the confidence of the affected parties and the NSW public in the registers and the core services
- d) promoting improvements, innovation and increased efficiency, and utilising greater expertise and investment in technology, in the delivery of the core services
- e) minimising Torrens Assurance Fund Payments and
- f) protecting current competition and the opportunities for future competition in the supply of downstream services by ensuring fair, transparent, predictable and non-discriminatory dealing by the operator with customers and prospective customers.

The deed also includes the private operator's acknowledgment and agreement that its achievement of these objectives is of critical importance to NSW.

### **Regulation of the land titles system, including under the concession deed**

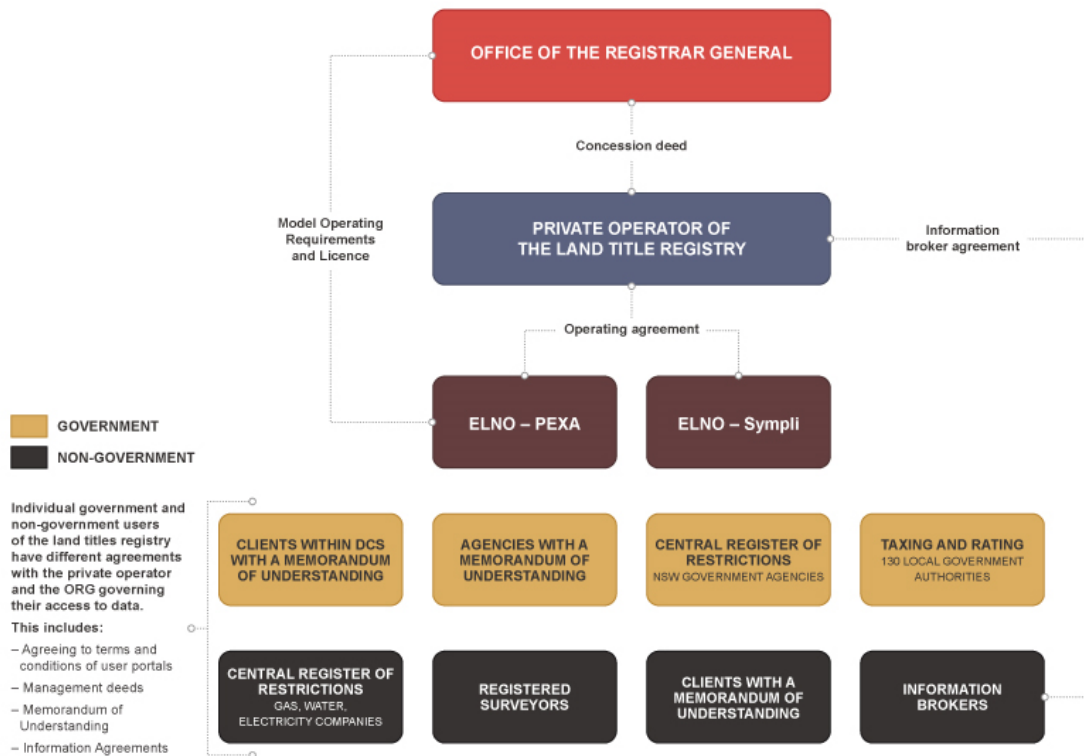
The ORG has described its role as '... a regulator, advisor and litigator, working to ensure the integrity of NSW's land title system'. While the ORG directly regulates the private operator of the land titles registry under the concession deed (as well as in accordance with any applicable legislation and delegations made by the Registrar General), the system of land titles is a complex one, with many different participants. These participants include:

- ELNOs – which provide the means for transacting parties to collaborate electronically on the preparation of registry instruments; there are currently two ELNOs operating in NSW, although PEXA is by far the dominant market participant compared to its competitor, Sympli
- subscribers – a person or business authorised to complete electronic conveyancing transactions using an ELNO, such as financial institutions, solicitors and licensed conveyancers
- government agencies – selected NSW government agencies and local governments are authorised to obtain information from the system, including Revenue NSW, Valuation NSW, the Surveyor General and local councils
- registered surveyors – who are responsible for conducting survey plans of property boundaries and lodging those plans for registration with the private operator
- information brokers – there are 12 wholesale information brokers with which the private operator has entered into agreements under the concession deed to provide access to NSW titling information held by the private operator

- users of the Central Register of Restrictions – including selected NSW government agencies and non-government entities, such as utility companies providing electricity, water and gas and the Commonwealth Department of Defence.

The data flows within the system are complex and interdependent. Many of the participants are critical to maintaining the integrity and security of the land titles registry. Each class of participant has different governance arrangements and controls for their participation. As shown in Figure 1, the ORG regulates and oversees, to varying degrees, this system of multi-layered rules, relationships and arrangements, with the concession deed between the NSW Government and private operator being at the core of the system.

**Figure 1: Governance and regulatory arrangements for land titling and registry information**



Source: NSW Audit Office interpretation of information provided by the ORG (2024).

### Torrens Title system

The Torrens Title system was introduced in NSW in 1863 to improve the transfer, leasing and recording of any matters to do with land. Torrens Title now underpins private ownership of land and property in NSW. While approximately 50% of all land in NSW is Crown land leasehold (primarily in the rural and remote central and western parts of the State), 99% of the remainder is Torrens Title, including in the major population centres and towns in the eastern part of the State.

Originally based on the Lloyd’s shipping register, the Torrens Title system is intended to provide, in a single registry, a single document containing land description, registered proprietor and any impediments against the land (such as mortgages, liens, easements and other types of restrictions on how the land may be used).

The system provides transparency and certainty in land ownership by extending a government guarantee of ownership, as opposed to a chain of deeds and no certainty to title. In effect, under the Torrens Title system, the government guarantees that the registered landowners recorded in the NSW land title system are the true owners of their land.

The Torrens Title Register and the Register of Plans are the key registers underpinning the Torrens Title system. The Torrens Title Register defines the ownership and boundaries of properties and records changes as they are registered. The Register of Plans shows the boundaries of properties.

For an individual to acquire a legal interest in land, the transactions must be lodged with the Registrar General using standardised forms (known as dealings). The Torrens Title Register is maintained in the Integrated Titling System (ITS), which is now operated and maintained by the private operator under the term of concession.

### **Torrens Assurance Fund**

The NSW Government's guarantee of land title is given effect through the Torrens Assurance Fund (TAF). The TAF is funded by a small fee (\$5.02 in 2024) on every dealing registered on the land titles registry. If an error is found in a title that adversely affects someone's interests, then that party may make a claim for compensation under the TAF. Claims can be made against the TAF if someone suffers loss in respect of land as a result of:

- an act or omission of the Registrar General
- the registration of someone else as the owner of land/an estate or interest in land
- an error, misdescription or omission in the Register
- the land being converted to Torrens Title
- fraud
- an error or omission in an official search
- an error in recording details supplied in a Notice of Sale.

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, then the matter is handled by the relevant regulatory bodies for those professions.

The ORG has the power to review and settle TAF claims up to the value of \$500,000 and the Minister has authority to pay out of the TAF at their discretion. The private operator is the delegated decision maker for TAF claims under \$5,000 that are considered straightforward and a result of its own errors or omissions.

A claimant whose claim to the ORG is unsuccessful may appeal to the Supreme Court of New South Wales. The TAF is discussed further in section 4.

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## 3. The Office of the Registrar General's regulatory posture

### **In granting the concession, the government committed to a 'robust regulatory regime' and a 'tight regulatory framework' overseen by a 'strong regulator'**

In granting the 35-year concession to the private operator, the NSW Government committed to ensuring that the monopoly functions of providing titling and registry services would be 'appropriately regulated'.

In commencing the process of granting the concession, the NSW Government set out what it described as a 'robust regulatory regime' that would apply to the concession. Of particular relevance to this audit, the government also established that:

- the Registrar General would monitor and enforce the operator's compliance with regulatory requirements, including the terms of the concession deed
- the Registrar General would have a general power to direct the private operator to perform tasks '... in the public interest'.

In the September 2016 second reading speech accompanying the passage of the enabling legislation for the concession through NSW Parliament, the then Treasurer further highlighted that:

- the service standards defined in the concession would include '... a penalty regime should the private operator fail to comply'
- the Registrar General would have regulatory oversight of ensuring that the private operator adopted 'appropriate data security and fraud detection practices'.

The second reading speech also highlighted the role of the Registrar General in overseeing how other participants in the land titling and registry system should perform. This included approving the standard terms on which the concession holder is to deal with its wholesale customers and intermediaries (including 'subscribers' to the operator's services, such as banks, conveyancers and solicitors).

In January 2017, the then Registrar General explained his view that the arrangements for the concession would ensure that the ORG would be able to provide an '... independent, credible, stable and well mandated regulatory framework [that] will give confidence to customers and the business itself'. He further explained that:

... an effective monopoly operator requires effective regulation ... Customer interests are served by a strong regulator to ensure the monopoly operator is not letting down consumers. But equally, the private operator will benefit from stability and the knowledge that it can use its expertise to make decisions without unwarranted government intervention.

On 6 April 2017, the then Registrar General further said that his office would follow a 'modern regulatory approach', which would include a '... focus on material things – where an operator's actions are not in the spirit of the deed's objectives'. The audit did not find evidence of how the ORG assesses deviation from the 'spirit of the deed's objectives'.

On 12 April 2017, the Premier and the Treasurer jointly announced the successful bidder for the concession. In doing so, their media release drew attention to the:

- ‘tight regulatory framework’
- ‘rigorous legislative and contractual safeguards around the concession to ensure the continued security of property rights and data’
- establishment of a ‘... new external regulator – the Registrar General – to enforce [the operator’s] performance during the concession, with power to monitor and audit performance, and even resume control of the LPI business if required’.

The Registrar General was not a newly established statutory position, although the role was provided with new regulatory functions and powers under the concession deed.

The task of overseeing and monitoring a private company operating and maintaining a monopoly service that uses government-owned systems (and where title is government-guaranteed) poses new and complex challenges for a regulator like the ORG, which previously performed stable and mature administrative and regulatory functions.

### **The ORG has made only limited use of the compliance and enforcement tools available to it under the concession deed**

Seven years into the concession, the ORG is still in the relatively formative stages of settling its approach to the use of its regulatory powers under the concession deed.

The ORG has an experienced and highly qualified workforce, with substantial capability in areas such as property law, as well as a directorate focused on cadastral integrity. It has substantial capacity to administer its longstanding and relatively wide-ranging pre-concession responsibilities. This includes actioning matters under the Torrens Assurance Fund, conducting compliance audits of property plans prepared by registered surveyors and providing advice to government on relevant policy and reform.

In comparison to these longstanding, well-organised and well-understood responsibilities outlined above, the ORG is still forming its approach to exercising the full spectrum of its compliance and enforcement powers under the regulator–operator model. In some instances, this has limited its effectiveness in resolving regulatory issues raised later in this report.

The ORG has eight regulatory compliance and enforcement options available to it under the concession deed and the enabling legislation. The options are listed below, ranked according to their seriousness and frequency, with step-in and termination powers being both the most serious and least likely option to be applied:

- raise issues at governance forums
- informal letters escalating to formal letters
- approvals with conditions attached
- audit and review powers
- financial penalties for breach of service levels
- reserve power directions
- corrective action plans
- step-in and termination powers.

These options can be specific to circumstances and not all are available for all matters. For example, the ORG does not have a broad-based power to issue financial penalties for performance gaps except where specified in the concession deed.

Since the commencement of the concession, most issues with the private operator’s performance have been addressed without escalation beyond the exchange of formal letters. However, this approach has not always led to adequate or timely resolution.

A number of longstanding issues have been raised by the ORG regarding plan examination and subscriber compliance audits, as set out in section 5 of this report. Despite their significant importance to the integrity of the land titles registry and the potential for errors with financial and personal impacts on customers, these matters have not generally been escalated beyond discussions or letters.

### **The ORG does not have a formalised approach to how it will routinely and effectively exercise its compliance and enforcement functions and powers**

The audit assessed whether the ORG has a clear statement of its regulatory posture or its approach to regulation on which to base its regulatory decision making. In its 'Regulation insights' report (March 2024), the Audit Office of NSW highlighted that regulators need clear escalation thresholds and enforcement policies to promote credible and proportionate regulatory actions. The concession deed sets out that the materiality of service level breaches is determined based on the operator's culpability, the impact on the customer and whether the breach has occurred previously.

The ORG lacks a clear approach to how it would effectively exercise the regulatory tools available to it under the concession, such as:

- requiring ad hoc reports that are prepared in a timely manner and to an adequate standard
- issuing penalties for non-compliance
- conducting its own audits
- conducting a major review of the concession (the prospect of which was raised by the ORG with the private operator in 2022 but has not proceeded).

This is despite assurances (as described earlier) from the NSW Government at the commencement of the concession that these tools would be available and used by the regulator.

In September 2023, the ORG developed an initial approach to the use of concession deed levers to provide a 'practical and proportionate approach' to exercising its monitoring and oversight functions for the concession. However, neither these principles, nor any alternative, have been drawn upon to inform a codified regulatory or enforcement policy. The ORG advised that it is developing an approach to escalating matters through the hierarchy of available regulatory and enforcement tools.

### **The ORG is spending less on its regulatory functions than the fee paid by the private operator to support those functions**

Under the concession, the private operator provides an annual indexed fee to fund the services delivered by the regulator. The concession deed says that this fee is paid '... in consideration for the [Registrar General] performing the regulatory and enabling functions contemplated by this Deed'.

In 2017–18, \$8 million was allocated in the NSW Budget '... to be spent on regulating the operator of the NSW land title and registry system, ensuring its security and stability while enhancing service levels'.

In 2023–24, the department requested from NSW Treasury a budget of \$8.26 million for the ORG, (\$260,000 more than the 2017–18 allocation). This was also around 25% less than the mandatory fee paid by the private operator under the concession deed, which was \$10.49 million. The balance of the fee paid by the private operator is retained by the NSW Government in the Consolidated Fund for general purposes.

The ORG undertakes a range of policy and reform projects that it tracks separately from its 'business as usual' activities. Not all these projects were envisaged when the concession was granted. For example, the interoperability project to support the introduction of national competition in the electronic lodgment network (ELN) is a substantial and complex national reform that has been led by the ORG on behalf of NSW.



NSW’s contribution to this project-based work is undertaken effectively within the same budget parameters and staffing as established when the concession was granted. At the time of the audit, the ORG’s project workplan includes 32 distinct projects, with one additional recent project being reclassified as ‘business as usual’ and two previous projects put on hold. The project plan includes activities relating to significant government reforms such as interoperability and digital survey plans reform, as well as matters that are regulatory in nature or which support regulatory priorities.

The audit heard from some stakeholders that the ORG’s focus on project-based work, including government reform initiatives, risks reducing resources available for its functions to monitor and oversee participants in the land titles registry system to the degree anticipated by government when the concession was granted.

As discussed in sections 6 and 9 of this report, this audit found that the ORG has capability and capacity gaps in specialist skills, particularly in strategic IT and regulatory policy and implementation. It is beyond the scope of this audit to consider whether these gaps could be addressed within the existing funding or whether the ORG required a revised budget that more closely aligns with the fee paid by the private operator.

**The complexity of the land titles system limits the extent to which the ORG can oversee potential integrity and security risks on a whole of system basis**

The ORG has varying approaches, powers and functions to regulate different participants in the land titles system, the complexity of which is increased by various third-party users and reseller arrangements that apply to land titles data. As discussed later, this complexity limits the ORG’s direct monitoring and oversight of potential risks or non-performance by system participants other than the private operator.

Table 1 provides further information on the regulatory arrangements for stakeholders accessing and informing the land titles registry.

**Table 1: Oversight and monitoring of system participants**

Participant	Governance instruments	Role of the ORG
<p><b>Subscribers</b> such as solicitors, conveyancers and banks provide documents to ELNOs (as intermediaries) to lodge on registers.</p>	<p>The <b>concession deed</b> details the operator’s requirements to conduct subscriber audits and inform the Registrar General of their outcomes. The private operator is required to carry out audits of subscriber compliance with the NSW Participation Rules.</p> <p><b>NSW Participation Rules</b> are set by the Registrar General and detail the requirements for subscribers to be eligible for, and to use, the ELN. The Participation Rules require, among other things, subscribers to:</p> <ul style="list-style-type: none"> <li>take reasonable steps to ensure that information is protected from unauthorised use, reproduction, or disclosure</li> <li>comply with ELNO security policies</li> <li>take responsibility for the compliance of their users with security policies, including revoking their access to the ELN.</li> </ul> <p>The <b>Electronic Conveyancing (Adoption of National Law) Act 2012</b> requires subscribers to comply with the Participation Rules set by the Registrar General and provides the Registrar General with the power to conduct investigations. The Registrar General sets the Participation Rules under s. 23 of the <i>Electronic Conveyancing (Adoption of National Law) Act 2012</i>.</p>	<p>The ORG oversees the private operator’s subscriber compliance program that is carried out according to the national subscriber compliance program agreed by Australian Registrars National Electronic Conveyancing Council (ARNECC).</p> <p>The private operator may refer subscribers to the ORG where it identifies potential non-compliance; the ORG then directly investigates potential non-compliance with the NSW Participation Rules.</p> <p>The <b>Electronic Conveyancing (Adoption of National Law) Act 2012</b> states that the Registrar General may undertake an investigation ‘receiving a request or complaint from any person or on the Registrar’s own initiative’ to ascertain compliance with the NSW Participation Rules or to investigate suspected or alleged misconduct in using an ELN.</p> <p>The ORG has the power to suspend or cancel subscriber access.</p>

Participant	Governance instruments	Role of the ORG
<p><b>Registered Surveyors</b> lodge plans to the private operator for registration. The land titles registry is updated once the plans are registered. The lodged plans must comply with relevant legislation and standards to be registered.</p>	<p><b>Cadastral Integrity Unit Audit Survey Procedures</b> sets out responsibilities and procedures for implementing the ORG's survey audit program, which includes examining plans to assess compliance with requirements and providing a process for referring cases of sustained non-compliance to the Board of Surveying and Spatial Information (BOSSI).</p> <p>The <b>Surveying and Spatial Information Regulation 2017</b> regulates the activity of surveyors, including the requirements for plans that are lodged with the private operator on behalf of the Registrar General.</p>	<p>Conducts its own active audit program of plans that have been registered by the private operator through desktop and field-based audits. The Cadastral Integrity Unit Audit Survey Procedures detail the risk-based selection approach used in identifying plans.</p> <p>Matters of potential serious non-compliance can be referred to BOSSI, which is responsible for investigating complaints and undertaking disciplinary action against registered surveyors.</p>
<p><b>Electronic Lodgment Network Operators (ELNOs)</b> are the intermediary between subscribers and the registries maintained and operated by the operator.</p>	<p>The <b>Electronic Conveyancing (Adoption of National Law) Act 2012</b> adopts the Electronic Conveyancing National Law in NSW, which details compliance requirements for subscribers and ELNOs and the powers of the ORG in approving the operation of ELNOs.</p> <p>The Act requires ELNOs to comply with operating requirements determined by the Registrar General.</p> <p>The <b>Electronic Conveyancing Enforcement Act 2022</b> provides the Registrar General with powers to penalise ELNOs, including through financial penalties that range from \$250,000 to a maximum of \$10,000,000.</p> <p><b>General Conditions</b> are standard operating conditions that apply to ELNOS that have been approved for operation in NSW. This includes requirements to report any problem or incident affecting the security, integrity or performance of the ELNO.</p>	<p>The ORG directly regulates ELNOs through conditions of participation in NSW. It has the power to undertake compliance examinations of ELNOs under the <i>Electronic Conveyancing (Adoption of National Law) Act 2012</i> and can penalise ELNOs through the application of financial penalties under the <i>Electronic Conveyancing Enforcement Act 2022</i>.</p> <p>The ORG participates in an annual review of ELNOs' self-assessed compliance as part of the ARNECC.</p>
<p><b>Information brokers</b> have read only access to the registry and provide fee paying customers with access to NSW land titling information.</p>	<p>The <b>Services Broker Agreement</b>, a part of the concession deed, details the operator's powers, and requirements for information brokers. This includes:</p> <ul style="list-style-type: none"> <li>• using property information and providing them to customers as defined by the agreement</li> <li>• complying with any reasonable direction from the private operator to remain compliant with the agreement</li> <li>• securely retaining and protecting records of transactions</li> <li>• requirements to comply with privacy legislation and other privacy obligations, nor do anything that would put the operator in breach of privacy legislation</li> <li>• maintaining appropriate digital safeguards.</li> </ul>	<p>The private operator is primarily responsible for managing information brokers and requires annual reports on them regarding compliance.</p> <p>The private operator has the power to suspend access to information on the land titles registry to any information broker where it is of the opinion that breaches or failures in digital safeguarding has occurred.</p> <p>As part of the concession deed, the ORG also reviews the criteria used by the operator to approve information brokers.</p> <p>The ORG has the power to conduct an audit of an information broker's use and delivery of property information for the purposes of ensuring compliance with the agreement.</p>

Participant	Governance instruments	Role of the ORG
<b>Government and non-government organisations</b>	<p>A range of individual governance arrangements apply across individual government and non-government agencies, including memoranda of understanding and management deeds.</p> <p>Where a NSW Government agency has rights to access land titles registry data under the concession deed it is not mandatory for it to enter into a memorandum of understanding, although it is considered good practice governance.</p>	The ORG and operator directly negotiate and oversee these agreements, with varying levels of oversight depending on the individual arrangement.

Source: Audit Office analysis.

### **The ORG does not have a longer-term strategic plan for proactive compliance activities**

Since December 2018, the ORG has issued the private operator an annual letter setting out ‘joint priorities’ for the forward year. While each letter is signed and issued by the Registrar General, the private operator has the opportunity to comment on proposed ‘joint’ priorities.

The annual priority letters are not issued under the terms of the concession deed and are statements of the regulator’s expectations, rather than binding obligations on the operator. The priorities are derived primarily from internal staff consultation, but also consider external stakeholders, existing or emerging reform topics, and progress achieved in meeting previous priorities. While the letters set out annual priorities, they are also intended to ‘... track progress on long-term objectives’.

These annual priority letters are effective in demonstrating a considered approach to articulating the regulator’s expectations of the private operator for that period. The ORG sets out specific ‘success measures’ (usually in the form of milestone progress or completion dates) for how priorities will be assessed.

The priorities set out in the annual letters are subsequently discussed and tracked at various governance meetings, as required under the concession deed. However, there have been few consequences if the private operator does not meet its priorities. Over the course of the concession, a number of reoccurring priorities point to intractable issues, about which the ORG has been dissatisfied. This has included matters that go directly to the integrity of the registers, such as the examination of submitted plans and subscriber compliance (particularly as assessed by the subscriber compliance examination process).

Until recently, the ORG did not include its own annual priorities in these letters. Rather, yearly priority letters to the private operator referenced government or joint priorities. In comparison, the most recent priority letter for 2025 provided a clearer articulation of the rationale between the annual priorities and the intended outcomes of the concession deed. The audit did not source evidence that the ORG set longer-term or strategic priorities for how it will proactively exercise its regulatory functions, such as a forward program of compliance activity, ad hoc reviews or audits.

### **The ORG ensures that the private operator meets its obligations to provide service level performance reporting**

The concession deed provides for extensive performance reporting by the private operator against defined service levels or KPIs. While government statements at the commencement of the concession suggested there were 55 KPIs, this is inaccurate as it includes numerous sub-measures. Currently, 14 service level KPIs are reported quarterly on the ORG’s website. The publishing of service level performance has been explained by the ORG as bringing ‘... a new level of transparency to the NSW’s land titles registry’ to better hold to account the private operator and be a feature of the new regulator-operator model.

The private operator exceeded all published services for each of 24 consecutive quarters from the start of the concession until January–March 2024. This may suggest that the existing published service levels are not sufficiently challenging to support continuous improvement in the future. In addition, as discussed below, not all service level KPIs are published.

The ORG has proposed a review of service levels to identify those no longer relevant. This considers the substantial reforms to the land titles registry system have occurred since the concession commenced, including the move to 100% electronic conveyancing. Stakeholders also expressed a view to the audit that the existing published service levels are too focused on time measures, and do not sufficiently address quality and client satisfaction. It was also understood between the regulator and private operator early in the concession that ‘... as we move forward, customer behaviour will change, along with what is important to customers’.

### **The ORG has granted penalty relief for service level breaches, although there has been no public transparency about these decisions**

There have been instances where the ORG has elected not to issue financial penalties where the private operator breached required service levels. While this discretion is a matter for the regulator to exercise, public transparency is lacking as to the underlying breach or the penalty decision. Service levels not achieved are not included among those published on the ORG’s website.

For example, from October 2020 to September 2023, the ORG granted penalty relief for 33 breaches of the private operator’s obligation to ensure specific data feeds to NSW Government agencies and local councils occurred within specified timeframes.<sup>3</sup> A series of data feed failures in a legacy IT system was the catalyst for the private operator’s failure to meet the service level. The audit notes that the private operator’s interpretation of the relevant service level varied from the ORG’s interpretation, and suggested a smaller number of breaches than the 33 assessed by the regulator.

This penalty relief was initially granted in October 2020, then extended in May 2022 until September 2023. The ORG granted the penalty relief:

- in recognition of the private operator’s commitment to upgrade the legacy IT system causing the data feed failures
- because the ORG considered the impact on affected customers to be negligible.

As early as December 2019, the ORG had identified to the private operator that upgrading the legacy IT system was a priority. In August 2020, the ORG described the upgrade as ‘... critical to ensure accurate and complete data is provided to customers’ and asked the private operator to ensure that it is completed ‘... without further delay’.

The ORG did not extend its penalty relief beyond 30 September 2023. No breaches were reported to have occurred after this time. The upgrade to the legacy IT system is expected to be completed no earlier than January 2025.

The service level that was not met on up to 33 occasions is not included among the 14 service levels reported publicly on the ORG’s website. There was no public transparency about the operator’s non-compliance, or the ORG’s decision to provide penalty relief to the operator. The ORG did not publish a notice that it had afforded penalty relief to the operator, nor was this mentioned in the department’s annual report. The ORG’s view is that publication of these service level breaches was not required as they only affected government agencies.

This audit has not assessed the merits of the ORG’s evaluation of the service level breaches or its decision to extend penalty relief for non-compliance. The concession deed allows the ORG to make these types of decisions. However, when the concession commenced, the NSW Government stated that a consumer benefit of the concession would be ‘increased transparency’ due to the regulator being able to:

... publicly report on the operator’s performance including service levels, breaches of the concession terms and statistics in relation to TAF [Torrens Assurance Fund] claims.

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<sup>3</sup> The breaches were of the ‘Core Data for Government Agencies Service Level’, which measures the number and availability of Core Data supplied to certain Government agencies that the operator successfully provides within required timeframes and hours of availability.

Prior to the concession, it was already the Registrar General's practice to publish statistics about claims and payments under the Torrens Assurance Fund in the department's annual reports. Since the concession, the only opportunity for increased transparency is through reporting on service levels and breaches, including about how the ORG responds to breaches, such as by extending penalty relief over extended periods of time.

When the concession commenced, the NSW Government also highlighted that, as the regulator, the ORG would have a range of regulatory options including '... a penalty regime should the private operator fail to comply'. The community and stakeholders were not told that the ORG could choose to waive penalties in response to breaches. Nor were the community and stakeholders told the circumstances in which such relief might be extended. This underscores the importance of the ORG being publicly transparent when it makes these decisions, including to explain their justification, so as to ensure that community trust and confidence in the regulator is maintained.

The ORG's monitoring and oversight of how the private operator manages legacy IT systems is discussed further in section 6.

**The detailed terms of the concession are not publicly available and there is a statutory presumption against their disclosure under the *Government Information (Public Access) Act 2009***

Much of the substantive detail about the regulatory requirements for granting the concession is contained in the concession deed document that was executed between the NSW Government and the private operator. This document is not public. Moreover, the enabling legislation for the concession included an amendment to the *Government Information (Public Access) Act 2009*. This amendment established that it is to be conclusively presumed that there is an overriding public interest against disclosure of information contained in any document – including the concession deed – prepared for the purposes of, or in connection with, the authorised transaction unless approved by the NSW Treasurer. NSW Treasury was not able to provide an explicit reason why this provision was included in the enabling legislation, other than to note that a similar provision was included in the 2015 electricity network transaction enabling legislation.

Key elements of the concession deed were modelled on the arrangements for the franchising of the Sydney ferries service, including:

- the model for service levels and penalties
- the transfer of administrative powers and functions to the operator
- the approach of adopting minimalist legislation supported by a detailed contract.

This framework is also similar to that adopted for the Greater Sydney Bus Contract. Both contracts (ferries and buses) are publicly available on Transport for NSW's website (with redactions where necessary to maintain commercial confidentiality).

During consultation on the enabling legislation for the concession, external stakeholders noted that the delegation of key provisions to a confidential document detracts from promoting transparency and community confidence in the regulatory arrangements for the concession.

**The ORG has not published a 'regulatory charter' as provided for under the concession deed**

Clause 29.1(b) of the concession deed provides that the ORG may publish a 'regulatory charter' that contains:

- the division of responsibilities between the ORG and the private operator
- ring fencing and non-discrimination requirements
- dispute resolution processes
- the ORG's rights in relation to reserve power directions
- the 'customer terms'
- obligations in respect of ELNOs
- complaint handling arrangements.

The ORG has not published a regulatory charter, although some of the content envisaged by clause 29.1(b) is available across the ORG's website. For example, the ORG's website provides information about how individuals may apply to have a decision of the private operator reviewed by the ORG.

**The ORG reviews an annual customer satisfaction survey conducted by the private operator, which has reported increased rates of satisfaction over the term of the concession**

Regarding other measures of performance, the concession deed requires the private operator to conduct an annual customer satisfaction survey. The private operator has reported to the ORG improved levels of customer satisfaction with its services. While the audit has not assessed the survey data, the private operator has reported in its most recent survey that 71% of respondents were satisfied, up from around 50% at the start of the concession. Over the duration of the concession to date, these surveys have been run both internally by the private operator, and more recently by an external survey provider commissioned by the operator.

The private operator is also required to submit at regular intervals (annually or up to 18 months) updates to its technology roadmap and business plan. These documents are assessed by relevant subject matter experts within the ORG or the wider department and feedback is provided to the private operator on their adequacy. For example, a range of annual reporting requirements for FY23 relating to fraud and crime prevention, error reports, business continuity and incident management, and the technology roadmap were provided to Department of Customer Service IT for review.

**The ORG has implemented an effective governance structure to support its regulation of the land titles registry system**

The ORG has implemented a series of forums with the private operator to discuss strategic and operational matters. As required by the concession deed, these are:

- a Joint Consultation Committee (JCC)
- an Operations and Performance Committee (OPC)
- an Information Technology sub-committee (ITC).

The concession deed specifies that this governance framework is intended to:

- guide and monitor the performance of the concession
- oversee compliance with specified service levels
- resolve issues as required
- establish a framework to maintain an effective relationship between key personnel of the ORG and the operator.

These committees have clear terms of reference, which have been subject to review. The ORG has demonstrated, through meeting papers and minutes, that these committees meet regularly, consider substantive matters as envisaged by the concession deed, and are effectively administered and recorded.

The ORG has also established a stakeholder forum that includes senior representatives of key stakeholder groups. This forum is intended to foster multilateral communication between the regulator, operator and stakeholders. Some stakeholders expressed the view to the audit that the focus of this forum has evolved to facilitate feedback and updates from the regulator and operator, rather than provide opportunities for industry stakeholders to ask questions or raise issues. Notwithstanding, the ORG did provide evidence that issues raised by stakeholders at this forum were subsequently escalated to JCC or OPC meetings.

The ORG also has a series of bilateral regular engagements with key stakeholders, as well as specialist or project based working groups with the private operator and other system participants.

### **The ORG appropriately manages potential conflicts of interest**

The ORG has recognised that the separation of the former Land and Property Information unit of the Department of Customer Service into separate regulator and operator entities meant that staff working in each entity may have close pre-existing professional and personal relationships. This heightens the need to identify and manage potential conflicts of interest to ensure credible and transparent regulation.

The ORG manages conflicts of interest by following applicable department policies. The audit reviewed conflict of interest declarations made by all ORG managers at NSW public service clerk levels 11/12 and above for the past three years. The audit found that declarations had been submitted and any conflicts addressed.

## 4. Complaints and dispute resolution

The land titles registry system is multi-party, with different powers and tools available to the ORG for each party. In summary, the ORG can address non-performance to varying degrees over:

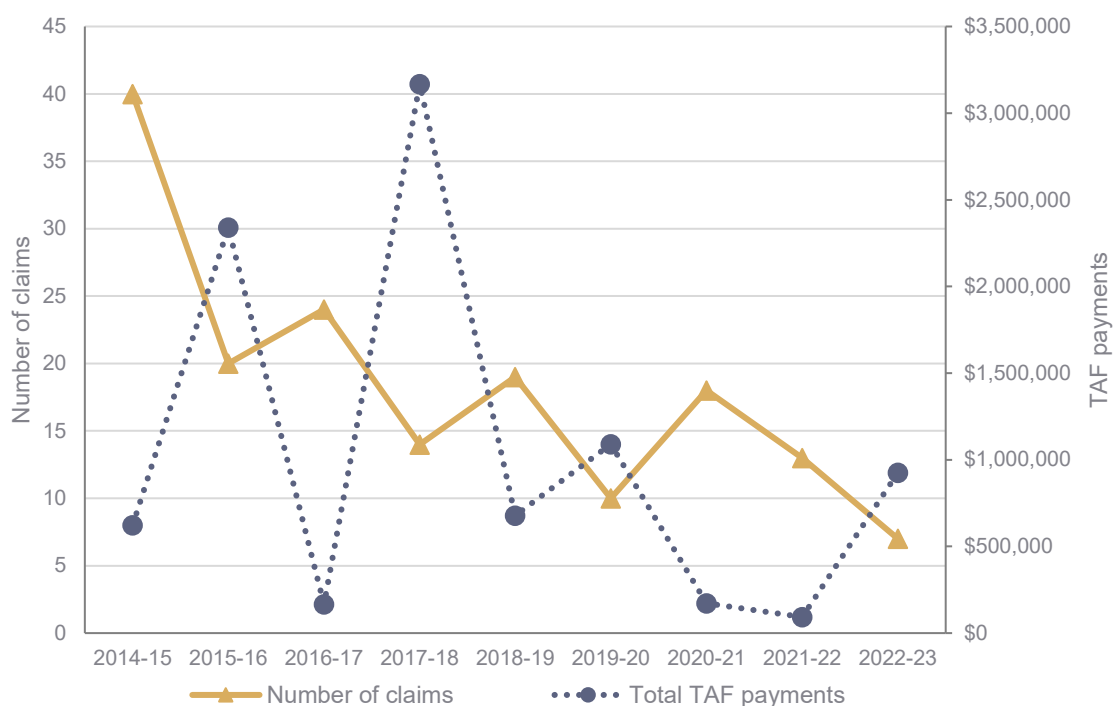
- the private operator, through the multi-tiered framework described under section one of this report
- the ELNOs, which may be subject to suspension or termination (neither of which are practical options if the system is to function), as well as compliance examinations, remedial directions and application to the NSW Supreme Court for financial penalties
- authorised subscribers, who may have their access to the ELN suspended or cancelled (this regime is currently under review to broaden the Registrar General’s enforcement options)
- registered surveyors, who may be referred to the Board of Surveying and Spatial Information (BOSSI) for professional disciplinary action.

### The number of claims and the total annual payments under the Torrens Assurance Fund have declined since 2014–15

The Torrens Assurance Fund (TAF) is a statutory compensation scheme designed to compensate people who, through no fault of their own, suffer loss or damage as a result of the operation of the *Real Property Act 1900*. This loss or damage can be a result of an error, misdescription or omission in the register. When granting the concession to the private operator, the government gave the assurance that the TAF would continue to operate and be administered by the ORG. The ORG has a longstanding function to receive and determine claims made under the TAF.

Relative to the number and value of matters addressed by the land titles system, the number of claims and total payments paid under the TAF is relatively small. As shown in Figure 2, between 2014–15 and 2022–23, the number of claims varied between seven and 40, while the payments paid under the TAF varied between \$93,032.21 and \$3,168,143.

**Figure 2: Claims and payments made under the Torrens Assurance Fund, 2014–15 to 2022–23**



Source: Office of the Registrar General and Department of Customer Service (annual reports).



The number of small claims (less than \$5,000) that the private operator can resolve directly has also been relatively small since the concession commenced in 2017–18, with an average of fewer than seven claims per year between 2017–18 and 2023–24.

The administration of the TAF is a mature function of the ORG. The ORG was able to demonstrate that it has reasonable processes to support the administration of this function. Decisions are based on the application of relevant legislation, which in turn may draw on the advice of counsel and rely on precedent from court judgements. Relatively few TAF decisions have been taken to court by unsuccessful applicants and subsequently reversed by the court.

**From 2021 to 2024, the ORG received 11 administrative review applications regarding plan registrations but has not reviewed the effectiveness of the private operator’s internal review process**

Administrative review provides a mechanism by which a person can seek redress against a decision affecting them made by a government entity. Administrative review provides a mechanism for governments to rectify incorrect decisions and, over time, results in better government decisions when the outcome of the review process is referred to the original decision maker.

If a customer is not satisfied with an initial decision made by the private operator, they may request the private operator perform an internal review of the decision. The decision must be one made in the exercise of a titling and registry function such as the private operator:

- refusing to register a document
- refusing to waive a requisition
- refusing to register a plan.

If the customer is not satisfied with the outcome of the internal review, they may then request that ORG perform an administrative review of the initial decision. The ORG has the power to independently investigate, and overturn plan registration decisions made by the private operator using its administrative review power.

From 2021 to 2024, the ORG received 11 administrative review applications for plan registration decisions, the majority of which concerned the private operator’s decision not to waive a plan requisition (in effect, the operator refused to register a plan because of a perceived error and the registering party appealed that decision). The number of administrative reviews of plans is a very small sub-set of all plans registered during the period.

The ORG has overturned the decisions made by the private operator in seven of these 11 matters. This seems a relatively high proportion, particularly as these 11 decisions had already been internally reviewed by the private operator before being considered by the ORG. The ORG has not assessed whether the private operator’s internal review process is effective.

The ORG may also resolve boundary disputes between parties. Around 20 boundary disputes are received and determined annually.

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## 5. Integrity of information held on the land titles registry

This audit has focused on two primary processes when considering how the ORG obtains reasonable assurance about the quality of information held on the registers maintained by the private operator. These are:

- the examination and registration of plans by the private operator
- the registration of dealings by the private operator.

The concession deed requires that the private operator, in undertaking these functions, must, among other things, act in good faith, as well as act reasonably and on reasonable grounds. In each case, plans and documents must be entered promptly and accurately onto the relevant register.

These two processes and their role in supporting the integrity of the land titles registry are discussed in turn below.

### 5.1. The examination and registration of plans

A registered plan defines land boundaries and creates the legal identity of the land, which underpins the property title. Plans are prepared and submitted to the private operator by registered surveyors accountable for their professional registration to the Board of Surveying and Spatial Information (BOSSI), a statutory body within the department.

In addition to the professional capabilities of registered surveyors, the quality of plans is underpinned by the following functions and activities.

- The plan examination process performed by the private operator when a registered surveyor lodges a plan for registration. Under the concession, the private operator is responsible for examining survey plans for errors and for registering survey plans on behalf of the Registrar General. The private operator must ensure that plans are compliant with the Registrar General's requirements to preserve the NSW cadastral framework and that plan examination decisions are properly made. The concession deed specifies that properly made plan examination decisions consider a range of matters, including:
  - the impact on affected landholders when determining legal boundaries to land
  - that the plan does not include overlapping boundaries and that hiatuses (gaps in the ownership of land) have not been created
  - legal interests created by a plan and that the legal interests are recorded and registered.Lodged plans found to have errors are sent back to the registered surveyor for correction. This correction is called a 'requisition'. The plan can be registered if no errors are identified.
- The private operator or any other party (such as another surveyor) identifying potential plan errors after the plan has been registered. In these cases, the private operator may correct the plan by returning it to the lodging registered surveyor for amendment. This is referred to as an amendment action.
- The ORG may detect errors in registered plans through its program of survey plan audits conducted by its internal Cadastral Integrity Unit.

Although the private operator must register plans that are accurate and compliant with relevant standards and legislation as part of its core service obligations, the accuracy of plan registration is not explicitly captured in the service levels specified in the concession deed. The ORG plans to complete a service level review that will consider attaching a service level requirement to the quality of the private operator's plan examination.

### **The ORG supports the integrity of the NSW cadastre by conducting audits of selected plans after they are registered**

The private operator registers an average of approximately 11,000 plans annually. The ORG aims to audit around 200 of these registered plans per year; to date it has completed an average 172 audits annually during the concession. By way of comparison, the Surveyor-General of Victoria has an audit target of 120 surveys, or around one-third of the practising licenced surveyors who lodge surveys each year.

These audits assess whether a registered plan complies with relevant legislation and standards to provide assurance about the quality and consistency of plans registered by the private operator. The audits can include desktop reviews and field inspections.

The ORG has developed and published survey audit procedures for conducting its audits of registered plans. The use of these compliance audits is well established in the surveying industry in Australia, with other Australian jurisdictions also publishing equivalent planning and process documents.

The procedures outline a risk-based approach used by the ORG to select registered plans for audit. The approach considers:

- whether the registered surveyor responsible for lodging the plan is newly registered
- the number of non-compliant plans the registered surveyor has registered previously
- the number of plans the registered surveyor has submitted for registration in a given year.

The ORG also selects plans through referrals by external parties, such as private surveyors and regulatory agencies, and at random. Since the start of the concession, approximately 50% of audited plans were selected at random. The majority of plans audited have been those registered since the concession commenced.

The procedures list the types of errors in registered plans that constitute minor and major non-compliance with legislation and standards. There are three categories of potential non-compliance:

- major actionable non-compliance
- minor actionable non-compliance
- non-actionable breaches.

An individual surveyor or survey plan is deemed to 'fail' the audit if a plan displays:

- at least one example of a major actionable non-compliance or
- at least three examples of minor actionable non-compliance.

Plans are deemed 'non-compliant' by the ORG during its audit program if they contain errors that result in them 'failing' the audit. The ORG tracks the number of non-compliant plans found during the survey audits. The ORG may then take action against the registered surveyor, including a performance improvement discussion with the ORG or referral to BOSSI. The ORG may also deem the most significant errors to be 'critical errors'.

The survey audit procedures were first developed and published in 2019 and updated by the ORG in 2024. Notably, the 2024 procedures indicate that the ORG will take further action against the registered surveyor after a single failed audit instead of after three failed audits. The ORG uses its discretion to choose when to take further action against a registered surveyor after considering the impact of the plan errors on the cadastre and community.

### **The ORG uses a variety of measures to monitor and oversee the quality of registered plans, and has acknowledged the need to review the adequacy of these measures**

There is no single assurance method or measure for assessing the quality of plans registered by the private operator. As described above, one source of assurance is the result of the audits conducted by the ORG on a sample of registered plans, which includes plans selected randomly, plans referred to the ORG and plans selected by the ORG's risk-based approach.

A second measure of the quality of registered plans is the private operator’s reporting on the rate of errors in plan ‘core data’. While the operator is required under the concession deed to report on ‘core data errors’, since 2023 it has also reported monthly in its performance dashboard prepared for meetings of the joint Operations and Performance Committee (OPC).

A summary of performance under these measures is included in Table 2 and discussed in the following sections. The ORG has noted that while each of these measures offer different benefits or insights, further work is required to ensure that they are sufficiently robust. This aligns with stakeholder comments reported in section 3 of this report, which state that service levels measured under the concession are overly focused on data availability and timeliness, rather than quality.

The ORG was unable to provide any benchmark, standard or comparative assessment from other jurisdictions to inform an ‘acceptable’ rate of non-compliance, critical errors or errors in core data.

**Table 2: Selected measures for monitoring and overseeing the quality of registered plans**

Selected Measure	%
<b>Results of ORG audits of selected registered plans, 2017 to 2023<sup>1,2</sup></b>	
Registered plans assessed as non-compliant	29.0
Registered plans selected randomly that contained a critical error	1.5
Registered plans selected using a risk-based approach that contained a critical error	4.6
<b>Results of core data error reporting by the private operator, 2023<sup>3</sup></b>	
Errors in Plans Core Data	1.05

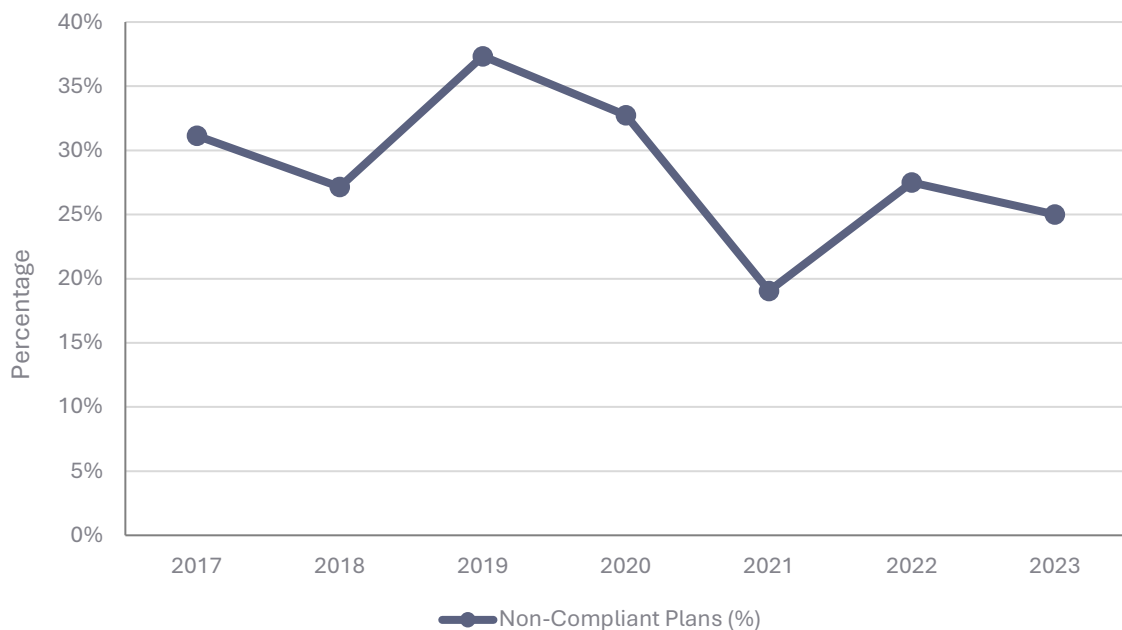
Source: Audit Office analysis of unaudited data sourced from the Office of the Registrar General and NSW Land Registry Services.

Notes: <sup>1</sup> The rate of errors derived from ORG audits is calculated as the number of errors divided by the number of audits conducted each year; <sup>2</sup> plans with errors can include plans registered prior to the concession being granted; <sup>3</sup> the rate of errors reported by the private operator calculated as the number plans subject to amendment action divided by total number of plans registered each year.

**The ORG audit program has found a decrease in the proportion of sampled registered plans that include a non-compliant element**

Between 2017 and 2023, the ORG found that 29% of all audited registered plans were non-compliant. As shown in Figure 3, the rate has been decreasing since the start of the concession, albeit with some annual variance.

**Figure 3: Percentage of audited registered plans assessed as non-compliant, 2017–2023**



Source: Audit Office of New South Wales analysis of the CIU survey plan audit data.

It is expected that the increasing use of digital plans will lead to further reductions in the rate of non-compliant plans. The Spatial Services business unit in the Department of Customer Service has estimated that approximately 18% of plans are registered with mathematical errors. However, the private operator is not required to check the mathematical accuracy of plans before they are registered. Analysis conducted by Spatial Services has found that a proposed Hybrid Capture on Demand Service is expected to reduce the number of plans registered with mathematical errors and consequently reduce the rate of non-compliant plans.

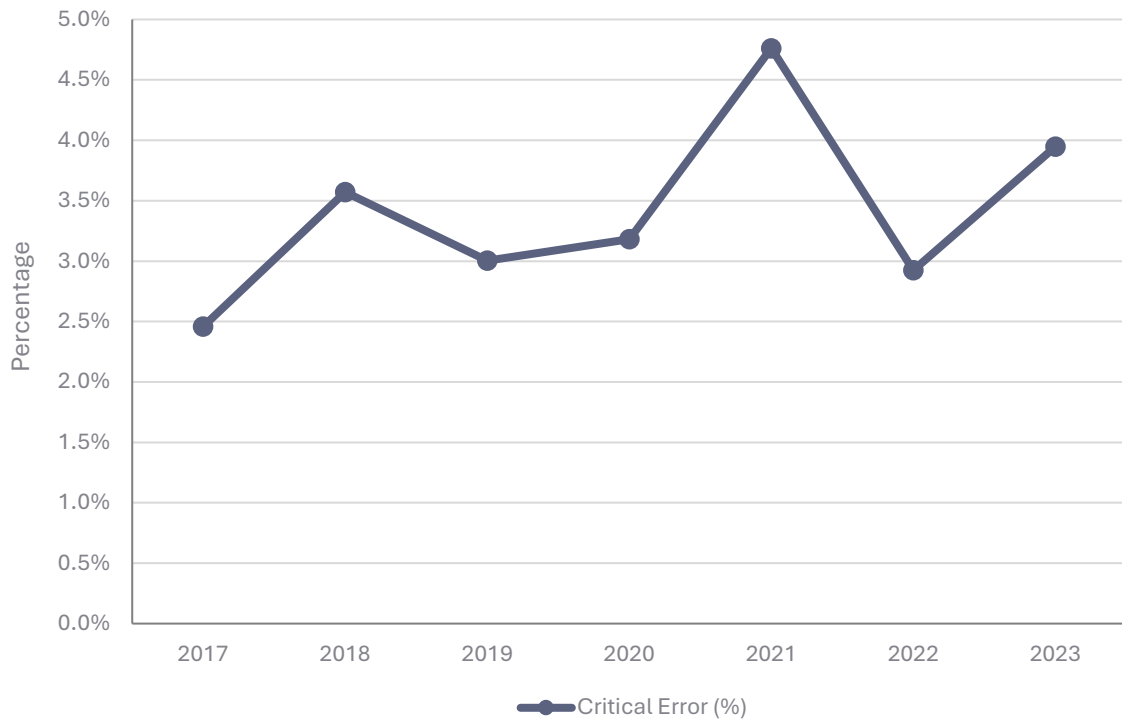
**Audits conducted by the ORG have found that 1.5% of randomly selected registered plans contain a ‘critical error,’ while the rate among higher-risk plans was 4.6%**

While the rate of non-compliant plans has fallen during the concession, Figure 4 shows an increase in the rate of audited plans containing a critical error from 2.5% to 3.9%. Critical errors are those deemed most significant by the ORG for the purpose of its audit program.

The rate of critical errors in audited plans varied depending on how the plans were selected by the ORG for inclusion in its audit program. For the years 2019–2023:

- around 1.5% of plans randomly selected by the ORG for audit were found to contain critical errors
- around 4.6% of targeted plans selected using the ORG’s risk-based approach were found to contain critical errors.

**Figure 4: Percentage of audited registered plans containing a critical error, 2017–2023**



Source: Audit Office of New South Wales analysis of the CIU survey plan audit data.

While the ORG determines critical errors during its audit process, the term is not defined in the concession deed nor the survey audit procedures. The ORG was unable to provide an adequately documented list of the type of errors in core plan data that would constitute a critical error. Critical errors have been the subject of further regulatory action and oversight by the ORG, so there can be regulatory consequences for a registered plan being assessed as having a critical error. The absence of a precise definition of ‘critical error’ introduces the risk of the term being applied inconsistently between audits or from year to year.

**The ORG monitors the rate of errors in core data for plans reported by the private operator, although this rate is not verified by the ORG or available prior to 2023**

The private operator has reported a headline result of approximately one per cent of plans annually having an error in its core data. This result is included in a dashboard report submitted to the joint Operations and Performance Committee (OPC). The private operator calculates the annual error rate as the number of errors in plans' core data that require amendment action each year divided by the number of plans registered each year. Further information on errors in core data is provided in Figure 5 and Appendix 2.

**Figure 5: Errors in core data**

The private operator is required by the concession deed to report errors in plans' core data to the ORG on a quarterly basis. 'Core data' is defined in broad terms in the concession deed to include almost any information collected for the purpose of registering a plan (or a dealing, as discussed in section 5.2).

The quarterly plan core error reporting by the private operator includes information such as:

- the reason the error occurred
- the way in which the error came to the attention of the private operator
- recommendations for any steps that should be taken to avoid or minimise the recurrence of errors in the future.

'Core data' is explained further in the glossary in Appendix 2.

The ORG does not independently verify the rate reported by the private operator. Moreover, the ORG has not clarified with the private operator how this rate is calculated. In response to a question during this performance audit, the ORG was able to verify a reported figure in a selected monthly dashboard by using data drawn from a quarterly core error report submitted by the private operator. However, in performing this verification, the ORG had to make assumptions about how the private operator had calculated the headline rate.

The rate of approximately one per cent of plans with core data errors reported by the private operator has been consistent since first reported through the OPC in 2023. As the rate was not reported before 2023, it is not possible for the ORG to assess whether the rate has changed over time.

**The ORG has not ensured that it receives timely or detailed assurance that the private operator is taking the necessary actions to identify root causes of errors in registered plans**

The ORG has the power under the concession deed to conduct ad hoc reviews of the private operator's performance of any core services. The ORG began issuing ad hoc report requests to the private operator in October 2023 for registered plans that contained what the ORG determined to be critical errors.

The purpose of ad hoc reports is to better understand how a plan registration error occurred, any root causes of plan registration errors and suggested actions to be undertaken by the private operator to reduce the likelihood of plan registration errors occurring again. The ORG request the ad hoc reports to provide assurance that the private operator has plans to reduce the occurrence of plan registrations with critical errors in the future.

The ORG issued two ad hoc report requests to the private operator for two of the identified critical errors in 2023. In one instance, the ORG did not receive the ad hoc report from the private operator until after the specified date and in both instances the ad hoc reports received by ORG were determined to be insufficient in detail.

The audit understands that the timing and quality of the ad hoc reports was at least partly affected by differing interpretations between the regulator and private operator about whether the latter can be required under the concession deed to provide information about live matters, including where questions of liability remain unresolved. This difference in interpretation has not been resolved.

The ORG has the power to complete its own formal audit on the operations and procedures of the private operator in relation to plan examination. The ORG has not exercised this power.

## The ORG has focused on ensuring that the private operator maintains adequate capability in plan examination

High-quality plan examination is essential to the integrity of the NSW cadastre. In September 2021, the ORG requested that, by the end of that year, the private operator develop a resolution strategy and implementation plan to improve the plan examination process. The need to improve the plan examination process is the consequence of a number of plan errors found by the ORG during its survey plan audits.

In response to the ORG's September 2021 request, the private operator provided:

- in December 2021, a plan examination report intended to highlight work already performed to improve its plan examination and describe a plan for continuous improvement
- in May 2022, a briefing on its plan examination report and on how it intended to resolve recent errors.

The plan examination report and briefing included a capability matrix identifying the skill gaps and training needs of plan examination staff, and a continuous and year-round 12-week survey examination training program. The ORG was unable to provide evidence that it has followed up the implementation of the training and skills development by the private operator.

The concession deed requires that the private operator's personnel must be duly qualified, skilled and experienced to perform the part of the concession deed to which they are assigned. The ORG has the power under the concession deed to determine if the private operator's staff satisfy the skill and experience requirements and request training, counselling, disciplining or removal of any of the private operator's personnel. To date, the ORG has not exercised these powers to determine the skills and experience of the private operator's personnel.

In October 2022, the ORG sent an additional letter to the private operator indicating that the December 2021 plan examination report and May 2022 briefing provided by the private operator had not adequately investigated any systemic root causes of plan errors, as required by the concession deed. In the October 2022 letter, the ORG requested that the private operator:

- comprehensively review its plan examination process to identify common root causes of errors
- develop a resolution strategy and implementation plan to address the ORG's concerns.

In January 2023, the private operator provided a response to the ORG's October 2022 letter. In February 2023, the ORG provided an assessment of the private operator's response, saying that it was 'too general to constitute a meaningful implementation strategy to resolve plan examination issues'.

In addition, in early 2024, the ORG told the private operator that it remained concerned about the operator's ongoing performance in plan examination. Improving the private operator's plan examination process is one of the joint priorities between the ORG and the private operator for 2024–2025.

## 5.2. The registration of dealings

A 'dealing' is a transaction affecting land under the *Real Property Act 1900* evidenced by instruments such as a transfer, mortgage or lease. Dealings are lodged with the private operator by subscribers (such as lawyers, conveyancers or financial institutions) through an Electronic Lodgment Network Operator (ELNO). While the registration of dealings is a legislative function of the Registrar General, in 2017 the function was delegated by the responsible Minister to the private operator as part of the concession arrangements.

The private operator (acting under delegation as the Registrar General) is required to accept and register all dealings that are lodged for registration, provided they are in registrable form and appear to comply with legislative requirements. The private operator cannot investigate the dealing to check its accuracy (as a simple example, whether a sale price is accurately recorded). It is the responsibility of the lodging subscriber to the system, such as the legal practitioner or conveyancer, to ensure that lodged dealings are accurate. For this reason, it is important that subscribers understand and meet the obligations that come with the right to lodge dealings for registration.

The primary means for obtaining reasonable assurance about quality of lodged dealings is through subscriber compliance examinations. A compliance examination is an auditing process to determine if a subscriber has complied with the NSW Participation Rules for Electronic Conveyancing or to investigate any suspected or alleged misconduct by a subscriber. In addition, ELNOs are required to implement a subscriber review process that is intended to identify any breaches of the Participation Rules by a subscriber.

Subscriber compliance examinations are performed by the private operator under delegation from the Registrar General. The ORG is responsible for taking regulatory action against non-compliant subscribers and those that do not respond to the private operator's compliance examination notice.

To assess whether subscribers comply with the model Participation Rules, the subscriber compliance examination asks subscribers to provide the following:

- verification of identity – a subscriber is required to take reasonable steps to verify the identity of the person with whom the subscriber is dealing, such as the client
- verification of the right to deal – a subscriber is required to take reasonable steps to ensure that the client or intended mortgagor has the right to deal with the subject property
- client authorisation – a subscriber must confirm that a solicitor or conveyancer is properly authorised by a client or their agent to act on their behalf
- retention evidence – a subscriber is required to retain the evidence supporting the dealing transaction for a period of seven years.

Subscriber compliance examinations do not (and are not intended to) report on the quality of data on the land titles registry, nor the unauthorised access or use of data on the land titles registry.

### **There has been a reduction in the number of errors in core data related to dealings over the course of the concession**

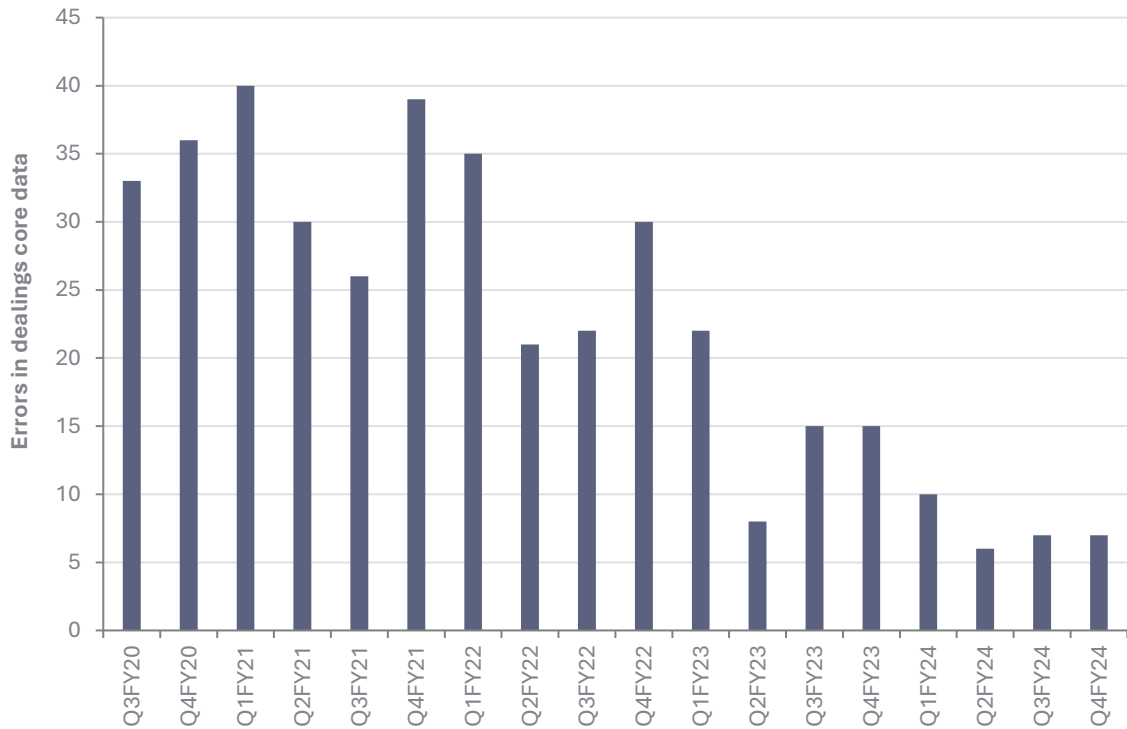
Subscribers lodge over 800,000 dealings for registration with the private operator annually. Most lodged dealings, such as property transfers and discharges of mortgages, are registered automatically by the private operator. The remaining dealings require manual data entry and basic checks by the private operator's dealing examination staff to be registered.

Similar to plans, the private operator is required by the concession deed to report to the ORG quarterly on errors in core data related to dealings. Almost all errors in dealings core data are classified as a 'dealing examination error'.

Since the introduction of 100% electronic conveyancing (eConveyancing) in October 2021, the number of dealings that can be automatically registered has increased. This reduced the need for manual data entry and examination by private operator staff and has resulted in fewer errors in dealings core data. Hence, the number of errors in dealings core data has decreased since the implementation of 100% eConveyancing. Prior to 100% eConveyancing, the average number of errors in dealings core data was around 35 per quarter. As shown in Figure 6, the number of errors in dealings core data has decreased to around 15 per quarter since the introduction of 100% eConveyancing.



**Figure 6: Number of dealing errors in core data reported quarterly by the private operator, quarter 2 in 2019–20 to quarter 4 in 2023–24**



Source: Audit Office analysis of unaudited data reported to the ORG by the private operator.

**The subscriber compliance examinations performed by the private operator are an important assurance mechanism by which the ORG oversees and monitors the integrity of dealings**

It is not the ORG’s function to directly examine the accuracy or quality of dealings, either when lodged for registration or when registered. It is primarily the responsibility of the subscriber, such as a solicitor or conveyancer, to ensure the accuracy of dealings and title information at the time of lodgement.

The private operator is required by the concession deed to carry out subscriber compliance audits on behalf of the ORG and in accordance with the national subscriber compliance program agreed by the Australian Registrars’ National Electronic Conveyancing Council (ARNECC).

The concession deed requires that subscribers be examined for compliance once every three years. The Registrar General has instructed the private operator that only ‘active’ subscribers are to be examined for subscriber compliance. An active subscriber is one having used an ELNO to transact within the past six months. As of July 2024, there were approximately 6,200 active subscribers using ELNOs. However, as the number of active subscribers fluctuates considerably, the ORG is unable to acquit the number of subscribers examined by the private operator against the requirements of the concession deed.

The private operator conducts subscriber compliance examinations each quarter (unless directed otherwise by the ORG) and sends the results of the examinations to the ORG. The subscriber compliance examination results each quarter identify:

- the number of completed examinations, which includes the number of subscribers examined
- the number of satisfactory outcomes, unsatisfactory outcomes, no-responses and insufficient responses
- a breakdown of the category of unsatisfactory result, noting that one subscriber can have multiple unsatisfactory results as part of the audit.

The private operator will send an examination notice to the subscriber when they are selected for a compliance examination. The private operator sends the notice to the email address used by the subscriber when lodging the dealing.

The ORG has the power to suspend or terminate a subscriber's ability to lodge dealings if the subscriber repeatedly fails to respond to the subscriber compliance examination notice, or if the subscriber demonstrates material breaches of the Participation Rules.

Since the move to 100% eConveyancing in 2021, the quarterly rate at which selected subscribers have failed to respond to an examination notification email has been as high as 60%. The non-response rate in NSW has been consistently higher than in some other jurisdictions (for example, for the same period, Victoria had a non-response rate of zero per cent).

In 2023, the private operator, under ORG's oversight, implemented processes to help reduce the number of non-responses in the subscriber examinations. Consequently, the quarterly non-response rate to subscriber compliance examinations for the first two quarters of 2024 has been less than eight per cent of audited subscribers.

**The ORG has collaborated with the private operator to improve the subscriber compliance examination process, although has not yet conducted a thorough review**

Errors in the subscriber compliance examination process can have serious consequences. In 2022, the ORG identified several issues with the private operator's performance of the subscriber compliance examination process. The issues related to:

- incorrect and out of date subscriber details, which, in some instances, resulted in the incorrect suspension of subscribers from lodging dealings
- failure to respond to subscriber enquiries about the subscriber examination process
- incorrect review of subscriber issues
- sending examination notices to subscriber accounts that were closed (i.e., not active subscribers).

In 2022, four subscribers had their access to the land titles registry system incorrectly suspended by the ORG for failing to respond to the subscriber compliance examination request. The ORG attributed this to a failure by the private operator to conduct the compliance examination process with due care, skill and diligence, including by failing to ensure that subscriber contact details (such as email addresses) were up to date.

Between January 2022 and November 2023, there were 221 instances where the ORG did not receive the details of subscribers that should have been referred by the private operator to the regulator for further compliance action following adverse subscriber compliance examination outcomes.

These issues in the subscriber compliance examination process were identified by the ORG when performing its own role in the subscriber compliance examination process, rather than as part of a systematic review or audit of the subscriber audit process and the private operator's actions.

Although there are some instances where the private operator did not comply with the service levels in relation to subscriber compliance examinations, the ORG did not issue any penalties to the private operator.

In September 2022, the ORG stated that it was 'arranging for an end-to-end audit of its subscriber compliance process'. The ORG has not yet exercised its audit powers to conduct this 'end-to-end' audit and determine whether the subscriber compliance audit process is working as intended, including to address the issues first identified in 2022.

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## 6. Cyber security of the land titles registry

### **The land titles registry is one of the department's IT 'crown jewels'**

As the principal department for the ORG, the Department of Customer Service has identified the IT system supporting the land titles registry as a 'crown jewel' under the NSW Government Cyber Security Policy. Classification as a crown jewel provides the land titles registry with priority within the department when investment, fixes, patching and resource allocation are considered.

The ORG receives dedicated cyber security support from the department's Office of the Chief Information Security Officer in the form of an identified business support officer. During the audit there did not appear to be a similar dedicated resource from the department's general ICT division. The ORG has stated that the lack of dedicated support in this area risks that 'institutional technology expertise is not built up or retained within Government to effectively monitor the [operator's] management of this asset'.

However, from October 2024, DCS ICT has provided the ORG with a dedicated business partner who attends monthly meetings to discuss ICT matters and attends ICT Committee meetings on an as-needed basis.

### **While the IT system supporting the land titles registry is a critical IT asset, it is unclear how roles and responsibility are assigned for ensuring compliance with the NSW Government Cyber Security Policy**

The NSW Cyber Security Policy provides guidance and mandatory requirements for agencies relating to cyber security. The ORG could not clarify whether it, or the department more widely, is responsible for ensuring compliance with the NSW Cyber Security Policy, as well as the role expected by the private operator. This creates a potential risk that protections contained in the policy will not be extended to the land titles registry and that there may be gaps in accountability.

The 2023–24 version of the policy contains three requirements relating specifically to crown jewels:

- agencies to identify and document external upstream and downstream dependencies of enterprise ICT (including cloud), operational technology and Internet of Things assets (specific requirement 1.6.4)
- agencies must assess and identify crown jewels and classify systems (mandatory requirement 1.7)
- agencies must conduct periodic reconciliation of data assets against data retention requirements (specific requirement 1.8.2).

The department appears to have complied with mandatory requirement 1.7, in that it has identified the land titles registry as a crown jewel. However, it explained that it did not have visibility or control over the upstream and downstream systems used by the private operator. Accordingly, to the extent that it may be responsible, the department acknowledged that it does not comply with specific requirement 1.6.4. While it was not specifically examined, the audit did not receive any evidence that the department complied with specific requirement 1.8.2.

While the department is not fully compliant with the requirements of the NSW Cyber Security Policy, its view is that:

- the concession deed requires the private operator to maintain technical and organisational measures that are no less rigorous than those that applied prior to the concession
- the cyber security measures taken surpass those that would apply under Department of Customer Service policies
- the regulator retains oversight of the private operator's compliance with its requirements under the concession.

Notwithstanding these assurances, neither the department, nor the ORG itself, provided any evidence demonstrating that the protections provided by the private operator have been reconciled against all the requirements of the NSW Cyber Security Policy, including the specific clauses that apply to crown jewels. As discussed below, neither the department nor the ORG have considered the implications of the private operator being deemed a 'third-party service provider' under the NSW Cyber Security Policy.

The NSW Cyber Security Policy allows that not all its requirements must be uniformly implemented across the agency. However, where an agency seeks an exception to the policy, it should ensure that the exception is '... documented and approved by an appropriate authority through a formal process'. The ORG did not provide evidence that any exception to the requirements of the Cyber Security Policy (such as non-compliance with specific requirement 1.6.4) had been documented and approved.

**The ORG has determined that the private operator is a third-party service provider under the NSW Cyber Security Policy, although the implications of this have not been fully examined by the ORG or the department**

During this audit, in November 2024, the ORG obtained advice from Cyber Security NSW that the private operator is a 'third-party service provider' under the NSW Cyber Security Policy. The policy has a number of specific requirements relating to third-parties.

Mandatory requirement 1.10 of the NSW Cyber Security Policy requires agencies to 'identify and manage third-party service provider risks, including shared ICT services supplied by other NSW Government agencies'.

Section 6.12 of the Cyber Security Policy provides agencies with guidance on their responsibilities for managing the cyber security requirements and risks posed by third-party providers to assist agencies implement mandatory requirement 1.10. This section includes responsibilities such as:

- ensuring third-party risks are considered in enterprise risk management processes
- conducting regular management of third-party risks through ongoing risk-based reviews to verify compliance with contractual agreements and security measures.

The designation of the operator as a third-party service provider to the ORG is a recent classification and the implications of this have not been fully considered by the ORG or the department.

**The ORG has ensured that cyber security obligations are included in the private operator's arrangements with its own contractors**

The audit also considered what assurance the department or the ORG has obtained regarding the adequacy of cyber security provided by contractors to the private operator. Clause 39 of the concession deed establishes that:

- the private operator must ensure that its third-party service providers and subcontractors comply with all terms of the deed relevant to the operator's obligations, including to maintain adequate cyber security
- the private operator is liable for all acts and omissions of its subcontractors.

The ORG and the private operator have agreed to a process whereby the latter notifies the regulator when new subcontractors are engaged and provides assurance that subcontractors comply with the requirements of clause 39.

The ORG has also approved a table of clauses that must be included in any subcontracting agreements that the private operator makes with its own third parties. These clauses include obligations for adequate cyber security.

## The ORG has ensured security testing is conducted on the core systems and services of the land titles registry

The concession deed imposes requirements on the private operator relating to the security of the land titles registry, including that the private operator must:

- ‘... establish, maintain, enforce and continuously improve reasonable technical and organisational measures’ across a range of specific areas aimed at protecting data and preventing unauthorised access and use
- maintain technical and organisational measures that are no less rigorous than those the land registry was subject to prior to the concession
- engage in third-party audits in relation to its compliance with the applicable information security standard (ISO 27001), and provide these reports to the ORG.

The ORG has relied on subject matter expert advice from within the wider department to determine that the private operator is satisfying these requirements, including by providing third-party certification of its compliance with ISO 27001. The ORG provided evidence of this certification.

Clause 25.1 of the concession deed requires that the private operator must, to the extent reasonably requested by the ORG, test and evaluate the performance of core systems and services, which may include security testing such as ‘... vulnerability testing, penetration testing, manual configuration tests and reviews, self-assurance testing and other vulnerability and threat assessment testing’. This testing and evaluation has included assessment of the operator’s controls relevant to the System and Organisation Control 2 (SOC 2) Security and Availability Trust Services Criteria.

The ORG has ensured that the private operator has completed ISO2001 certification and has conducted SOC 2 assessments. Relevant materials are reviewed by subject matter experts from both the ORG and broader department and discussed at ITC meetings. This audit reviewed a sample of SOC 2 documents and found no significant weaknesses.

Consistent with clause 25.1 of the concession deed, the ORG has also required the private operator to conduct a program of penetration tests on its systems. Penetration testing is a useful mechanism for assessing the potential vulnerabilities of an IT system. However, penetration testing does not offer assurance of the security of a system. Reasonable assurance can only be derived by the effectiveness of security controls, including those implemented to address any vulnerabilities identified by penetration testing.

The ORG assesses and monitors how the private operator responds to vulnerabilities identified by its penetration testing program. The ORG reviewed test reports and discussed these with the private operator during ITC meetings. However, the effectiveness of this monitoring has been hampered by the ORG’s lack of a central registry of issues or vulnerabilities. This limits the ability of the regulator to easily monitor trends and risks or review historic issues.

The concession deed does not specify minimum acceptable standards for the conduct of penetration testing or other forms of system test. Moreover, it is the private operator that is responsible for conducting the testing. When the ORG reviews the results of the operator’s security testing, it also has the opportunity to assess the adequacy of the design and conduct of the tests (including to ensure that the scope and timing of each test provides adequate assurance that vulnerabilities have been identified).

However, as security testing is a requirement of the concession deed, the ORG – as the regulator and consistent with regulatory good practice – should be clear about its expectations for what constitutes appropriately rigorous test methods. These expectations should be effectively and proactively communicated to the private operator, and not left to be raised in retrospective review comments.

## The ORG has become increasingly focused on potential risks posed by aging legacy IT systems and how any risks should be mitigated

When granting the concession, the NSW Government's stated expectation was that the private sector would '... have strong incentives to invest in new technology, resulting in significant improvements to the system, and benefits for consumers'. There was an expectation at the outset of the transaction that the successful bidder would, at some time, 'refresh' the existing legacy IT systems on which the land titles system operates. While unspecific at the time, a system refresh could include either upgrade or replacement.

However, it was not clear in the bidding documents exactly when and how a successful bidder would be required to address the risks from legacy IT systems. The Information Memorandum provided by NSW Treasury to potential bidders noted that the expected response of the successful bidder:

... could range from a limited refresh of technology components (e.g. graphical user interface front end, etc.) or extend to a complete re-platforming and redevelopment of ITS [Integrated Titling System] as reported by other jurisdictions.

Commitments to replace legacy systems were included in the private operator's business plan and technology roadmap submitted as part of its bid, with the business plan committing to the 'decommissioning of legacy systems by the end of 2019'.

The private operator has 'de-risked' some parts of the legacy environment, including the Historical Land Records Viewer and its website, and is currently working (albeit to a delayed schedule) to upgrade a key system, the Integrated Property Warehouse (IPW). However, the replacement of legacy systems ITS (Integrated Titling System) and DIIMS (Document and Integrated Imaging Management System) was removed from the operator's 2023–24 technology roadmap. An external strategic technology review commissioned by the ORG in 2023 recommended to the regulator that the operator should be asked to re-include this work in future roadmaps. This was so that a 'complete risk assessment and project complexity, cost and delivery schedule' could be understood.

While the matter had been raised previously, it appears that since 2023, the ORG has become increasingly concerned about the private operator's management of legacy IT systems. The ORG has noted that the private operator has not conducted discovery work or risk assessments on these systems. In 2023, the ORG assessed the removal of ITS discovery work from the 2023–24 technology roadmap as 'highly concerning' and noted that it would, in response, '... consider the full range of levers under the Concession Deed'.

In July 2024, after considering an 'escalated regulatory response' to the operator's perceived reluctance to conduct its own risk assessment, the ORG determined to initiate its own risk-based review of the longevity of the legacy core systems in conjunction with Department of Customer Service ICT personnel.

This performance audit has not assessed the risks posed by legacy IT systems and notes that such questions can raise complex technical issues. It is not necessarily the case that a legacy system is inherently insecure and there is evidence that the private operator has conducted work to insulate the core legacy systems from potential risks. Accordingly, the audit has made no finding about any level of risk posed by the legacy systems underpinning the land titles registry.

The approach taken by the ORG from July 2024 seems consistent with guidance published by the Australian Signals Directorate and the Australian Cyber Security Centre. This guidance highlights the need for agencies to implement a sound strategy to manage legacy IT, starting with developing an understanding of the business and security risks posed by such systems.

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## 7. Privacy and use of data

**The ORG has recognised the importance of privacy to retaining confidence in the land titles system and actively addresses privacy issues with the private operator**

The registers operated and maintained under the concession deed are public registers. That is, they can be accessed by anyone (in some circumstances, after the payment of a fee). While there are public interest reasons for this information to be publicly available, public registers can create a tension with individual privacy, where the information held in a register is personal identifiable information about an individual.

This tension can be exacerbated when it is compulsory to record information in a public register, thereby reducing the individual's choice and control over their personal information. In some circumstances, it has been found that community concerns are exacerbated where public registers are operated and maintained by the private sector, for example, when the UK Government considered privatising its land titles registry.

In its privacy policy, the private operator of the NSW land titles system explains that the personal information that it may collect can include:

- name, address, age or date of birth, contact details
- information collected in connection with maintaining the various registers, including information about an individual's property dealings, such as transfer and leasehold documents
- information related to the operator's products or services, such as credit card or bank account details
- verification of identity information, such as passport information, rates notices, Medicare card details and drivers licence details.

In recognition of the privacy risks inherent to public registers, and the potential volume of personal information collected, privacy issues are recognised and discussed between the ORG and the private operator, including at JCC meetings between the Registrar General and the chief executive officer of the private operator.

For example, the ORG recognised a potential privacy risk in how the private operator was collecting information for its subscriber compliance audit process. This resulted in the ORG requiring the private operator to put in place a more secure method for collecting this information. Similarly, the private operator itself identified a potential privacy issue regarding the length of time it retained personal information for the same process.

As discussed below, privacy is also considered by the ORG in regard to new non-core service proposals from the private operator.

**New services proposed by the private operator are subject to approval by the Registrar General and have been subject to privacy impact assessments**

Privacy risks inherent to public registers can become greater where there are pressures to use that information for purposes unrelated to the original purpose of the public register ('function creep').

It was explicit in the NSW Government's announcement regarding the granting of the concession that it was expected, not just permitted, that the private operator would identify, develop and deliver additional services using information collected for the purposes of the registry, while ensuring appropriate recognition of potential privacy concerns.

The concession deed has a mechanism requiring ORG approval of proposed new ‘non-core services’ by the operator. Since the concession was made, there have been four additional non-core services approved. These have each been accompanied by a privacy impact assessment prepared by the private operator and at the instigation of the operator. The ORG does not have standards for an acceptable privacy impact assessment other than the assessment should be prepared by a ‘reputable organisation’. Guidance published by the NSW Privacy Commissioner is that, where possible, privacy impact assessments should be published, which has not been the case for those assessed by the ORG (although commercial and competition issues around potential new information products could offer a justification for not publishing).

The audit assessed a sample of privacy impact assessments submitted to the ORG by the private operator. Consistent with the NSW Privacy Commissioner’s guidance, the assessments were found to be fit for purpose, in that their size and scope appeared consistent with the inherent assessed risk. The same guidance highlights that privacy impact assessments should be more than just compliance checks. This good practice advice is similar to that published by the Australian Office of the Information Commissioner.

The ORG has developed a template for assessing new non-core services. The template requires ORG staff to consider a range of issues, including privacy, when new non-core services are proposed by the private operator.

### **The ORG has limited visibility of how effectively other system participants ensure privacy of personal information**

The ORG maintains a regulatory role over the operator. However, there are numerous other system participants who could adversely impact the integrity and security of the registry, including by impacting the privacy of personal information (whether deliberately or incidentally). The extent of the ORG’s regulatory oversight and powers varies according to the type of system participant.

For example, the ORG has powers under the concession deed to regulate the private operator directly, although it relies on the private operator to conduct compliance activities for subscribers. Its range of regulatory enforcement options also vary between system participants. Similarly, the concession deed provides for the ORG to issue penalties against the private operator, although not against subscribers or surveyors for non-compliance with their respective obligations.

In December 2018, the then Registrar General nominated a ‘joint comprehensive review of all potential privacy risks to LRS’ as a priority for the coming year to be completed by December 2019. By July 2019, minutes of the JCC record this priority as ‘deferred’. Subsequently, a comprehensive review of privacy risks has not been conducted. Such a review may assist in better understanding any potential system-wide privacy risks to the land titles system.

### **The ORG and NSW Treasury offered strong public assurance at the start of the concession that statutory privacy protections would apply to the land titles registry**

The handling of personal information by NSW Government agencies is regulated by the *Privacy and Personal Information Protection Act 1988* (PPIP Act). As well as setting out privacy principles with which NSW government agencies are required to comply, the PPIP Act also provides a statutory right for individuals to take complaints about the handling of their personal information to the NSW Privacy Commissioner, who may make binding decisions on agencies. The PPIP Act does not generally extend to private sector companies.

While NSW government agencies are covered by the PPIP Act, most private sector companies in Australia (as well as most Commonwealth government agencies) are covered by the Commonwealth *Privacy Act 1988* (Privacy Act). The Privacy Act contains similar protections to the PPIP Act, although the regulator and dispute handler is the Australian Privacy Commissioner. Unlike the NSW Privacy Commissioner, the Australian Privacy Commissioner may make an enforceable determination requiring that a complainant be paid compensation for financial or non-financial loss. Section 39 of the enabling legislation for the transaction that underpinned the concession established that:

The authorised operator is deemed to be a [NSW government] public sector agency for the purposes of the *Privacy and Personal Information Protection Act 1988* in relation to the exercise of titling and registry functions.



This was made clear in the second reading speech to the bill for the enabling legislation, which stated that the PPIP Act ‘... applies to the private operator as if it were a public sector agency in the same way that it currently applies to LPI titling and registry Services’.

In April 2017, NSW Treasury published a fact sheet offering ‘consumer assurance’ that:

Like all companies that collect personal information, the private operator must keep personal data private in accordance with NSW and Australian law.

Similarly, in March and April 2017, the then Registrar General made public presentations highlighting that the private operator was subject to statutory privacy obligations:

... the operator will only be able to use data to perform its obligations and must comply with obligations contained in Commonwealth and NSW privacy legislation’

Stakeholders have suggested a private operator will be less respectful of privacy and that individual data might be mis-used. I note that the private operator must comply with obligations contained in Commonwealth and NSW privacy legislation, just as it has to now. And the private operator will only be able to use data to perform its obligations to deliver core services.

Accordingly, there appears to have been clear intention to offer assurance to the community that statutory privacy protections would apply to the land titles registry once the concession was made.

### **The ORG has not obtained assurance whether the private operator is covered by the Commonwealth Privacy Act**

Despite the strong public assurances outlined above, there was uncertainty when the concession was granted about whether and how the Commonwealth Privacy Act applied to the operator.

As outlined above, the Commonwealth Privacy Act does not cover NSW government agencies. While it does generally cover private sector businesses (such as the private operator), there is an exemption for private sector contract service providers to NSW Government agencies for the purpose of providing services under their contract. Specifically, s. 7B(5) provides that the ‘acts or practices’ of private sector organisation are exempt where:

- the organisation is a contracted service provider for a state contract
- the act is done, or the practice is engaged in for the purposes of meeting (directly or indirectly) an obligation under the contract.

This was recognised in an information memorandum provided to bidders during the bid process for the concession. The information memorandum explained that the successful bidder may be subject to the Commonwealth Privacy Act, including to the exemption available ‘... as a provider of services to State Government’. The information memorandum concluded that ‘Compliance with the Commonwealth Privacy Act will be a matter for the private operator to assess’.

Accordingly, notwithstanding the confidence inherent in government public statements around the time that the concession was made, it appears unclear whether (and to what extent) Commonwealth privacy legislation applies to the land titles registry operator.

### **The ORG has not clarified whether an individual would complain about a privacy breach to the NSW or Australian Privacy Commissioner**

Part 6 of the PPIP Act provides specific provisions for ‘public registers’ operated and maintained by NSW government agencies (noting that the private operator is deemed to be a NSW government agency by s. 39 of the enabling legislation for the transaction).

Part 6 of the PPIP Act sets out two specific protections for public registers held by NSW government agencies, these being:

- an agency keeping a public register must not disclose any personal information kept in the register unless the agency is satisfied that it is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept
- an individual may request that their personal information be suppressed from a public register if they can establish that its open inclusion would affect their safety or well-being.

However, clause 7 of the Privacy and Personal Information Protection Regulation 2019 exempts public sector agencies responsible for keeping certain prescribed public registers from the requirements set out in Part 6 of the PPIP Act. The registers operated and maintained under the land titles registry are included in the list of the public registers that are exempt from Part 6.

Accordingly, the two statutory protections specifically focused on public registers in the PPIP Act do not apply to the land titles registry.

While there are equivalent contractual restrictions in the concession deed, these measures are not accompanied by a statutory right for individuals to complain to the NSW Privacy Commissioner if their personal information is handled in a manner that would otherwise breach Part 6. In these same circumstances, for the reasons discussed above, it is also unclear whether an individual could complain to the Australian Privacy Commissioner if the potential breach relates to the private operator performing functions as a contract service provider to the NSW Government.

This jurisdictional complexity is further complicated by the private operator collecting different types of personal information, namely:

- personal information that must be collected onto registers to meet titling and registry legal requirements, such as the name of the title owner or mortgage information
- personal information that is collected by the private operator to support the operation and maintenance of the register and other products offered by the operator, such as payment and identity verification information.

The private operator publishes a detailed privacy policy on its website. This policy states that the private operator is required to comply with both the PIPP Act and Privacy Act, and to the extent of any inconsistency, it would comply with the latter. While this demonstrates a clear intention to ensure compliance with legislative privacy obligations, further clarity is required as to how this intention can be reconciled with the issues outlined above.

As the lead agency in managing the transaction and overseeing the preparation of its enabling legislation and concession arrangements, NSW Treasury could not provide evidence that the NSW Privacy Commissioner had been consulted during the drafting of either the enabling legislation for the concession transaction or the concession deed document.

**The ORG has detailed policy and procedures for ordering the suppression of personal information on the land titles registry, although third-party information reseller arrangements mean that the ORG cannot ensure that personal information will be fully suppressed**

The ORG may direct the private operator, as well as other parties, such as specific government agencies that use land registry information, to suppress personal information held on the land titles registry. Information about this option is provided on the ORG website. A suppression may be ordered in response to a request from a member of the public advising that their well-being or safety is at risk because the register may disclose their whereabouts.

In the 12 months to July 2024:

- 107 applications to suppress personal information were assessed
- 60 were accepted
- 47 were declined.

Due to the critical nature of name suppressions and the potential danger to the individual, it is a requirement that a suppression application be actioned on the day it is received by the private operator (when received during business hours).

The ORG has detailed policy and process documents for the suppression of personal information. These documents detail the information that is required to be provided by an applicant, as well as describing the decision-making process and how an accepted application will be actioned. The Suppression Policy requires the private operator and a specific government agency that uses and distributes land registry information to complete the suppression request within one business day.

Analysis performed by the ORG in September and October 2019 found that action in response to at least six suppression applications had been delayed by periods between three and six days. The ORG's policy on the suppression of personal information now specifies that its privacy contact officer will actively monitor the action time of a suppression direction to ensure that the private operator actions any suppression order within one working day. For a sample period of January to June (inclusive) 2024, the ORG reported that the performance measure was met for each month. However, the complex flows of land titles information, and the multiple parties who may handle it, mean that it could reasonably be expected to take up to two weeks for suppression orders to be given full effect.

The audit reviewed a small sample of successful and unsuccessful suppression applications that had been received and determined during 2023–24. These are discussed below.

A sample of five successful applications highlighted the difficulties that the complexity of the land titles system poses in managing data. From the sample, it was found that the private operator actioned suppression orders in a timely manner. However, the time taken to action suppression orders was longer in the case of the government user.

When the government user receives a suppression notice from the ORG, it informs its seven data customers that they (and in turn their own unknown number of customers or resellers) have seven days to 'remove all elements of personal information including the property sales information from any record held'. As the ORG is not a party to this data sharing arrangement and has no visibility of the agreements between the various parties, it has no mechanism to offer assurance about the effectiveness of the suppression process.

The ORG was able to demonstrate that the sample of unsuccessful suppression applications had been handled in accordance with its policy, including by explaining the process to the unsuccessful applicant and affording them the opportunity to provide further information.

**The ORG is preparing a policy to explain the rights of the private operator, government agencies and other third parties to use land titles registry data for new services and products**

The concession deed sets out a number of clearly defined 'core services' that the private operator is required to provide. In addition, the private operator may apply to the ORG for permission to use land titles registry data for other 'non-core' services. These non-core services can generate revenue for the private operator.

The NSW Government made clear when granting the concession that a policy objective was to promote innovation and improved customer service, including by permitting the private operator to develop new services, while also ensuring that the principles of the NSW Government Open Data policy were maintained. An objective of the Open Data policy is to promote the release of government data '... for use by the community, research, business and industry' and to 'inform the design of policy, programs and procurement'. The Open Data Policy is not a 'free data' policy but is based on the principle of 'free, where appropriate'.

Under the concession deed, the private operator is entitled to claim compensation for prescribed 'compensation events'. In broad terms, compensation events include where the private operator loses its exclusive right to maintain and operate the NSW land titles registry, including to facilitate authoritative searches of titles.

On 28 September 2021, the private operator submitted a claim for compensation under the concession deed. This claim concerned the use of data by the Spatial Services business unit of the department to create the NSW Spatial Digital Twin ('Spatial Digital Twin').

The Spatial Digital Twin is described by the department as '... a cross-sector, collaborative digital workbench for whole-of-government use, that will visualise location information, in a 4D model of the real world (3D plus time)'. It brings together many data elements from multiple sources across government, including information from strata plans registered in the land titles registry.

On 23 October 2021, the NSW Government rejected the private operator's compensation claim. However, while rejected, the claim has not been withdrawn. The department has assessed the claim as being unfounded and, consistent with financial audit standards, it is not recorded as a liability in the department's financial accounts. However, the department does include the claim in its 'emerging issues return' that agencies are required to provide to NSW Treasury.

It was beyond the scope of this audit to assess the merits of this specific claim. However, at a general level, the matter highlights that there may be different interpretations of the concession deed in regard to the permitted uses of land titles registry data and the related compensation provisions. This includes NSW Government agencies that had existing pre-concession rights to obtain data for specific purposes, as well as other system participants that obtain land titles data, such as ELNOs. If a common understanding is not established, then there are dual risks that:

- the potential for compensation claims may mute innovation in how NSW government agencies, and potentially others, use land titles registry data
- current or further claims for compensation by the private operator for uses of data by third parties may create financial liabilities for the State.

The concession deed includes provisions that permit certain government agencies to obtain land registry data. Those agencies may also enter into individual memoranda of understanding (MOU) with the ORG. These MOUs set out details about how and for what purposes each agency may obtain data. Consistent with the deed, the MOUs also permit agencies to use land titles registry data for 'similar governmental purposes' to those purposes specified in the concession deed. There is no guidance on the interpretation of 'similar governmental purposes'.

The ORG first formally proposed an approach to resolve this matter in August 2021. However, it remains a live issue. The ORG's annual priorities letter to the private operator for 2023–24 identified the need to achieve 'clarity around the use of land registry data', explaining that:

... the rules and roles around land registry data need to be clearly settled, to support government policy development; and to enable innovation for both government and the private sector to deliver new products to customers.

Achieving greater clarity in this matter remains one of the ORG's annual priorities for both itself and the private operator for 2024–25. The ORG is developing a data use policy intended to assist in addressing risks around data use by clearly communicating to stakeholders the ORG's position on the use of data from the various registers operated under the concession. This policy was still in draft form during this audit.

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## 8. Business continuity and recovery management

### **The ORG has ensured that business continuity and recovery planning has been prepared for the land titles registry**

The private operator is required by the concession deed to develop, submit and test a business continuity plan. During the concession, the private operator has met this requirement by providing the ORG with required and related documents, including its Business Continuity Plan, Business Continuity Management System and Disaster Recovery Strategy, as well as a third-party assessment of the adequacy of the planning.

The private operator is required to annually test its continuity planning. The audit team sighted evidence of third-party testing of the business continuity plan, as well as ORG feedback on the adequacy of business continuity plans and engagement with tests.

The audit team assessed a sample of business continuity plans provided by the private operator to the ORG against the applicable international standard (ISO 22332). In addition, a sample of incident management and recovery plans were assessed against both ISO 22332: 2022 and ISO 27035.1:2017.

The audit team found that while the plans did not expressly claim to be prepared in accordance with any formal standard, they were broadly consistent with the requirements of the standards. For example:

- there was evidence that sampled plans had been reviewed annually or as required as a result of organisational changes or post incident review
- assumptions for the operation of the plan, and intersections with other key documents were clear
- specific roles and team members, including alternates where available, were identified with defined roles and responsibilities
- where scenarios were detailed, there were specific steps and tasks clearly outlined
- plans contained rating frameworks that defined the criticality of events, and the subsequent recovery objectives.

The private operator also has a business continuity management framework that sits across business continuity plans for specific functions, as well as a disaster recovery strategy. These higher-level documents also provide detail on the operator's requirements for more specific plans and processes to be tested. The business continuity management framework, for example, requires annual business continuity exercises to take place.

### **The ORG has a local business unit continuity plan, although this has not been tested**

As part of Department of Customer Service business continuity planning, the ORG has a local business continuity plan for its own business unit. This plan addresses three specific critical business functions:

- managing the concession
- administering the TAF
- regulating ELNOs.

Each of these critical business functions has a maximum acceptable outage time of one day, with a recovery time objective of three days. The ORG has not tested these recovery time objectives, or the operation of continuity plans for critical business functions.

### **The alignment of regulator and operator response and recovery plans is a recent improvement that has been identified through joint scenario testing**

A joint exercise was conducted in November 2023. An external cyber security consultant was commissioned to design and deliver a cyber incident response exercise between the department, the ORG and the private operator.

The consultant produced a report that identified strengths across the engaged stakeholders, including the collaborative culture with clear decision-making protocols, awareness of the current threat landscape, and active involvement and identification of areas of improvement.

The report broadly identified the need for interconnected communication plans, harmonised incident response plans and pre-defined authority to act as key opportunities for improvement. This was due to uncertainty regarding who should initiate contact with different parties, the need for enhanced coordination and uncertainty during the exercise about who had the authority to engage with the threat actor.

This seems to be the only joint exercise that has been conducted between the regulator and operator to date. No further joint exercises are currently planned.

### **The ORG has not tested whether it could use back-up data to operationally manage the land titles registry**

The concession deed requires the private operator to provide the ORG with a daily back-up of the 'core data' contained in the land titles registry (except for core imaging repository data, which is subject to weekly back-up). This is consistent with pre-concession disaster recovery arrangements where core databases and transaction logs were replicated to an off-site disaster recovery centre daily.

The ORG has taken steps to ensure that the back-up data provided by the operator is reliable. The content of the back-ups provided by the private operator was validated by Department of Customer Service ICT in August 2024, with a regular automated testing protocol now in place. This was not always the case, as ORG audits of back-up data had identified deficiencies earlier in the concession.

While the ORG has access to accurate back-up data, the value of the back-ups and whether the ORG can effectively restore the state back-up (for example, if it is ever required to exercise its step-in powers) has not been determined. The audit was told 'there is no guarantee' that existing back-ups could be used to restore the system.

The appropriate use, utility and purpose of the state back-up is a current issue for the ORG. This issue was also identified in the 2023 strategic technology review, which noted the potential for developing a real time replica of the land titles registry data. As a result of this review, the ORG is reviewing best practice for the use of the state back-up, including analysing its purpose, situational need and methods to audit and assess back-ups in the future. These findings are due in mid-2025. Any changes to state back-up arrangements will likely require changes to the concession deed.

If future circumstances require the ORG to rely on the state back-up of the registry data, the ability of the ORG to use the state back-up would be critical, including if there was a technical or operational failure with the private operator. The ORG has commenced initial analysis on the required documentation, procedures and scenarios required to exercise its step-in powers. However, the ORG has not tested how effectively it could restore the state back-up, or how it would use the back-up data in practice, if it was needed.

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## 9. Continuous improvement

### There is evidence that the ORG has taken steps to identify regulatory weaknesses and areas for improvement

The ORG has several internal processes to identify and review issues around its own performance. These include weekly and fortnightly team meetings at various levels, quarterly executive meetings, and an annual team development day. The ORG also notes that a weekly email identifies good regulatory practice, however there is no formalised approach in terms of a framework that benchmarks the ORG's performance in comparison to similar regulators or guides its continuous improvement processes.

The ORG has identified several internal improvement areas. These include workforce capability or capacity gaps and managing the risk of regulatory capture.

- **Workforce capability:** while the ORG has a small IT team, it does not have senior or strategic IT expertise. Workforce capability in this area is a key risk to the long-term regulation of the land titles registry. It was raised by several stakeholders in interviews with the audit team and identified as a risk in both the Strategic Technology Review, and the ORG's 2023 annual team development day.
- **Regulatory capture:** ORG staff should refrain from becoming involved in discussions with the private operator and surveyors about plan issues, due to its role as the decision-making authority in administrative reviews.

### The ORG is addressing a gap in strategic technology and regulatory practice capability to ensure it can effectively regulate the land titles registry in the long term

The land titles registry is an increasingly technology-focused system, having transitioned since the early 1980s from a paper-based system, where documents were submitted or searched for in-person, to a digital system with remote online access. This means that the ORG is increasingly regulating technology solutions and operations.

While the ORG has identified strategic technology expertise as a gap, it does not yet have a long-term capability development and retention plan. It has also not mapped its existing skills base to ongoing requirements of overseeing the concession deed and regulating the land titles registry. Its existing workforce plans respond to workforce survey findings and focus on developing and retaining its current workforce.

To address this capability gap in the immediate term, the ORG has engaged an external consultant to address strategic technology skills, reallocated its spending on consultancies to fund ongoing roles and requested support from Department of Customer Service ICT.

In 2024, as part of Fair Trading and Regulatory Services, the ORG was provided with a dedicated business information support officer from the department's cyber security area who supports it with advice related to cyber security. Prior to this the ORG was also able to receive advice from the department's Chief Information Security Officer. Advice has included risk assessments, responses to ad hoc requests and formal advice on reporting required from the operator. There is a potential risk in relation to this key role being outside the ORG's structure and therefore not able to be fully managed by the ORG.

Broader Department of Customer Service ICT support has been more limited outside of cyber security. Leadership meetings have occurred inconsistently, for example, limiting ORG's ability to influence the department's ICT support.

The NSW Public Service Commission (now located within the Premier's Department) has published a Strategic Workforce Planning Framework that provides guidance for agencies to understand and prepare for their future workforce needs. This framework identifies three levels of workforce planning.

- Strategic workforce planning: identifies actions and addresses challenges, risks and opportunities, entailing longer term planning covering a 3–5 year period. The framework notes that strategic planning is not 'resource management to fill immediate operational needs'.
- Tactical workforce planning: specifies how work should be done in a specific area to efficiently achieve goals outlined in the strategic workforce plan.
- Operational workforce planning: Ensures daily work is done effectively.

ORG activity to address this capability gap is mainly tactical and operational. Quarterly executive meetings review resourcing needs with an 18-month time horizon, while the Strategic Workforce Planning Framework recommends a longer time horizon. Executive review assesses anticipated workload and, in addition to specific technological capability, has identified the need for additional capacity across the ORG in the areas of policy, regulation and cadastral integrity.

The ORG advises that it is currently reviewing the most effective approach to engaging strategic technology expertise and relies on expertise from within the Department of Customer Service for guidance on workforce planning.

The ORG's wider regulatory context also creates capability needs in regulatory policy and practice. The ORG performs regulatory functions over a complex and multi-participant system. Its primary regulated entity, the private operator, has unique characteristics, being a monopoly exercising important titling functions using an asset that remains the property of the NSW Government.

At the same time, there are a range of other system participants, such as lawyers, conveyancers, surveyors and banks, who are primarily regulated by other bodies. The other main group of participants, the ELNOs, are themselves subject to new and dynamic market pressures as the industry evolves from a monopoly to a competitive market. The Australian Registrars' National Electronic Conveyancing Council has described a future-state in which multiple ELNOs inter-operate, resulting in a 'growing compliance burden for government' within ten years.

**The concession deed contains mechanisms to support continuous improvement in the operation of the concession, including an optional five-year major review clause that has not yet been exercised**

The concession deed provides for the ORG to conduct:

- 'annual reviews' of the operator's performance, including its achievement of service levels and a review of its latest business plan, as well as a broad range of other matters
- 'ad hoc and other reviews', whereby the ORG may review or 'spot check' the operator's performance of any core service provided under the concession
- a 'major review' of the operator's performance under the deed no more than once every five years, including the extent to which the operator is acting consistently with the objectives of the concession and a broad range of other matters – a major review may also consider whether any changes are required under the concession deed.

The ORG conducts annual reviews of the private operator's performance, including by reviewing and providing feedback on iterations of the private operator's business plan. As discussed earlier, the ORG has also required the private operator to provide ad hoc reports on two occasions relating to the quality of the private operator's plan examinations. While the annual priority letters described earlier in this report (see section 3) also encompass an element of performance review, that process is not a function of the concession deed.

To date, the ORG has not exercised its option to conduct a major review of the concession. The ORG did consider conducting a major review in 2022, but it was determined at the time that progressively evolving the concession using iterative contract variations agreed with the private operator was an adequate course of action.



The range of matters anticipated by the major review mechanism is substantial and would prompt consideration of matters that may not emerge iteratively or ad hoc, including matters that are more than simply routine or operational. For example, the major review mechanism provides for the review of significant and strategic matters, including those ‘... that were not anticipated as at the execution date, but which ought to be addressed having regard to the objectives’. Notwithstanding the long duration of the concession, and the complex and evolving environment in which it operates, the ORG has not commenced preparatory work to scope when, or in what circumstances, a major review would be appropriate.

## **Section 2 –** Appendices

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# 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](mailto:mail@audit.nsw.gov.au)

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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.

McKell Building  
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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

McKell Building  
2-24 Rawson Place, Sydney NSW 2000

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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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## Appendix 2 – Glossary

### Key terms

The **cadastre** is a digital representation of all land parcel and property boundaries in NSW. It is defined in the *Surveying and Spatial Information Act 2002* as meaning:

... an inventory that records boundaries, dimensions and measurements on, above or below the Earth's surface for the purpose of defining rights, interests, restrictions and responsibilities within the jurisdiction of New South Wales.

**Cadastral** functions are the work of preparing plans for the cadastre, usually prepared by registered surveyors.

**Core data** is any data contained in the land title registers and data relating to the provision of core services by the private operator. For example:

- core data about plans includes any information contained in the plan registered by the private operator, such as street names, placement of land boundaries, dimensions of the land and lot numbers
- core data about dealings includes information that is contained on dealings instruments (for example mortgages, leases and transfers) such as property owner details, dates of property transfers and mortgage information from financial institutions.

A **dealing** is a term used in land titles to describe a transaction affecting land under the *Real Property Act 1900* evidenced by such instruments as a transfer, mortgage or lease.

A **plan** is the representation of property boundaries prepared by a registered surveyor for inclusion into the cadastre.

A **registered surveyor** is a person responsible for preparing survey plans that define land boundaries and lodging survey plans with the private operator. Registered surveyors are also responsible for completing requisitions and amendments (corrections) of plans that contain errors. Registered surveyors are accountable for their professional registration to the Board of Surveying and Spatial Information (BOSSI).

**Title** is the legal documentation that signifies ownership of a piece of land and provides evidence of the owner's legal rights to the property and includes details about the property's boundaries, its legal description and any interests or encumbrances that may affect it.

The **Torrens Title Register** is the primary register for land held in NSW and was introduced to NSW in 1863. The basis of Torrens Title is that, unlike in many other countries, each title is registered fully by a single document that is guaranteed by the NSW Government under the Torrens Assurance Fund.

The **Torrens Assurance Fund (TAF)** is a statutory compensation scheme designed to compensate people who, through no fault of their own, suffer loss or damage as a result of the operation of the *Real Property Act 1900*. It is funded by a levy on all dealings.

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# Appendix 3 – About the audit

## Audit objective

This audit assessed the effectiveness of the Office of the Registrar General in overseeing and monitoring the operation and maintenance of the Land Titles Registry by a private operator to ensure the integrity and security of the registry.

## Audit criteria

We addressed the audit objective by examining the following lines of inquiry and criteria

1. Does the Office of the Registrar General ensure that appropriate measures are taken to establish, maintain and protect the integrity (including quality) and security of information held on the land titles registry?
  - The Office of the Registrar General has a clear and evidence-based approach to its regulatory functions that consider risk, including by defining, tracking, and reviewing objectives, priorities, and regulatory posture.
  - The Office of the Registrar General ensures that data held on the land titles registry is only used or disclosed for permitted purposes or purposes consistent with the governing deed.
  - The Office of the Registrar General ensures that the data held on the land titles registry is of appropriate quality, including being accurate, complete, and up to date.
  - The Office of the Registrar General ensures that security measures (IT and otherwise) are taken to protect the information on the land titles registry, as well as the underlying infrastructure, from unauthorised access or interference.
2. Does the Office of the Registrar General ensure that there are effective arrangements for responding to and resolving breaches of performance standards or obligations relating to the integrity, quality or security of information held on the land titles registry?
  - The Office of the Registrar General ensures that appropriate response and recovery plans are developed and tested for circumstances where information or underlying infrastructure has been exposed to risk.
  - The Office of the Registrar General has clear policies and procedures for resolving or responding to non-performance or non-compliance by undertaking litigation, administrative review and arbitration.
  - The Office of the Registrar General has an effective approach to continuous improvement in the exercise of the regulator’s powers and functions, including by incorporating lessons from incidents, good practice and reviews, or from the exercise of compliance and enforcement powers.

## Audit scope and focus

The Office of the Registrar-General has the power to audit and penalise the operator. The focus of the audit was on the effectiveness of the regulatory system itself, which includes whether these powers are adequate and appropriately used.

NSW Treasury was included as an auditee as it led the transaction that appointed a private operator to operate and maintain the land titles registry.



## Audit exclusions

The audit did not seek to:

- examine the decision to commercialise the land titles registry
- examine the effectiveness or appropriateness of decisions made regarding the transaction itself.
- examine the commercial viability of NSW Land Registry Services
- question the merits of Government policy objectives.

## Audit approach

Our procedures included:

- **interviewing ORG staff** to understand the overall context in which the regulator operates, key decisions, application of policies and processes, and how ORG uses data available to it to undertake its regulatory functions
- **interviewing the operator's staff** to understand the overall context in which it operates the concession deed, how policies and procedures work in practice, and its interactions with the regulator
- **interviewing broader sector stakeholders** to understand the extent to which the leasing of the land titles registry has impacted or otherwise confidence in the market, as well as perspectives on the role of the regulator
- **examining documents** such as those required to be produced by the regulator and operator under the concession deed.

The audit approach was complemented by quality assurance processes within the Audit Office to ensure compliance with professional standards.

## Audit methodology

Our performance audit methodology is designed to satisfy Australian Auditing Standard ASAE 3500 'Performance Engagements and other professional standards. The standards require the audit team to comply with relevant ethical requirements and plan and perform the audit to obtain reasonable assurance and draw a conclusion on the audit objective. Our processes have also been designed to comply with requirements specified in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

## Acknowledgements

We gratefully acknowledge the cooperation and assistance provided by staff at the Department of Customer Service, the Office of the Registrar General, and NSW Treasury.

In particular, we wish to thank the liaison officers at the Office of the Registrar General and NSW Treasury, and the staff who participated in audit interviews and provided materials relevant to the audit.

## Audit cost

The estimated cost of the audit is approximately \$585,000.

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# Appendix 4 – Performance auditing

## What are performance audits?

Performance audits assess whether the activities of state or local government entities are being carried out effectively, economically, efficiently and in compliance with relevant laws.

The activities examined by a performance audit may include a government program, all or part of an audited entity, or more than one entity. They can also consider particular issues that affect the whole public sector and/or the whole local government sector. They cannot question the merits of government policy objectives.

The Auditor-General's mandate to undertake audits is set out in the *Government Sector Audit Act 1983* for state government entities, and in the *Local Government Act 1993* for local government entities. This mandate includes audit of non-government sector entities where these entities have received money or other resources (whether directly or indirectly) from, or on behalf of, a government entity for a particular purpose (follow-the-dollar).

## Why do we conduct performance audits?

Performance audits provide independent assurance to the NSW Parliament and the public.

Through their recommendations, performance audits seek to improve the value for money the community receives from government services.

## How are performance audits selected?

When selecting and scoping topics, we aim to choose topics that reflect the interests of parliament in holding the government to account. Performance audits are selected at the discretion of the Auditor-General based on our own research, suggestions from the public, and consultation with parliamentarians, agency heads and key government stakeholders. Our three-year performance audit program is published on the website and is reviewed annually to ensure it continues to address significant issues of interest to parliament, aligns with government priorities and reflects contemporary thinking on public sector management. Our program is sufficiently flexible to allow us to respond readily to any emerging issues.

## What happens during the phases of a performance audit?

Performance audits have three key phases: planning, fieldwork and report writing.

During the planning phase, the audit team develops an understanding of the audit topic and responsible entities and defines the objective and scope of the audit.

The planning phase also identifies the audit criteria. These are standards of performance against which the audited entity, program or activities are assessed. Criteria may be based on relevant legislation, internal policies and procedures, industry standards, best practice, government targets, benchmarks or published guidelines.

During the fieldwork phase, audit teams will require access to books, records or any documentation deemed necessary in the conduct of the audit, including confidential information that is either Cabinet information within the meaning of the *Government Information (Public Access) Act 2009*, or information that could be subject to a claim of privilege by the State or a public official in a court of law. Confidential information will not be disclosed, unless authorised by the Auditor-General.

At the completion of fieldwork, the audit team meets with management representatives to discuss all significant matters arising from the audit. Following this, a draft performance audit report is prepared.

The audit team then meets with management representatives to check that facts presented in the draft report are accurate and to seek input into developing practical recommendations on areas of improvement.

A final report is then provided to the accountable authority of the audited entity(ies), which are invited to formally respond to the report. If the audit includes a follow-the-dollar component, the final report will also be provided to the governing body of the relevant entity. The report presented to the NSW Parliament includes any response from the accountable authority of the audited entity. The relevant Minister and the Treasurer are also provided with a copy of the final report for state government entities. For local government entities, the Secretary of the Department of Planning and Environment, the Minister for Local Government and other responsible Ministers will also be provided with a copy of the report. In performance audits that involve multiple entities, there may be responses from more than one audited entity or from a nominated coordinating entity.

## **Who checks to see if recommendations have been implemented?**

After the report is presented to the NSW Parliament, it is usual for the entity's Audit and Risk Committee/Audit Risk and Improvement Committee to monitor progress with the implementation of recommendations.

In addition, it is the practice of NSW Parliament's Public Accounts Committee to conduct reviews or hold inquiries into matters raised in performance audit reports. The reviews and inquiries are usually held 12 months after the report received by the NSW Parliament. These reports are available on the NSW Parliament website.

## **Who audits the auditors?**

Our performance audits are subject to internal and external quality reviews against relevant Australian standards.

The Public Accounts Committee appoints an independent reviewer to report on compliance with auditing practices and standards every four years. The reviewer's report is presented to the NSW Parliament and available on its website.

Periodic peer reviews by other Audit Offices test our activities against relevant standards and better practice.

Each audit is subject to internal review prior to its release.

## **Who pays for performance audits?**

No fee is charged to entities for performance audits. Our performance audit services are funded by the NSW Parliament.

## **Further information and copies of reports**

For further information, including copies of performance audit reports and a list of audits currently in progress, please see our website [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au) or contact us on 9275 7100.

## OUR VISION

Our insights inform and challenge government to improve outcomes for citizens.

## OUR PURPOSE

To help Parliament hold government accountable for its use of public resources.

## OUR VALUES

Pride in purpose  
Curious and open-minded  
Valuing people  
Contagious integrity  
Courage (even when it's uncomfortable)

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