



Management & Technology Consultants

REPORT ON

eCONVEYANCING:

MODELLING OF THE IRISH CONVEYANCING SYSTEM

FOR



The Law Reform Commission

AN COIMISIÚN UM ATHCHÓIRIÚ AN DLÍ

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1. EXECUTIVE SUMMARY

1.1 The Case for Change

“An area of the law which affects practically every family and individual in our community is what is broadly referred to as land law and conveyancing....modernisation, simplification and reform is long overdue....many of us will have experienced the delays and difficulties which can occur, for instance, in the technicalities of buying a home. The aim of the e-conveyancing project is, in simple terms, to bring this process into the 21st century. As you know the Government is committed to moving towards e-Government and I see the move towards e-conveyancing as a vital part of this project.”

(Extracts from the speech given by An Taoiseach, Mr. Bertie Ahern, on the occasion of the thirtieth anniversary of the Law Reform Commission, 23/6/2005)

Conveyancing in Ireland, in common with other common law jurisdictions, has evolved over several hundred years. For the vast majority of citizens the purchase of a property for residential purposes represents the single most significant financial transaction that they will undertake as individuals during their lifetime. While many of the transactions conducted are relatively straight-forward, the overall process is perceived as being complex, inefficient and costly, due in no small part to the quantity of documentation involved, the diversity of sources from which information must be obtained and the number of stakeholders who are normally involved. In addition, the underpinning legislation relating to land law and the legal conveyancing process of establishing title is recognised as being outdated and in need of reform.

As part of the Government’s Programme of Regulatory Reform and in line with its eGovernment strategy, the conveyancing process has been identified as one where the combination of a modernisation of associated statutes and improvements in business processes, enabled by new technologies, could result in significant benefits to a wide range of stakeholders. This diversified stakeholder community includes government departments and agencies, private sector commercial and professional organisations, as well as citizens themselves. These entities all have different roles within the overall conveyancing process and it is therefore a key requirement of any initiative involved in moving towards an electronic means of conveyancing, that the various requirements of all these stakeholders are considered.

It is also appropriate to consider the proposed modernisation of the conveyancing process in the context of the development of the Irish economy. The last ten to fifteen years has seen a level of unprecedented growth in economic activity which has in turn led to increased demand in the property and construction sector. It is acknowledged however that this rapid economic growth has not been matched by an associated modernisation and improvement in certain key Government to Business (G2B) and Government to Citizen (G2C) processes. Ireland is currently ranked favourably by the Economist Intelligence Unit (EIU) in terms of general “eReadiness” and ability to leverage new technologies in the Government sector. However, in relation to several key criteria relating to general “ease of doing business”, including property registration, Ireland ranks significantly behind the leading countries (as measured by the World Bank).

It is recognised that any transition to a comprehensive, ‘end-to-end’ eConveyancing solution will require significant changes to existing processes, technology and legislation, as well as addressing the needs of a diverse stakeholder community. This will be a large and complex transformation programme. The experience in other jurisdictions has shown that a business case does exist for undertaking an eConveyancing initiative of this nature and that the anticipated benefits have accrued to the stakeholders involved.

1.2 Terms of Reference

The Law Reform Commission (“the Commission”) initiated work in relation to its eConveyancing project in early 2003 as part of its Second Programme of Law Reform. The identification of the conveyancing process by the Commission as one where significant reform was potentially required was driven by a number of factors:

- Firstly, the overall process was perceived as being inefficient, complex and paper intensive, which resulted in relatively high costs being incurred by private house purchasers.
- Secondly, advances in technology had resulted in an increased demand to conduct business on-line, both in Ireland and internationally, and a number of other jurisdictions had successfully implemented full or partial eConveyancing solutions which had resulted in significant benefits to the broad stakeholder community.
- Finally, it was recognised that reform of substantive land law in Ireland, which underpinned significant elements of the overall conveyancing process, was a key element in the overall strategy to simplify elements of Irish Law so as to make them more easily understood and accessible.

The Commission recognised that the implementation of a full end-to-end eConveyancing solution would be a large scale, complex and multi-year programme involving several integrated workstreams. As the initial project within this programme, Phase I was initiated with its objective being to complete an ‘As-Is’ model of the current process and each stakeholder’s involvement in it, including:

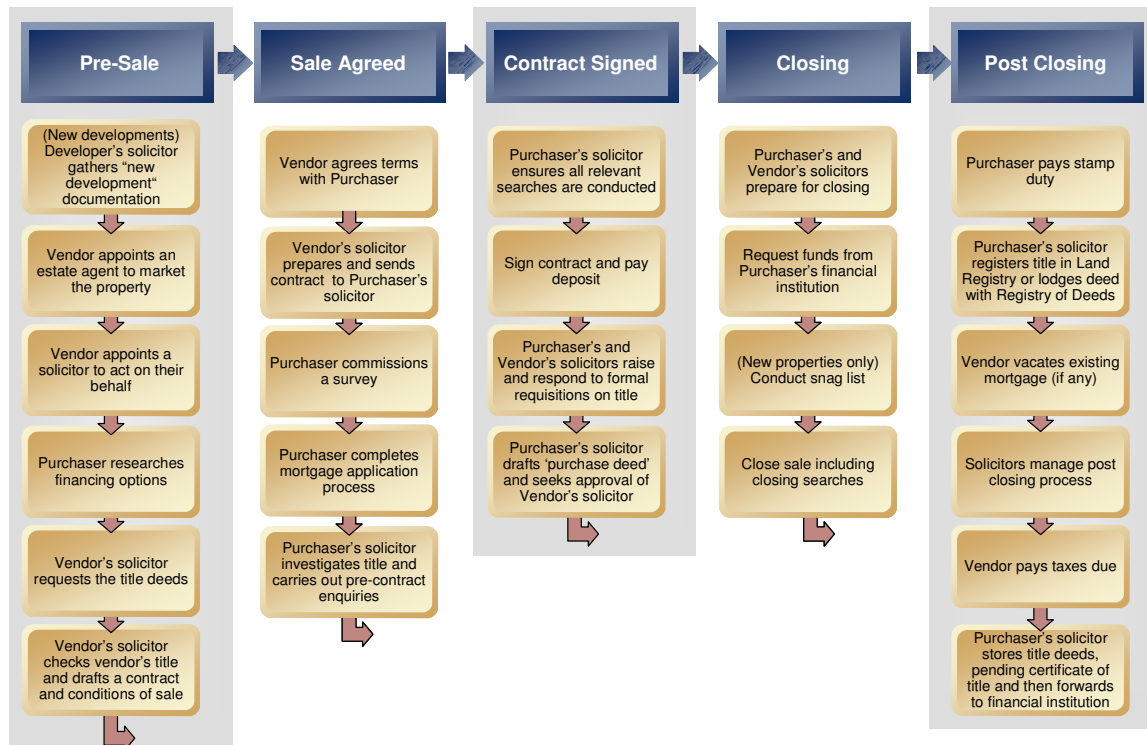
- A detailed analysis, documentation and modelling of the business processes which underpin the end-to-end conveyancing process in Ireland.
- An assessment of the readiness of the key stakeholders to support and engage in a future eConveyancing solution.
- An assessment of process improvement opportunities.
- A high-level eConveyancing process and technical model.
- A programme roadmap to assist with transition and implementation planning.

This report details our findings and recommendations following the completion of Phase I and sets out our vision and strategy for proceeding with subsequent phases of the programme.

1.3 Overview of the Current Conveyancing Process

In the context of this project it is important to recognise that the conveyancing process refers to all activities conducted in connection with the sale and purchase of residential property. This process commences with the initial placement of an advertisement offering a property for sale and concludes with the stamping and registration of the purchase deed and the lodgement of the documents with the purchaser’s lending institution. The following diagram illustrates the overall process, with key activities summarised under five high-level phases.

Figure 1.1: Key phases in the current conveyancing process



The *Pre-Sale* phase of the conveyancing process can be seen as the preparation stage. This is the phase where the vendor, along with their solicitor and/or estate agent prepares the property for sale.

The *Sale Agreed* phase begins once the purchaser identifies a property they wish to purchase and places an offer on that property. The sale is agreed and the purchaser must formally organise their finance. In addition to this, the purchaser's solicitor will carry out some initial investigations into the property.

The *Contract Signed* phase of the conveyancing process involves the preparation for drawing up the contract including any remaining investigations (e.g. title searches, surveys, planning approvals) that must be carried out on the property. Once the contract has been formulated it may go through many iterations before the terms in the contract are agreed upon.

The *Closing* phase begins once the contract has been signed and all associated queries ("requisitions") have been dealt with. In the closing phase of the conveyancing process, the purchaser's solicitor and the vendor's solicitor will each have a number of responsibilities to bring the sale to a close, which includes exchanging title deeds and monies.

The *Post-Closing* phase takes place once the sale has been closed and concludes the conveyancing transaction. The main activities involve paying all taxes due, paying off the existing mortgage and registering and storing deeds.

NOTE: To support this high-level model, detailed and multi-level process maps were developed in consultation with the stakeholder community. These were used to identify areas where improvements could be made, including straight-forward changes to the process itself and those which would be enabled by changes to current legislation or by deploying new technology.

1.4 Key Findings in Relation to the Current Situation

This report contains the detailed findings from our analysis of the processes used in conveyancing in Ireland. The main purpose in doing so was to identify inefficiencies, bottlenecks and possible barriers to the adoption of an eConveyancing system in Ireland. While the processes have been documented in detail, they are not intended to be used as a manual on conveyancing or to be definitive, as the reality is that in practice there are many variations in how the detailed steps are executed.

The processes were documented through consultation with all of the main stakeholders such as: solicitors, law searchers, estate agents, financial institutions, the Land Registry and Registry of Deeds, the Revenue Commissioners, the Courts Service, local authorities, surveyors and developers. Other interested parties (e.g. Ordnance Survey, Consumer Association) were also consulted for their views. A full list of those consulted is contained in Exhibit A.

There are two principal outputs from our work in analysing the current “As-Is” situation:

1. **Process Analysis:** detailed step-by-step documentation (in flowchart and narrative form) of the main processes with supporting commentary on the issues, the bottlenecks and the opportunities for improvement.
2. **Stakeholder Analysis:** a preliminary review of the main stakeholders’ current capabilities in regard to their organisational and technical (IT) capacity to successfully change to an eConveyancing environment. Clearly, this capability will continue to evolve in the lead up to eConveyancing.

In addition to documenting the detailed steps, we have summarised what we consider to be the main issues from the process and stakeholder analyses under the headings of: Process, Information, IT Systems, Legislation and Culture & Tradition and Education & Training.

1.4.1 Process

- The conveyancing process has become increasingly complex in recent years.
- The current process lacks appropriate transparency both across the process and stakeholder groups.
- There is no “standard” residential property conveyancing process across all stakeholders. It should be noted that the Conveyancing Committee of the Law Society has been proactive in providing guidelines for correct conveyancing practice and in regularly publishing practice notes as professional guidance for solicitors.
- The process involves substantial paper-based information flows that continue to rely on the postal method.
- Delays are increasingly recognised as an inherent part of the process.

➤ *Standardisation and simplification of processes will improve efficiency and facilitate eConveyancing.*

1.4.2 Information

- Information needed throughout the process is dissipated across several different parties – and physical locations - and can be complex to retrieve.
- The quality of information received during the process can vary considerably.
- The amount of documentation generated as part of the process has increased.
- Despite recent initiatives, there remains a lack of standard documentation generated and required in the process.

- The storage and maintenance of paper based files can be costly and errors can be made (e.g. paper documents can get damaged or misplaced).

➤ *Easier access to land information through centralisation or better cross-referencing and filing would speed the conveyancing process, as would more standardised documentation. The need for physical documents and in-person signing of documents needs to be considered and alternatives (e.g. digital signatures, secure document transmission/storage) accepted to facilitate eConveyancing.*

1.4.3 IT Systems

- Stakeholders are at various stages of development in relation to IT use and organisation.
- Some stakeholder groups are more progressive in terms of their use of and reliance on IT within the organisation than others.
- There can be significant differences in IT capability within stakeholder groups. Some of the smaller organisations and stakeholder groups have high IT literacy and usage.
- Certain stakeholders have articulated IT strategies that will support eConveyancing, notably the main information providers in the state sector.
- Some stakeholders have external connectivity or eCommerce capability.
- The efficacy of the overall process relies on the “weakest link” in the stakeholder chain.
- There has been limited co-operation across stakeholder groups in terms of IT development.
- Some stakeholders are limited in their IT development expertise and capability.
- Many stakeholders voiced an interest in an eConveyancing solution.
- Stakeholders may have competing demands for their IT resources.

➤ *The demands that eConveyancing will place on stakeholders are not fully understood at this point. Their capacity to undertake the IT development necessary varies greatly, which is largely dependent upon the size of the organisation. Several key information providers have IT facilities and development plans which will enable eConveyancing.*

1.4.4 Legislation

- The current process is aligned with the current legislation.
- Ireland’s dual system of land registration impacts significantly on the efficiency of the current process.
- The legislation underpinning the process has become increasingly complex, particularly in relation to taxation and planning.
- Some of the legislation that impacts on the conveyancing process is out-dated and in need of reform.
- The Law Reform Commission has completed substantive work with the objective of modernising land and conveyancing law in Ireland.
- The Electronic Commerce Act provides for digital signature of documents but will need to be extended by Ministerial order to allow its use in conveyancing.

➤ *We have offered some observations on what would be the priority areas for eConveyancing.*

1.4.5 Culture & Tradition

- A culture of conservatism and caution is prevalent in the conveyancing process.
- There may be limited co-operation between stakeholders where personal relationships do not exist, particularly with regard to the solicitor-to-solicitor relationship.
- Stakeholders continue to rely on traditional forms of communication and payment rather than existing electronic means available.
- Delays are perceived as “part of the process”.

➤ *Technology alone will not improve efficiency; traditional roles and practices will need to change to make a success of eConveyancing.*

1.4.6 Education & Training

- Limited consumer understanding of the conveyancing process which can cause delays (e.g. if consumers are not proactive in obtaining title deeds and arranging life cover).
- Varied level of understanding of the process across stakeholder groups.

➤ *Improved communication between the stakeholders and education about eConveyancing will be needed for stakeholders and indeed, consumers.*

1.5 The Experience of Other Jurisdictions

The following five jurisdictions were chosen for study because of their levels of advancement and their similarities to the Irish conveyancing process:

- Ontario, Canada
- England and Wales
- New Zealand
- Australia
- South Africa.

Specifically, the reasons for further investigation of the selected jurisdictions were as follows:

- Ontario and New Zealand have been engaged in some aspects of an eConveyancing solution longer than any other jurisdiction and as a result, are the foundation models for all modern eConveyancing solutions.
- The conveyancing process in each of the jurisdictions selected has similarities to the Irish conveyancing system in terms of stakeholders involved.
- All five jurisdictions have faced similar challenges to Ireland in terms of issues with the traditional paper-based conveyancing process such as: the major generation of paper based documents, inherent delays in the conveyancing process due to communication difficulties between different stakeholders, and the difficulty in retrieving information lying in different repositories and databases.
- Issues such as the operation of a dual registry system and land issues such as mapping are present in the jurisdictions analysed.
- All five jurisdictions have had to conduct analysis of the legislative basis for conveyancing and, where necessary, have needed to amend legislation to enable an eConveyancing solution.

- All five jurisdictions have encountered issues during their implementation phase and those currently in development have determined challenges that will need to be overcome to ensure success of the solution, challenges such as; involving the varying stakeholders, education and training relevant stakeholders and users, and sequencing a phased implementation approach. The experiences and lessons learned from these challenges provide important information to consider when developing an implementation approach for an Irish solution.

These jurisdictions offer differing possibilities for the development of an Irish eConveyancing solution in terms of functionality. All of them present learning opportunities that, if grasped, can increase the effectiveness of the development and deployment of the Irish solution. These include:

- **Government Commitment:** The more successful projects have had long-term and sustained government backing.
- **Strong Governance Arrangements:** It is essential that appropriate governance structures are put in place so that there is an appropriate project sponsor who is properly resourced to run the project.
- **Financing Arrangements:** Appropriate financing arrangements must be in place that align with a long-term project that could have a timescale of ten years or more. The distinction between which areas are financed exclusively by public funds, private funds and by public private partnerships must be carefully decided and appropriate governance and financial accountability structures must be put in place to manage these differently financed areas.
- **Sequence of Developments:** All jurisdictions have (or will have) implemented a phased approach in terms of module development and deployment. The correct decision regarding what modules to develop and implement first must be made in order to maximise the credibility of the project in terms of appeal to the stakeholders while doing so at minimal risk. The sources of funding must also act as a key driver of the overall solution by influencing the development of particular modules.
- **Stakeholder Buy-In:** Early consultation with the key stakeholders is essential to ensure support for the solution is achieved and that all stakeholders are satisfied with the solution being developed. This can create momentum in terms of development and financing. Continuing stakeholder involvement is essential and can be achieved through governance structures that enable stakeholders to act as shareholders in the relevant modules in which they participate. A strong stakeholder acting as partner such as the financial institutions or the legal profession can act as a key driver of total stakeholder buy-in.
- **Simplifying Processes:** Successful solutions have begun the development process by redesigning the existing conveyancing process and standardising documents.
- **Operation of Dual Systems:** While the operation of dual systems (i.e. old and new in parallel) is necessary to aid the transition between paper and electronic conveyancing, it is necessary to specify a time when compulsory use of the electronic solution is mandated. This can be either based on a timeframe or when the uptake reaches a certain level of participation (e.g. 70%).
- **Marketing, Education and Training:** This is one of the most underestimated elements of the development and deployment of the system, yet it is acknowledged by all the other jurisdictions examined as perhaps the most important. Stakeholder buy-in can only be achieved through marketing the solution to stakeholders and educating them on the benefits to be realised and the challenges to be addressed by each stakeholder. Training and converting users is essential in order to ensure that the uptake of the solution is high. This ensures that the credibility of the solution in the industry is also high thus generating further awareness and further uptake. Appropriate financing for marketing, education and training must be built into any business case and financial plan. This has been overlooked in other jurisdictions to their detriment.

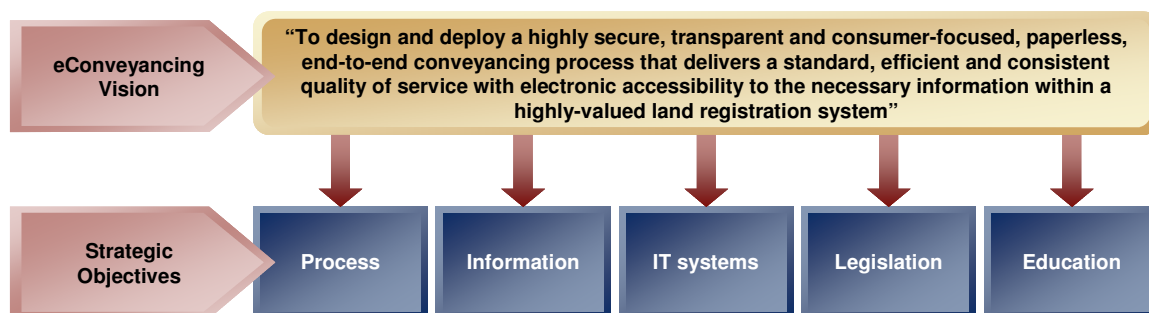
Given the levels of functionality that are desired, the Ontario model offers the approach that best fits the Irish environment. The scope of the entire Ontario solution, including the value-added modules, would offer all

stakeholders the levels of functionality they require for an all encompassing end-to-end eConveyancing solution. For example, solicitors would be able to conduct all their dealings using an electronic system. The Ontario solution formed the starting point in the development of the eConveyancing solution in New Zealand, which in turn influenced the Australian development in the state of Victoria. Added to the scope of the Ontario solution would be the approach of the Land Registry in England and Wales around the creation of a ‘notional register’ to enable registration on the day of closing.

1.6 A Proposed Model for eConveyancing in Ireland

A key element of the work which has been undertaken was the development of an overall strategic vision for eConveyancing in Ireland along with a number of key strategic objectives. The proposed “vision statement” was discussed with a number of key stakeholders who strongly supported it and its realisation.

Figure 1.2: Proposed “Vision Statement” for eConveyancing in Ireland



The “vision statement” will help formulate strategic objectives in each area. These overall objectives and principles in turn informed the design of high-level operating (process), technical and business models, which were developed with reference to leading and successful models already operating in other jurisdictions.

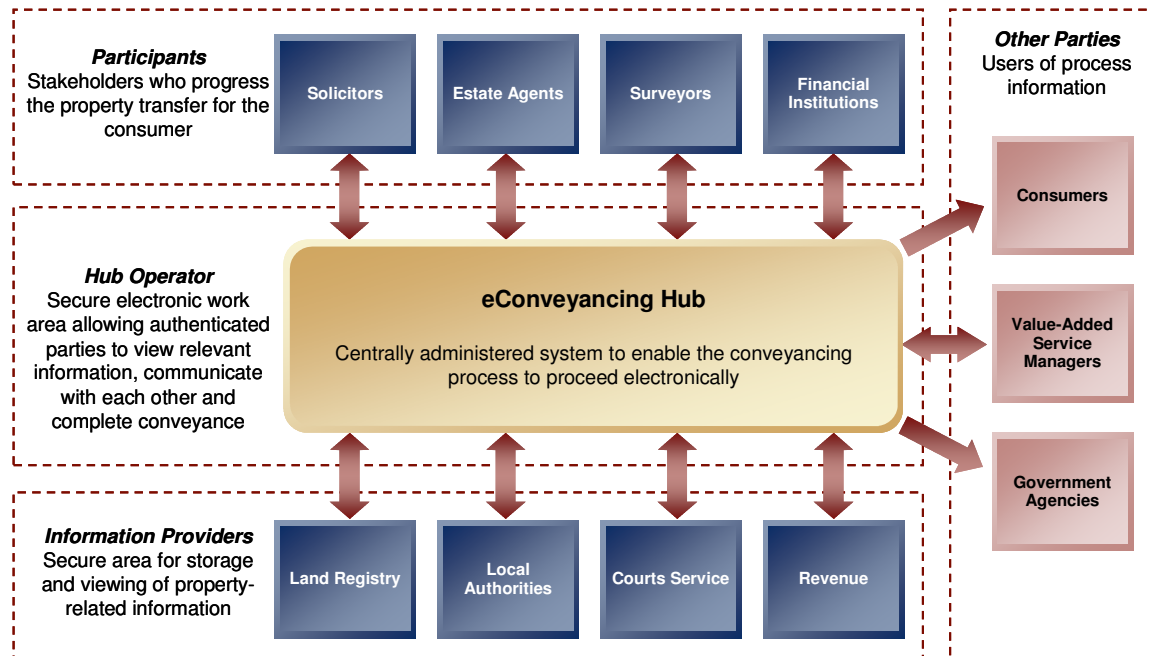
The *operating model* represents the potential future eConveyancing process and has been developed following the detailed analysis of the “As-Is” situation. It encompasses three key elements within the overall transformation programme - process and service (including legislative), technological and organisational.

The *technical model* describes the technical (IT) framework and architecture required to support a solution such as this. There are a number of potential approaches as evidenced by the different implementations in other jurisdictions such as: New Zealand, Ontario, British Columbia etc. We have taken cognisance of these implementations and have drawn on what is specifically required in an Irish context to develop our proposed technical model. A central hub model has been proposed based on assessing a number of options against key criteria, including: security, scalability, availability, ease of maintenance, extensibility, cost effectiveness and risk aversion.

The *business model* addresses the options for funding and running the proposed eConveyancing process and technical models as outlined in earlier sections. It considers how the stakeholders and the State may play roles in implementing the model and what the financing options are going forward. The proposed approach includes the development of detailed business plans and business models for the key stakeholders and further assessment of the merits of a Public Private Partnership (PPP), which appears to be the most appropriate mechanism for funding the investment required.

The proposed overall future operating model is illustrated below.

Figure 1.3: Overview of the future eConveyancing model¹



Within the proposed model there are four main constituents:

- **Participants** – These are the stakeholders involved in the conveyancing transaction (including solicitors, financial institutions and surveyors). As such, they are responsible for actively completing the various steps within the overall process and progressing the property transaction for the consumer.
- **Information Providers** – These are the stakeholders whose role is primarily to receive information or to provide it to the participants on matters of: title, encumbrances, planning, certificates, taxes/duties, etc. They are mostly state bodies. The main Information Providers are: Land Registry/Registry of Deeds, local authorities, the Courts Service and the Revenue Commissioners. Other occasional Providers include the General Registry Office (GRO) and the Companies Registration Office (CRO).
- **Hub Operator** – At the centre of the proposed solution is an overall eConveyancing Hub. The purpose of the hub is to act as a central “workspace” for participants, providing case management, workflow, document management, payment, reporting, authentication and messaging functionality to enable the future process. The individual information providers would provide services to the central hub to support the completion of the conveyancing transaction.
- **Other Parties** - These are those stakeholders who have an interest in the process but are not transacting directly. They include consumers acting as vendors or purchasers and some state bodies and industry bodies collecting statistics or offering value-added services.

1.7 A Roadmap for Implementation

There is a clear ‘case for change’ to improve the current conveyancing process, as it would benefit Irish citizens and the other stakeholders. We recommend that the Government takes a leadership position in informing and designing the most appropriate eConveyancing model for Ireland for the following reasons:

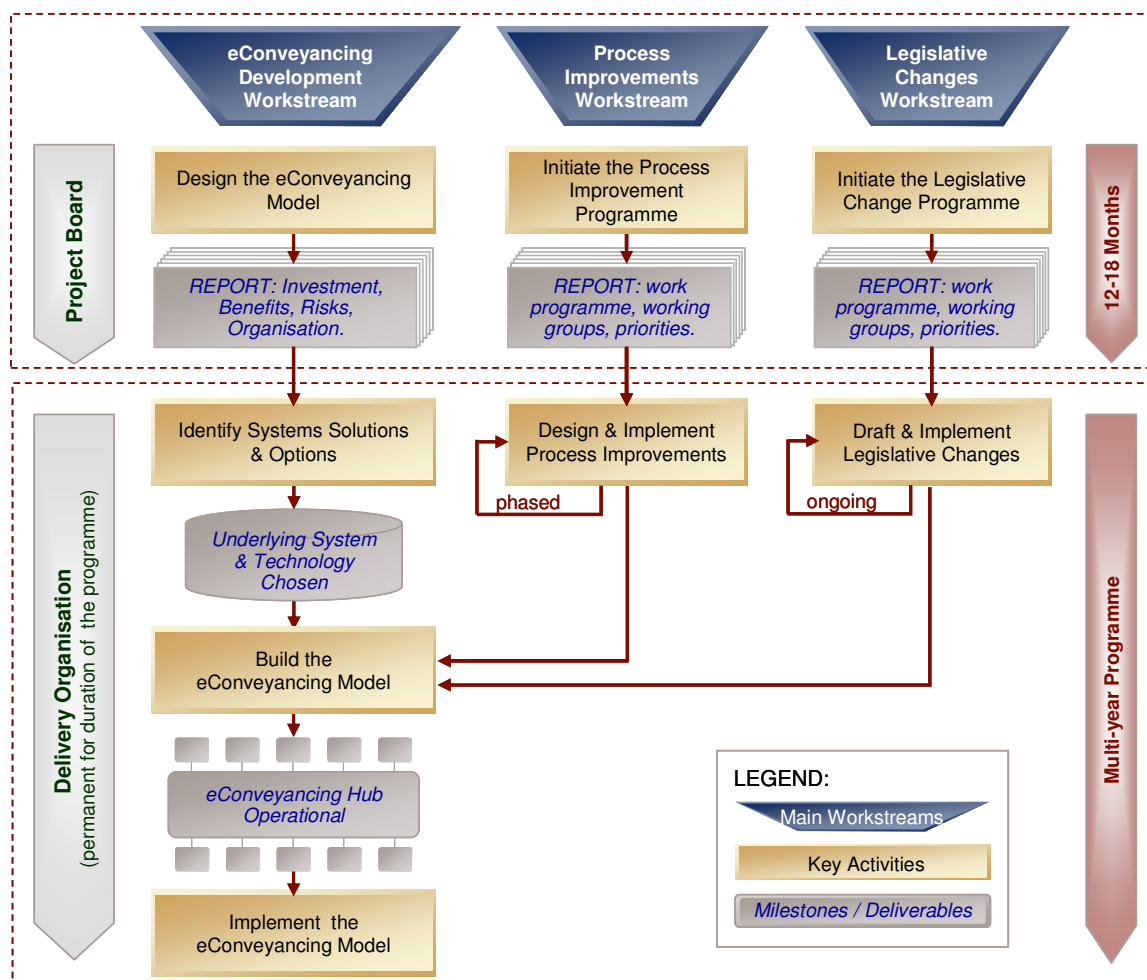
¹ Note : not all stakeholders have been shown in this figure due to space constraints, others will be involved (e.g. Law Searchers, Developers, etc.)

- It would support the Government's mandate to continually improve the provision of public services to consumers.
- Ireland would become less attractive to investors should it choose to do nothing.
- The experiences of other e-enabled jurisdictions emphasise the important role of the State.
- The State is the owner of much of the property-related data.
- eConveyancing could be a source of revenue and intellectual capital for the State.

This "roadmap" for moving forward with eConveyancing envisages three workstreams:

- **eConveyancing Development workstream:** initially, involving a detailed assessment of the case for eConveyancing and the appropriate model (operational, technical and business) for its delivery and then, if appropriate, to move on to the next steps of building and implementing the full eConveyancing model.
- **Process Improvement workstream:** involving the identification, organisation and implementation of improvements to the current process, based on the opportunities identified in this report.
- **Legislative Changes workstream:** similarly, some legislative changes are identified which facilitate and underpin the eConveyancing model.

Figure 1.4: High Level Roadmap for eConveyancing



The eConveyancing Development workstream would be concerned with the development and deployment of the eConveyancing solution from operational, technical and business model perspectives. In the initial stage, it

would design the business model (including cost/benefit analysis, resourcing and funding) and seek to learn from similar projects in other jurisdictions. If the project was approved it would then move onto design, develop and deploy the new eConveyancing system. Strong stakeholder participation would be vital for success.

In parallel, work should proceed on implementing the process improvement opportunities identified in this report and the legislative changes needed to support these improvements and any needed for eConveyancing.

The eConveyancing vision that we have proposed implies significant changes to existing processes, technology, legislation, established tradition and culture, education and understanding of the process by a diverse stakeholder community. This represents a large-scale, multi-year and complex transformation programme. However, experience in other jurisdictions has shown that considerable anticipated benefits have accrued to the stakeholders involved thereby making the investment worthwhile.

We believe that implementing eConveyancing successfully requires an active, committed role from Government. We recommend that the Government's initial priority should be to establish an organisational structure with the resources and mandate to effectively deliver improvements in processing, timescales and costs to the end-to-end conveyancing process. An inter-agency body would co-ordinate the three workstreams, namely eConveyancing Development, Process Improvement and Legislative Changes. This body would lead development and implementation of improvements and report to the Government on the ultimate feasibility of the latter specifying a roadmap to eConveyancing in greater detail.

We therefore recommend that the development of the eConveyancing programme should commence with the establishment of an appropriate governance structure to lead, manage and monitor the design and development of the eConveyancing programme. In advance of a permanent organisation being identified to lead the eConveyancing programme in the longer term, we recommend that an eConveyancing Project Board be established to manage the programme for the next 12 -18 months (as identified in Figure 1.4). It is important that this is done without delay to ensure continuity and to build upon the momentum arising from the work done by the Law Reform Commission, government departments, state agencies and other stakeholders.

Membership of the eConveyancing Project Board should include the key stakeholders within the relevant Government agencies and should also include membership from the representative bodies of key "private sector" stakeholders including the legal profession. The Board should be given adequate resources and budget to enable them to deliver on their terms of reference. It would be ultimately responsible for ensuring that effective governance and implementation controls are in place for developing and managing the eConveyancing roadmap during the initial 12 – 18 month period:

The priority for Government is to identify and agree clear ownership and responsibility for the further development of the eConveyancing programme. We believe that the ongoing role of the Irish Government in this programme is fundamental to its long term success. We believe that the development of the eConveyancing project should commence in 2006 with the establishment and appointment of an eConveyancing Project Board, with a clear mandate of deliverables, to set out the eConveyancing programme through its next phase of design and development.

The proposed Project Board would be to conduct a detailed assessment of the most appropriate model for eConveyancing in Ireland including preparation of proposals for Government as to the design, establishment, operation, governance and implementation of the actual model. Thereafter, it would be a matter for Government to decide the appropriate long-term organisational and governance structures for the next phases of the project.

1.8 Next Steps

We recommend the following key steps:

1. Establish the eConveyancing Project Board

An eConveyancing Project Board (as described above) should be established. Membership of the Project Board should include the key stakeholders within the relevant Government agencies and should also include membership from the representative bodies of key “private sector” stakeholders including the legal profession.

The eConveyancing Project Board should be given adequate resources and budget to enable them to deliver on their terms of reference.

2. Develop and agree Terms of Reference for the eConveyancing Project Board

The initial key objective of the Project Board will be to recommend the most appropriate mechanism to implement the recommendations from this report to Government. This includes the following outputs:

- (a) The specific recommendations that should be implemented, considering value for money for the public sector, role of (and benefits to) key participants, benefits to the citizen and to ensure effectiveness, openness and transparency in the conveyancing process.
- (b) The level of investment and projected benefits to be gained from the phased implementation of these recommendations, including the identification of specific metrics that can be used to assess their progress.
- (c) The organisation and infrastructure, whether new or existing, (including its funding model, structure, governance and the operational processes it will support) required to implement the recommendations.
- (d) An assessment of the risks and approach to their mitigation. This risk assessment will be of particular importance where certain activities will be undertaken for the first time, either from an organisational perspective (e.g. funding models), or from a process perspective (e.g. business authentication, electronic payment mechanisms).
- (e) The development of a high-level solution architecture to support the processes that will be managed by the organisation. In doing so, there should be particular reference to where elements of the solution exist in other agencies within the public service.
- (f) Develop effective communications channel with relevant stakeholders and ensure their continuing involvement with and buy-in to the project.

3. The Project Board should report to Government within 12-18 months

The Project Board will develop a report detailing its recommendations. We strongly recommend that this should be completed within a 12-18 month timeframe and presented to Government for decision-making with regard to the subsequent implementation of an eConveyancing system.

2. BACKGROUND

This report details the conclusions of the “Modelling of the Irish Conveyancing System” project, conducted on behalf of the Law Reform Commission. This project, which was initiated in early 2005, is intended to represent Phase I of a multi-phased, multi-year programme to design, deliver and implement a full eConveyancing solution to support the end-to-end conveyancing process from pre-sale to post closing activities.

The key objective of this Phase I was to prepare a detailed ‘As-Is’ model of the current process and each stakeholder’s involvement in it, including:

- The detailed analysis, documentation and modelling of the business processes which underpin the end-to-end conveyancing process in Ireland
- An assessment of the readiness of the key stakeholders to support and engage in a future eConveyancing solution
- An assessment of process improvement opportunities
- A high-level eConveyancing process and technical model, and
- A programme roadmap to assist with transition and implementation planning.

The content of this report has been developed following an extensive consultation process with the overall stakeholder community – over 50 in all - including representatives from legal, financial and governmental organisations during late 2005.

In addition, extensive research has been conducted into the evolution and maturity of eConveyancing solutions in jurisdictions with historically similar systems of land law to Ireland, including Canada, New Zealand, UK and Australia.

This chapter of the report contains:

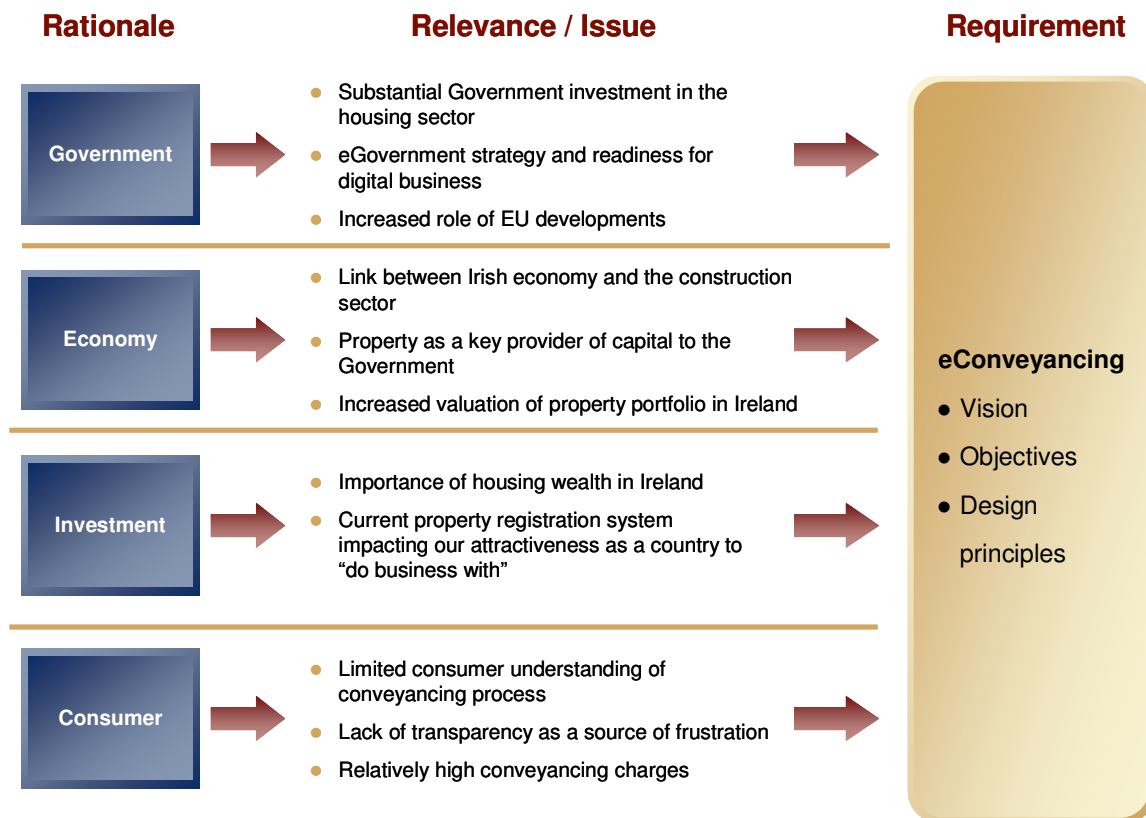
- In Section 2.1, a detailed synopsis of the key drivers behind the implementation of an end-to-end eConveyancing solution to support a modern, efficient and streamlined process.
- In Section 2.2, a summary of the background to the current project which has been undertaken, representing Phase I of a proposed multi-year, multi-phase programme.
- In Section 2.3, an overview of the approach which has been taken to completing Phase I, outlining the core project workstreams and phasing adopted.
- In Section 2.4, a summary of the structure and contents of the remaining chapters of this report.

2.1 Key Drivers

The implementation of leading conveyancing processes and systems is of increasing relevance and importance to the State. The conveyancing process is inextricably linked to the Government’s objectives, economic and investment priorities and the consumer’s perspective. These underpin the requirement for an efficient, service oriented, accountable and transparent process in the future. In this section we introduce some of these factors and developments that are driving the proposed transition to an eConveyancing system.

As Figure 2.1 illustrates, this rationale is driven by changes and developments related to government, economic, investment and consumer requirements:

Figure 2.1: Case for Change



2.1.1 Government

"The development of eGovernment is central to shaping how we evolve as an Information Society. Aside from the objectives of improved service delivery and internal efficiencies, Government business processes clearly serve as key stimulus to wider engagement with ICTs – both within the business community and among the general public²"

Ireland's eGovernment strategy clearly recognises the integral role of conveyancing to the management of public services and the economy in general. Important developments are taking place from the Government's perspective. Below we highlight some of the elements of Government policy towards eGovernment and eConveyancing. Some of these are being led at a European level.

² New Connections – A Strategy to realise the potential of the Information Society, March 2002

- **The Government is committed to investment in the housing sector:** The new National Development Plan (2007-2013) is focused on the priorities for investment in housing as well as public economic and social infrastructure, national spatial strategy, health, innovation, childcare and other areas of the economy³. It is important that there is an efficient and secure conveyancing process in place to support this level of investment.
- **The Government recognises the need for online public services:** The current eGovernment strategy⁴ is committed to the principle of reshaping the delivery of public services around user needs and on a 24x7 basis. It recognises the potential advantages of technological implementation of reduced costs, higher operating efficiency and improved opportunities to develop and deploy new applications related to eGovernment. Significant progress has been made in recent years, including the eProcurement, Reachservices portal, OASIS and BASIS projects.
- **eConveyancing is aligned with the Government's eGovernment objectives.** The objectives of eConveyancing are aligned with those of eGovernment. The eConveyancing project has the objectives of improving the efficiency and transparency of the processes between the Government and the business community (B2G), business-to-business (B2B) and business-to-consumer (B2C).
- **eConveyancing represents an opportunity to significantly enhance our economy's "eReadiness".** The Economist Intelligence Unit (EIU) publishes an annual "eReadiness"⁵ ranking of the world's largest economies. Currently 65 countries are assessed⁶ on their ability to promote and support digital business and information and communications technology (ICT) services. The EIU rankings allow governments to gauge the success of their technology initiatives against those of other countries. It also provides companies that wish to invest in online operations with an overview of the world's most promising investment locations. While Ireland has made progress in recent years, we still rank in 15th place in the worldwide rankings and 10th in Western Europe. If Ireland is to be internationally recognised as a knowledge economy in the future, major projects such as eConveyancing need to be designed and implemented successfully.
- **EU initiatives may play a greater role in the deployment of eServices.** The EU is becoming increasingly relevant as it seeks to gradually converge national policies related to information provision and market access. For example, its "i2010: European information society in 2010" initiative "promotes an open and competitive digital economy and emphasises inclusion and quality of life". The EU is also looking at single market directives, such as the liberalisation and deregulation of the European mortgage market. These types of developments all impact on the requirement for an efficient and flexible conveyancing process in the future.

These drivers outlined above demonstrate the important role that eConveyancing could make to Ireland's progress with its eGovernment strategy. It would seek to improve the linkage of information and efficiency of the process across the "value chain" for the sector, including B2G, B2B and B2C.

³ Announcement by Minister Willie O'Dea, T.D., on the National Development Plan, 4/8/2005

⁴ New Connections – A Strategy to realise the potential of the Information Society, March 2002

⁵ http://www.eiu.com/site_info.asp?info_name=eiw_2005_e_readiness_rankings

⁶ A country's "eReadiness" is essentially a measure of its e-business environment, a collection of factors that indicate how amenable a market is to Internet-based opportunities.

2.1.2 Economy

“Clearly the residential property market is a fundamental, if somewhat overlooked, component of the Irish economy, which will add over €40 billion to the wealth of the Irish nation this year alone⁷”

The Irish economy has undergone a period of unprecedented growth over the last ten to fifteen years which has provided the environment for a dramatic increase in the construction of new properties and sustained a buoyant property market. Like other mature economies Ireland has also witnessed changes in the types of properties required by her citizens (i.e. apartments versus traditional houses) as well as the changing profile and status of the purchasers themselves. These changes can be encapsulated in a number of key points:

- **The performance of the Irish economy is increasingly linked to the construction sector:** The construction sector in Ireland has experienced extraordinary growth in recent years. The number of new properties completed was 76,954 in 2004⁸. This has increased by over 240% (22,464 new properties built) since 1992. In addition, Ireland has a significant reliance on the construction sector as a source of employment. Direct employment in the construction sector is estimated to be over 11%, which is one of the highest proportions in the EU. This applies solely to the construction sector and so does not include employment in other related professions, such as: financial institutions, mortgage brokerage, estate agency and conveyancing.
- **The property market is a key provider of capital to the Government:** The property market provided approximately €1.4 billion in stamp duty payments in 2004. This is an increase of 36% from 2003 and almost 120% from 2002. Indeed, the Minister for Finance, Mr. Brian Cowen recently stated in a reply to a parliamentary question that 28% of the price of an Irish house is tax in the form of VAT and stamp duty⁹.
- **The residential property asset base requires efficient and secure management.** Ireland has one of the highest levels of home ownership in Europe at 82%¹⁰ with the value of Irish housing stock estimated at €480 billion at the end of 2004¹¹.

It is evident that the construction / property sector has evolved dramatically to become strategically important to the performance of the Irish economy as a whole. The evolution of the sector means that the support systems underpinning it are increasingly relevant and require efficient and secure management.

2.1.3 Investment

“We estimate that Irish housing related wealth increased by 15% last year. This corresponds to an increase in money terms of around €30 billion which is more than 4 times the rise in money GNP last year¹²”

- **Property is an important factor in generating investment for Ireland.** As with other elements of infrastructure, it is important that transacting property-related business incentivises investment and does not inhibit it in any way.

⁷ Residential property key to economic growth, Gunne Group, 9/6/2004

⁸ Department of the Environment, Heritage and Local Government statistics

⁹ <http://www.finfacts.com/biz10/irelandhouseprices.htm>

¹⁰ Department of the Environment, Heritage and Local Government, Housing Policy Review 1990-2000

¹¹ Bank of Ireland, Irish Property Review, July 2005

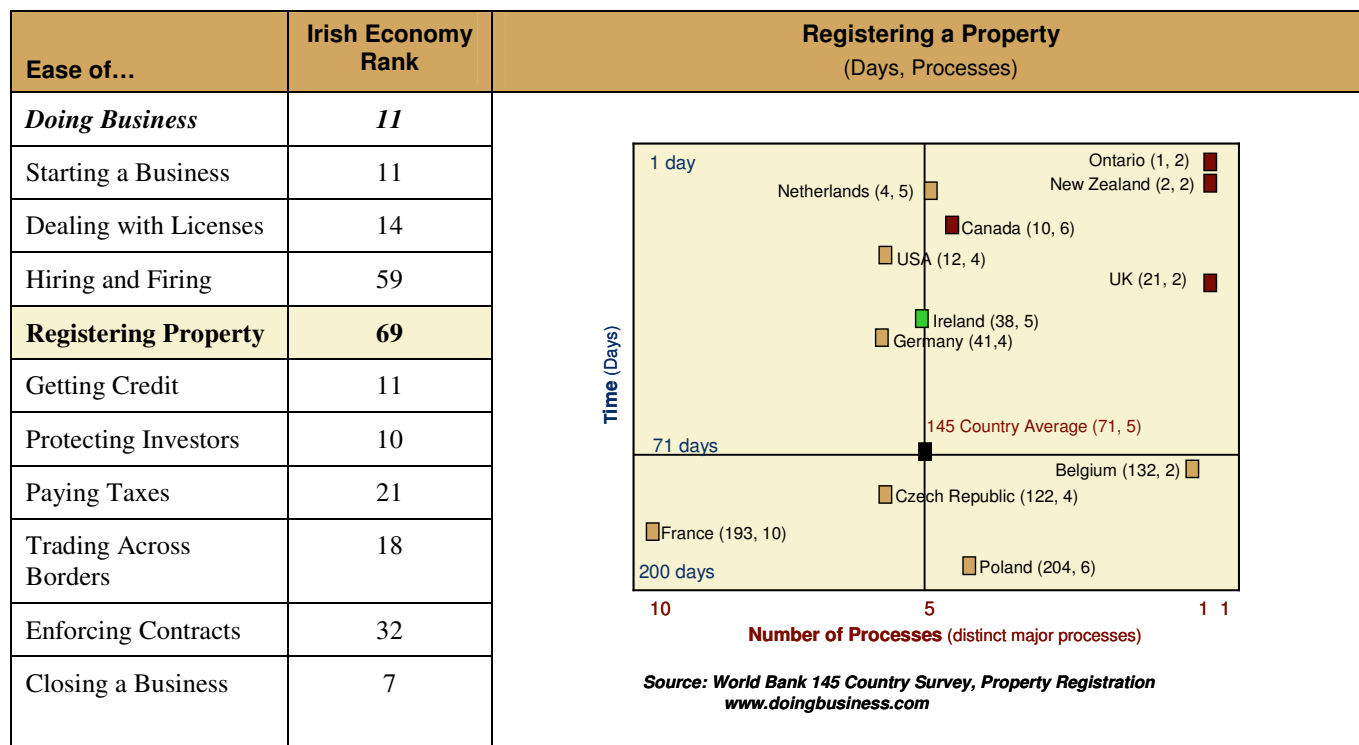
¹² Austin Hughes, Chief Economist, IIB Bank Economics Desk, Irish Housing Market Outlook 2005 and beyond

- **Housing wealth is a key driver of the economy:** Property is an investment vehicle of choice within Ireland with investment in residential and commercial property taking a preference over other forms of investment, such as equities. In addition, there is a significant link between property investment and the performance of pension funds. With the potential for institutional investors to enter the market, it is predicted that house prices will continue to grow and underpin Ireland's economic growth¹³.
- **Ireland's property registration system significantly lags behind other economies in terms of efficiency.** The increased importance of the property sector to the Irish economy reinforces the criticality of an efficient property registration system to the State. It is a key criterion which the World Bank uses to assess the ease of doing business with a country¹⁴. As is evident from Figure 2.2, Ireland ranks as the 11th most accessible country for "doing business" according to the World Bank's analysis. However, our overall ranking is much affected by our current registration system.

The World Bank "Doing Business" analysis examines the steps, time, and cost involved in registering property, assuming a standardised case of an entrepreneur who wants to purchase land and building in the largest business city - already registered and free of title dispute. In this category, Ireland ranks as 69th with approximately five key processes taking an average of almost 39 working days to process. This ranks Ireland significantly behind leading nations and economic peers at present, such as: New Zealand, Netherlands and Canada.

If Ireland is to continue to compete globally for foreign direct investment, improvements must be made to our property registration system. The eConveyancing project represents an opportunity to significantly improve the end-to-end conveyancing process which should allow for a property registration system that ranks alongside leading systems, such as Ontario in Canada.

Figure 2.2: - World Bank's "Doing Business" Analysis



¹³ Residential property key to economic growth, Gunne Group, 9/6/2004

¹⁴ <http://www.doingbusiness.org/ExploreTopics/RegisteringProperty/>

It is clear from the above that our system underpinning the registration of property needs reform and modernisation. This is a critical enabler for Ireland to “compete” and enhance our reputation as a country that is easy to do business in.

2.1.4 Consumer

“The consumer agenda is extremely important for a modern market economy. Knowing that we are getting a fair price and value for money for the goods and services we purchase is what matters to consumers and is critical to ensuring our economy remains competitive. There is growing concern that consumers are paying more for many goods and services than their counterparts in other European countries¹⁵”.

A governing priority of eConveyancing should be that the process and system should be consumer friendly and citizen focused. The main consumer issues are:

- **There is limited consumer understanding of the current process.** It is apparent that consumers in general lack the appropriate knowledge of the process and subsequently rely significantly on other stakeholders, such as solicitors or estate agents for information throughout.
- **The consumer has limited visibility of the process, which can be a significant source of frustration.** The current process lacks an appropriate level of transparency / visibility for the consumer. Often the consumer is not fully informed as to the current status of the conveyancing transaction and reasons for delays in the process.
- **The cost and quality of services provided to the consumer may vary significantly.** There is lack of standard conveyancing process at present. Coupled with this are cost pressures to deliver conveyancing services efficiently. Consequently, the quality and efficiency of the conveyancing services delivered by stakeholders (e.g. solicitors) to the consumer (i.e. the purchaser or vendor) can vary.

The consumer agenda is a key driver of a transparent, efficient and secure conveyancing process.

2.1.5 Implications for eConveyancing

The key drivers outlined above clearly illustrate that the conveyancing process is an important government, economic, business and consumer issue and one of increasing relevance. In Chapter 4, we identify the issues and inefficiencies associated with the current process. These should not be viewed in isolation of each other, rather they should be recognised collectively as they build a case for changing the current process. There is obvious potential for making improvements to the current process.

The eConveyancing project has the potential to drive many of the necessary improvements. In our view, Government has an important role to play in guiding the design and deployment of a future conveyancing process and system. The key design principles for eConveyancing should be cognisant of the economic and societal requirements articulated above.

2.2 Background to Current Initiative

The Commission initiated work in relation to its eConveyancing project in early 2003 as part of its Second Programme of Law Reform. The identification of the conveyancing process as one where significant reform was potentially required was driven by a number of factors:

1. Firstly, the overall process was perceived as being inefficient, complex and paper-intensive, which had a bearing on the costs being incurred by private house purchasers.

¹⁵ Extract from Seanad Éireann - Volume 178 - 10 November, 2004 Competitiveness and Consumer Protection Policy: Statements

2. Secondly, advances in technology had resulted in an increased demand to conduct business on-line, both in Ireland and internationally, and a number of other jurisdictions had successfully implemented full or partial eConveyancing solutions which had resulted in significant benefits to the broad stakeholder community.
3. Finally, it was recognised that reform of substantive land law in Ireland, which underpinned significant elements of the overall conveyancing process, was a key element in the overall strategy to simplify elements of Irish Law so as to make them more easily understood and accessible.

In order to benefit from the expertise of various stakeholders in the conveyancing process, the Commission established three working groups tasked with driving the initial elements of reform required to progress towards a future eConveyancing solution:

- A *Substantive Law Group* has considered the reform and modernisation of land law and conveyancing law in general.
- An *Administrative Group* concerned with the provision by public bodies of information used in connection with conveyances and the application of information technology to conveyancing transactions.
- A *Procedural Working Group* which has examined in detail the current conveyancing process from a process perspective.

In relation to the reform of substantive land law, work has been completed with the current focus being on the drafting of Bills which will modernise this area of law in line with regulatory reform principles.

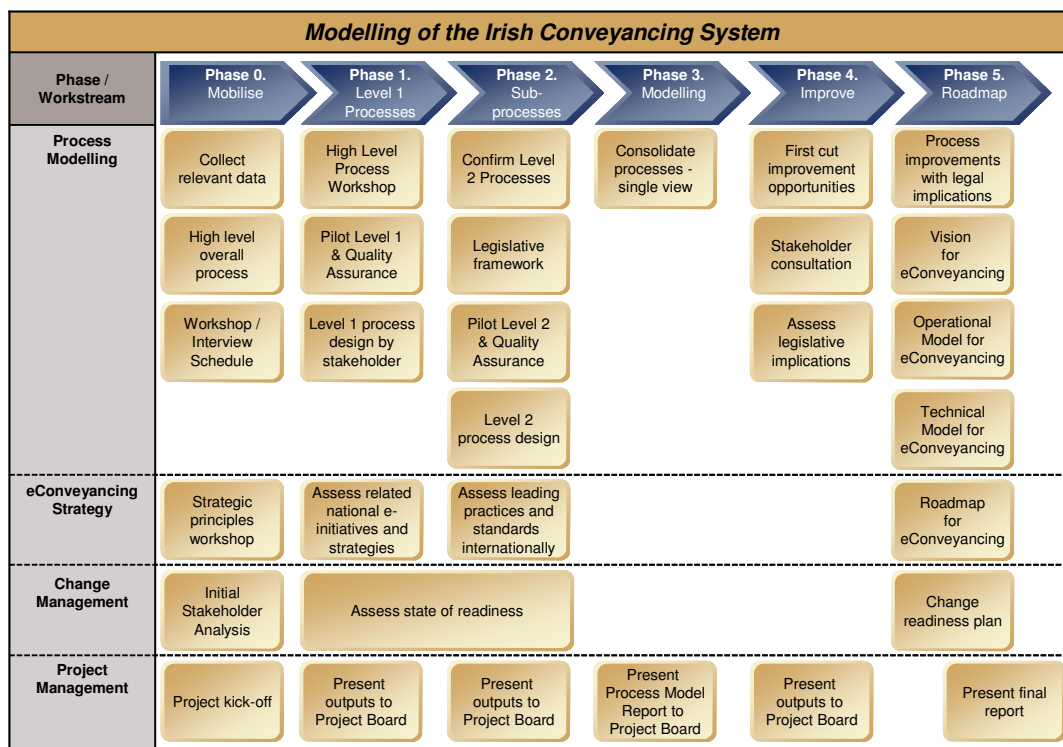
As a result of the work of the Administrative and Procedural Working groups, a significant amount of interaction had already taken place with public bodies involved in the conveyancing process and a substantial body of background information compiled. The Law Reform Commission engaged BearingPoint (www.bearingpoint.com), a global management and technology consulting firm, to conduct the next steps in the process which included analysing, consolidating and integrating this information into a detailed model to provide a systematic understanding of the current conveyancing process. Key input was provided by a wide number and cross-section of key stakeholders from both the public and private sectors that were consulted as part of the exercise (see full list in Exhibit A).

2.3 Overview of Our Approach

Our approach to the project consisted of four core workstreams as illustrated in the diagram below:

- **Process Modelling** – Analysis, documentation and modelling of the existing ‘end-to-end’ conveyancing process, and identification of improvement opportunities.
- **eConveyancing Strategy** – A review of similar eConveyancing initiatives in other jurisdictions, the development of a set of strategic principles to which an Irish eConveyancing solution should adhere and an overall roadmap to support the proposed business and technology transformation.
- **Change Management** – An initial analysis of stakeholders and high-level assessment of their readiness for change.
- **Project Management** – Ongoing project management and reporting throughout the assignment including regular project progress status meetings and additional updates to the Project Steering Group.

Figure 2.3: Project Methodology



As part of *Phase 0 – Mobilise* activities, we worked with the Law Reform Commission (LRC) to confirm the key stakeholders to be consulted during the project and to classify their involvement in the conveyancing process as either influencers or information providers or core stakeholders. In conjunction with the Commission these stakeholders were informed of the background to the project and requested to participate in a variety of meetings, information briefings and workshops as part of the consultation process.

In addition we conducted our first Strategic Principles Workshop with the Commission’s project team at which input as to progress into eConveyancing initiatives in other jurisdictions was provided by Art Daniels, former Assistant Deputy Minister Public Service Excellence and Innovation Office, Cabinet Office, Province of Ontario and Jon Atkey, Deputy Programme Manager, eConveyancing Task Force, HM Land Registry in the UK.

During *Phase 1 – Level 1 Processes*, we conducted our first series of meetings with the key stakeholders from both the public and private sectors. For the core stakeholders we conducted a number of detailed workshops to analyse and document their involvement in the conveyancing process and the associated document and information flows. For the non-core stakeholders we conducted a number of information briefing sessions with a variety of organisations and industry bodies to ensure that they were informed as to progress and so that their input could be incorporated in the process. As part of these activities we identified the key processes and sub-processes which needed to be mapped in detail.

A key element of Phase 1 was the early completion of Level 1 process maps for a pilot organisation so that these could be submitted to the Commission's Project Steering Group to validate and quality assure the approach being taken to process modelling. The Land Registry was engaged as the pilot organisation with the resulting output being accepted and signed off by the Commission.

During *Phase 2 – Sub-processes* we continued our consultation process with the key stakeholders and developed detailed maps for Level 2 processes. This included input from A&L Goodbody Solicitors who assisted in validating the conveyancing processes and in identifying the various elements of legislation which underpinned it. During this phase, we presented a comprehensive update to the Commission's project team to gain additional views and input and to confirm overall direction. In addition, we continued our assessment of the readiness of the various stakeholders to engage in and support a future eConveyancing model and our research into the scope, status and operation of equivalent eConveyancing initiatives in other jurisdictions.

An interim report, issued as a working document at the end of *Phase 3 - Modelling* of the project included a full, consolidated and end-to-end model of the current ('As-Is') conveyancing process.

During *Phase 4 – Improve* we focused on an initial identification and development of potential improvement opportunities. These were classified as follows, based on their likely timescale for implementation:

- **'Quick-wins'** – improvement opportunities which could be implemented quickly by making changes to the existing process and which do not require a corresponding change to legislation or technology.
- **'Legislation driven'** – process improvement opportunities which could be implemented by a change to existing legislation or current legal practice.
- **'Technology driven'** – process improvement opportunities which could be implemented by deploying technology and providing information on-line.

As part of this exercise, we consulted with the key stakeholders to validate the improvement opportunities identified. In addition, we conducted our second strategic principles workshop, the key objective of which was to confirm with the overall Project Steering Group the key principles to which a future eConveyancing solution in Ireland should adhere.

In *Phase 5 – Roadmap*, we prepared our Final Report which documents our key findings and recommendations including a 'roadmap' for the next stages of the eConveyancing project.

2.4 Report Structure

The following summarises the content of the remaining sections of this report:

Chapter 3 gives an overview of the “As-Is” conveyancing process and summarises the detailed process maps and documentation developed during the project.

Chapter 4 provides an initial assessment of the organisational and technological readiness of the key stakeholders.

Chapter 5 summarises our key findings on the current conveyancing process (i.e. “As-Is” situation). This includes general observations on the key issues associated with the current conveyancing process, an identification of the main opportunities for improvement with the process and the key findings resulting from our stakeholder readiness assessment.

Chapter 6 includes an overview of the evolution and maturity of eConveyancing solutions in jurisdictions with historically similar systems of land law to Ireland, including Canada, New Zealand, UK and Australia.

Chapter 7 introduces our proposed vision and strategy for the development and implementation of eConveyancing in Ireland.

Chapter 8 provides details of the proposed operating and process model and also a summary of the key areas where legislative implications need to be considered.

Chapter 9 provides details of our proposed technical model and a high-level, IT architecture.

Chapter 10 provides details of the proposed business model, including funding and financing options.

Chapter 11 details the proposed roadmap for the phased design and deployment of a modular, multi-function eConveyancing solution.

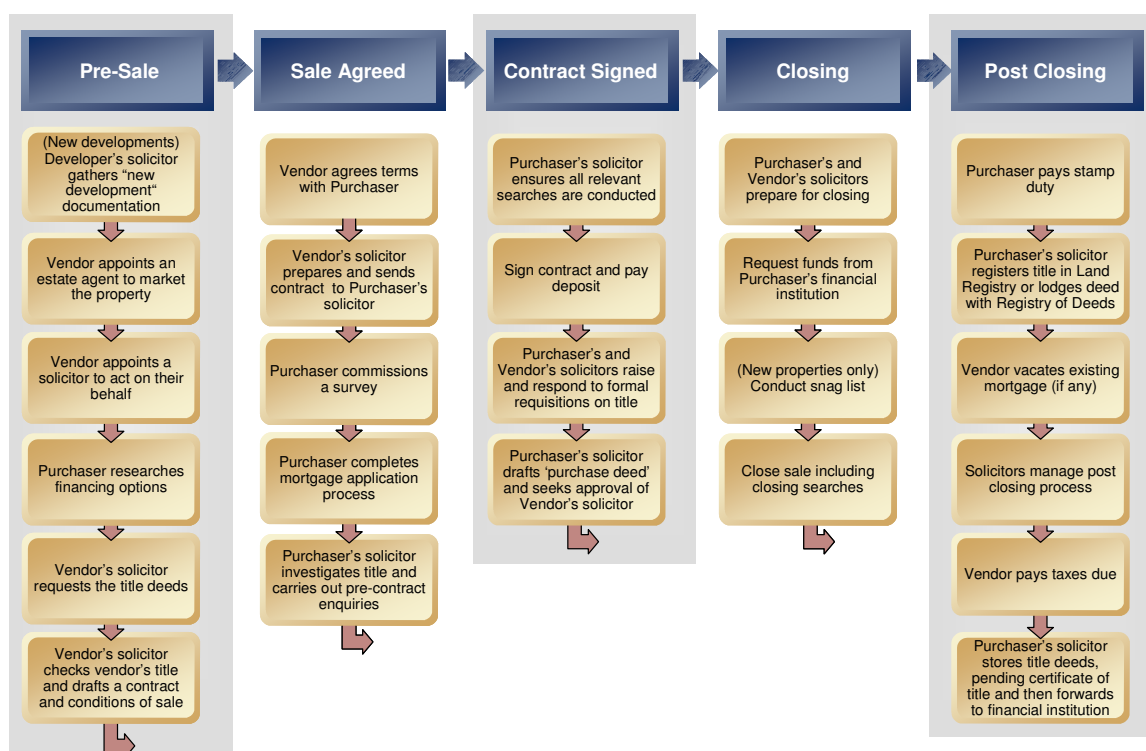
The Exhibits appended to the report include: acknowledgements; high-level process descriptions and flow charts for the eConveyancing process; details of our approach to building the modules for an eConveyancing solution; an overview of some technologies relevant to eConveyancing; and a glossary of terms.

3. CURRENT CONVEYANCING PROCESS

This chapter gives an overview of the current conveyancing process in operation in Ireland. It summarises the conclusion of a detailed process analysis and documentation, provided to the Commission.

Figure 3.1 is a high-level representation of the conveyancing process for residential property in Ireland at present and a summary explanation of the key activities involved at each stage in the process.

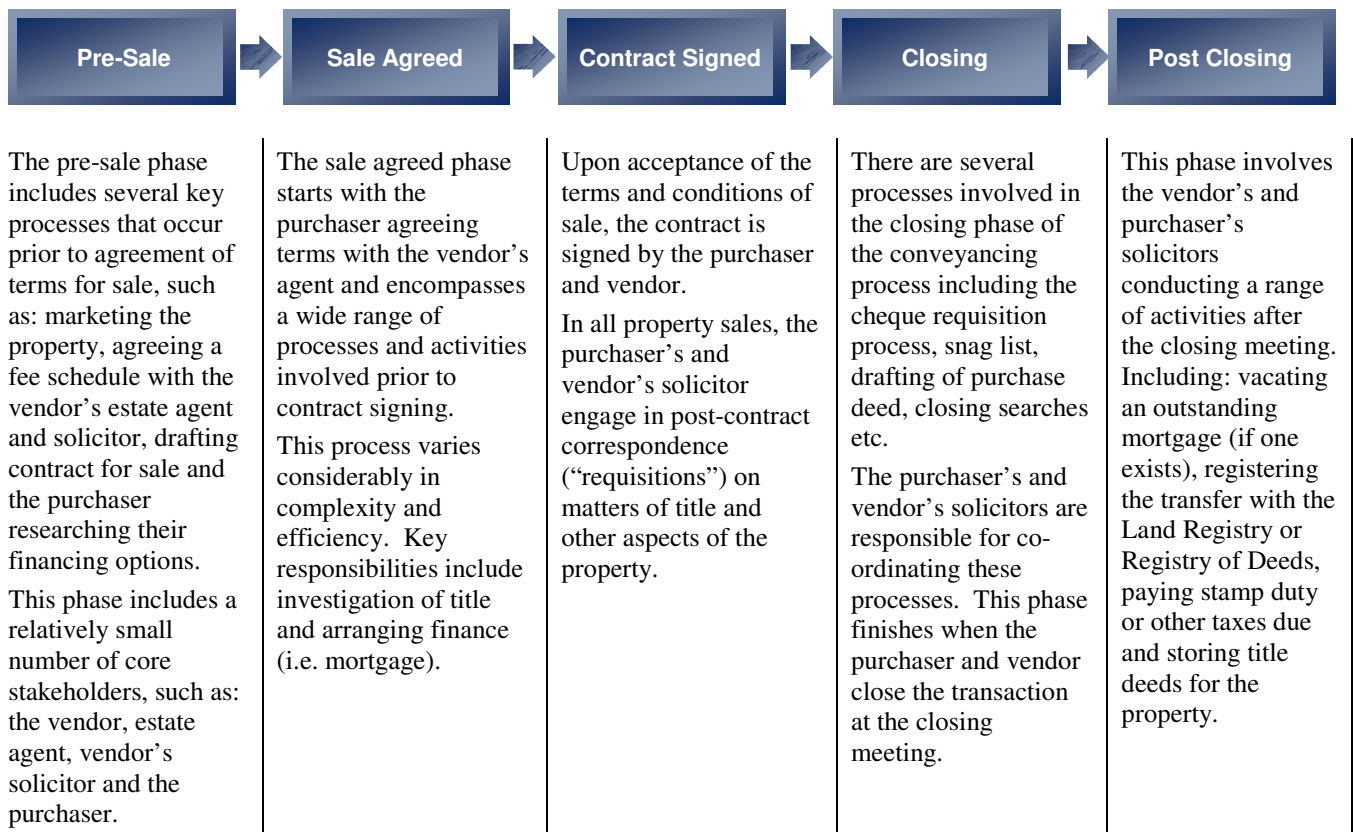
Figure 3.1: Conveyancing process overview



These phases and the activities within each are described in the sections that follow.

3.1 Organisation of Process by Phase

We have organised the conveyancing process across five key phases. These phases apply to both private treaty and auction sales, although there are differences in the relevance and sequence of processes between the two property sales' types. These phases are as follows:



Within each phase of the process, there are distinct sub-processes. The sections below summarise the key steps involved in each and some issues associated with them. A detailed presentation of issues associated with the current process is provided in Chapter 5 of the report.

NOTE: It is clear from our review that there is no standard property transfer process with different forms of documentation, information flows and activities undertaken by stakeholders. We have however developed a logical sequence of processes within each phase that is broadly representative of the activities that the various stakeholders engage in.

3.2 Pre-Sale Phase

The following processes occur within the Pre-Sale phase of the conveyancing process.

3.2.1 Developer's Solicitor Gathers "New Development" Documentation (New developments Only)

This process relates exclusively to new developments. This is considered "good conveyancing practice" and has increasingly been adopted by property developers (as the vendor in the transaction). The property

developer applies for and gathers title documents and certificates relevant to the sale. This documentation may include: planning permission, fire safety certificate, commencement notice, location maps or floor area certificate. These paper-based documents are sourced from the relevant organisations (e.g. local authority, Land Registry) and may be compiled into a “booklet of title”. Copies of this standard pack of documents are issued to the purchaser’s solicitor when a sale has been agreed.

This process can be time-consuming as the property developer applies for the requisite documents. Delays are often incurred in obtaining the necessary building documentation. It is not mandatory for a property developer to produce a booklet of title and the quality of documentation can vary.

3.2.2 Vendor Appoints an Estate Agent to Market the Property

The vendor may decide to manage the sale independently but often they appoint an estate agent to market and sell the property. The vendor and the estate agent agree on broad terms of sale and the estate agent drafts a letter outlining these conditions. The estate agent is responsible for preparation of marketing materials, organisation of viewings of the property and management of communications with potential purchasers. This process is paper based and manually organised at present. The estate agent is increasingly using on-line media (e.g. websites) to market properties and communicate with potential purchasers (i.e. email).

3.2.3 Vendor Appoints a Solicitor to Act on Their Behalf

The vendor appoints a solicitor to advise on the sale of the property. The solicitor is under a statutory obligation to agree the terms of engagement with their client. Although there is no need for a ‘Section 68 Letter’ where the consumer is an existing client, a letter setting out the terms will normally be issued. The vendor gives the solicitor their authority to take up the title deeds. The solicitor may prepare a “Selling House” questionnaire with the vendor, discuss other requirements such as: PPS number, tax implications of the transaction and obligations in relation to money laundering legislation. Much of the communication between the vendor and the solicitor is paper-based. The point in the process in which the solicitor is appointed may also vary in some cases, as they may not be appointed until the Sale Agreed phase.

3.2.4 Purchaser Researches Financing Options

This process involves a purchaser researching their financing options. This may involve the purchaser operating independently or engaging the services of a mortgage broker to arrange finances on their behalf. The mortgage broker researches the various options and presents them to the purchaser. The key steps involved in a purchaser researching their own financing options with the financial institution are described in the process “Vendor completes mortgage application process”.

3.2.5 Vendor’s Solicitor Requests the Title Deeds from a Financial Institution

The vendor’s solicitor investigates the nature of the title to the vendor’s property. In order to do this they need to locate and examine the title deeds. The title deeds are usually stored physically with the solicitor (or a previous solicitor), financial institution or local authority. The relevant stakeholder retrieves the deeds from storage and sends them to the vendor’s solicitor for inspection. The title deed documents are maintained in (engrossed) paper format. Difficulties and delays in locating and taking up the title deeds are often cited as a key problem area with the current process. Deeds can be misplaced, held by a previous solicitor or by a financial institution or be in the process of being registered by the Land Registry. To access the title deeds (from the financial institution), the solicitor provides the financial institution with documentary evidence that they have the vendor’s authorisation to take up the deeds. This again can increase delays associated with the process.

3.2.6 Vendor's Solicitor Checks Vendor's Title and Drafts a Contract and Conditions of Sale

The vendor's solicitor examines title deeds to ensure that the vendor has good marketable title to the property. In some instances, this may involve conducting title and planning searches with the Land Registry and relevant local authority.

The activities conducted by the vendor's solicitor during the pre-sale phase may vary significantly. For example, there is no standard set of searches that are conducted by the vendor's solicitor in advance of sale.

3.3 Sale Agreed Phase

The following sub-processes are conducted during this phase of the process:

3.3.1 Vendor Agrees Terms with the Purchaser

This process begins when a purchaser places an offer on a property and pays a nominal booking deposit. There is no legal basis for this process and both parties have a period of approximately three working weeks (in a residential property transaction) to commit to or withdraw from the transaction. The estate agent may address a letter to the vendor's solicitor outlining the "heads of agreement" in regard to the purchase.

The current process has limited transparency as the purchaser and vendor rely on the estate agent to keep them informed. In addition, it does not prevent what is commonly known as "gazumping" (i.e. an independent purchaser making a subsequent offer directly to the vendor or via the estate agent which is accepted by the vendor) occurring during this part of the transaction.

3.3.2 Vendor's Solicitor Prepares and Sends Contract

Based on their review of the title documentation and the agreed terms, the vendor's solicitor will draft a paper-based Contract for Sale and post it to the purchaser's solicitor. The Contract for Sale is usually based on a standard template developed by the Law Society of Ireland.

3.3.3 Purchaser Commissions a Survey

Typically, a purchaser is advised by their solicitor or financial institution to arrange for a survey(s) to be carried out on the property. The costs of the survey are borne by the purchaser. These may include the following:

- **Building Survey** - It may be prudent to engage a surveyor to conduct a general or building survey, particularly with second hand properties. This survey examines the property, including its structure and present condition. The surveyor carries out the survey and submits a written report to the purchaser with the findings.
- **Land Survey** – A land survey assesses the land and the boundaries of the property or site being acquired. This involves the mapping of the relevant property and comparing it to the Land Registry's records of the property boundaries. This includes issues regarding access and right of way.
- **Valuation/"Drive-by" Survey** - If a purchaser is obtaining a mortgage, the financial institution will be required to carry out a valuation or "drive-by" survey. The surveyor sends the valuation report to the purchaser and purchaser's financial institution if necessary.

There is limited understanding of the surveying process and the different types of survey that can be carried out. The surveying profession is unregulated and the quality of surveys conducted may vary. In addition, land surveys are not recognised as part of a standard part of the conveyancing process despite issues in many instances (according to surveyors) about the accuracy of the maps held at the Land Registry.

3.3.4 Purchaser Completes a Mortgage Application

Should a mortgage be required, a purchaser completes a mortgage application process with the financial institution. The mortgage approval process usually involves seeking one or more quotes from different institutions as regards: interest rates, loan period, terms and conditions applying. If the purchaser chooses to accept this quote, the financial institution requires a solicitor to be appointed. The financial institution issues a letter of offer to the purchaser and a legal pack to the purchaser's solicitor. Included in this will be instructions to both the purchaser and their solicitor detailing the required actions, which generally include:

- Completing a direct debit mandate for mortgage repayments and life assurance.
- The provision of a standard form of undertaking by the purchaser's solicitor.
- Engaging a surveyor to complete a valuation report.
- Ensuring that conditions of the Family Home Act are complied with.
- Obtaining a life assurance policy (which often leads to delays in issuing the mortgage loan cheque).

The mortgage application process is intensely paper-based at present and involves a three-way communication flow between the purchaser, purchaser's solicitor and financial institution. The documentary requirements of the financial institutions differ and there is no standard or consistent mortgage application process. This process can add significant delays to the overall process.

3.3.5 Purchaser's Solicitor Investigates Title and Carries Out Pre-Contract Enquires

The purchaser's solicitor receives the draft contract and other documents supplied by the vendor's solicitor (e.g. copies of the title documents). They are responsible for ensuring the marketability of the title and so engage in a process of investigation of title. To this end, the purchaser's solicitor may carry out searches, typically with the Planning Departments of local authorities. The solicitor may engage the services of a law search agent to conduct this on their behalf given their experience and indemnity provided as part of the search service.

The solicitor reviews the contract, the title deed and the results of the searches and may raise pre-contract enquiries with the vendor's solicitor. These enquiries are sent to the vendor's solicitor, typically by post or email. The vendor's solicitor responds to these enquiries accordingly. The Contract for Sale may be amended at this point, due to things like "special conditions" changing and re-issued to the purchaser's solicitor. The final draft of the Contract for Sale is agreed upon and sent to the purchaser's solicitor.

There is significant variance in the manner in which this process is conducted. It can be time-consuming and complex, involving substantial paper-based communication between the solicitors. This process is perceived as a significant source of delay by stakeholders.

3.4 Contract Signed Phase

The following sub-processes are conducted during this phase of the process:

3.4.1 Purchaser's Solicitor Ensures That All Relevant Searches Are Conducted

As outlined above, the purchaser's solicitor will ensure that any searches conducted or commissioned are completed to their satisfaction. There is no set of standard searches that a purchaser's solicitor must carry out as part of a conveyancing transaction or no defined point in the transaction when these should be carried out.

3.4.2 Sign Contract and Pay Deposit

Upon agreement of the draft contract for sale, the vendor and the purchaser physically sign the contract. This legally binds both parties to the transaction. Once the contract has been signed, the balance of the deposit of typically 10% of the purchase price may be paid to the vendor's solicitor in the form of a cheque or bank draft. The vendor's solicitor informs the estate agent that the contracts have been signed. Communication throughout this phase tends to be paper-based or telephone calls between the purchaser, purchaser's solicitor, vendor, vendor's solicitor and estate agent.

3.4.3 Purchaser's and Vendor's Solicitors Raise and Respond to Formal Requisitions on Title

The requisitions process relates to the queries managed by the purchaser's solicitor and the vendor's solicitor in the period following the contract being signed and prior to closing. Requisitions are questions asked by the purchaser's solicitor of the vendor's solicitor. They are defined in the Contract for Sale as including: "requisitions on the title or titles as such of the Subject Property and with regard to rents, outgoing, rights, covenants, conditions, liabilities (actual or potential), planning and kindred matters and the taxation issues material to such property". Should some of the replies not be acceptable to the purchaser, the purchaser's solicitor issues what are referred to as rejoinders to the vendor's solicitor. The process of correspondence will continue until the purchaser solicitor is satisfied with replies and proceeds to the closing phase of the transaction. There are recommended time limits for this part of the process set out in the Contract of Sale. The Law Society has developed a template for standard requisitions. There are currently 44 standard requisitions listed in the template and the document is over 50 pages long.

The process of raising requisitions represents a two-way exchange between the purchaser's solicitor and vendor's solicitors that generally occurs post-contract. The process may be conducted by letter / postal method or via the CORT system where both solicitors have the requisite technology. While requisitions should be raised within fourteen working days from the date of sale or delivery of title to the purchaser, in reality the process often takes longer, as this process may be used by solicitors as a "delaying" mechanism for the benefit of their client.

3.4.4 Purchaser's Solicitor Drafts a 'Purchase Deed' and Seeks Vendor's Solicitor Approval

When the purchaser's solicitor is satisfied with the vendor's responses to the requisitions, they can draft the appropriate purchase deed for the transaction. The purchase deed vests interest and title in the subject property in the purchaser. It gives effect to the intention of the two parties, as expressed in the Contract for Sale, to make, confirm or concur in an assurance of some interest in the property.

In the majority of conveyancing transactions, the deed of purchase is drafted by the purchaser's solicitor and sent for approval to the vendor's solicitor. The purchaser's solicitor is responsible for ensuring that the deed provides for the transfer of the title described in the Contract for Sale to the purchaser.

3.5 Closing Phase

The following sub-processes are conducted during this phase of the process:

3.5.1 Purchaser's and Vendor's Solicitors Prepare for Closing

In advance of closing, the various parties have a number of responsibilities. The key activities that are completed within the scope of this process include the following:

- Requesting mortgage redemption figures (if applicable).
- Engrossing the deeds.

- Preparing the certificate of title (for the financial institution).
- Arranging and confirming the date / location of the closing meeting.
- Obtaining of tax clearance certificates such as capital gains tax, residential property tax, etc.

This process involves significant paperwork and communication between the various parties. There are many types of purchase deed depending on the nature of the ownership being sought (i.e. freehold or leasehold) and the registration status of the property (registered or unregistered) and deeds can vary in complexity. There may be delays experienced by the (vendor's) solicitor in receiving mortgage redemption figures and closing dates are often changed and can be perceived by some stakeholders as "wish dates", rather than fixed.

3.5.2 Request Funds from Purchaser's Financial Institution

Where the purchase is being financed by way of a mortgage, the purchaser's solicitor requests the funds from the purchaser's financial institution through the issuance of a requisition form. The purchaser should have submitted all outstanding documentation ("checklist") to the financial institution in advance of closing, there can be delays due to customers getting life insurance cover. The financial institution issues the funds to the solicitor by way of cheque, bank draft or electronic funds transfer.

Until the mid-1980's, it was standard practice for the lending institution to employ its own solicitor to investigate the title and put in place the security required to support the purchaser's loan. This was costly for the consumer who was obliged to pay two sets of legal fees and it led to delays in the issue of loan cheques. As a result, the Law Society of Ireland and the financial institutions agreed a system (usually referred to as the "Certificate of Title system") for all residential lending transactions. This involved dispensing with the requirement for two solicitors on the basis that the purchaser's solicitor would provide the financial institution with a Certificate of Title. This meant that the solicitor in question would warrant the title if the financial institution was forced to realise its security. The purchaser's solicitor would also arrange for the completion and registration of the security documents. Under the Certificate of Title system, the loan is paid through the purchaser's solicitor on the basis of their undertaking to furnish a Certificate of Title and ensure that the security documents are correctly executed, stamped and registered.

The requirement for a formal cheque requisition from the (purchaser's) solicitor to the financial institutions may vary while the cheque can on occasion be made out to the wrong party by the (purchaser's) financial institution.

3.5.3 Conduct Snag List (New properties only)

This process applies to new properties when the developer's completion notice for the property has been received by the purchaser. A snag list is a list of defects or items outstanding in the newly-built property. The purchaser may conduct the "snag" inspection themselves or engage a suitably experienced surveyor, engineer, architect or builder to "snag" the property. A snag list is submitted to the property developer (as the vendor) who arranges for the "snagging" to be completed (i.e. defects rectified). Upon completion of the snagging, the property may be inspected a second time.

3.5.4 Close Sale Including Closing Searches

On the day of closing, a number of activities may be conducted. These may include:

- Purchaser's solicitor conducts closing searches against the property and the vendor.
- Purchaser's solicitor receives funds from the purchaser's financial institution.
- Vendor's solicitor arranges documents for the closing meeting.

- Close sale, including the signing and witnessing of the purchase deed and mortgage deed, family home declaration and other ancillary documents.

As outlined above, many of the search processes that may be conducted at this stage are manual, paper-based, in multiple locations and are managed by law searchers or solicitors individually. The documents required by the purchaser's solicitor are arranged for the closing meeting. The vendor vacates the property and is obliged to remove their furniture and effects (unless otherwise agreed). The purchase deed is signed by the vendor. At the close meeting, the vendor's solicitor transfers all title deeds to the purchaser's solicitor in exchange for the purchase amount due. The purchaser's solicitor generally transfers these funds to the vendor's solicitor by cheque, bank draft or electronic means to the client account of the vendor's solicitor. In most cases, the transaction will complete at this point, however, in some cases, these activities may be spread over a few days.

3.6 Post Closing Phase

The following sub-processes are conducted during this phase of the process:

3.6.1 Solicitors Manage the Post Closing Process

The post-closing phase commences once the sale is completed (i.e. purchase deed has been handed over in exchanges for the purchase money). The vendor's solicitor and the purchaser's solicitor have "post-closing" responsibilities, including:

- Vendor's solicitor vacates existing mortgage (i.e. pays off any outstanding mortgage).
- Purchaser's solicitor pays stamp duty.
- Purchaser's solicitor registers deeds in the Land Registry or Registry of Deeds.
- Purchaser's solicitor stores the title deeds, pending getting vacated mortgage and any other documents necessary to give a certificate of title. Upon receipt of these, the solicitor forwards the title deeds to the financial institution as security.
- Vendor pays any other taxes due.

This overall post-closing process can take considerable time and effort particularly on the part of the purchaser's solicitor as regards the registration process. Errors may be made which further complicate the process. These processes are described in greater detail below.

3.6.2 Purchaser Pays Stamp Duty

Stamp duty is a tax payable by the purchaser to the Revenue Commissioners on property transfers and mortgages. At present, there are many different rates of stamp duty payable and reliefs that can be sought in relation to stamp duty. In some instances, due to complexities, the solicitor may seek an adjudication by Revenue. The duty is paid to the Stamping Office in the Revenue Commissioners usually by a solicitor or an agent acting on the solicitor's behalf. Penalties can be imposed for late or inaccurate stamp duty payments. In order to pay stamp duty the solicitor/purchaser must gather substantial paper-based documentation, including the following:

- Deed of transfer (purchase deed)
- Particulars Delivered form
- Mortgage Deed
- Memorial(s) (for unregistered land)
- Certificates/forms when requesting any applicable exemptions

- Cheque made out to the Revenue Commissioners for the required amount.

Upon receipt of the requisite documentation, the Revenue Commissioners confirm that all is in order before proceeding to physically stamp the deeds. These stamped deeds are then returned to the solicitor.

3.6.3 Purchaser's Solicitor Registers Title in the Land Registry or Lodges Deed with the Registry of Deeds

Registration refers to the process of registering title with the appropriate registry. Registered properties are registered with the Land Registry while deeds transferring unregistered land are lodged in the Registry of Deeds. Registered title is guaranteed by the State. Once the sale is closed and the stamp duty has been paid the purchaser's solicitor can submit an application to the appropriate registry. The registration application may be submitted online to the Land Registry but the associated documentation is submitted physically. All applications in relation to unregistered title must be physically submitted to the Registry of Deeds. The solicitor may also submit an application for "first registration" (i.e. convert title from unregistered to registered property). The appropriate personnel within the Land Registry or Registry of Deeds check the documentation and decide whether to accept, query or reject the application. This can be a straight-forward and quick process in regard to routine applications or lengthy process (i.e. several months) in regard to complex registrations and first registration applications.

At present, a high proportion (i.e. 40%) of registration applications are queried or rejected. The reasons for these rejections / queries are largely due to basic omissions, incomplete documents, errors within the associated documentation and incorrect fees. The quality of maps can vary significantly too and require querying. Additionally, there is a significant backlog of first registration applications requiring the review of an Examiner of Title within the Land Registry. (Note: Issues associated with the registration process are presented in more detail in Chapter 5 of the report).

3.6.4 Vendor Vacates Existing Mortgage

In situations where the vendor has an outstanding mortgage on the property, they are required to settle or "vacate" the existing mortgage on that property. This is usually carried out following the transfer of funds from the sale of the property to the vendor's solicitor. The vendor's solicitor confirms the mortgage redemption figure with the financial institution and pays the amount due. Once the vendor's financial institution receives the payment, it authorises the mortgage to be vacated. This involves retrieving the mortgage deeds and sealing them. The vacated (i.e. with release completed by the vendor) mortgage deed is sent to the vendor's solicitor. The vendor's solicitor sends the vacated mortgage deed to the purchaser's solicitor for lodging in the appropriate registry. There is no standard mortgage vacate process across the industry at present and the financial institutions' internal processes can vary.

3.6.5 Vendor Pays Any Other Taxes Due

The vendor may also be liable for payment of tax following the sale of the property. This may include VAT (Value Added Tax), CGT (Capital Gains Tax) or CAT (Capital Acquisitions Tax). The vendor's solicitor may discuss with the vendor timing for payment of the taxes pertaining to the property transaction.

3.6.6 Purchaser Stores Deeds

The majority of deeds are stored with the purchaser's financial institution. It should be noted however that the deeds could also be stored the purchaser's solicitor if there is no mortgage or until sent to the lender with a certificate of title, local authority (if the local authority provided the finance) or by the purchaser independently.

When preparing the deeds for storage with the financial institution, the purchaser's solicitor should prepare a schedule detailing the specific documents in the bundle. These deeds are sent to the purchaser's financial institution. Once the purchaser's financial institution is satisfied that everything is in order, it files the deeds and updates the financial institution's database. The (direct and indirect) costs associated with physical storage of files by the financial institutions and local authorities are substantial. The schedule of deeds can also be incompletely submitted to the (purchaser's) financial institution, thereby further complicating the retrieval of deeds process (in a subsequent sale of a property).

3.7 Ancillary Processes

There are a number of other processes that support the conveyancing process. These can affect how the core processes are conducted. They include the following:

3.7.1 Local Authority Processes Planning Permission Application

In advance of building or substantially altering a property in Ireland, it may be necessary to obtain planning permission from the relevant planning authority in advance of construction. This process is managed (during the pre-sale phase) by the vendor (or their architect), the vendor's solicitor and the relevant local authority. There are different types of planning permission that may be sought. The process of lodging and managing the planning permission process is paper-intensive and can be a lengthy, time consuming process.

3.7.2 Property Developer Submits Scheme Map to the Land Registry for Pre-Mapping

In advance of the sale of a new scheme of properties (e.g. multi-storey building), a property developer submits a scheme map (5 sites plus) to the Land Registry for "pre-mapping". The map is submitted in paper form in accordance with guidelines issued by the Land Registry. The Land Registry's Mapping Section updates their master maps based on these plans. At present, there is significant variance in the quality of maps submitted by the property developers with a significant proportion needing to be queried or rejected. In addition, there is no requirement for the property developer to submit an "as built" map after construction with the result that the legal records in the Land Registry may not accord with the actual physical location of the property.

3.7.3 Apply for First Registration with the Land Registry

"First registration" refers to the process of registering title with the Land Registry for the first time. While registration is mandatory in certain circumstances, it is typically voluntary in most cases. There are many types of first registration types. The solicitor applies for first registration and submits the requisite documentation in physical form for full or abridged examination. An Examiner of Title is assigned by the Land Registry to manage the application. The Examiner reviews the application and associated documentation and decides whether to accept, serve notice, query or reject the application. The communication process is predominantly paper-based at present. It can be a time-consuming, complex process with significant delays, which has influenced some developers' decision to not register unregistered properties in the Land Registry.

3.7.4 Local Authorities as a Law Agent in the Conveyancing Process

There are several ancillary processes that local authorities engage in as a core stakeholder in the conveyancing process. This can apply when the local authority acts as a purchaser or vendor in a transaction. The local authority can also provide financial support to a purchaser through the various schemes it manages, such as the Affordable Housing and Shared Ownership schemes. There are several activities that the local authorities may engage in as part of this role. This includes internal processes, such as: the approval and sealing processes it undertakes, compulsory registration and acting as its own estate agent, law agent or financial institution. Broadly speaking, the processes conducted by the various local authorities are similar although systems may vary somewhat.

3.8 Summary

At a high level, the conveyancing process can be viewed as a simple process of administering the change in ownership of a property. The stakeholders can be perceived as custodians ensuring the process is managed correctly and rules are adhered to. However, the process has become progressively complex as the business environment evolves and the scope of responsibilities undertaken by stakeholders (particularly solicitors) broadens. The current processes and ways of working are increasingly perceived as being in need of reform and modernisation.

In Chapter 5, we present our findings with respect to the current process. It includes descriptions of the issues and inefficiencies associated with the various processes outlined in this chapter, as well as identifying opportunities for improvement to the processes.

4. STAKEHOLDER ANALYSIS

The successful transition to an eConveyancing environment will be largely influenced by the stakeholders' interest/motivation in an e-enabled method of operation (i.e. what benefits they expect) and their ability to transition from their present method of operation to the new environment.

With this in mind, we undertook a high-level assessment of each of the main stakeholder groups in the conveyancing process with an emphasis on the situational factors, risks related to change magnitude and their readiness to move to an 'e-enabled' environment.

The following stakeholders, who are considered to be the key players in an eConveyancing environment, were reviewed from the perspective of readiness for change to an eConveyancing environment:

- Estate Agents
- Solicitors
- Financial Institutions
- Property Developers
- Law Searchers
- Surveyors
- Revenue Commissioners
- Land Registry
- Registry of Deeds
- Local Authorities
- The Court Service.

The analysis presented in this chapter is a subjective assessment based upon, workshops/interviews with the stakeholder and a telephone survey (mainly on IT matters).

In subsequent subsections, each stakeholder is described and analysed under the following headings:

- **Stakeholder Description** - gives an overview of the stakeholder group.
- **Stakeholder Role** – outlines the main role(s) of the stakeholder in the conveyancing process.
- **IT competency** – analyses the stakeholder's current state of IT capability and their future IT strategy and their IT resources.
- **Motivation / Opportunities** - identifies factors that may influence a stakeholder's interest in a move to an eConveyancing environment, such as: greater operational efficiency, reduction in costs or acceleration of their processes.
- **Barriers to e-conveyancing** - identifies issues or problems (that are either people, process or technology-related) that may affect their adopting to an eConveyancing environment.
- **Change Readiness Evaluation** – is an overall assessment of the stakeholder's ability to change.

4.1 Estate Agents

4.1.1 Stakeholder Description

Estate agents and auctioneers in Ireland are generally involved in three core activities relating to property: property sales, property letting and property management. The property sales role (in respect of residential properties) is the most relevant to this review.

The estate agency industry in Ireland is self-regulated. A report by the Auctioneering/Estate Agency Review Group to the Minister for Justice, Equality and Law Reform in July 2005 recommended changes designed to bring in professional qualifications, a code of ethics and an industry oversight body.¹⁶

There are two main professional bodies which estate agents or auctioneers may be affiliated to:

- The Irish Auctioneers and Valuers Institute (IAVI).
- The Institute of Professional Auctioneers and Valuers (IPAV).

The estate agency business has traditionally been fragmented in Ireland but the housing boom in the recent years has brought about consolidation within the industry and the emergence of new business models, such as franchising and internet only providers.

4.1.2 Stakeholder Role

The majority of residential property sales in Ireland involve the appointment of an estate agent to manage the sale on behalf of a vendor. The role involves marketing the property through advertising and arranged viewings. In regard to public auctions, the estate agent also manages the auction on the day. The estate agent matches the purchaser with the vendor and receives a booking deposit on their behalf. An estate agent can also provide professional services such as valuations.

4.1.3 IT Competency

There is no detailed analysis of IT usage by estate agents, so the analysis here is based on our meetings with a number of estate agencies of differing sizes.

Estate agents have typically deployed IT systems within their own organisations for:

- Internet website: principally used for marketing available properties
- Email
- Databases to record buyers, sellers, property sales etc.
- Electronic Diary: to track appointments and bids
- Brochure design products
- Accounting.

¹⁶ [http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6HADRB-en/\\$File/AuctioneeringEn.pdf](http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6HADRB-en/$File/AuctioneeringEn.pdf)

4.1.3.1 *Current IT Capabilities*

- **There is a broad coverage of basic IT capability across the profession.** It is estimated that approximately 98% of full-time estate agents have IT systems in place.
- **Specialist IT packages are available for the industry.** There are a number of customisable packages for some agencies. It is estimated that approximately 50% of estate agents have such software systems in place to support their business.
- **Current eCommerce capability is limited.** The majority of estate agents have access to email and the Internet. An estimated 85% to 90% of estate agents use the Internet to advertise properties. Estate agents typically have their own Internet web sites where they advertise their properties; however, they tend to be passive advertising sites and do not involve any form of online interaction or transaction activity. A number of commercially-developed portals have also emerged (e.g. nicemove.ie, myhome.ie, ezhome.ie).
- **There continues to be a heavy reliance on paper-based communication.** Estate agents generally store standard letter templates, which they use in communications with other parties in the conveyancing process.
- **There is limited information exchange between estate agents.** Estate agents do not actively communicate with each other electronically.

4.1.3.2 *IT Readiness for eConveyancing*

The IT systems in place and IT usage appear to vary greatly between the different estate agents with some still operating very much on a paper basis. The size of the estate agency is a key contributory factor in this assessment. Despite the level of usage of IT systems and supporting systems in place, most have embraced the technology changes of recent years, most notably with regard to e-marketing and informal communication. As a stakeholder group, we believe that the estate agents would adapt well to IT change.

4.1.4 *Motivation/Opportunities*

There are several potential benefits that an eConveyancing environment could bring to the stakeholder group:

- **Improved administration and communication processes** particularly with solicitors, which can be time-consuming.
- **Improved clarity and understanding** from purchasers and vendors in a transparent eConveyancing environment would lead to fewer queries being made by purchasers / vendors throughout the process.
- **Improved cash flow** for estate agents through shortened conveyancing cycle times.
- Access to online information databases.

4.1.5 *Barriers to e-conveyancing*

The high-volume estate agents may be more positively disposed to the opportunities than smaller players. The following issues should be borne in mind:

- **Major culture change will be required** as physical client interaction is the normal modus operandi for many estate agents.
- Smaller estate agents may find entry costs to an eConveyancing environment excessive due to the limited financial and technical resources available to them.

4.1.6 Change Readiness Evaluation

The estate agent industry has seen considerable change in recent years, some of the main drivers include:

- Considerable growth in the property market has led to greater customer demand.
- New entrants to the market and increased competition.
- IT advancements, particularly in use of the Internet as practically all property is now marketed via the Internet.
- New business models have also developed.

The majority of estate agents are perceived to be reasonably well organised in their dealings with vendors, purchasers and solicitors. There are varying levels of understanding of eConveyancing and its potential implications. In general, the larger firms are more enthusiastic as they can see benefits, whereas the smaller firms see fewer benefits for their businesses.

4.2 Solicitors

4.2.1 Stakeholder Description

There are currently over 6,000 solicitors practising in Ireland. Conveyancing (residential and commercial) property on behalf of their clients (i.e. the vendor or purchaser) is a significant part of most law firms' business. The profile of solicitor firms varies considerably across the country, including:

- **“Tier 1” full service provider legal firms:** There are a small number of large-scale solicitor firms that advise organisations and private citizens across a broad range of legal practice.
- **Conveyancing specialist firms:** These are predominantly small and mid-sized solicitor firms that specialise in conveyancing.
- **Small sized and “one-person” family solicitor firms.** There are a substantial number of small-sized solicitor firms and partnerships that provide legal advisory services across a range of services to the “average” consumer. Conveyancing may or may not be a significant service line for these firms.

The Law Society of Ireland is the professional body for solicitors. Its role is as the educational, representative and regulatory body for members of the solicitors' profession in Ireland.

4.2.2 Stakeholder Role

Solicitors are central to the conveyancing process. A solicitor is required to be appointed by the purchaser and vendor in order that ownership of a property can be legally transferred. The solicitor's role is to protect the interests of their client throughout the lifecycle of the transaction (i.e. from pre-sale to post-closing). In this way, the main function of the solicitor is to assess the vendor's title to ensure that they have “good and marketable title”. In addition, the solicitor will advise their client on several other aspects of conveyancing such as planning, taxation and financing.

4.2.3 IT competency

The Law Society's Technology Committee has recently launched a Technology Survey to assess the IT competency of its members. The results of this survey are expected to be available by March 2006, so an in-depth assessment of this critical group is not available at the time of writing. However, based on our consultations with individual solicitor firms to date, the supporting systems that solicitors typically use are:

- Internet: often used to get a copy of their client's folio from the Land Registry. The Web is also used for advertising services.
- Email
- **CORT:** a software package for word processing typically used for requisitions
- Case Management Systems that are used to configure workflow steps and prompt certain activities.

4.2.3.1 Current IT Capabilities

- **Basic IT skills and usage predominates the profession at present.** The solicitor profession relies heavily on paper-based communication. Most solicitors have PCs but a significant proportion would continue to rely on Personal / Executive Assistants to conduct their daily word processing and associated responsibilities. While the extent of IT literacy varies significantly across the profession, as a whole the profession's use of IT continues to be basic and conservative.
- **There is limited IT enablement of the conveyancing process within the solicitor profession.** Solicitors (as a group) have not to date embraced available IT solutions for conveyancing.

- **The Law Society recognises the potential opportunity of eConveyancing.** We understand that the Law Society has recently established an “eConveyancing Task Force” to evaluate the potential that could be harnessed for solicitors through the design and deployment of an appropriate eConveyancing solution for Ireland.

4.2.3.2 IT Readiness for eConveyancing

A clearer impression of solicitors’ IT readiness for eConveyancing will emerge in 2006 from The Law Society’s Technology Survey.

The general impression is that solicitors are not as advanced technologically as other stakeholders involved in conveyancing. They tend to have a strong reliance on paper documents and postal correspondence.

4.2.4 Motivation/Opportunities

The extent of solicitors’ interest in and motivation for eConveyancing varies. While some solicitor firms may see the opportunities it could present, others may see it as a threat to their relationships with their clients and a dilution of their role, however, based on the experience from other jurisdictions, solicitors have seen benefits from eConveyancing and support it.

4.2.5 Barriers to e-conveyancing

In regard to solicitors, barriers include the following:

- **Solicitors tend to be cautious in their communications** with other stakeholders (including solicitors) within the conveyancing process. Despite its availability, there has not been a major move towards email as a mode of communication.
- **Concerns that eConveyancing might lead to new entrants to the conveyancing market.** Some solicitors may fear that eConveyancing may herald the entry of new entrants into the market, including conveyancing agents, “mass conveyancers”, etc. and threaten the solicitor’s traditional position.
- Concern that eConveyancing could lead to a dilution in the role of the solicitor within the transaction or have a significant effect on fee income.

4.2.6 Change Readiness Evaluation

Whilst the legal environment within which solicitors operates has become increasingly complex, solicitors have adapted relatively successfully to this new environment. Solicitors have broadened the scope of their responsibilities but this has not been accompanied with a significant change in how they operate.

Technological solutions do exist for solicitors that may reduce process time, administrative effort and enhance communications between stakeholders, however, to date there has been limited success in their deployment. Overall, the success of change implementation is varied throughout this stakeholder group and some see eConveyancing as a possible threat to how they do business while others see it as “the future” and a natural evolution. We expect that solicitors’ transition to eConveyancing would be incremental over a significant period of time.

4.3 Financial Institutions

4.3.1 Stakeholder Description

Financial institutions include the main banks and building societies currently operating in Ireland. The Irish Mortgage Council (IMC), which is affiliated to the Irish Bankers Federation, represents and acts as a discussion forum for mortgage lenders in Ireland. It was established at the beginning of 2003 and currently has twelve member institutions.

4.3.2 Stakeholder Role

The financial institutions play a major role in the conveyancing process, as it is very rare that a property is purchased without the purchaser taking out a mortgage from a financial institution. The financial institution typically provides approval in principle for the purchaser before a contract is signed. It will usually issue a formal offer and seek property valuations and various terms and conditions.

At close of sale, the purchaser's solicitor requests the funds for the mortgage amount that has been approved for the purchaser, from the purchaser's financial institution. The payment can be made in full on the closing day or in staged payments, where appropriate. The vendor's financial institution usually holds the deeds, as security on the loan, once the sale has been closed.

4.3.3 IT Competency

The Irish Mortgage Council (IMC) provided general information regarding the IT competencies of the financial institutions. In addition, we carried out structured interviews with two financial institutions. Each of the financial institutions has their own IT systems in place. Examples of the systems used include:

- Internet website providing customers with the facility to apply for a mortgage online, request mortgage quotes and access information on different products available.
- Document imaging system often used to scan deeds and other important documents.
- Lending system to store lending details.
- Security system.

4.3.3.1 *Current IT Capabilities*

There is a high level of IT usage in the financial institutions and it would be a strong competitive differentiator. Most data is stored electronically, database systems are used extensively and server structures are in place. IT security is a main priority for the financial institutions. Email is used internally but not so extensively with external parties.

Each of the financial institutions communicates directly with the Revenue Commissioners in order to process the tax relief for mortgages. The connect direct methodology is employed for this communication. This process and method of communication is working well. However, the financial institutions interact with the Revenue Commissioners for other types of transactions in the conveyancing process and these do not work well and are still very much manual and paper-based.

4.3.3.2 *IT Readiness for eConveyancing*

From an IT readiness perspective, it is considered that all of the financial institutions are in a different state of readiness. All have a good level of IT capability and systems infrastructure in place. Factors that would need to be considered for the financial institutions include the following:

- **Each of the financial institutions has strong demand on IT resources.** There are new regulations being introduced on a regular basis which require some sort of change to the IT systems. As a result, there could be a considerable lead time that would need to be considered for introducing an eConveyancing solution.
- **Some of the financial institutions still have legacy systems in place.** Some of the core systems are 10-20 years' old. These systems would have more issues in integrating into an eConveyancing solution.

4.3.4 Motivation/Opportunities

Financial institutions can see benefits arising from a move into an eConveyancing environment. Some of the benefits identifiable for them include:

- **Process transparency** – This would help reduce overall process time.
- **Operating and administrative efficiencies** – There would be substantial reductions in time and paper documentation throughout the process.
- **Eliminates current requirement for deeds tracking and storage** - the current manual process of storing, tracking and retrieving deeds would no longer be required. Storage and tracking costs would not apply.
- **More control points in process** – Automated processes by their nature can lead to more control and audit points in the process leading to less error and downtime.
- **Automated Processes** – possibilities for implementation of automated underwriting rules for mortgage applications would lead to faster and more cost-effective end-to-end mortgage application processing.
- **Decreased Costs.**
- **Risk Management / Capital adequacy** – eConveyancing will ultimately enable the financial institutions to be certain that their security is in place at time of loan draw-down, thus reducing risk and positively impacting on Basle II requirements.

4.3.5 Barriers to eConveyancing

Some of the possible barriers to a speedy and successful implementation of an eConveyancing solution include:

- **Relative size of benefit** – financial institutions may not consider that the benefits are not large enough to justify a major investment.
- **Regulatory impacts** – these may impact on the timeframe for an implementation, as all of the financial institutions are resource constrained and thus will be required to prioritise regulatory type projects.

4.3.6 Change Readiness Evaluation

The financial environment in Ireland, within which the financial institutions operate, has witnessed major change in recent years. The main drivers for change within the industry in recent years include such things as an increasingly complex regulatory environment and the number of new entrants.

The financial institutions have proved themselves to be flexible and dynamic in adapting to a more competitive and technologically advanced society. Some of the key recent manifestations of change, including technology change, include: online banking, automated payments to all staff and flexible contact hours for customers.

There are however some areas within the financial institutions that are predominantly paper-based involving large amounts of documentation, such as mortgage processing from start to finish. There can also be delays in retrieving and sending out deeds. There are no specific industry-level plans at present for eConveyancing, however, financial institutions appear to be positively disposed towards eConveyancing.

4.4 Property Developers

4.4.1 Stakeholder Description

Property developers undertake new property developments, which are subsequently sold in the conveyancing process. The Construction Industry Federation (CIF) represents a number of the property developers in Ireland - approximately 5,000 companies who in turn are responsible for over 75% of the industry's turnover.

4.4.2 Stakeholder Role

The property developer is responsible for planning, designing and constructing new property developments. As part of this role, the developer is responsible for acquiring planning permission and building certificates to confirm that proper building standards have been maintained. The property developer plays the role of vendor and may sell the property themselves or engage an estate agent to sell the property for them.

4.4.3 IT Competency

At present, there is no information available at an industry level with regard to the IT capabilities of developers. Each of the developers has their own IT systems in place and there appears to be no common platform in place across the industry. An example of the systems used would include:

- Internet website.
- Email, used to communicate with different parties in the conveyancing process.
- File Management systems used for retrieval of documents and security purposes.
- Mapping system used to produce maps that are sent to the Land Registry for approval.
- Design system to design new developments.
- Sales process management system to track the properties and to record customer details.

4.4.3.1 Current IT Capabilities

The Internet and email are widely used to communicate with external parties. Access to IT systems is normally restricted to the office-based professional staff, for example, the engineers. The site foreman would also normally be provided with access to IT facilities.

Developers may store standard letter templates, which they use in communications with other parties in the conveyancing process. Some may use file management systems and scan any documents received. It was noted that a number of the smaller subcontractors to the developers do not use IT systems and communicate largely with paper documents.

The larger firms tend to be more sophisticated and rely more on technology. At an industry level, there are no common IT strategies in place.

4.4.3.2 IT Readiness for eConveyancing

Many of the larger developers are technologically advanced and use IT to communicate with third parties. They should readily adapt to an eConveyancing environment. This may not be true for smaller developers, who are less advanced IT-wise.

4.4.4 Motivation/Opportunities

Some of the benefits identified include:

- **Streamlined process resulting in faster, more cost efficient process** – Property developers would welcome any changes to the process that would result in cost savings.
- **Improved mapping process** – currently significant delays for the Property developers are attributed to the mapping process in place. A digital mapping system and electronic exchange of maps would greatly speed up the process.

4.4.5 Barriers to eConveyancing

Barriers include:

- **IT competencies of property developers** - The level of IT usage and skills varies greatly between property developers. This is closely correlated with the size of the company.

4.4.6 Change Readiness Evaluation

Property developers have experienced considerable change in recent years. The industry has grown and developed, driven by the economy. The regulatory environment within which they operate has changed, for example, the introduction of requirements for fire and safety standards and environmental standards. Further changes have been experienced based on the new forms of building development (e.g. apartments, timber-frame construction and insulation). The level of success in dealing with these changes varies between developers. Some developers have improved their documentation procedures recently introducing, for example, booklets of title and forward planning, while others have not adapted to the same extent.

The level of IT usage would appear to vary significantly within this industry. Some larger firms may have some supporting systems in place. Email is sometimes used in communications with the estate agents and solicitors.

The main issues in the operational effectiveness of their processes relate to registering development land with the Land Registry. Delays may also become an issue during the construction process (i.e. obtaining planning permission from the local authority, setting up utilities for the buildings or obtaining fire safety certificates). There is a differing level of understanding of eConveyancing and its implications. The CIF have voiced interest in participating in the future solution.

4.5 Law Search Agents

4.5.1 Stakeholder Description

The range of search services provided by law search agents includes:

- Land Registry
- Registry of Deeds
- Judgments Office
- Bankruptcy Office
- High Court Central Office
- Probate Office
- Central Office
- Companies Registration Office
- National Archives
- Sheriffs' Offices
- Revenue Sheriffs' Office
- Land Commission
- Valuation Office
- Planning Authority Searches
- Registry of Business Names
- Circuit Court/County Registrars' Offices
- Building Control (including Fire Certificate) searches

The range of services varies between firms as does the geographic spread that they cover especially as regards information needed from local authorities. The most important aspects of a law search firm's service to the conveyancing process are: accuracy, timeliness/speed, reliability, quality of the search and the indemnity provided. There are approximately fifteen law search agencies operating in Ireland. Twelve firms are members of the Irish Law Searchers' Association (ILSA).

Solicitors are their main customers but they also do work for banks, local authorities, property developers and occasionally, the public. Solicitors use law search agents for:

- Their skill in knowing where to look for the relevant information, assimilating and interpreting it.
- Their ability to discount irrelevant information so as to work with what is relevant.
- Their ability to collate and check information – this would be a very time consuming task for solicitors, as there are five sites to access for information to print, check, collate. Law searchers are much more experienced in this area than the solicitor's own office staff, who would require extensive training.
- The transfer of risk – some have indemnity of up to €5 million.
- The credit (30-60 days) given to solicitors, as searchers must typically pay up front for many services.

4.5.2 Stakeholder Role

Law search agents are generally engaged by solicitors to perform searches. They are typically involved at two stages of the conveyancing process - pre-contract and closing. In the pre-contract phase, they are typically requisitioned to conduct planning searches, Company Registration Office searches and perhaps, title searches at the Land Registry or Registry of Deeds.

In the closing phase, law searchers are involved in investigating the title at the Land Registry or the Registry of Deeds (as appropriate) and possibly, other searches that may be requested. Search requests are submitted in advance of the day of closing (e.g. 1-5 days beforehand depending on the complexity of the title but can also be turned-around on the same day. If the closing had to be deferred, an update can be requested on the revised date. The requests are submitted by post, phone, letter, fax, email or online. The law search agent normally documents search results on a form or "certificate" which is returned to the requesting party.

4.5.3 IT Competency

The main technology implemented by the search agencies to support their business operations is a case management system. This system supports the scheduling of tasks with allocation of responsibilities. Database systems are also used – generally developed on a bespoke basis.

4.5.3.1 Current IT Capabilities

The nature of the work carried out by the search agents requires a good level of understanding of IT systems. They use the Land Registry's Electronic Access Service (EAS) system and the Companies Registration Office on-line search facility in order to carry out the relevant searches. The majority of firms have their own Internet websites informing clients of the services they perform and allowing communication between the parties.

Email is used where possible to communicate with their main client, solicitors. There is no standard secure method of communication between parties.

4.5.3.2 IT Readiness for eConveyancing

The search agents are considered to be in a good position to move towards an eConveyancing solution. The use of technology is widespread within the industry. They are accustomed to change, in particular in relation to technological advances. Some firms have in-house programmers who provide the IT support they require.

4.5.4 Motivation/Opportunities

As **the full implications of an eConveyancing are not yet understood**, the law search firms would be somewhat reticent about the potential impact of such a solution on their business. There would be some concerns that it could undermine their role and in turn, damage their business.

On the positive side, a faster turnaround might help manage cash flow as law search firms currently provide credit facilities to the clients even though they incur costs immediately for most searches they undertake.

4.5.5 Barriers to eConveyancing

Possible barriers are as follows:

- Due to the nature of their function, where the search information provided may be required in court cases, **electronic format is not currently permissible as evidence**, so search agents are required to present search results in paper format.
- Many law search agencies are quite small firms, so the cost of implementation of the eConveyancing solution may be inhibitory for some.

4.5.6 Change Readiness Evaluation

Law search agencies have experienced market consolidation and increased demand over the past few years. A lot of online services have been implemented. They have been flexible and dynamic in their approach to the changes. A high level of operational effectiveness is reflected in their efficiency and quick turnaround for searches, in most cases.

We believe that search agents would adapt to a new system well, as they have demonstrated an interest and success in adopting technology. The challenge will be in defining their own 'value proposition' in an eConveyancing environment, as this is a concern to them; however, some of firms see it as an opportunity to widen access to their services beyond their traditional markets.

4.6 Surveyors

4.6.1 Stakeholder Description

Surveyors measure and map land or a building site to establish boundaries, identify topographical features and estimate labour and costs involved in planned work. There are a number of different types of surveyors who specialise in specific areas. There are a number of different bodies in Ireland that represent surveyors including the Irish Institute of Surveyors (IIS), the Society of Chartered Surveyors (SCS), the Royal Institute of Architects of Ireland (RIAI) and the Institute of Engineers in Ireland (IEI).

4.6.2 Stakeholder Role

The role of the surveyor is to carry out a professional property inspection when requested by the purchaser. Alternatively, it can be an assessment of the boundaries of the land or property, which may or may not be carried out as part of the conveyancing process. Under current legislation, anyone can carry out a building or land survey; they are not required to hold a professional qualification in surveying.

There are four types of surveys that are typically carried out by a surveyor:

- **Building Survey** This is not an obligatory survey, however it is generally recommended on second-hand properties. It examines the entire structure of the house including, walls, roof, windows etc. It is estimated that approximately 60% of purchasers employ the services of a surveyor.
- **Valuation Survey** – This is an obligatory survey, where a mortgage is being taken. The financial institution may have a list of approved surveyors that can be used to conduct the survey.
- **Snag List** – This is carried out on new houses. This involves using a snag checklist to ensure that the finished property is up to the required standards.
- **Land Survey Assessment** of the land. In Ireland, in general the purchasers' solicitor may initially review the Land Registry map with the purchaser and confirm that it represents what the purchaser is buying. The risk here is that neither the solicitor nor the purchaser has the required level of expertise to confirm that the Land Registry map accurately reflects the physical property that the purchaser is buying. For this reason, some solicitors may request that an independent land survey be carried out. Land surveyors may also be involved in the process, which may arise during the solicitor's review of the title information, or when there is a land dispute.

Upon completion of the survey, the purchaser will generally receive a formal written inspection report detailing the condition of the property concerned. The surveyor may be liable if the survey is not carried out correctly. For this reason, surveyors take out professional indemnity (PI) insurance cover. Liability ends once the house is sold on.

4.6.3 IT Competency

A member of the Irish Institute of Surveyors provided the information regarding the IT competencies of the land surveyors in Ireland. A separate survey was carried out on members of the Society of Chartered Surveyors in order to assess the IT capabilities of building surveyors. While each surveyor has their own IT systems in place, it appears that land surveyors use IT to a greater extent in conducting their business. There is no common platform in place across the industry. Systems used may include:

- E-mail.
- Dictaphone- used to take notes when the surveyor is carrying out the survey.
- Digital mapping system used to map properties and land boundaries.

- Laptops are used to take notes when carrying out a survey.

4.6.3.1 *Current IT Capabilities*

- **Land Surveyors:** The land surveying business has become increasingly digital and sophisticated in the application of technology. Email communications are common between land surveyors and their customers. The larger land-surveying firms have invested in sophisticated GPS kits that can cost upwards of €40,000. Most land surveyors have been using digital systems for approximately 20 years. With digital systems all mapping data is collected digitally and stored digitally. Any paper product that exists is a by-product of the digital systems in place. Land surveyors connect to the Land Registry Internet website and use the EAS system. This provides the surveyors with document images of the folio and descriptive information in the property and plot. In addition, land surveyors use services which are available on the Ordnance Survey Ireland website.

Despite the fact that the majority of land surveyors use digital mapping systems, maps are still distributed in paper format between parties and the Land Registry. There are significant opportunities for improving the conveyancing process as a result of the imminent introduction of digital mapping systems by the Land Registry.

At an industry level, there is no IT strategy in place for land surveyors. Each surveyor is responsible for their own IT implementation.

- **Building Surveyors:** It is estimated that approximately 99% of practices employ IT. Email communication is common between building surveyors and their customers. Electronic mechanisms are used as much as possible and where possible in the conveyancing process. However, there are circumstances where official forms and forms requiring signatures need to be sent in paper format. In addition, valuation surveys can still be required in paper format by some banks.

Some of the larger practices have databases in place to store property data. Surveyors may use a dictaphone or hand-held device or simply take notes while conducting a survey. These notes would subsequently be typed into a report. No standard packages were identified which support the process.

There is no IT strategy in place at an industry level for building surveyors. However the Society of Chartered Surveyors has a continual professional development scheme and they are continuously looking for opportunities for improvement for their members. Consideration is being given to a system similar to the Home Information Pack 2006, which is being implemented in the UK by the Ministry of the Marine and the Department of the Environment, Heritage and Local Government. With this, surveyors will be required to produce the report in a specific format and a system would possibly need to be bought by each practitioner to support it.

4.6.3.2 *IT Readiness for eConveyancing*

- **Land Surveyors:** From an IT readiness perspective, land surveyors would be considered to be willing to move towards an eConveyancing solution. However, despite the fact that they have a good IT infrastructure in place and use it where possible in the conveyancing process, a number of issues would need to be resolved, for example, agreeing standards regarding how data is stored and transferred.
- **Building Surveyors:** From an IT readiness perspective, it is anticipated that chartered surveyors would, in general, welcome an eConveyancing solution. However, as with land surveyors a number of issues would need to be resolved, for example, there would have to be industry standardisation of documents.

4.6.4 Motivation/Opportunities

The following possible opportunities are envisaged:

- **Digital mapping** – the use of digital mapping systems by all parties in the conveyancing process and the electronic transfer of same would greatly speed up and simplify the process.
- **Public awareness and understanding** - The introduction of eConveyancing could present an excellent opportunity for surveyors to gain more access to the market and generate more public awareness and understanding of what they do and when and why each type of survey is needed.
- **A single system for registering land** would lead to a more streamlined process.
- **The introduction of a fixed boundary system**, whereby markers would be placed in the ground, could simplify the process.

4.6.5 Barriers to eConveyancing

The following are the possible barriers to eConveyancing for the Surveyors:

- Currently, there are no guidelines or formats for the survey reports produced.
- **There are currently multiple variations in standards** regarding digital mapping. In this case standards would need to be agreed with regard to the data stored and transferred between parties.
- **There is currently a lack of understanding** by parties in the conveyancing process as to the reasons why a survey should be carried out and when.
- **Stronger safeguards would need to be in place** to ensure that land surveyors could not change digital maps could not be changed after they have been agreed.

4.6.6 Change Readiness Evaluation

Surveyors have had to adapt to new types of development, (e.g. apartments) and new types of surveys, (e.g. “drive by” valuation surveys for financial institutions). They have also had to comply with new building and safety regulations.

Success levels in adapting to these changes vary due to a number of factors. These include a lack of regulation in the industry and broad variations in the types and quality of surveys produced eConveyancing is well understood and welcomed by Surveyors. It is seen as a means of potentially enhancing their role within conveyancing.

4.7 Revenue Commissioners

4.7.1 Stakeholder Description

Revenue's core business is the assessment and collection of taxes and duties. Revenue's mandate derives from obligations imposed by statute and by Government and as a result of Ireland's membership of the European Union.

4.7.2 Stakeholder Role

Revenue's involvement in the conveyancing process is in the collection of Stamp Duty and the other taxes, which are related to conveyancing (i.e. Value Added Tax (VAT), Capital Gains Tax (CGT) and Capital Acquisitions Tax (CAT)).

4.7.3 IT Competency

The Revenue Commissioners have been leading IT adopters for many years.

The core operations of the Revenue Commissioners are computer-based and they have provided online services for taxpayers and for their staff. External parties can communicate with the Revenue Commissioners by means of their internet websites (e.g. www.ros.ie, www.revenue.ie), which offer a range of services. At present, approximately 65% of ROS users pay their taxes electronically.

4.7.3.1 *Current IT Capabilities*

The Revenue Commissioners have several systems, databases, server structures, security mechanisms and back-up functions in place to support their processes. They have an internal Revenue document management and workflow system in place, which provides an electronic mechanism for dealing with customers' paper correspondence. The Revenue Commissioners are one of the early adopters to the Reach Public Services Broker (PSB) project. They currently use the integration framework provided by Reachservices to send a Single Administration Document to the Department of Agriculture. In addition, they are developing ROS to enable processing of PAYE.

4.7.3.2 *IT Readiness for eConveyancing*

From an IT readiness perspective, it is considered that the Revenue Commissioners are in a good position to move towards an eConveyancing solution. This is based on the current state of their IT systems and their own strategy and goals for e-enabling their systems and processes.

The Revenue Commissioners are continuously working to improve their internal work systems and expand and improve the way they interact with their customers. The Revenue Commissioners are currently reviewing the processes associated with collection of stamp duty, within the context of an eConveyancing environment.

4.7.4 Motivation/Opportunities

The Revenue Commissioners are very interested in enhancing their customer service and eConveyancing offers a good opportunity for this.

- **eConveyancing would enable a major step forward** for Revenue if payment and Stamp Duty were collected electronically.
- **Ability to make redundant the requirement to physically stamp documents** in the Stamping Office and move this to a completely electronic environment.

The Revenue Commissioners are continuously looking to improve their IT systems and decrease costs using IT. They have invested in new technologies in recent years in order to achieve this.

4.7.5 Barrier to eConveyancing

- No major barriers to eConveyancing were identified.

4.7.6 Change Readiness Evaluation

Revenue has implemented significant operational changes and enhancements in the recent past in areas such as:

- Stamping Office (all deeds are stamped upon payment of the duty owing), successfully moving from an entirely manual process with large out-dated machinery to a semi-automated environment.
- Implementation of Revenue Online System.

There is widespread use of IT internally within Revenue and also externally in interacting with customers particularly through ROS.

There are, however, current operational processes that are founded on outdated/cumbersome laws and methods and changing these operational processes is sometimes outside of the control of the Revenue themselves.

4.8 Land Registry

4.8.1 Stakeholder Description

The Land Registry is the State authority responsible for the registration of property transactions and operates under the aegis of the Minister for Justice, Equality and Law Reform. No legal title to registered land (ownership) may pass to a purchaser until it is registered with the Land Registry.

4.8.2 Stakeholder Role

The mission of the organisation is “Safeguarding the legal, social and economic fabric of property ownership” in Ireland. The Registry provides a range of key property and title-related services to its customers - principally the legal profession and associated commercial communities within the State. When the title to a piece of property is registered with the Land Registry, the Registry on behalf of the State, guarantees that title. The Land Registry maintains three registers established through the Registration of Title Act:

- Freeholders, i.e. one who has a freehold estate, by holding the land fee simple, which is to hold a piece of property outright subject only to limited claims.
- Leaseholders, i.e. a form of property tenure where one party buys the right to occupy land or a building for a given length of time. At the end of the lease period, possession may revert to the owner.
- Subsidiary Interests.

4.8.3 IT Competency

Processes within the Land Registry are supported by the following systems:

- **EAS (Electronic Access System):** This is a web-enabled front end for the ITRIS system allowing searches to be conducted online among other functions.
- **ITRIS (Integrated Title Registration Information System):** This is the internal Land Registry registration system for the storage of information and the processing of casework.
- **Document Imaging System:** This facilitates the conversion of over 110 years of historical paper records into electronic format.

4.8.3.1 Current IT Capabilities

- **There is a dedicated and capable IT organisation and function within the Land Registry.** This IT team supports the IT needs of both the Land Registry and Registry of Deeds.
- **The Land Registry has made substantial progress in enhancing its IT capability.** There is a wide usage of IT within the Land Registry, with most employees using PCs, email and Internet.
- **An IT Strategy has been implemented since 2002.** An Electronic Service Delivery Strategy has been ongoing since 2002 and its initial phase is due for completion in 2006.
- **The Land Registry has developed and successfully deployed its eCommerce offering in recent years.** External parties such as solicitors can communicate with the Land Registry by means of its Internet website (www.landregistry.ie) which offers a range of services including information relating to the Registry of Deeds. The Land Registry uses email where possible in the conveyancing process but this is limited due to the absence of digital signatures. Substantial progress has been made since 1999 in enabling its processes.

- **The Land Registry has progressive plans in line with Ireland's eGovernment strategy.** The Land Registry is interested in moving towards an eRegistration of Title system which would involve registering all property in Ireland on a common platform. In addition, its current digital mapping project is being developed and is expected to go 'live' in April 2006.
- **Certain areas of the Land Registry's services remain manual.** The mapping function is presently manually based, however, the Land Registry is progressing its plans to convert from paper to digital maps.

4.8.3.2 *IT Readiness for eConveyancing*

In general, the Land Registry is reasonably positioned to move towards eConveyancing. The Land Registry has made substantial progress in recent years in expanding its organisational IT competency and online service offerings. An eConveyancing solution would further impact the Land Registry in the following areas:

- **Mapping and title searches** – Presently, an estimated 80% of searches are done electronically by the purchaser's solicitor (or search agent) using the Land Registry's EAS system. This base of acceptance from the Land Registry's "customers" places the organisation in a strong position to extend its online service offering.
- **Dealing** – Pre-registration can be done online through completion and submission of an online application form (Form 17). This online service provides the user with a dealing reference, which typically speeds up the registration process. However, the supporting documentation must subsequently be submitted in paper format for full registration. This implies that eRegistration is dependent on digital signatures and soft copy, online supporting documentation being available. In the absence of legislative changes in this regard, this process cannot be significantly e-enabled further.
- **Pre-mapping** - The current mapping processes are resulting in a number of delays and issues with the conveyancing process today. The introduction of a digital mapping system is central to the success of an eConveyancing solution. This capability when deployed extensively would significantly enable online mapping services and processing between the Land Registry and its customers.

4.8.4 **Motivation/Opportunities**

Our consultations with the Land Registry revealed a strong motivation for and interest in an eConveyancing solution for Ireland. Several opportunities for improvement were identified by the Land Registry that relate to the conveyancing process in general and could be considered within an overall eConveyancing solution.

- **Establish a single registered title system.** This could be central to a future eConveyancing solution. It would mean converting the remaining 15% of unregistered land to registered title over the coming years. This would simplify the eConveyancing solution to be developed and would ultimately mean a simpler and more effective system to maintain.
- **Retire the use of land certificates within the current system.** Land Certificates are in declining use. As a paper based form, they could be retired within a future eConveyancing environment. This would reduce the paper trail requirement as well as, the use and cost of large volumes of paper.
- **Standardisation of forms.** Layout of documentation required for registration across the process could be improved. Currently, each financial institution uses different templates (e.g. deed of charge, discharge of mortgage).
- **EFT as a means of payment across the conveyancing process.** The Land Registry believes that the move towards secure online payment systems is a critical enabler of an overall eConveyancing solution. The scope should include the Land Registry's services but include other stakeholders, such as: Courts Service, financial institutions, etc.

- **Electronic (rather than paper-based) mortgage application and administration.** The development of eMortgages should be at the core of a future eConveyancing solution. The scope of an eMortgage solution would need to be defined but may include B2B and B2C links such as an online mortgage application process connecting purchasers and financial institutions or data links or messaging between the institutions and the Land Registry (e.g. notifying burdens on properties).
- **Review Family Home Act declaration requirements.** The variables involved in interpretation of the Family Home Act requirements are complex and consequently, are a significant source of query from the Land Registry. It would be opportune to review the role and format of this declaration with the objective of reducing the number of queries associated with it. An eConveyancing solution could bring benefits, such as the following to the Land Registry:
- **Reduce the number of errors being submitted by its customers.** The standardisation of documentation as well as the implementation of registration rules into a new system could substantially reduce the number of errors being made by solicitors. This could potentially also apply to property developers in relation to the acceptance of digital maps.
- **Reduce administrative effort and resources** within the Registry as online services are deployed and extended.
- **Enable the Land Registry to focus on complex registrations, including first registrations.** Resources could be deployed to deal with backlogs and complex registrations, such as first registrations.
- **Accelerate progress towards a single registered system** of land in Ireland through the introduction of appropriate legislation.
- eConveyancing could enable the Land Registry to play a leading role in Ireland's eGovernment strategy and execution.

4.8.5 Barriers to eConveyancing

The Land Registry recognises the potential of the following issues to inhibit the successful implementation of an eConveyancing solution.

- **Ongoing requirement for paper based forms, such as Form 17.** Current legislation still requires paper-based forms. From the Land Registry perspective, process steps can be forwarded "virtually" through ITRIS etc. but there is an ongoing requirement to forward the paper-based files.
- **Dual system with Registry of Deeds.** The continuing dual system is a major impediment, especially given that the system with the Registry of Deeds whereby the previous owner (rather than the current owner) is what is recorded within the Registry of Deeds index.
- **Current form and use of land certificates.** Land Certificates are akin to paper based ordinary share certificates (i.e. an equitable asset). They have traditionally been used by property developers and traded with the bank for cash. Other jurisdictions, such as Sweden, have moved towards a scripless land certificate or retired it entirely.
- **Part 2 of the Electronic Commerce Act 2000 in relation to digital signatures.** Ministerial approval would be needed but this is not seen as a major issue if the conditions set out in Section 10 (2) are met. A major step facilitating the implementation of eConveyancing would be the bringing into force of Part 2 of the Electronic Commerce Act 2000.
- **Current Certificate of Charge.** This is similar to the land certificate situation. Rule 156 requires that the original deed of charge should be stamped and returned. The current certificate may be required by the Court as proof of property ownership.

4.8.6 Change Readiness Evaluation

The Land Registry is interested in eConveyancing and has a robust understanding of its potential benefits and impact on the organisation. The organisation is working towards eRegistration and Digital Mapping and have already organised “road shows” with stakeholders on these topics. A number of factors should be recognised in relation to the organisation’s readiness for eConveyancing:

- **Some areas of the organisation have not experienced significant organisational change in recent years.** We observe that certain processes and organisational roles have broadly remained the same. This applies substantially to the mapping section but this is being addressed by the Land Registry at present.
- **Gaps exist in terms of IT competency and services.** The Land Registry is making rapid progress to fill current technological gaps. The integrity of the mapping data is central to the success of eConveyancing. Issues and problems with mapping and acceptance of maps from developers, land surveyors will require further consideration by the Land Registry.
- **A significant level of interactions with stakeholders continues to be paper-based and delays are common.** There continue to be delays across first registration and a high level of rejections of applications. These delays have affected the perception of the efficiency of Land Registry by other stakeholders.
- **Customer focus is an ongoing requirement.** Some stakeholders suggest Registry are not sufficiently customer focused and are slow to respond to requests for change. However, the Land Registry is deemed to be very efficient at doing normal routine tasks.

4.9 Registry of Deeds

4.9.1 Stakeholder Description

The Registry of Deeds was established in 1708 to provide a system of voluntary registration for deeds and conveyances affecting land and to give priority to registered deeds over unregistered registerable deeds. The function of the Registry of Deeds is to govern priorities between documents dealing with the same piece of land.

Services provided for the public by the Registry of Deeds are:

- Registration of Deeds
- Search facilities
- Copy facilities
- Negative Searches / Common Searches
- Genealogical Services.

4.9.2 Stakeholder Role

The role of the Registry of Deeds facilitates the following services as part of the conveyancing process:

- Search for land ownership.
- Register the existence of Deeds and other registerable documents affecting land, the title of which is not registered in the Land Registry. The information recorded and retained on foot of registration is made available to the public through the searching process.
- Certification of title.

4.9.3 IT Competency

Systems currently operational within the Registry of Deeds include:

- **The RAMIS system:** This is a bespoke which is a computerised storage system for the deeds records.
- **Microfilming:** Memorials from 1930 to present are microfilmed and available for public inspection.

4.9.3.1 Current IT Capabilities

- **Responsibility for IT resides with the Land Registry.** The Registry of Deeds' IT function is managed by the Land Registry IT Department.
- **There is limited IT use within the Registry of Deeds.** Use of IT by staff in the Registry of Deeds is not as widespread as the Land Registry's. A significant proportion of the daily responsibilities of staff does not involve access to or use of IT systems.
- **The Registry of Deeds has not developed an eCommerce capability.** There is no online service offering at present, for example, the Registry of Deeds does not currently provide external parties with on-line access to RAMIS.
- **There continues to be a heavy reliance on physical documentation and paper-based correspondence.** Submissions to the Registry of Deeds continue to be based on paper exchanges between the Registry and the solicitors.

- **The Land Registry recognises the need to advance the Registry of Deed's IT capability.** The Land Registry and Registry of Deeds have a long-term eStrategy involves moving systems to a common platform.

4.9.3.2 IT Readiness for eConveyancing

In its current organisation, the Registry of Deeds is not positioned to operate in an eConveyancing solution. The organisation does not have the current infrastructure or organisational capability to play an active role in eConveyancing in the near term.

The ongoing implementation of an eStrategy for the Land Registry and Registry of Deeds should position the Registry of Deeds to support eConveyancing. Key elements of this eStrategy relevant to the Registry of Deeds include:

- Moving the Registry of Deeds records online.
- Including the Registry of Deeds as a service within the EAS system.
- Moving the Land Registry and Registry of Deeds to a common platform.

4.9.4 Motivation/Opportunities

The Registry of Deeds seems to be favourably disposed towards eConveyancing and recognises that an eConveyancing solution would have fundamental implications for the Registry of Deeds, particularly under a single registered title system.

4.9.5 Barriers to eConveyancing

The current low level of technology sophistication from an organisational and process perspective within the Registry of Deeds remains a considerable inhibiting factor for an eConveyancing solution that encompasses unregistered title at present.

4.9.6 Change Readiness Evaluation

There have been no major changes in recent years. The search, checking and registration processes can be slow to complete given their reliance on paper based, manual activities and requirements such as physical stamping. Management has a good understanding of eConveyancing and have plans in regard to the role of the Registry of Deeds within a solution.

4.10 Local Authorities

4.10.1 Stakeholder Description

The local authorities come under the Department of the Environment, Heritage and Local Government and their mission statement is “to promote sustainable development and improve the quality of life through protection of the environment and heritage, infrastructure provision, balanced regional development and good local government”. There are 114 local authorities in Ireland, each with their own responsibilities, organisation, processes and systems although substantial congruence may exist between them.

4.10.2 Stakeholder Role

The local authority has a number of roles within the conveyancing process essentially as a law agent and an information provider:

- The local authority may act as a purchaser or vendor in the property conveyancing process. They can also provide financial support to a purchaser through the various schemes it manages, such as affordable housing.
- In the course of buying and selling properties, solicitors (and law searchers acting on their behalf) request a wide range of information from local authorities, particularly planning searches (i.e. planning approvals, development plans, etc) and other information relating to properties and property owners, such as:
 - Commencement notices
 - Enforcement notices
 - Fire and safety certificates
 - Building control
 - Any Compulsory Purchase Notices
 - Waste charges due
 - Water and other service charges due
 - Rates and service charges
 - Whether roads and services have been taken in charge.

4.10.3 IT competency

The Local Government Computer Services Board (LGCSB) provides advice, guidance and systems for the use of information technology in local authorities. The vast majority of systems and technologies used by local authorities are supplied through the LGCSB.

LGCSB provide a range of systems in support of the planning functions within the local authorities, as follows:

- **Iplan:** This is a planning system that supports the planning permission application process.
- **APAS:** This is predominantly used by non LGCSB sites to support the planning permission application process.
- **Gplan:** This is an internet based Geographical Information System (GIS) planning inquiry programme.
- **ARCIMS:** This is a similar system to Gplan.
- **Idocs:** This is a document imaging system developed by the LGCSB.
- **Asdee.com:** This is a document imaging system.
- **Eplan:** This is a planning information system available through the internet.

- At present, there is not universal adoption of these systems by all local authorities. It is left to the discretion of each to decide when they will implement them and indeed, if they adapt it in some way. Dublin City Council has its own range of planning-related systems which it has developed itself and does not utilise those offered by the LGCSB.

4.10.3.1 *Current IT Capabilities*

- IT systems have been deployed in almost all local authorities but usage varies.** Of 88 Planning authority sites, 87 sites use IT systems. The extent of system usage and deployment varies across local authorities. The majority of local authority staff has completed the ECDL (European Computer Driving Licence) qualification.
- A significant majority of Planning authorities have deployed a common system for processing Planning Applications.** 71 of the 88 sites use iPlan, which is a planning function system. The remaining sites use a mixture of other planning systems which has led to differing volumes of historic data that has been stored as not all planning systems were implemented simultaneously.
- Increased use of electronic records maintenance.** A limited number of local authorities use a document imaging system. The implementation of document imaging facilities is relatively recent with only 18 sites using it internally and 8 sites publishing records to the web. The average site would only have 2 years data stored within their system.
- A number of local authorities have deployed online services.** 51 sites provide online access to Planning Information. 33 of these use the LGCSB ePlan product.
- Email use remains limited.** The local authorities mainly communicate with other parties in the conveyancing process by postal mail or by telephone. There is limited use of email.

4.10.3.2 *IT Readiness for eConveyancing*

In moving towards an eConveyancing solution, the key issue is that at present there is not a homogeneous approach amongst local authorities to providing information and the deployment of systems needed by the conveyancing processes. Each local authority decides its own approach, processes and systems and any external parties must direct their enquiries to each local authority rather than, for instance, a single entity. Other issues which need to be considered and resolved for the local authorities include:

- There are internal resource availability problems associated with inputting the data into the systems in the different local authorities.
- Different local authorities use different planning function systems and different types of systems.
- With regard to on-line access to the planning information, data protection issues may need to be considered (Note: The Data Protection Commission does not see an issue, but more detailed discussions may be needed).
- Consideration would need to be given to how the fees charged by the local authorities could function electronically.
- Difficulty is encountered when selecting a property on which to carry out a local authority search
- Lack of standard application forms across the local authorities.

4.10.4 *Motivation/Opportunities*

The main areas of improvement for local authorities are identified above. Additional motivators may include:

- More accessible information service provided to citizens (which is key role for the local authorities in respect of properties).

- Reduction in the requirement to manage offices for dealing with the public if the information is viewable / retrievable online.
- Easier management of planning applications through use of digital maps.

4.10.5 Barriers to eConveyancing

The barriers to eConveyancing may include:

- Data migration and archiving is a significant barrier given the requirement for planning records to be traced back several years.
- Access to resources to carry out the systems and process development required.
- A “Planning Moratorium” would need to be considered as at present there are issues related to legislative requirements to carry out planning searches as far as back as 1st October 1964, however, not all local authorities have planning information dating back to this period.

4.10.6 Change Readiness Evaluation

Some local authorities have engaged in process redesign projects but there are no obvious examples of substantial organisational transformation in the recent past. While the local authorities may have a limited understanding of the potential of eConveyancing and their role in it, the LGCSB has a good awareness. The transition to an eConveyancing environment would represent a significant challenge to many of the local authorities.

4.11 Courts Service

4.11.1 Stakeholder Description

The mission statement of the Courts Service is “To manage the courts, support the judiciary and provide a high-quality and professional service to all users of the courts”.

The functions of the Service are:

- to manage the courts
- to provide support services for the judges
- to provide information on the courts system to the public
- to provide, manage and maintain court buildings
- to provide facilities for users of the courts.

4.11.2 Stakeholder Role

The Courts Service’s involvement in the conveyancing process relates to the provision of information contained within their registers (listed below). The following is a list of registers that are managed by the Courts Service and which may be of relevance to conveyancers:

- | | |
|---|--|
| ▪ Index of Grants of Representation | ▪ Register of Judgments |
| ▪ Bankruptcy index | ▪ Register of Lis Pendens |
| ▪ Index of arrangements | ▪ Licensing registers for Pubs and Hotels (back to 1890) |
| ▪ Register of Judgments in foreign insolvency proceedings | ▪ Register of Clubs. |

These registers may be searched by a solicitor or law searcher as part of the conveyancing transaction.

4.11.3 IT Competency

The Courts Service operates the following system in relation to services required to interact with the conveyancing process:

- Index of Grants of Representation Register: This is a Lotus Notes application that stores the Index of Grants of Representation Register and facilitates 20,000 searches annually. A hard copy of the register is also maintained.
- Other systems in operation include:
 - Financial accounting system (Agresso)
 - Criminal case management system
 - Financial management system (Oracle)
 - HR system (Peoplesoft).

4.11.3.1 Current IT Capabilities

The Courts Service maintains a number of registers, seven of which may be searched by solicitors or law search agents as part of a conveyancing transaction. Currently, only the Probates Register and the Index of Grants of

Representation (currently stored in a Lotus Notes application) are in electronic format. All of the other registers are maintained in hard copy format. As part of an IT strategy in place for the period 2001-2005, the Courts Service has greatly enhanced its technical capabilities. As a result of this strategy:

- Email and the internet are widely used with email the primary means of communication within the Courts Service.
- A central server structure is in place with remote VPN access for 53 sites nationwide.
- Several new systems are in place, primarily based on Oracle technology.

4.11.3.2 IT Readiness for eConveyancing

The Courts Service has successfully implemented a number of IT systems as part of the 2001-2005 IT strategy. An IT strategy is currently being put in place for the period 2006 to 2010 which would support an eConveyancing solution. In the future, it is anticipated that IT change will be embraced but possibly at a slower rate than the 2001- 2005 period, due to the scale of change envisaged by the new developments.

The following items were highlighted with regard to preparing for eConveyancing:

- Auditing of the accuracy of the data conversion will be required. This will be a resource issue for the Courts Service.
- Consideration needs to be given to the type of indemnity that the Courts Service will need to put in place to cover any liability which may arise from inaccuracy in data provided.
- A fee structure for online services will need to be examined.
- An electronic payment system would need to be considered to support the registers.

The Courts Service is very keen to move its paper registers into electronic format and intends to convert the registers on a priority basis. The first priority is conversion of the Index of Grants of Representation Register. The extent and complexity involved in converting this and some of the other registers could be considerable.

4.11.4 Motivation/Opportunities

Important opportunities identified by Courts Service management with regards to its automation of its registers include:

- **Easier information retrieval from “electronic registers”** through use of online services by their customers will lead to a large reduction in resource overhead in managing current registers.
- Use of electronic registers will enable streamlined billing for information retrieval.
- Cross referencing of information between different registers will be possible – this is not available at present except manually.
- Information security will be enhanced relative to current paper storage.

4.11.5 Barriers to eConveyancing

- There are some legal requirements that must be satisfied in advance of moving the registers onto an electronic format.
- **The extent of the data conversion exercise that would be required.** Conveyancers may be able to advise the Courts Service in regard to the data conversion process (i.e. how far back the registers should be converted into electronic format). In addition, there may be legislative requirements influencing the extent of the data on certain registers which may require to be migrated.

4.11.6 Change Readiness Evaluation

Whilst the Courts Service is aware of the implications of eConveyancing and is planning to prioritise its own internal strategy to facilitate this, no major changes have taken place in the registers area of the Court Services in the recent past.

The extent of current technological interaction with other stakeholders is very limited, and a move to an eConveyancing environment represents a significant change for the organisation.

4.12 Summary

The main points emerging with regard to the key stakeholders' attitude to eConveyancing are:

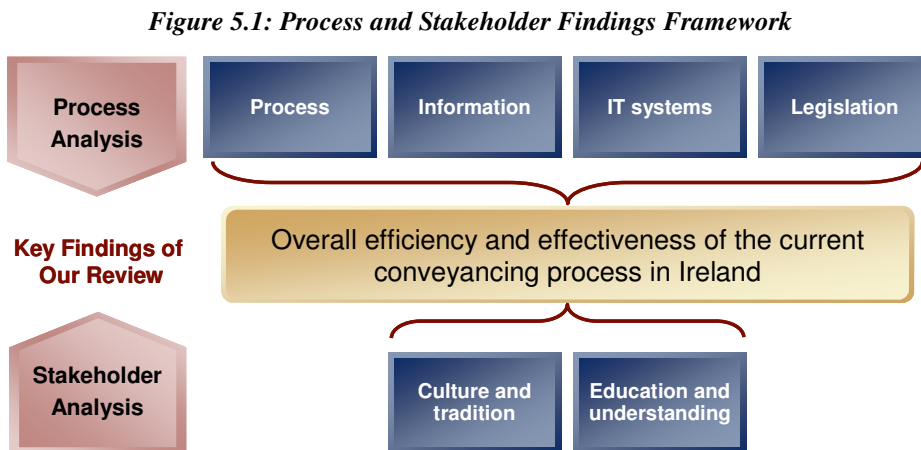
- There is a somewhat limited understanding of what eConveyancing will mean in practical terms; coupled with some scepticism about its being implemented in the foreseeable future.
- Some are enthusiastic about it in the belief that it will bring operational efficiencies and allow them provide a better and more competitive service to their customers (e.g. financial institutions, surveyors).
- Some have fears that it will undermine their traditional role in conveyancing (e.g. solicitors, law searchers).
- There is a limited direct incentive for the state institutions to participate, as there is little direct benefit in cost or efficiency terms (e.g. local authorities, Revenue Commissioners, Courts Service). The case for eConveyancing would have to be based on improved service to the consumer and perhaps, funded on a national basis.
- The level of investment required by individual firms could act as a disincentive, especially for some of the smaller firms of solicitors and law search agents. A transaction-based pricing mechanism may overcome this issue.

5. SUMMARY OF KEY FINDINGS

The purpose of this chapter of the report is to present our observations with respect to our review of the current conveyancing process in Ireland. This includes issues and inefficiencies we identified that impact the efficiency and effectiveness of the current conveyancing process.

5.1 Framework for assessment of the current process

Figure 5.1 below organises our findings into a set of logical categories.



The key characteristics of this framework include:

- Our findings are driven by two key parameters of our review, namely process and stakeholder analysis.
- Process issues can be logically categorised under the following headings:
 - Process specific issues.
 - Information and documentation associated with the overall process.
 - IT systems used by stakeholders as part of the process.
 - Legal issues that relate to and impact on the efficiency and effectiveness of the overall process.
- We organise our findings with respect to stakeholders under the following themes:
 - Culture and tradition, whereby the behaviour and attitude of stakeholders impacts the management of the current process.
 - Education, understanding and experience of the various stakeholders of the overall conveyancing process.

Section 5.3 provides a commentary of our view in relation to the efficiency and effectiveness of the current conveyancing process. Sections 5.4 to 5.9 inclusive sets out our findings in relation to the each of the areas outlined above. Within each section, we outline our general findings related to that area and provide evidence / examples to support our findings. We also provide a list of initial improvement opportunities that relate to the area under review. These improvement opportunities may wish to be considered as part of a future eConveyancing solution.

5.2 Process

This section contains our observations and suggestions for improvement in relation to the management of the end-to-end conveyancing process:

5.2.1 Observations and Findings

We have the following observations on the efficiency and effectiveness of the current conveyancing process:

5.2.1.1 *The conveyancing process has become increasingly more complex in recent years*

The conveyancing process is evolving in terms of its complexity and scope. Legislation and the business and economic environment in Ireland has impacted significantly on the process in recent years. Some of the main reasons for this increased complexity include:

- Planning permission processes, regulations and documentary requirements.
- Documentary requirements related to Family Home declarations.
- Taxation and fiscal regime, including stamp duty, VAT, CAT and CGT.

Organisations, such as the Law Society of Ireland, Dublin Solicitors Bar Association and the Irish Mortgage Council have been proactive in encouraging their members to adapt successfully to a changing environment. However, the new environment also brings increased cost pressure on solicitors (and other stakeholders) to deliver services efficiently and profitably. This pressure may imply an increased risk (to the consumer) of discrepancies in terms of the activities that the stakeholders may undertake on behalf of their client. This risk is borne out by some of our other findings throughout this report.

5.2.1.2 *The current conveyancing process lacks appropriate transparency both across the process and stakeholder groups*

A significant proportion of the stakeholders we consulted with indicated that the current process lacks the appropriate levels of transparency in terms of visibility of the process towards closing of a transaction. The following points were raised by stakeholders:

- Some stakeholders, including the purchaser, vendor and estate agent, often have little visibility of the work being conducted by the purchaser's and vendor's solicitors at various stages in the process. This can be particularly relevant to the pre-contract enquiries, post-contract requisitions and preparation for closing phases of the process.
- There is no standard set of documents that the vendor's solicitor must present to the purchaser's solicitor. Consequently, the level of documentation provided can vary. (Note: the vendor's solicitor cannot intentionally withhold documents from the purchaser's solicitor).
- The lack of transparency of the process can be a significant source of frustration to other stakeholders.

5.2.1.3 *There is no "standard" residential property conveyancing process*

Our review confirms that no standard conveyancing process currently exists in regard to residential transactions. Rather there can be considerable variation in regard to the flow and sequence of activities conducted by stakeholders. The efficacy of the roles played by stakeholders, particularly in relation to solicitors, may vary significantly across the process. Examples of this observation include the following:

- Some solicitors raise enquiries pre-contract and requisitions on title post-contract while others seek to resolve enquiries and requisitions together pre-contract.

- There is no standard set of searches carried out on behalf of the vendor's and purchaser's solicitor. The individual circumstances of the transaction influence to a large extent what searches should be conducted.
- A vendor can appoint a solicitor at different stages in the overall process. For example, some vendors may appoint a solicitor to manage the sale of the property in advance of marketing the property while others appoint the solicitor at sale agreed phase.
- Solicitors submit a request for title deed documents at different stages in the overall process.
- Some solicitors representing the purchaser strongly advise their client to commission a land survey to be carried out while others do not. (This may be more relevant for rural-based residential transaction than urban-based transactions).
- The requirement for a formal "draw down" of funds to be submitted by the Purchaser's Solicitor to the purchaser's financial institution varies between financial institutions.

5.2.1.4 *The process involves substantial paper-based information flows that continue to rely on the postal method*

The conveyancing process continues to rely heavily on the letter-based communication between the various stakeholders. This is evident from the following information flows:

- Solicitor to solicitor which may involve using case management IT systems (such as CORT), DX or letters and file transfer between the two parties.
- Solicitor to financial institution whereby communication continues to be largely via letter.
- Solicitor to Land Registry which may involve significant levels of communication via letter, as in the case of first registrations.
- Solicitor to Revenue Commissioners which may involve town agents / law clerks being engaged to attend the Revenue Commissioners' offices for manual stamping which is required by legislation.
- Developer (usually through their representative, e.g. architect) to local authorities in relation to planning permission and building control compliance.
- Developer (usually through their representative, e.g. surveyor) to Land Registry involves submitting paper-based maps at present.
- Surveyor to financial institution or solicitor in terms of survey reports.

5.2.1.5 *Delays are increasingly recognised as part of the process*

Many of the stakeholders we met with indicated their frustration with the efficiency of the process. Delays are often perceived by the various stakeholders as "part of the process". Some of the most common examples of delays cited by a range of stakeholders include:

- Property developers often encounter delays in securing the necessary building documentation, such as planning and fire safety certificates (for new developments).
- Delays may be encountered by solicitors in locating and taking up title deeds as the vendor may not be aware of their location.
- There can be delays in receiving search results from local authorities.
- Significant delays are involved in the first registration process with the Land Registry with the average lead time (excluding solicitor preparation and communication) of ten months to manage a first registration process.
- Solicitors cited delays in receiving mortgage redemption figures from some financial institutions.

- Some stakeholders pointed out that solicitors can use the current process as a delaying mechanism for the benefit of their clients.

The lack of transparency within the current process reinforces the existence and continuation of these delays as part of the process.

5.2.2 Opportunities for Improvement

Process change is fundamental to improving the efficiency of conveyancing practice and must accompany the deployment of an eConveyancing solution in the future. As the principles of a future conveyancing model for Ireland are developed, the following opportunities for improvement should be considered:

- The conveyancing process should be simplified and standardised where possible. The process should be re-designed with the objectives of improved accountability, efficiency and transparency. The scope of this principle may include consideration of the following:
 - Early, detailed consultations between the vendor and the vendor's solicitor.
 - Improve the quality of information provided by the estate agent to the Vendor's Solicitor during pre-sale.
 - Develop a standard set of documents to be issued by the Vendor's Solicitor to the Purchaser's Solicitor at sale agreed phase, particularly in relation to registered land.
 - The Purchaser's Solicitor issues pre-contract enquiries and requisitions on title together and the Vendor's Solicitor responds to them prior to contract signing.
 - Consider the retirement of staged payments as a method of financing within future conveyancing practice and the practicality / feasibility of such a decision.
- The process should be e-enabled as much as possible. This would serve to reduce the level of paperwork involved in the process through and rationalisation of the documentation required. Certain processes would be simpler to e-enable than others. Examples may include:
 - Online mortgage application and approval process.
 - Online searches of the various registers maintained by the various stakeholders.
 - Communication between solicitors and with other stakeholders.
 - Use of digital signatures throughout the process.
 - Online availability of redemption figures from financial institutions.
 - Use of electronic methods for discharging mortgages.
- Consideration should be given to resolving "problem areas" at present (i.e. where lengthy delays exist at present). First registration with the Land Registry – particularly in relation to new housing estate developments - is an example of one such process area. It is important that the necessary resources are available to these problem areas and due consideration given to options that may support such initiatives. This may include process, technological, legal and organisational/resourcing solutions.

5.3 Information

This section contains our observations and suggestions for improvement in relation to the information and documentation that is generated, circulated and stored as part of the process:

5.3.1 Observations and Findings

The following observations relate to the information flows and documentation generated during the process:

5.3.1.1 *Information is dissipated throughout the process and can be complex to retrieve*

Information that is typically required for the conveyancing transaction is generated by a multiplicity of stakeholders, stored in various locations and formats and is often difficult to source and retrieve. The following points are relevant to this overall issue:

- Property related information resides in different repositories and databases, including the Land Registry / Registry of Deeds, local authorities (planning, roads, services, fire etc), financial institutions, registers maintained by the Courts Service as well as other parties.
- Information retrieval often relies on the experience and expertise of certain organisations, such as law search firms, who are engaged to conduct particular tasks (e.g. title searches).
- There is no standard reliable identifier used throughout the process (e.g. use of address can be unreliable and there may be data protection issues with use of PPSN).
- A significant proportion of the information gathering process is manual, paper intensive and inefficient.

5.3.1.2 *The quality of information received during the process can vary considerably*

Issues related to the accuracy and integrity of information sourced and referenced throughout the process can vary. This issue is referenced by the fact that there is a lack of a consistent quality standard in terms of documentation and protocol across the process. Examples of this include:

- The maps maintained by the Land Registry may not be current from a mapping accuracy (rather than title) perspective.
- While some property developers may prepare a “booklet of title” document for new developments, containing a copy of the title and other relevant information. There is no standard for such documents, so the quality and detail of the information presented can vary.
- Title information, particularly in relation to unregistered properties, can be complex and difficult to understand and reconcile.
- Quality and reliability of surveys conducted as part of the process.

5.3.1.3 *The amount of documentation generated as part of the process has increased*

As the process has become more complex in recent years, so too has the documentation which is sourced, prepared, circulated and stored as part of the process. According to our review of the information flows that are core to the process, there are in excess of 100 documents sourced, generated and stored at part of a standard residential conveyancing process at present.

5.3.1.4 *Despite recent initiatives, there remains a lack of standard documentation generated and required in the process*

Bodies, such as the Law Society of Ireland and the Irish Mortgage Council, recognise the potential benefits of standard documentation to the conveyancing process. They have championed initiatives in recent years to

standardise some of the documents generated as part of the process, including the contract for sale, requisitions on title and mortgage application forms (in progress). There remains however a significant level of non-standard documentation generated throughout the process, including:

- Booklet of titles prepared by property developers (which may be difficult to standardise due to title specific issues).
- Forms required by financial institutions as part of mortgage application process.
- Documents submitted by Vendor's Solicitor to the Purchaser's Solicitor at pre-sale / sale agreed phase.
- Documents required by Land Registry for the different types of first registration application.

5.3.1.5 *The storage and maintenance of paper based files can be costly and errors can be made*

Stakeholders, particularly some financial institutions and solicitors, highlighted the significant costs associated with the storage and ongoing maintenance of title deeds within the relevant departments of their institutions. This is largely due to the fact that much of the information remains in paper-based format rather than being electronically stored and maintained.

5.3.2 Opportunities for Improvement

The conveyancing process is concerned with managing the various information and documentation flows between the various stakeholders. A redesign of the conveyancing process is intertwined with the preparation, circulation and storage of the documents akin to the process. Several opportunities for improvement therefore relate to process and IT as well as the information area:

- The standardisation of documents (where appropriate) would allow for greater efficiency, simpler processes and fewer errors in terms of the documentary requirements of the process. Documents where further standardisation may be possible include:
 - Standard mortgage application form across the financial institutions.
 - Standard application form to local authorities in relation to planning permission, search requests, financing etc.
 - Standard legal pack from the financial institutions to the solicitor.
 - Standard surveyor report and snag list templates.
- A future conveyancing strategy may wish to consider reducing the number of documents prepared as part of the process. This may involve:
 - Retiring defunct or low value added documents in the process (e.g. land certificate).
 - Amalgamating documents together where similar information is required.
 - Reducing numbers of copies required in the process (e.g. one set of mortgage deeds prepared by the financial institution).
 - eEnabling stakeholders to communicate electronically rather than via letter and postal method.
- A review of the ongoing requirement for physical documents as part of a future eConveyancing solution is required. For example, consideration could be given to the feasibility of scripless deeds.
- The need to be present to sign / authenticate documents throughout the process should be considered.
- A central location for documents required as part of the process would allow for easy access, editing and storage of the documents.

5.4 IT Systems

This section contains our observations and suggestions for improvement in relation to the IT systems and technology used by the various stakeholders with respect to the process. We have engaged in preliminary meetings with the appropriate IT resources within stakeholder organisations and representative organisations. Our assessment of stakeholders' IT readiness will continue throughout the subsequent stages of our review.

5.4.1 Observations and Findings

This section presents our initial observations related to the IT systems and technology used by stakeholders and summarises key findings from our review to date.

5.4.1.1 *Stakeholders are at various stages of development in relation to IT use and organisation*

Our review of the stakeholders' IT organisation and infrastructure clearly demonstrates that they are at varying degrees of IT sophistication, expertise and development. In summary, there are variances both between and within stakeholder groups. The following factors are evident from our preliminary review:

- **Some stakeholder groups are more progressive in terms of their use of and reliance on IT within the organisation than others.** Broadly speaking, the financial institutions, Land Registry, Companies Registration Office and Revenue Commissioners have successfully developed and deployed IT and eCommerce significantly across their organisation and staffs predominantly use IT systems as part of their daily responsibilities. These organisations devote considerable resources to their IT organisation and further extension and enhancement of the services offered by the IT function.
- **There can be significant differences in IT organisation within stakeholder groups.** Our review confirms that the size of the organisation is a significant factor in determining the extent of IT development and use in the organisation. There tends to be a considerable divide within some stakeholder groups between the large organisations and the smaller players within the group in terms of the IT systems deployed, use of systems and needless to say resources available to them. Notably, this situation applies to stakeholders such as: solicitors, estate agents and property developers. Even within financial institutions, we consider that each of the financial institutions would be in a different state of readiness in terms of eConveyancing.
- **Some of the smaller organisations and stakeholder groups have high IT literacy and usage.** Our consultation with stakeholders indicates that some smaller organisations rely significantly on IT and have invested relatively significantly in IT in recent years. This would apply to the law search firms we consulted with as well as estate agents and land surveyors.
- **Certain stakeholders have articulated IT strategies that impact on eConveyancing.** Notably, the Land Registry and the Courts Service are in the process of developing respective strategies that have some important implications for eConveyancing.

In regard to the former, the Land Registry has been progressing the implementation of its "Electronic Service Delivery Strategy" since 2002. The initial phase of the strategy is due to be completed in 2006. The Land Registry and Registry of Deeds have a long term eStrategy that involves transferring to a single system of registered land. The Land Registry is also in the process of developing its digital mapping capability and enhancing the level of services offered remotely through its website. We will consider and address the topic of integrated spatial and mapping in detail in the next phase of the review.

In regard to the latter, the Courts Service's proposed IT strategy involves migrating its registers from paper to database format and subsequently e-enabling them. The Revenue Commissioners also hopes to further enhance

its online taxation services, including the possibility of eStamping in the future. These planned developments would also play important enabling roles for an eConveyancing solution in the future.

5.4.1.2 *Some stakeholders have external connectivity or eCommerce capability*

Stakeholders' readiness in terms of developing their e-capability varies significantly. There have been several positive developments by core and non-core stakeholders in recent years. These include the following:

- The majority of the financial institutions have invested significantly in their eService delivery platforms in recent years. Most institutions provide online banking services at this stage, though at varying degrees of sophistication and scope. Data is stored electronically, database systems are used extensively and server structures are in place. Each of the financial institutions also communicates electronically through business-to-business links with the Revenue Commissioners and the Irish Credit Bureau and this capability may be widened to IFSRA and mortgage brokers in the future (they have not however commenced on eConveyancing).
- The Land Registry has made substantial progress since 1999 in e-enabling its processes. Most notably, it has launched the EAS (Electronic Access System) which enables account holders to undertake some service related activities including searches and pre-registration.
- The CRO (Companies Registration Office) has deployed key services online, making its data available electronically.
- Some of the larger law search firms have developed online search databases where users can access and search for relevant search data electronically.
- A limited number of local authorities have recently developed and deployed online search capability of planning records.

Other stakeholders are significantly behind in terms of this capability. For example, the solicitor profession as a whole does not engage in significant levels of electronic business-to-business transactions within their own stakeholder group nor with other stakeholders, such as estate agents or financial institutions. Equally, the Courts Service, the Revenue Commissioners and many local authorities have not developed their online capability to a significant extent, as it relates to the conveyancing process.

As a summary finding, there has been little exploitation of the potential business-to-business links and delivery of services electronically between the various stakeholders.

5.4.1.3 *The efficacy of the overall process relies on the “weakest link” in the stakeholder chain*

The efficacy of the conveyancing process depends to a large extent on the co-operation of the various stakeholders. Where some stakeholders are IT-enabled but others remain reliant on paper, often the process reverts to paper-based information flows. This issue is particularly notable in regard to solicitors and local authorities who are responsible for a significant level of process and information flows in the process.

5.4.1.4 *There has been limited co-operation across stakeholder groups in terms of IT development*

Our review indicates that limited emphasis has been placed to date by organisations on the development of “industry-wide” or “cross-functional” IT systems or solutions. There have been notable successes in some areas (e.g. 71 of the 88 local authorities use a common planning system). However, where efforts have been made in other areas, there have been limited successes to date (e.g. introduction of a standard mortgage application form across the financial institutions). Consequently, there remains a proliferation of disparate IT platforms and databases within stakeholder groups (e.g. estate agents, solicitors, financial institutions). Serious consideration would need to be given to this issue in the development of an eConveyancing solution.

5.4.1.5 *Some stakeholders are limited in their IT development expertise and capability*

The IT development capability and experience of the organisations varies considerably across the process and stakeholder groups. Size is a significant factor in gauging the organisation's IT development competency. For example, the large financial institutions would have substantial IT development expertise as opposed to estate agents, law search firms or solicitors. In addition, the local authorities can avail of the expertise provided by the LGCSB (Local Government Computer Services Board) in assessing and developing IT solutions. Public sector organisations may also refer to the REACH agency in terms of developing its online service capability. However, size is not the only determining factor as organisations may have varying strategies with respect to their IT development strategies. While some organisations may have in-house development expertise, others may rely on outsourcing or consultancy arrangements.

5.4.1.6 *Many stakeholders voiced an interest in an eConveyancing solution*

Stakeholders we consulted with outlined their frustration with the current process and broadly recognised its inefficiencies. Significant interest was voiced by many stakeholders regarding the development of an appropriate eConveyancing solution for Ireland in the future. From our limited consultations to date, certain other stakeholders would apparently seem less enthused by the topic, including law search firms, local authorities and estate agents. We believe that the concept of eConveyancing is not fully understood by a significant level of stakeholders. Considerable effort would need to be devoted to educating stakeholders, including customers, on the subject and its relevance for their daily roles and responsibilities.

5.4.1.7 *Stakeholders may have competing demands for their IT resources*

An important factor to bear in mind is the priority with which the respective organisations would regard the solution. Each stakeholder organisation manages an IT budget and the importance of the various initiatives must be judged relative to each other. Consequently, while eConveyancing related projects may be prioritised by some organisations, it may not be so for others. For example, we understand that the Land Registry and Courts Service view the development of their online capability as strategically important in the near term. However, each of the financial institutions has a substantial current demand on IT resources, with regulatory projects such as Sarbanes Oxley (SOX) and International Financial Reporting (IFRS) compliance. As a result, an eConveyancing related project may be subject to a considerable lead time before it may be deployed. These organisations will require strong "business cases" to be developed and agreed within their respective organisations in order that eConveyancing be accorded priority alongside or ahead of other IT projects.

5.4.2 Opportunities for Improvement

The concept of eConveyancing is viewed and understood differently by the various stakeholders we consulted with, meaning "different things to different people". The scope of an eConveyancing solution can be narrow or broad depending on the extent of the approach and model pursued by the organisation responsible for its deployment and the roles of the various stakeholders impacted by it. Some of the identifiable opportunities for improvement that may or may be part of an eConveyancing solution include:

- The vision for eConveyancing could be an online unified registered title system where all title information is accessible to stakeholders who have access to a portal with links to the core databases maintained by the relevant organisations.
- Design a centrally coordinated database across key stakeholder groups (e.g. solicitors, financial institutions, local authorities) that records the location of title deeds.
- Develop and deploy secure solicitor-to-solicitor electronic information exchange system.
- Migrate current paper-based registers and relevant information into database formats and invest in the search capability within the databases thereby allowing for online search and access.

- Planning records could be stored on a common database facility and made accessible to users. This database could be managed within the local authority or across local authorities through a common access portal.
- The development of standard and secure electronic funds transfer processes and systems would enable fast payment and facilitate reconciliation of accounts.
- The deployment of the Land Registry's digital mapping project should improve accessibility, accuracy and lead times in the registration process.
- The design of an eStamping solution in the Revenue Commissioners would significantly facilitate an eConveyancing solution.
- Stakeholders viewed the development of an eRegistration capability in the Land Registry as central to a future conveyancing solution.

5.5 Legislation

This section contains our observations in relation to the legislation that is relevant to the current conveyancing process in Ireland. It is important to note that substantive work has been done by the Law Reform Commission in regard to the legislation underpinning the process. Our purpose is not to duplicate this effort. There are however several important observations that we wish to highlight with regard to the legal framework underpinning the process.

5.5.1 Observations and Findings

We note the following observations with respect to the legislation and its role in the current process:

5.5.1.1 *The current process is aligned with the current legislation*

Our review of the current process indicates that it has been designed to “fit” with the legislative framework that has been put in place. The focus has traditionally been reactive rather than proactive. Examples of this include:

- The ongoing requirement for physical signatures throughout the process means that much of the information flows throughout the process remain paper based.
- Stamp duty legislation means that current documents need to be manually stamped at the Revenue Commissioners offices to confirm that duties and taxes have been paid.

It is important that the process is sufficiently flexible to reflect legislative changes that may be put in place and the Law Reform Commission has made significant contribution in recent years to recommend the reform and modernisation of land law and conveyancing law.

5.5.1.2 *Ireland’s dual system of land registration impacts significantly on the efficiency of the current process*

Ireland has a dual system of land registration – registered and unregistered land ownership. Registered properties are registered with the Land Registry and deeds transferring an interest in and mortgaging unregistered properties are registered with the Registry of Deeds. At present, approximately 90% of the land in Ireland and over 85% of the titles are registered in the Land Registry with the remainder in the Registry of Deeds; however, title for substantial parts of large population areas such as Dublin are still registered in the Registry of Deeds. The following issues are evident from this dual system:

- Practitioners must be educated and trained in two systems of land registration.
- The searching and registering processes in the Registry of Deeds are extremely manual in nature with a large volume of paperwork generated.
- There is limited IT enablement of the Registry of Deeds process in particular and the current system has some severe limitations.
- Solicitors may wish to apply for first registration in the Land Registry (i.e. convert from unregistered to registered) but this has largely been conducted based on a voluntary registration process to date (although compulsory registration may apply in certain counties and in certain limited circumstances).
- Solicitors and property developers have been discouraged to engage in the first registration process due to the average lead time involved in the process.
- In order for the registration of (certain areas of) land to become compulsory, enabling legislation would have to come into place.

Research carried out by the Land Registry estimates that there are between 240,000 and 300,000 properties whose titles remain to be registered in the Land Registry at this time.

5.5.1.3 *The legislation underpinning the process has become increasingly complex, particularly in relation to taxation and planning*

As outlined previously, the conveyancing process has become increasingly complex in its scope. A key contributory factor has been legislation that has been implemented in recent years. Legislation that has become increasingly complicated in recent years includes taxation (particularly stamp duty and VAT) and planning. Examples of this include:

- There are ranges of stamp duty rates and exemptions that can apply in a conveyancing transaction. These can complicate the process of calculation of applicable rates for both the purchaser / Purchaser's Solicitor and the Revenue Commissioners.
- Although of less importance in a residential sale, we understand that VAT rules have become increasingly complex.
- Much of the legislation is spread across a number of Finance Acts as well as specific tax legislations. This can make the relevant information difficult and cumbersome to manage.
- There are legislative issues relating to carrying out planning searches in Local Authorities where information stretching back as far as 1st October 1964 may not be available.

5.5.1.4 *Some of the legislation that impacts on the conveyancing process is out-dated and in need of reform.*

The current conveyancing process is impacted by legislation that is outdated and in need of reform. Examples of this include:

- Statute of Uses (Ireland) Act 1634.
- The Conveyancing Act 1881.
- The Settled Land Acts 1882-1890.

The Law Reform Commission recognised the need of reform of Ireland's land and conveyancing law. Their work in this area is described at a high level in our next point.

5.5.1.5 *The Law Reform Commission has led substantive work with the objective of modernising land and conveyancing law in Ireland*

The Law Reform Commission commenced work on the eConveyancing project in 2003 with the objective of fulfilling the Commission's obligation to review and make recommendations for the reform of conveyancing law and practice as set out in the Commission's Second Programme for examination of certain branches of the law with a view to their reform 2000-2007. The Commission's Working Group on eConveyancing was divided into three sub groups: Substantive Law, Administration and Procedure. The Substantive Law group was responsible for considering what changes to land law and conveyancing law would facilitate the speeding up and simplification of the conveyancing process and has completed its work.

The initiatives by the Commission in carrying out this work on the reform of substantive land law and conveyancing law was facilitated by a joint project between the Commission and the Department of Justice, Equality and Law Reform which included:

- A review of existing legislation (which included over 150 pre 1922 statutes) with a view to preparing a codification Bill to repeal, update and reform (as appropriate) land and conveyancing law. A Consultation Paper on Reform and Modernisation of Land Law and Conveyancing Law (LRC CP 34-2004) was published in October 2004.
- A stakeholder wide conference was held in November 2004 to study the reform proposals made in the consultation process as well as the on-going modernisation of the Land Registry and the preparation for eConveyancing.
- The final stage of the joint project with the Department was the publication in July 2005 of the Commission's Report on Reform and Modernisation of Land Law and Conveyancing Law (LRC 74-2005) which has a draft Land and Conveyancing Bill attached.

These initiatives have played an important role in highlighting the issues associated with the current legislative environment. The Government's legislative programme provides for the publication of a Bill to modernise land and conveyancing law during 2006. Work is now proceeding to bring a draft Bill to publication stage.

5.5.2 Opportunities for Improvement

The Law Reform Commission made final recommendations for the legislative framework that needs to be reformed to modernise land law and conveyancing law in Ireland. The focus of this report is on the actual conveyance process. Opportunities that relate to the legislative framework that may should to be considered include:

- Early enactment of the Land and Conveyancing Bill into law.
- The current Registry of Deeds process and system should be gradually retired and migrated into a single system based on the Land Registry.
- The Land Registry's process of title registration should be accelerated to ensure that the State will, in due course, have a complete land register to enable it to take advantage of the general reforms proposed in the law of property and the arrival of eConveyancing. This process may involve promoting the use of "qualified" title within the conveyancing process.
- Review the future role and legal requirement of certain practices across the process, including:
 - Physical stamping of documents.
 - Sealing of documents.
 - Declarations sworn in the witness of a Commissioner for Oaths.
 - Physical signatures on particular documents.
- The feasibility of less complex fiscal legislation for conveyancing (e.g. stamp duty) and whether stamp duty could be organised on a self-assessment basis with the Revenue Commissioners.
- Understand the legislative implications of other process and system improvements, such as the feasibility of reducing and standardising the number and format of documents generated and circulated in the process.

5.6 Culture and Tradition

Conveyancing has been impacted considerably by factors related to stakeholders' traditional approach to the process. Elements of Ireland's societal culture are also evident from the operation of the current process.

5.6.1 Observations and Findings

This section of the report presents several observations:

5.6.1.2 *A culture of conservatism and caution is prevalent in the conveyancing process*

Our review of the current process indicates that many stakeholders adopt a conservative and cautious attitude with respect to the activities they conduct and their interactions with other stakeholders. The solicitors representing the purchaser and vendor play integral roles on behalf of the two parties throughout the process. Some examples of this behaviour include:

- A reliance on formal communication (predominantly letter based) between the core stakeholders throughout the process.
- Preference from the general public (i.e. purchaser and vendor) to use independently selected parties (such as: surveyors, mortgage brokers etc.) than those recommended or affiliated by other stakeholders.
- Preference for each potential purchaser to commission their own survey with respect to auction sales rather than rely on a single survey organised by the vendor's estate agent for the property.
- Some stakeholders voiced their opinion that the approach adopted by the Land Registry in regard to the documentary requirements for first registration has been traditionally overly cautious and that this has had a significant effect on the average lead time for first registration.

5.6.1.3 *There may be limited co-operation between stakeholders where personal relationships do not exist, particularly with regard to the solicitor-to-solicitor relationship*

Our review indicates towards the important role played by personal relationships with regard to the management of the conveyancing process in Ireland. Where personal relationships exist between stakeholders, the process can run more smoothly and efficiently. However, where relationships do not exist, co-operation between stakeholders can be less evident. This seems to be particularly relevant to the communication between the solicitors representing the vendor and the purchaser. We observe that an adversarial culture can exist between these two core stakeholders. Our observations in regard to this issue include:

- The extent of co-operation between the solicitors can vary significantly between residential and commercial property sales. Feedback from stakeholders indicates that a higher degree of co-operation typically exists with respect to commercial transactions.
- The Purchaser's Solicitor to take the lead in the pre-contract enquiries stage of the process. Relations between the solicitors in this area can be strained as one party takes what is perceived to be an unreasonable stance throughout. For example, the Vendor's Solicitor may be reticent to fully respond to pre-contract enquiries in a timely fashion.
- Communication between solicitors engaged in the conveyancing process is often conducted "at arm's length" (i.e. through letter based formal communication) rather than through face to face meetings or via a transparent electronic exchange.
- Relations between solicitors may be tense when one party to the transaction attempts to "re-negotiate" the deal over the course of the process.

5.6.1.3 *Stakeholders continue to rely on traditional forms of communication and payment*

While there is a legal requirement for a deed to be physically signed to transfer property interests, there remains significant reliance on traditional forms of communication and payment despite the availability of more modern methods. Examples of this include the following:

- Much of the communication between the various stakeholders remains paper-based and by postal means.
- Physical signatures accompany many of the documents generated throughout the process.
- Some documents are physically sealed (e.g. local authority authorisation) or stamped (e.g. stamp duty).
- Declarations must be declared and witnessed by a Commissioner for Oaths.
- The principal payment method throughout the various transactions remains bank draft or cheque.

5.6.1.4 *Delays are perceived as “part of the process”*

As we outlined in the process section, delays are perceived by many stakeholders as “part of the process”. For that reason, expectations are low among stakeholders (particularly the general public) regarding the efficiency with which the process can be managed. Some of the perceptions of stakeholders with respect to delays include:

- The information gathering process is expected to be slow and may involve a significant level of consultation between the solicitors who are party to the transaction.
- There is a high level of interdependence between stakeholders throughout the process – if one stakeholder is delaying the process, the entire process is typically affected.
- The finalisation of financial arrangements with lending institutions can take a significant amount of time.

5.6.2 **Opportunities for Improvement**

Culture issues are embedded in the activities conducted by stakeholders across their respective professions. Re-designed processes and systems may not in themselves induce stakeholders to adopt new methods. Serious consideration needs to be given to the ‘softer’ change management aspects associated with these improvements. Some relevant opportunities to be considered include:

- The relevant stakeholder representative bodies could take a lead in promoting closer co-operation within and across the profession with the objective of improving the efficiency of the process. Progress has been made in this area in recent years by bodies such as: the Dublin Solicitors Bar Association, Irish Mortgage Council and the Law Society. Greater emphasis should be accorded to cross-functional working groups, such as the Land Registry and Registry of Deeds Customer Group which meets regularly. These bodies can play a key role in encouraging their members to participate and use new tools and processes.
- A review of the respective roles and responsibilities of the vendor’s and purchaser’s solicitors may serve to improve relations between the two parties to the transaction. For example, there may be merit in requiring the Vendor’s Solicitor to submit a standard set of documentation to the Purchaser’s Solicitor during the pre-sale phase of the process. Some stakeholders indicated that there may be practices from commercial property transactions that should be adopted more readily in residential transactions.
- There should be greater promotion of secure and immediate electronic funds transfer type payment solutions in order that the benefits of these forms of payment are evident to stakeholders.
- An integrated information system would promote greater transparency for stakeholders and enable closer co-operation between them.
- Bodies such as the Irish Institute of Surveyors, Royal Irish Architects of Ireland and Society of Chartered Surveyors should play a more proactive role to educate consumers about the services they can offer and promote new concepts, such as the single building or land survey for auction sales.

5.7 Education and Understanding

The process depends substantially on the experience, understanding and knowledge of the various stakeholders. We believe there are significant issues to be considered in regard to this area.

5.7.1 Observations and Findings

This section of the report presents a number of important observations:

5.7.1.1 *Limited consumer understanding of the conveyancing process*

Despite the increased interest that consumers have shown in the property market in Ireland in recent years, there remains a limited understanding of the conveyancing process. Consumers rely considerably on their solicitors (in particular) to advise and guide them through the process. This is evident from the following:

- There is limited information made available to the consumer about the conveyancing process and the consumer's role (as purchaser or vendor) within the process. This issue is reinforced by the lack of transparency throughout the process.
- Consumers perceive the conveyancing process to be adversarial and do not actively involve themselves within the process.
- Consumers can be a cause for delay in the transaction due to delays on their part in finalising things such as life cover (without which loan drawdown is not facilitated by the financial institution) or vendors not vacating their personal belongings from the property in advance of closing.

5.7.1.2 *Varied level of understanding of the process across stakeholder groups*

We observe a varied degree of understanding of the process across stakeholder groups, including estate agents, surveyors, property developers and solicitors. This extent of the stakeholder's knowledge of conveyancing has implications on its efficiency of the process. Examples of this include:

- A significant number of property developer maps are rejected by Land Registry as they do not fit with their standards and guidelines.
- A high proportion of registration applications from solicitors are rejected by the Land Registry.
- Financial institutions may delay in making deeds available or in giving final redemption figures or in returning vacated mortgages or make the bank draft / cheque out to the wrong party in the transaction.
- An incomplete Schedule of Deeds may be submitted by the Purchaser's Solicitor to the financial institution.

This can be due to several factors which may include the complexity of the transaction but also the stakeholder's experience and expertise of conveyancing. For example, a significant proportion of solicitors may not specialise in conveyancing or may work in the profession on a part-time basis. In addition, stakeholder groups such as surveying and estate agency/auctioneering are self-regulating professions. As a result, there are no specific educational qualifications required to practice in these areas.

5.7.2 Opportunities for Improvement

The development of an education and training strategy will be a critical success factor in the context of a future conveyancing process and system. Bearing in mind the issues outlined above, the following opportunities for improvement may wish to be considered:

- The design and deployment of consistent and standard communication flows and formats would improve practitioners' understanding of the process.
- Processes and procedures should be documented within and across stakeholder groups.
- Transparency within an eConveyancing solution and process would facilitate a clearer understanding of the role(s) of the various stakeholders.
- Bodies, such as the Law Society and the Land Registry, may wish to promote use of the certification of title / Form 3 process with the use of qualifiers among the legal profession as an important mechanism to accelerate its ongoing process of first registration of land.
- An ongoing responsibility by the various stakeholder groups with respect to educating their "clients" should be part of a future conveyancing strategy.

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6. ECONVEYANCING IN OTHER COUNTRIES

This chapter of the report examines the development of other eConveyancing solutions in other jurisdictions as regards: the scope of the solutions, the benefits that have been realised and the lessons learned that relate to the Irish context. EConveyancing systems are already in place or planned in many other common law countries.

The information gathered and analysis undertaken has been achieved through a combination of desk-based research and discussions with executives in the main conveyancing organisations in each of the jurisdictions identified.

6.1 Jurisdictions Chosen for Study

The following five jurisdictions were chosen for analysis due to their levels of development of eConveyancing and similarities to the Irish conveyancing process:

- Ontario, Canada
- England and Wales
- New Zealand
- Australia
- South Africa.

Specifically, the reasons for further investigation of the selected jurisdictions were as follows:

- The conveyancing process in each of the jurisdictions selected has similarities to the Irish conveyancing system in terms of stakeholders involved.
- The operation of a dual registry system and land issues such as mapping are present in the jurisdictions analysed.
- All have had to conduct analysis of the legislative basis for conveyancing and where necessary have needed to amend legislation to enable an eConveyancing solution.
- All have faced similar challenges to Ireland in terms of issues with the traditional paper-based conveyancing process. Areas they focused on include the generation of paper based documents, inherent delays in the conveyancing process due to communication difficulties between different stakeholders, and the difficulty in retrieving information lying in different repositories and databases.
- All have encountered challenges during their implementation phase and those currently in development have significant challenges that will need to be overcome in order to ensure the success of the solution; challenges such as: involving the varying stakeholders, education and training relevant stakeholders and users and sequencing a phased implementation approach. The experiences from these challenges and lessons learned from them provide important information to consider when developing an implementation approach for an Irish solution.
- Ontario (Canada) and New Zealand have been engaged in some aspects of an eConveyancing solution longer than any other jurisdiction and as a result, are the foundation models for many modern eConveyancing solutions.
- England and Wales and Australia are currently in the development process while South Africa development is being driven by the private sector.
- Other areas where eConveyancing development is occurring but do not feature in this study include:
 - Scotland: A paper-free registration of title has currently completed its pilot phase.

- Singapore: An automated title registration system is operational and legal professionals can use the internet to prepare and submit legal requisitions electronically to multiple government agencies and to receive replies.
- British Columbia in Canada BC Online eConveyancing system links all the major agents in property transfers and simplifies real estate transfer process and enables parties to the transaction to monitor and progress the transaction through to completion. The system is use in British Columbia would merit further investigation, at a later stage, on the road to eConveyancing for Ireland as there maybe benefits and lessons to be learned from the implementation in British Columbia.

6.2 Ontario, Canada

Ontario is recognised as the most progressive eConveyancing solution currently in operation and is widely acknowledged as a reference source for new eConveyancing solutions in other jurisdictions. The Ontario solution was developed initially in the 1990's by the Ontario Government and subsequently took the form of a public private partnership (PPP). The Ontario solution is the closest solution to an "end-to-end" eConveyancing solution that is currently in existence with functional modules such as: property registration, solicitor communication facilities, online searches, online mapping functions and dealings with financial institutions.

Legislative changes were required in order to create an environment suitable for an eConveyancing solution in terms of changes to registration legislation and developing legislation surrounding eCommerce and eCommunication.

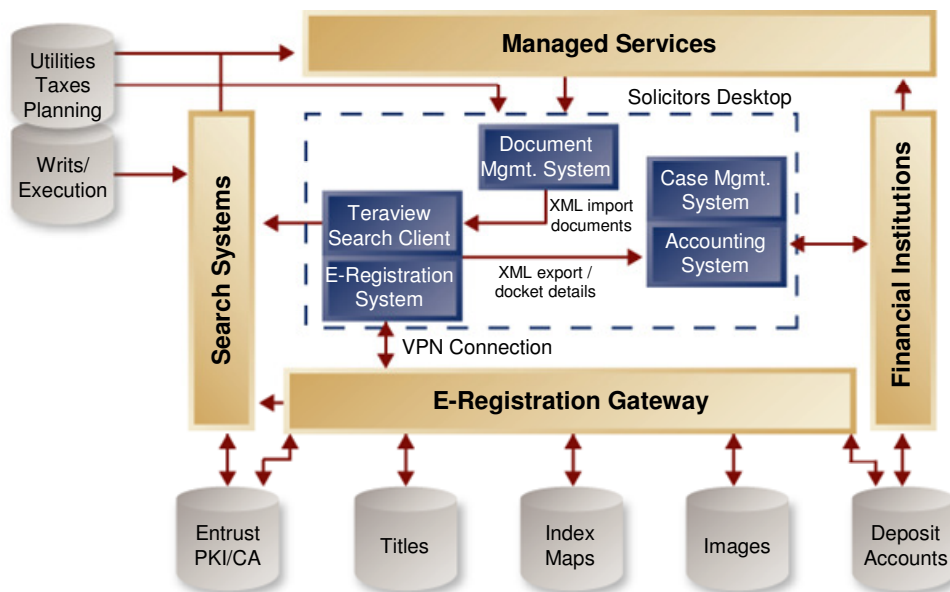
6.2.1 Key Drivers and Scope of the Solution

Government policy was initially the key driver in the development of the Ontario solution with the drive to convert two registry systems into one as well as the integration of the mapping and titles databases. Central to this integration was the automation of all manual processes. The desire to integrate related services such as courts, revenue and tax services also played a key role in the development of the eConveyancing solution.

When the ownership and development of the solution took on the form of a PPP with Teranet as the private partner, the key driver was the development of value-added services, for example, "Geowarehouse" which is a tool for surveyors and valuation professionals and "Purview" which is a tool for lenders to minimize risk.

The Teranet eConveyancing solution offers a number of services that are both core to the conveyancing process and were developed in partnership with the Ontario Government, as well as value-added services developed by Teranet:

Figure 6.1: The Teranet system operating in Ontario, Canada



- “eRegistration”: Documents are created, submitted, registered and maintained in electronic form. These electronic documents are created and modified online.
- “eSearch”: Land titles can be searched using an online system as well as planning related information and court judgements.
- “eFinance”: All interactions with financial institutions throughout the conveyancing process is standardised and facilitated online through the system.
- “eMapping”: Digitised parcels maps are integrated with the titles database and other mapping systems. This required a complete resurveying of the Ontario region.
- “Bar ex”: A value-added tool provides the legal community with a gateway to a broad range of legal practice tools and resources and is integrated with the Law Society which provides validation of the legal users.
- “eTax”: The solution offers a facility to pay all relevant taxes due online through the system as it is integrated with the revenue authorities.

6.2.2 Ownership and Governance Structures

Initially, the solution began development in 1984 under government control and ownership. This facilitated the development of the POLARIS system that encompassed the automation of the Land Registry system.

Further development was facilitated by the formation of a PPP in 1991 that saw Teranet successfully selected as the private partner in a 50/50 ownership structure. 2003 saw Teranet acquire the 50% government share and establish an exclusive licence to 2017.

A total of \$680 million Canadian dollars (€487.89 million) has been spent on the system to date of which \$29 million Canadian dollars (€20.8 million) was provided through government funds.

Relevant stakeholders have a share in the ownership of the module that applies to them. For example, The Canadian Law Society has a share in the “Bar ex” product, which is an electronic tool for the legal profession

for matters such as litigation and commercial law, and the Court Service maintains a shareholding in the “Writ.” system, which is a searching system for all official court and legal documents.

Teranet is a private commercial organisation and operates a fee-based structure to generate revenue. As each stakeholder has a share in each of the service modules that they are involved in, they are party to the formulation of the fee structure attaching to these service modules.

Teranet develops and operates electronic services; however, the government and relevant public bodies retain ownership of any data used/provided during the course of the conveyancing process.

6.2.3 Benefits Realised

The land system facilitates the transaction of \$60 billion Canadian dollars (€43.05 billion) on average per annum. 98% of all documents are submitted to the system electronically as part of the 42 million eCommerce transactions per annum. The Teranet system has 15,000 secured users and has seen revenue grow from \$80 million Canadian dollars in 1991 to \$200 million in 2004.

A significant reduction in the levels of paper generated in the conveyancing process has taken place and has meant that all but the most essential documents are in electronic form. Legislation has been enacted that gives electronic documents higher legal status than paper documents.

By giving each stakeholder a share in the relevant solution module in which they operate, Teranet has ensured that all stakeholders buy into the system in terms of adoption and future development. All board decisions have been unanimous over the last ten years.

\$400 million Canadian dollars (€287 million) have been paid to the Ontario Government in terms of royalties in exchange for the exclusive licence since 2003.

6.2.4 Lessons and Implications for an Irish Solution

The lessons from Ontario are:

- The appropriate financing for the development must take a long term view.
- Getting continued stakeholder buy-in through engagement and equity participation is vital.
- Simplifying processes is an essential first step.

The appropriate financing for the development must take a long term view

The key lesson from the Ontario development surrounds the area of financing. Venture capital is not appropriate for financing a project like an eConveyancing solution, as the period before a return on investment is realised is too long for most venture capitalists. A public private partnership with a well-established and well-financed private company is an excellent way to ensure that development finance is available. The private partner must also realise that a high return on investment is possible but only after a period of time in excess of five years and out to fifteen years.

Getting continued stakeholder buy-in through engagement and equity participation is vital

Early participation of stakeholders is essential to get stakeholder buy-in and to provide momentum for the development of the system. The Canadian experience suggests financial institutions form a good partner at an early stage of development. Similarly, solicitors, the Courts Service, local authorities and Revenue Commissioners need to be early participants in the development of the system.

The Ontario solution grew due to strong stakeholder buy-in and participation and this is due to the governance arrangements that gave each stakeholder a share in the particular module with which they are mainly associated. A key development for getting the legal profession to participate in the system would be to make them shareholders in any eContract module similar to the Law Society in Ontario.

Simplifying processes is an essential first step

The Ontario solution demonstrated that the key first step in terms of a roadmap towards the deployment of an eConveyancing solution is to simplify processes and standardise documents. Similarly, resolving mapping issues and in the Ontario case standardising mapping and resurveying the land mass are also crucial steps along the way to deployment of any new system.

6.3 England and Wales

The development of an eConveyancing solution is currently under way for the jurisdictions of England and Wales. The solution covers a wider scope of functions than New Zealand, Australia and South Africa, and includes core elements such as property registration, EFT and contractual dealings as well as scope for private sector add-on services. The entire project is led and financed through public sources, namely the Land Registry.

Pilot projects and proof of concept demonstrations of functional areas such as electronic application of documents were conducted in 2004 and the implementation of all other functional areas and modules will be preceded by similar demonstrations.

Amendments to the *Land Registration Act 2002* were required to enable the development of the system and scope is available for further legislative changes if required.

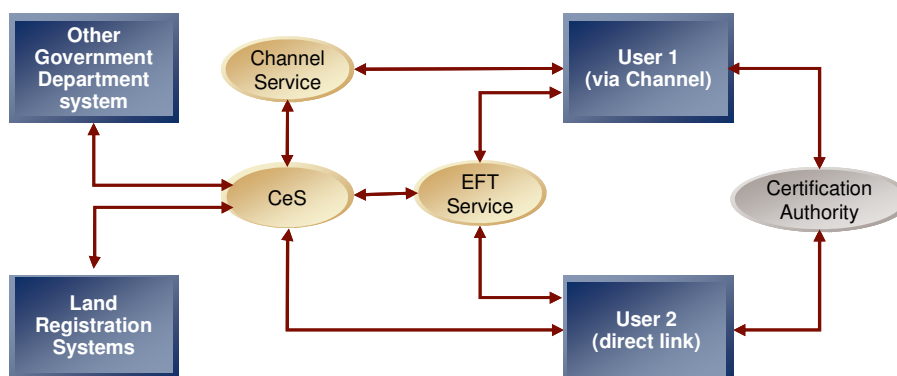
6.3.1 Key Drivers and Scope of the Solution

A number of challenges in the existing conveyancing process have acted as key drivers behind the development of a new solution including a lack of transparency within the existing system, the unpredictability of cash payments, the time taken to buy or sell a house due to the potential for poor conveyancing practice and a government drive towards eGovernment.

The England and Wales solution offers services such as electronic sale and purchase of property, EFT transactions between parties, “eRegistration” functions involving the Land Registry and also scope for value-added services, the development of which could be led by the private sector. A key feature of the England and Wales solution is the creation of a “notional register” which enables elements of the registration function to be conducted and validated in parallel with the other functions of the conveyancing process, so that there are no unresolved registration issues at closing date and final registration can be affected immediately upon closing.

In conjunction with the development of the eConveyancing solution, other initiatives such as the development of the Home Information Packs and electronic searching facilities are being carried out through other parties such as the National Land Information Service (NLIS).

Figure 6.2: Proposed service structure for eConveyancing in England and Wales



6.3.2 Ownership and Governance Structures

The Land Registry owns the project and is responsible for the development of the solution as funding is being drawn from reserves it has built-up over previous years. Ultimate responsibility for the eConveyancing programme lies with the Secretary of State for Constitutional Affairs and his Ministers.

The management structure for the delivery of the programme includes:

- eConveyancing Programme Board chaired by senior personnel
- Programme Manager
- Business Change Managers
- eConveyancing Task Force comprising the relevant stakeholders
- Specific workstreams and projects

The Land Registry is the chief operating agent but involves the key stakeholders in the development of the solution. Citizens, financial services, legal service firms, estate agents and public sector delivery partners all fall within the scope of the proposed solution. Operational partners have also been selected to help with the development and delivery of the solution with the high street banks aiding in the development and deployment of the EFT component.

The new solution will be self-financing while providing the service to the stakeholders at cost price. Transaction fees that will be determined by the Land Registry will generate revenue. Efficiency gains as a result of the new system will also aid the new system in becoming self-financing resulting from lowered costs.

6.3.3 Benefits Realised

The system is currently in the early stages of development and as such the Land Registry has identified the various performance metrics that will be used to gauge the success of the solution such as reductions in the time and cost per conveyance, the cost per registration and the take-up levels of the solution until such a time as the eConveyancing solution is mandatory. Discussions are currently ongoing to determine a date for compulsory changeover to the eConveyancing solution.

6.3.4 Lessons and Implications for an Irish Solution

The main lessons learned from the England and Wales project are:

- Establishing a strong leading group helps drive progression of the project.
- Stakeholder buy-in is crucial for project success.
- Conducting process redesign should be conducted at an early stage.
- Conducting pilot projects builds stakeholder confidence and buy-in.

Establishing a strong leading group helps drive the project

The development of the England and Wales solution is benefiting from the presence of a strong leading group that has ownership of the project and more importantly, is well resourced. Initially, the approach was far more fragmented and as a result the project failed to gather momentum. Following the decision to have a more integrated approach, the project gained credibility among stakeholders and has recovered any lost impetus.

Stakeholder buy-in is critical

Stakeholder buy-in is critical and the Land Registry has actively worked with all the relevant stakeholders to develop the solution and is ensuring that there is ongoing communication between the eConveyancing task force and the various stakeholder groups. The development of the solution is being conducted with the strong citizen focus with the consumer being at the heart of the new solution.

Process redesign should be conducted at an early stage

The Land Registry now acknowledges that it would have been better to redesign the business processes prior to initiating the development of the solution. The thinking originally being that stakeholders would be less resistant to adopting the new system, if the switchover was relatively seamless. It now finds itself in a situation of conducting process redesign after the formulation of the solution and it is of the opinion that this is less effective.

Conducting pilot projects builds stakeholder confidence and buy-in

Central to gaining stakeholder support and buy-in has been the decision to conduct piloting and proof of concept demonstrations in 2004. Further provision has been made for extended testing and piloting phases with a prototype pilot in 2006 and a “chain matrix” pilot in 2007 to ensure complete functionality and credibility of the system.

6.4 New Zealand

Land Information New Zealand (LINZ) is the authority responsible for the development and management of the eConveyancing solution in New Zealand and has created LandOnline to act as the interfacing entity with the users. LINZ is a government owned and run department that is in essence an amalgamation of the Land Registry and the Ordinance Survey department. While the present solution encompasses only some modules of an end-to-end eConveyancing solution such as property registration, searching facilities and survey submission facilities, LINZ did originally examine the possibility of developing an end-to-end eConveyancing solution but came to the conclusion that it would be too ambitious given the number of stakeholders involved and the volume of information that would require digitisation.

Legislative changes were required to enable a transition from the traditional manual conveyancing process to an eConveyancing environment such as the amendment of the *1952 Land Transfer Act* and changes to facilitate the commencement of remote electronic lodgement for conveyancers and surveyors in 2003. Future legislative changes may include making the use of the system mandatory in order to increase usage.

6.4.1 Key Drivers and Scope of the Solution

The New Zealand Government has been the key driver for the development of the partial eConveyancing solution. A move towards eGovernment solutions coupled with a strong political interest from the relevant Ministers has provided a drive towards a partial eConveyancing solution. Current and future strategies for the solution and LINZ are still shaped by government policy.

An organizational restructuring which saw the former Land Registry and Ordinance Survey departments merge into LINZ, also provided an opportune time for a move towards electronic registration and modules of an eConveyancing solution such as eSearches and eSurveys.

The LINZ system offers four modules providing searching facilities for titles and spatial survey data, title registration, digital submission of surveys and local authority certification of surveys, as follows:

- **Service A:** “eSearch” provides access to the titles register, survey data and supporting documents, while “eSearch Plus” provides users with the added ability to search and view spatial survey data. Both search facilities save time and money and provide easier, more convenient access to the national database.
- **Service B:** “eDealing” offers instantaneous registration enabling authorised users to update the land titles registry directly and instantly without waiting for LINZ to process documentation manually. Electronic lodgement can save up to three weeks in comparison to manual lodgement, as “eDealing” does not require you to complete any paper lodgement forms. “eDealing” also offers a pre-validation tool that significantly reduces error rates by having the “eDealing” information validated before it is lodged with LINZ.
- **Service C:** “eSurvey” allows a surveyor to digitally prepare and submit cadastral surveys directly from their own office taking away the requirement for paper. “eSurvey” allows surveys to be processed significantly faster in comparison with paper plans. A pre-validation tool also significantly reduces error rates by enabling the survey to be validated before it is lodged with LINZ.
- **Service D:** “Territorial Authority e-Certification” allows Local Authorities to certify cadastral surveys online. Local Authorities and Councils can certify online regardless of whether the survey has been submitted manually to LINZ or online using “eSurvey”.

6.4.2 Ownership and Governance Structures

LINZ is owned and funded by the New Zealand Government and is accountable to the Minister for Land Information. While all the key stakeholders were consulted and involved in the development of the solution,

the funding for the development of the solution came directly from public funds and maintenance of the system is subsidised when required.

While appropriate consultation and communication is carried out continuously and specifically when decisions need to be made regarding a particular issue, the final decision rests with the LINZ project board.

Future planning direction and strategy formulation for the continuing development and technology refresh of the solution is controlled by the Department of Land Information and directed by government policy.

LINZ aims to cover operational costs through a revenue stream generated through fees generated from the various services provided such as an annual licence fee, annual maintenance fee, search fees, lodgement fees, cadastral survey lodgement fees and digital certificate registration and renewal fees. The fee structure is accepted by users due to the savings that can be achieved through using electronic methods as opposed to the traditional manual method.

When the revenue from fees does not cover LINZ operating costs for the fiscal year, LINZ receives a government subsidy to cover costs. The fee structure is then amended in the following fiscal year to ensure that the revenue gained from fees covers all costs.

LINZ does not operate with the aim of generating a profit. Any profits generated in a particular fiscal year are returned to the users the following year in the form of reduced fees.

6.4.3 Benefits Realised

The LINZ system facilitates 800,000 survey transactions per annum. The conversion of seven million records from paper versions to digital versions took place over a period of five years at a cost of \$150 million New Zealand Dollars (€86.42 million). This phase also included the “eSurvey” component of the solution. 97% of all searches are now conducted online through the “eSearch” module. The actual uptake of the electronic system as a whole has been disappointing. Only 20% of routine conveyancing transactions are conducted electronically. Dual systems are still operated thus reducing the incentive to switch exclusively to the eConveyancing solution.

The users of the system have experienced significant cost savings per transaction when compared to the cost by the traditional manual method:

Description	Cost by traditional manual method in NZ\$	Cost by electronic method in NZ\$
Title Search	\$4 (€2.30)	\$2 (€1.15)
Withdrawal of Caveats	\$50 (€28.80)	\$21 (€12.10)
Survey Lodgement	\$304 (€175.15)	\$107 (€61.65)
Survey Resubmission Fee	\$80 (€46.09)	\$36 (€20.74)

6.4.4 Lessons and Implications for an Irish Solution

The main lessons from New Zealand are:

- Conducting process redesign and simplification is an essential first step.
- Ensuring stakeholder buy-in at an early stage is critical.
- Getting the balance between public and private involvement in the development of the solution is an important decision.

- Avoiding low take-up rates can be achieved through education, marketing and training.

Conducting process redesign and simplification is an essential first step

LINZ began the development of the solution by simplifying forms, documents and simplifying the internal processes of the Land Registry and this approach appears to be key, given the fact that such a step was also taken in the Ontario development.

Ensuring stakeholder buy-in at an early stage is critical

A key step taken by LINZ was to get heavy stakeholder involvement early on in the development of the business case and to get stakeholder buy-in before going to government sources to present the case for funding and development of the project. LINZ have also stressed the importance of getting stakeholders on board early on and involving them in an ongoing steering committee to ensure stakeholder satisfaction and continuing support for the solution.

Getting the balance between public and private involvement in the development of the solution is an important decision

The LINZ solution highlights how a natural break occurs between core conveyancing functions that are publicly funded and then the natural value-added services that can be financed and developed by private industry. LINZ is of the belief that the best role for the New Zealand government to take was to enable the areas that it has direct control over (e.g. the Land Registry) for an eConveyancing environment as these areas are the ones that it can be most effective in. According to LINZ, this is the best way that any government can establish momentum for an eConveyancing solution.

Avoiding low take-up rates through education, marketing and training

LINZ has experienced disappointing results in terms of uptake of the solution with only 20% of what could be done electronically actually being done on the LINZ system. LINZ believes that the low uptake levels are due to the low levels of training, marketing and support services offered by LINZ. LINZ have emphasised the importance of training and marketing in order to boost adoption of the solution and boost uptake figures in the development of any eConveyancing solution. It is also felt that the low uptake levels are also due to the operation of dual systems (paper and electronic) with no indication of a timescale for the complete movement to a purely electronic system.

6.5 Australia

eConveyancing in Australia has been developing at different rates in the various states and territories throughout the country. A programme has recently been established called the National Electronic Conveyancing System (NECS) with the responsibility of delivering a unified national eConveyancing system for Australia and is currently only three months into its development programme. The national system draws closely from the electronic conveyancing project for the state of Victoria, which is recognised as the most advanced system in Australia and will be operational in pilot form at the end of 2006. The Australian system will not be an end-to-end eConveyancing solution and will instead include property registration functions, EFT functions and integrated mortgage application.

Legislative changes have been ongoing in an effort to enable the transfer to an eConveyancing platform such as *The Transfer of Land (Electronic Transactions) Act 2004* in the state of Victoria and the move towards the introduction of similar acts in the other states and territories in order to allow the deployment of the national solution.

6.5.1 Key Drivers and Scope of the Solution

Different eConveyancing solutions have been developed in several states and territories in Australia and so a move was initiated to unify the approach being taken to deliver a consolidated national system. The Australian financial institutions are the key stakeholders driving the development of the solution as they voiced a strong desire to deal with one national solution as opposed to dealing with nine different systems, each with their own idiosyncrasies. Additionally, the role of the financial institutions differ from the Irish scenario in that financial institutions must adhere to financial regulations requiring them to interact with the Reserve Bank of Australia. Greater integration between these parties results in greater efficiency and cost savings for the financial institutions. From an operational point of view, the key driver is the desire to reduce the labour intensity associated with the current process.

The NECS solution is not an end-to-end conveyancing solution. It covers areas such as “eSettlement” with emphasis on the financial aspects of the property transaction. Additionally it covers areas surrounding “eMortgage” and the mortgage application process.

The NECS solution also contains an “eRegistration” module enabling the title to be lodged with the relevant Land Registry.

NECS has decided not to engage in any process reengineering of the existing conveyancing process and have simply decided to e-enable the existing process in order to allow dual systems to be operated during any changeover period.

NECS has no desire to pursue additional services other than those outlined above. NECS is basing the national solution on the Victoria model which itself had a vision of a complete end-to-end eConveyancing process but decided not to pursue it as they felt that there would be too many stakeholders involved to effectively manage the development of an end-to-end eConveyancing solution.

6.5.2 Ownership and Governance Structures

NECS is a public project that is currently financed by the states of Victoria and New South Wales. It will become a public entity in its own right and will receive seed funding from each individual state and territory. Each state and territory will have a representative on the governing board and all states and territories will be shareholders in the entity and as such will receive a share in any profits that may accrue. NECS is likely to remain under public control in the future due to legal reasons surrounding the granting of monopoly power.

NECS has formulated a business model that will allow it to be financially self-sustaining. This will be achieved through revenue generated for fees administered for the services available such as registration fees, user fees for data searches and subscriber fees. The fee structure will cover all operating costs as well as making financial provision for technology refresh and future business research and development.

6.5.3 Benefits Realised

The Australian model is currently at an early stage of development. The key benefits they hope to generate include a reduction in the time and cost of the conveyancing process, an improvement in the integrity of the data, and an improvement in the interactions between the financial institutions and the various state land registration authorities through a single solution that addresses all of the land laws of the various states and territories.

6.5.4 Lessons and Implications for an Irish Solution

Key lessons from the development of the NECS solution thus far concern:

- Establishing a strong leading group is essential for an integrated, coordinated approach.
- Ensuring stakeholder buy-in is crucial.
- The decision to engage in process redesign must be considered in light of the operation of dual systems.
- Appropriate sequencing of module development is critical to overall success.

Establishing a strong leading group is essential for an integrated, coordinated approach

The development of the NECS solution is being aided by the establishment of a dedicated national office with the brief of coordination all the nine states. Key personnel from the land registries of the nine states are staffing this national office and as such each state has a share in the decision-making at a national level. This ensures there is a dedicated focus on coordinating all stakeholders and parties and that there is an integrated approach to development to generate momentum.

Ensuring stakeholder buy-in is critical

Consultation forums have been held with key stakeholders to get buy-in at an early stage, however, further education and marketing is needed to gain the support of legal professionals.

The decision to engage in process redesign must be considered in light of the operation of dual systems

The simplification of all forms and documents is taking place but no process redesign is occurring so as to enable a dual system to operate until uptake is high enough to move exclusively to a single electronic system. No timeframe has been set regarding compulsory switching to the eConveyancing solution as the NECS officials feel that the presence of the financial institutions as such a dominant stakeholder will essentially mandate the move to an eConveyancing solution.

Appropriate sequencing of module development is critical to overall success

NECS believes that from a development point of view, the “eRegistration” component is the most appropriate function to develop first because the government is funding NECS and this is the only area that can be directly controlled by the government. NECS feels that the successful development of this module will generate momentum for the development of other modules.

6.6 South Africa

The South African eConveyancing environment is a private sector led solution where a number of large private firms compete for subscribers to their electronic systems. Lawyers Access Web is the leading firm in terms of subscribers representing 80% of the relevant industry. The South African solution is not an end-to-end eConveyancing solution but is rather an electronic platform for communication and interaction between the various financial institutions and the legal profession. The South African Government is attempting at present to automate systems and processes in an effort to enable the public aspects of the conveyancing solution to be in a position to enter an eConveyancing solution but private firms and the financial institutions are the main drivers of the eConveyancing solution.

6.6.1 Key Drivers and Scope of the Solution

The financial institutions were the key drivers for the development of an eConveyancing solution as there are financial arrangements in South Africa that require funds to be temporarily lodged with the central reserve bank as part of any mortgage and so the quicker the conveyancing transaction is completed the less cost there is to the financial institution. As a result, they led a drive to improve efficiency and achieved this by improving the efficiency of the transactions between the financial institutions and the legal profession.

The current scope revolves around the interaction between financial institutions and the legal profession. The private firms such as Lawyers Access Web act as a utility to switch messages between the various parties. The solution also facilitates communication and interaction between lawyers.

Private firms in South Africa are looking at the possibility of expanding the functionality of the current system to move towards an end-to-end eConveyancing solution but are highlighting difficulties with integrating public service areas such as deeds registration as one of the obstacles to be overcome in order to expand functionality.

6.6.2 Ownership and Governance Structures

The eConveyancing solution is owned and operated by private entities and these entities are privately owned commercial organisations. These firms are responsible for the further development of the eConveyancing solution.

While being privately owned, all stakeholders have been involved and consulted in the development of the existing conveyancing solution and are involved in moves to expand the functionality of the system.

The solution is operated and financed on a structure of fees per transaction in addition to an initial subscription fee and purchase of required software. There is competition between the various private companies to get parties to sign up to their particular solution.

6.6.3 Benefits Realised

2,000 law firms actively use the Lawyers Access Web system. The availability of performance management tools has reduced the entire conveyancing process by approximately 3 days.

The presence of the system is claimed to have greatly benefited the legal profession and has allowed them to optimise their time and grow their respective business.

6.6.4 Lessons and Implications for an Irish Solution

The South African experience has a number of lessons to be considered:

- Private sector development can have negative effects in terms of stakeholder consultation.
- Resistance to change is a major challenge and must be addressed with appropriate levels of training.
- Coordination between the public and private sectors is essential for the success of the overall eConveyancing solution.

Private sector development can have negative effects in terms of stakeholder consultation

The development of the solution was led by private industry that did not involve all stakeholders in the formulation and development of the solution. In particular they did not involve the legal profession and this led to frustration and distrust between the developers and the lawyers.

Resistance to change is a major challenge that must be addressed with appropriate levels of training

Resistance to change proved a major obstacle, especially in the legal profession. Training and education costs are borne by a lawyer, which acts as a stumbling block towards adoption of the system.

Coordination between the public and private sectors is essential for the success of the overall eConveyancing solution

The South African solution shows a lack of coordination between public and private development. With the private sector having led the development, the public sector element have lagged behind and now the possibility of the immediate extension of the functionality of the private sector developed modules is seriously hindered by the public sector modules despite the efforts of public bodies such as the Department of Land Affairs.

6.7 Key Conclusions and Learning Points

All five jurisdictions offer differing possibilities for the development of an Irish eConveyancing solution in terms of functionality. All five jurisdictions present learning opportunities that can increase the effectiveness of the development and deployment of the Irish solution.

Given the levels of functionality that are desired in an Irish solution, the Ontario model would appear to offer the approach that best fits the Irish environment, however this will need to be assessed in more detail during the solution design phase of the phase. The scope of the entire Ontario solution, including the value-added modules, would offer all stakeholders the levels of functionality they require for an all encompassing end-to-end eConveyancing solution, for example, the solicitors would be able to conduct all their dealings using an electronic system. The Ontario solution formed the starting point in the development of the eConveyancing solution in New Zealand, which in turn influenced the Australian development in Victoria. Added to the scope of the Ontario solution would be the approach of the Land Registry in England and Wales around the creation of a notional register to enable registration on the day of closing.

A number of key learning points have been identified from the development and implementation of eConveyancing solutions in other jurisdictions that must be considered as key action steps in the development and deployment of an eConveyancing solution in Ireland.

- **Government Commitment:** The more successful projects have had long-term and sustained government backing.
- **Strong Governance Arrangements:** It is essential that appropriate governance structures are put in place so that there is an appropriate project sponsor who is properly resourced to run the project.
- **Financing Arrangements:** Appropriate financing arrangements must be in place that align with a long-term project that could have a timescale of ten years or more. The distinction between areas that are financed exclusively by public funds, private funds and by public private partnerships must be carefully decided and appropriate governance and financial accountability structures must be put in place to manage these differently financed areas.
- **Sequence of Developments:** All jurisdictions have/will have implemented a phased approach in terms of module development and deployment. The correct decision regarding what modules to develop and implement first must be achieved in order to maximise the credibility of the project in terms of appeal to the stakeholders whilst doing so at minimal risk. The sources of funding must also act as a key driver of the overall solution by influencing the development of particular modules.
- **Stakeholder Buy-In:** Early consultation with the key stakeholders is essential to ensure support for the solution is achieved and that all stakeholders are satisfied with the solution that is being developed. This can create momentum in terms of development and financing. Continuing stakeholder involvement is essential and can be achieved through governance structures that enable stakeholders to act as shareholders in the relevant modules in which they participate. A strong stakeholder acting as partner such as the financial institutions or legal profession can act as a key driver of total stakeholder buy-in.
- **Simplifying Processes:** Successful solutions have begun the development process by redesigning the existing conveyancing process and standardising documents.
- **Operation of Dual Systems:** While the operation of dual systems is necessary to aid the transition between paper and electronic conveyancing, it is necessary to specify a time when compulsory use of the electronic solution is mandated. This can be either based on a timeframe or when the uptake reaches a certain percentage (e.g. 70%).

- **Marketing, Education and Training:** This is one of the most underestimated elements to the development and deployment of the system yet it is acknowledged by all the other jurisdictions examined as perhaps the most important. Stakeholder buy-in can only be achieved through marketing the solution to stakeholders and educating them on the benefits to be realised and challenges to be addressed by each stakeholder. Training and converting users is essential in order to ensure that the uptake of the solution is high. This ensures that the industry credibility of the solution is also high thus generating further awareness and further uptake. Appropriate financing for marketing, education and training must be built into any business case and financial plan. This has been overlooked in other jurisdictions to their detriment.

7. ECONVEYANCING STRATEGY

An eConveyancing strategy has been developed within the context of current conveyancing process in Ireland. The structure of this chapter of the report is as follows:

- Section 7.1 is a vision statement for eConveyancing. This is a statement of what the eConveyancing solution aspires to be. It serves as a target, which if achieved, will significantly improve the efficacy of the current conveyancing process in Ireland
- Section 7.2 outlines a set of linked strategic objectives for the future
- Section 7.3 summarises the design principles which we have adopted in our initial re-design of the current conveyancing process and development of an eConveyancing model

These statements have been developed as a result of our discussions with the Project Board and stakeholders as well as our knowledge and experience of eConveyancing solutions being deployed in other jurisdictions.

7.1 Proposed Vision Statement

Our proposed “vision statement” for eConveyancing is:

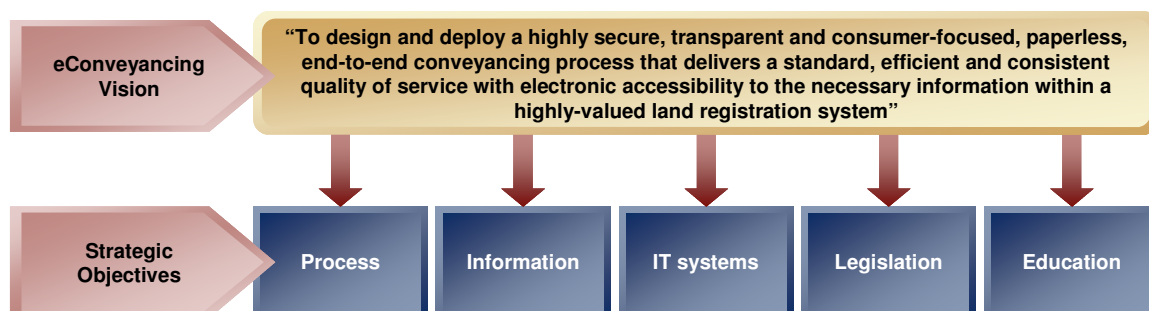
“To design and deploy a highly secure, transparent and consumer-focused, paperless, end-to-end conveyancing process that delivers a standard, efficient and consistent quality of service with electronic accessibility to the necessary information within a highly-valued land registration system”

In the course of some feedback sessions, this vision was discussed with a number of key stakeholders who strongly supported it and its realisation.

7.2 Strategic Objectives

The vision for eConveyancing is supported by a select number of strategic objectives. These objectives define the results/goals we desire in the future. These objectives are associated under the following strategic areas of improvement opportunity:

Figure 7.1: Vision and strategic objectives framework



The following key objectives support the realisation of the eConveyancing vision statement.

7.2.1 Process Objectives

- Simplify and standardise the conveyancing process to improve accountability, efficiency and transparency to stakeholders and consumers.

- Deliver highly valued and accessible services and information for stakeholders.
- Reduce the time and costs associated with the conveyancing process for the benefit of consumers.

7.2.2 Information Objectives

- Enable a paperless process through the standardisation, reduction and e-enablement of the documents required in a conveyancing transaction.
- Design a highly secure information repository for property information which is electronically accessible by authenticated stakeholders.

7.2.3 IT Objectives

- Devise and deploy system solutions that deliver an end to end conveyancing process that is cost-effective, transparent real time, secure and efficient.
- Support the Irish Government's eGovernment objectives and its commitment to having all public services that are capable of electronic delivery available online.

7.2.4 Legislative Objectives

- Enable a single registered system of title ownership in Ireland that is recognised and respected by all stakeholders.
- Facilitate secure and reliable e-enablement of relevant conveyancing processes through supporting legislation.

7.2.5 Education Objectives

- Improve consumers' understanding and experience of the buying and selling process.
- Deliver high-quality conveyancing services that are recognised by consumers and stakeholders consistently.

7.3 Redesign Principles

The eConveyancing strategy must be underpinned by a re-designed and aligned conveyancing process and system. The design of a future conveyancing process is based on several principles that have been discussed with the Project Board and stakeholders. We can categorise these principles under the following areas:

- Consumer
- Process
- Systems
- Technical
- Ownership and financing.

7.3.1 Consumer

The following principles relate to the provision of a consumer-focused future conveyancing process that reduces the frustration associated with the current process and improves their understanding of it:

- Provide improved transparency of the process and actions of stakeholders, including consistent and accountable reporting for consumers. For example, all eConveyancing transactions would have an audit function that allows for the automated generation of client statements by solicitors.
- **Design and deploy eConveyancing services that make a tangible difference to consumers' experience of the conveyancing process.** To be effective, eConveyancing services should tangibly improve the consumers' (as well as other stakeholders') experience of the conveyancing process. This principle ensures that the eConveyancing project delivers real benefits to the consumer.

7.3.2 Process

These principles ensure that the eConveyancing project can deliver on its objectives, particularly those related to process and information:

- **The eConveyancing model should be based on a re-designed conveyancing process.** The technical model should be predicated by a "to be" process appropriate to the Irish system bearing technological developments in mind. In Section 8.1, we provide an initial Level 1 re-designed process based on our understanding of the priorities in improving the current process.
- **Design the eConveyancing model with automated workflow rules.** Based on a re-designed process (as outlined above), the eConveyancing system should guide the stakeholder through the process and prompt him/her to carry out particular tasks. Workflow should serve to enable real time validation of data and reduce the number of errors associated with the conveyancing process.
- **Standardise the documentation associated with the process.** Stakeholders should look to create and agree standard (digital) documents as part of the re-designed process.
- **The processes must be easy to access, use and understand.** The conveyancing process should be designed for stakeholders to easily understand and use new eServices. This involves taking an incremental approach and identifying "quick-win" areas for eConveyancing. This will encourage take-up of the new eServices.
- **The eConveyancing project should be based on continuous improvement and innovation.** The purpose of eConveyancing is to improve services to stakeholders thus encouraging them to shift from an existing channel to a new electronic channel. As users become more accustomed to operating in an eConveyancing environment, new services can be released which further improve the overall eConveyancing experience.

7.3.3 Systems

The following principles relate to the design of the components within the eConveyancing model:

- **New data should be entered only once.** The eConveyancing model should be based on the principle that data is only entered once where possible. This reduces duplicative data entry and ensures consistent data throughout the process.
- **Design a flexible IT system that is sufficiently adaptable to changing regulations/ conditions.** The eConveyancing model is a long-term project. Consequently, it will be subject to changes in scope and function. The system must be designed in order that changes, such as the proposed deregulation of the mortgage application process in the EU, can be efficiently reflected in the new system.

- **Develop audit trail capability.** The eConveyancing system should be supported by an audit function which provides an automated record of the activities conducted by the purchaser and vendors' solicitors as part of the conveyancing transaction. This allows for automated billing to the client at the end of the conveyance.
- **Validate data as it is entered / submitted.** An automated data validation function should be built within the system. For example, Land Registry rules in regard to registration should be part of the process and system.
- **Enable real-time exception handling.** Linked to automated data validation is the capability to handle exceptions / errors on a real-time basis. Stakeholders would be prompted to amend errors on-screen at the point of submission to a relevant stakeholder. For example, this may apply to preliminary submission of a registration notification by the purchaser's solicitor to the Land Registry.

7.3.4 Technical

This section presents several technical principles and assumptions upon which the eConveyancing model outlined in Chapter 9 has been based. These include the following:

- **A digital signatory system underpins the eConveyancing system.** Digital signatures are critical to the eConveyancing system. Our re-designed conveyancing process assumes that the scope of a digital signatory system is extended to the core stakeholders, including the solicitors who represent both parties, financial institutions and Land Registry. Other stakeholders, such as estate agents, purchaser and vendor may be included at a later stage when digital signatures are more prevalent in society and the related costs of implementation more attractive.
- **Mapping accuracy is integral to an eConveyancing system.** Enhancements to the accuracy of maps referenced and maintained as part of the conveyancing process support this project. These include the Digital Mapping project currently underway in the Land Registry as well as the Irish Spatial Data Infrastructure Project underway in the Department of the Environment, Heritage and Local Government. As well as improving the quality of the registration service provided, it can also enable value-added services to be deployed as part of the eConveyancing project.
- **Embed registration rules into the eConveyancing system.** The rules governing the registration of sales within the Land Registry / Registry of Deeds should be embedded where relevant into the eConveyancing system. This allows for automated validation of data prior to closing of sale. For example, we propose the creation of a "notional" register in line with the system that is being developed in England and Wales.
- **Electronic funds transfer as the primary payment method.** A secure electronic funds transfer (EFT) solution should be implemented to replace the current payment method, which is based on cheque requisition and lodgement.
- **Paper based documents must be scanned and digitised.** The move to eConveyancing must be accompanied by a substantial data conversion exercise. This will involve scanning archive documents and digitising current documentary requirements as appropriate. The quality of the eConveyancing solution available can only be as effective as the level and quality of the data available online.
- **Data must be securely stored and easily accessible to authorised users.** The information used and generated by stakeholders must be securely stored. Due consideration must be expended to privacy, confidentiality, security and accessibility in the successful delivery of an eConveyancing system.

- **Progress within the context of related eGovernment initiatives.** Many initiatives are currently underway within the Irish Government sector, including the public sector broker project (i.e. REACH), delivering electronic services to businesses (i.e. Department of Enterprise, Trade and Employment - the BASIS project) and Managed Services initiatives (i.e. Department of Finance - CMOD). The organisation(s) responsible for the eConveyancing project should remain fully aware of initiatives in these areas and ensure that objectives for delivery of eConveyancing services leverage and influence these initiatives where appropriate.
- **Learn from other jurisdictions.** It is important to highlight that it would be inappropriate to simply choose an eConveyancing model that has worked in another country. But it is equally important to recognise that other countries are deploying solutions where the conveyancing process is similar to that of Ireland's. These new models have (or are in the process of having) positive changes in the efficiency of the conveyancing process. Based on this, it is important to learn from these jurisdictions and incorporate lessons from them. We have reviewed and consulted with organizations responsible for implementing eConveyancing models in the following jurisdictions: England and Wales, Ontario (Canada), New Zealand, Australia and South Africa.

7.3.5 Ownership and Financing

Design principles related to ownership and financing include:

- **Relevant data is “owned” by the appropriate stakeholders.** The eConveyancing model assumes that ownership of the data will reside with the appropriate stakeholders. For example, the data maintained on the registers are state-owned.
- **The State would continue to set and agree the rules for the eConveyancing system.** Notwithstanding the ownership structure that is established, we propose that the State continues to play an active role in the development of the eConveyancing system. This would include setting rules, including the use of data and related fees.
- **eConveyancing should be self-financing in the long term.** The objective for eConveyancing is that it should be self-financing in the long-term. In this regard, the costs of the project should be borne by profits accruing from it as the number of users and usage of the system increases.

8. ECONVEYANCING PROCESS MODEL

Taking the eConveyancing strategic vision outlined in Chapter 7, we have developed an operating model of what the eConveyancing system could look like in the future.

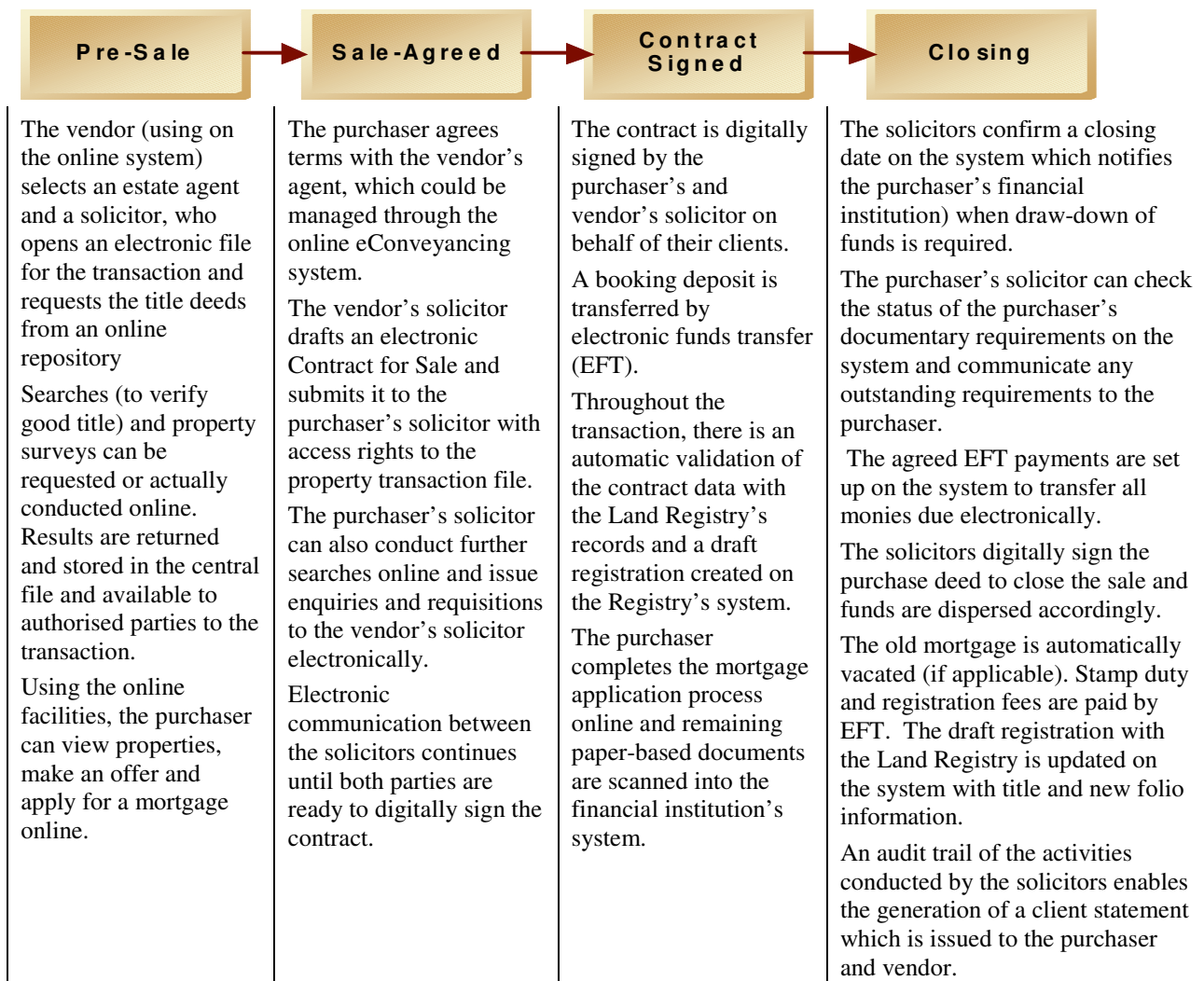
This chapter of the report addresses the following:

- Section 8.1 outlines the process model (i.e. how we envisage the conveyancing process operating in an “e-enabled” environment).
- Section 8.2 summarises key differences between the future and current operating model.
- Section 8.3 identifies the key legislative implications of the future conveyancing process.

8.1 Operating Model

This section gives a summary of the key activities in the future conveyancing process. A more detailed process description is provided in Exhibit B .

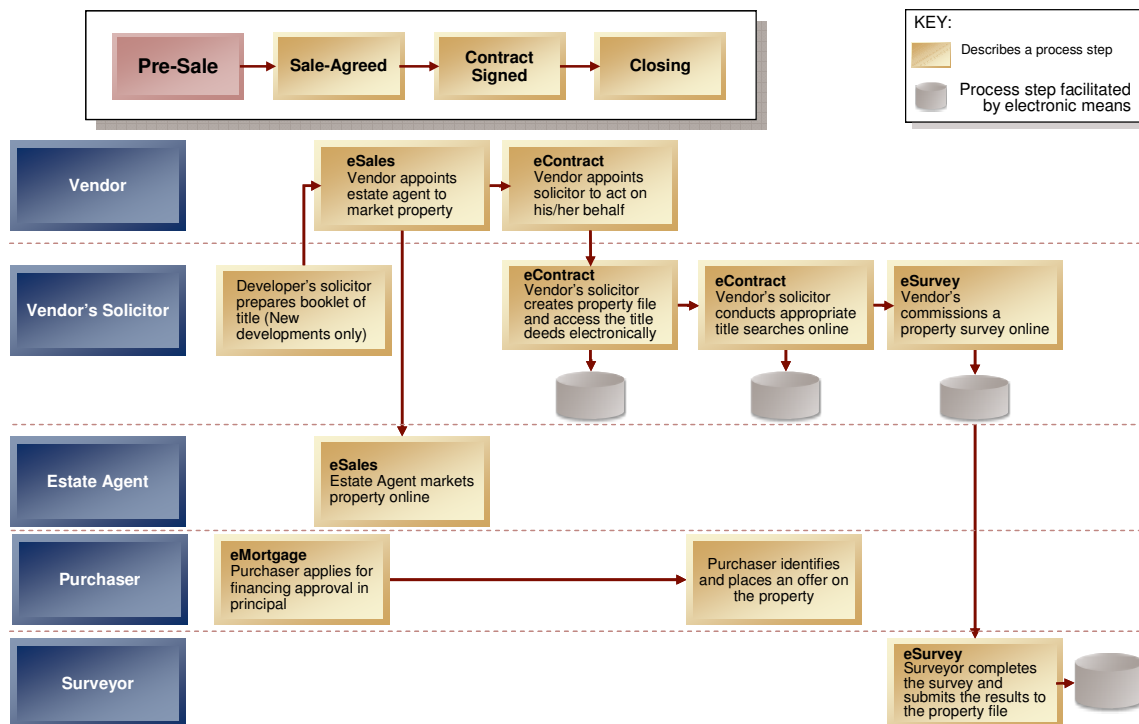
We envisage four main phases to the process as follows:



The activities within each phase are described in more detail in the sections that follow.

8.1.1 Pre-Sale

Figure 8.1: Pre-Sale Process flow



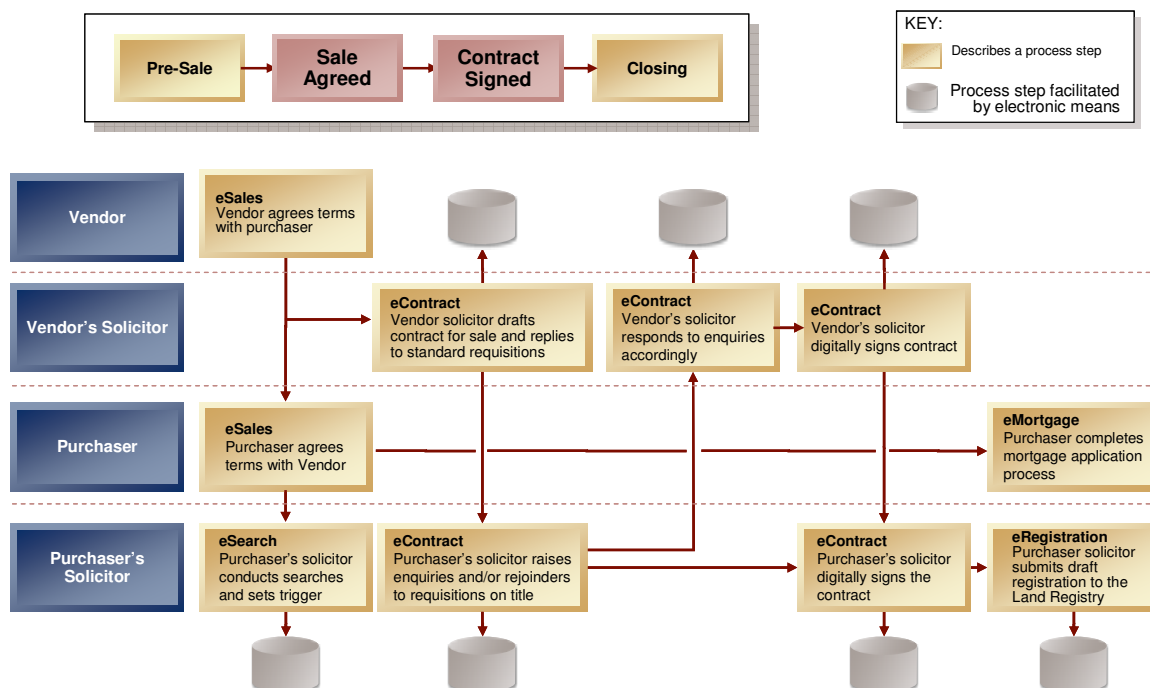
The pre-sale phase is the preparation phase of the conveyancing process. In the future we see that this phase of the process will be improved mainly through creating electronic documents and automating processes. Some of the steps in this phase may continue to be carried out manually. For example, when selecting a solicitor to handle the transaction some consumers may prefer to visit their solicitor rather than employing one through electronic means. Below we detail the major steps involved in the Pre-Sale phase of the eConveyancing process.

- **Vendor appoints estate agent to market property.** The estate agent can be selected online through the eConveyancing portal. The estate agent markets the property online.
- **Vendor appoints solicitor to act on their behalf.** The solicitor is selected online through the e-conveyancing portal and the fees are agreed upfront.
- **Vendor's solicitor creates the property transaction file on the system and accesses the title deeds.** The solicitor creates a file for the property and will ultimately be responsible for this file. Initial data is entered into this file and a unique identification number is allocated. At this stage the solicitor gains access to the title deeds related to that property.
- **Conduct appropriate searches.** To ensure that the vendor has good and marketable title, the vendor's solicitor performs title searches. Searches are carried out online through the eConveyancing systems eSearch capability. Once the searches are completed the results are uploaded onto the property file.
- **Developer's solicitor generates booklet of title.** The vendor/developer's solicitor prepares the relevant documentation needed for new properties. It is hoped that the majority of these documents will be available electronically and can be submitted online (this step will happen for new developments only, and thus the vendor will also appoint a solicitor at this stage).

- **Purchaser applies for financing approval in principal.** The purchaser can apply for a mortgage through links in the eConveyancing portal. Quotes are sent to the purchaser through the portal and can be saved to allow the purchaser to progress to the mortgage contract stage.
- **Purchaser identifies and places an offer on the property.** In the future we foresee that the purchaser can place this offer on the property through the eConveyancing Hub.
- **Vendor commissions a property survey.** The type of survey carried out at this stage of the process will vary according to the type of property it is. The surveyor is commissioned online. The results of this survey are uploaded to the system and attached to a property file.

8.1.2 Sale Agreed & Contract Signed

Figure 8.2: Sale Agreed / Contract Signed Process flow



Sale Agreed

The sale agreed phase of the conveyancing process has been made more efficient predominantly by using electronic means of communication between solicitors. As well as this the searches conducted at this phase of the process can be carried out online and in real time. Below we provide a brief description of the steps involved in the Sale Agreed phase of the eConveyancing process.

- **Vendor agrees terms with purchaser.** Once the purchaser places an offer on the property and it is accepted by the vendor they agree on terms for the sale of the property. This process could be managed online through the relevant online sales website.
- **Vendor's solicitor drafts contract for sale and replies to standard requisitions.** The vendor's solicitor prepares these documents electronically and attaches them to the property file. The purchaser's solicitor is notified to inform him/her that they can access the contract.
- **Purchaser's solicitor conducts searches and sets trigger.** The purchaser's solicitor/law search agent conducts any closing searches that are appropriate online.

- **Purchaser's solicitor raises enquiries or rejoinders to requisitions on title.** These should be resolved before the contract is signed. The solicitor uses standard templates to submit the enquiries electronically. The solicitor responds to these enquiries and the purchaser's solicitor can view the responses. This e-enabled process continues until both parties are satisfied with the responses.

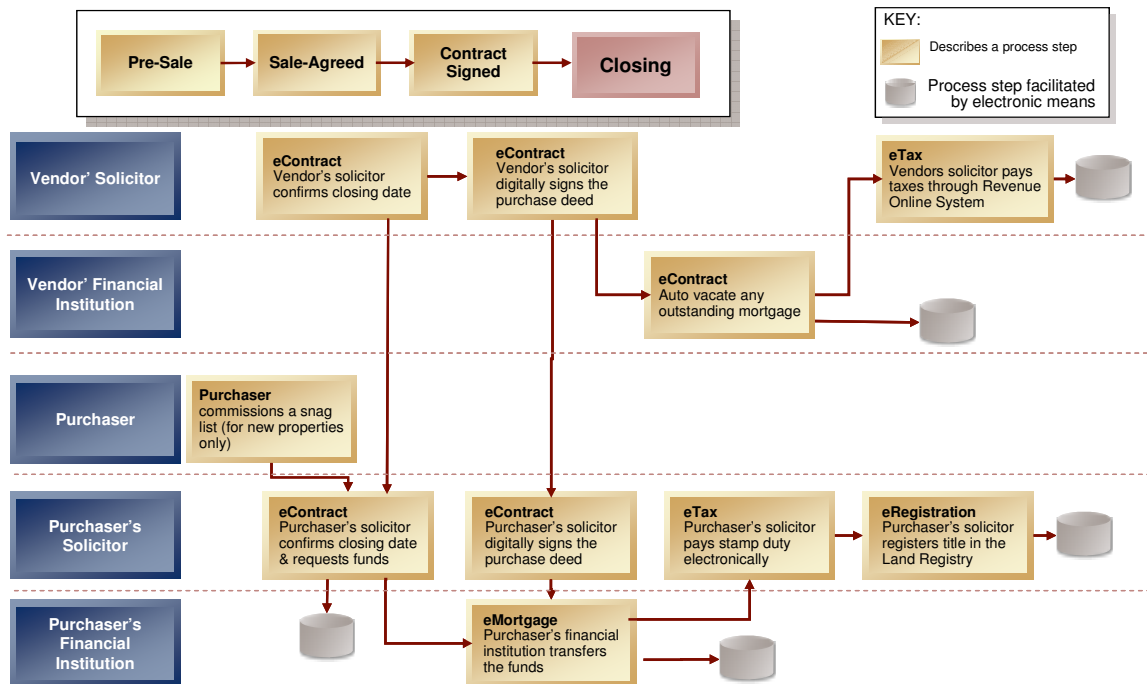
Contract Signed

Eliminating the need for a paper document to act as contract will radically change the Contract Signed phase of the conveyancing process. Instead the contract can be formulated electronically. This also applied to the mortgage application process. Much of the documentation involved in this activity will be available online. Below we provide a brief description of the steps involved in the Contract Signed phase of the eConveyancing process:

- **Purchaser's solicitor and vendor's solicitor sign contract.** The contract is signed digitally using electronic signatures. Both parties are signing the contract on behalf of their client. At this stage the purchaser's solicitor pays a 10% deposit to the vendor's solicitor. This is transferred via electronic funds transfer.
- **Purchaser's solicitor submits a draft registration to the Land Registry.** Once the contracts are digitally signed, the purchaser's solicitor electronically transmits key information for registration purposes to the Land Registry, who will validate it immediately. If there are any issues, a message is sent back to the purchaser's solicitor detailing any discrepancies; if there are none, an acceptance confirmation will be returned.
- **Purchaser completes mortgage application process.** The purchaser can apply for their mortgage online by logging onto the relevant mortgage system. Once approval has been granted the purchaser must supply the bank with verification documents to support the loan application. It is hoped that many of these documents will be available electronically. For example, the valuation survey can be commissioned online. In addition to this the results of the survey can be uploaded to the system rather than written in a paper document.

8.1.3 Closing

Figure 8.3: Closing Process flow



The following steps take place prior to closing:

- **Purchaser commissions a snag list for new properties.** The purchaser is notified that the property is ready for snagging. The purchaser can commission the surveyor/architect etc to conduct the snag list through the eConveyancing portal. The results of this report can then be communicated electronically.
- **Purchaser's solicitor and vendor's solicitor confirm a closing date.** An automatic trigger is sent to both solicitors to notify them of the closing date that had been agreed when the contracts were signed. The closing date is finalised and a message is sent to the purchaser's financial institution notifying them to prepare for a draw down of funds on that date.
- **Purchaser's solicitor checks the status of the purchaser's documentary requirements.** The purchaser's solicitor has access to a checklist to determine the status of the purchaser's mortgage application. A list of outstanding actions is viewable on this checklist.
- **Purchaser's financial institution transfers funds.** On the day of closing an automated workflow action transfers the funds to the purchaser's solicitor by way of electronic funds transfer.

The Post-Closing phase has been eliminated in the eConveyancing system. Instead, a series of automated activities take place immediately the purchase deed has been digitally signed, leading to closing of the sale and registration the title.

- **Purchaser's solicitor and vendor's solicitor digitally sign the purchase deed and close the sale.** The purchaser's solicitor drafts the purchase deed. Once the vendor has agreed to the deed and the closing date has arrived, it is digitally signed. A receipt of this is sent to the purchaser's solicitor and this triggers the transfer of funds from the vendor's solicitor to the vendor.

- **The vendor's financial institution auto vacates any outstanding mortgage.** The vendor's financial institution can automatically provide the vendor's redemption figure. The vendor's solicitor will make an EFT payment to facilitate the closing. The signing of the purchase deed sends a message to the vendor's financial institution instructing them to vacate the outstanding mortgage. A message is sent to the vendor's solicitor, the purchaser's solicitor and the Land Registry notifying them that the mortgage has been vacated. This causes the Land Registry to automatically remove any charges or burdens on the property.
- **Vendor's solicitor pays taxes through Revenue Commissioner's Online System.** Any applicable taxes relating to the property can be paid electronically via ROS by electronic funds transfer.
- **Purchaser's solicitor pays stamp duty.** The stamp duty is calculated using an online calculator and funds are transferred via electronic funds transfer. The purchaser's solicitor can submit documents electronically to be stamped along with the appropriate funds. When the duty has been paid, the Revenue Commissioners send a confirmation message to the purchaser's solicitor and to the Land Registry.
- **Purchaser's solicitor registers title in the Land Registry.** Once the purchase deed has been signed, the Land Registry system will check the deed against the entry that was made at the contract signing stage. The Land Registry recognises the change in ownership on the property. Title and new folio are registered automatically. A message is sent to the purchaser's solicitor to notify them of the successful registration.

8.2 Gap Analysis

The eConveyancing project is an opportunity to transform the manner in which the conveyancing service is provided. The eConveyancing vision encompasses three key elements of an organisational transformation programme as outlined in Figure 8.4 below:

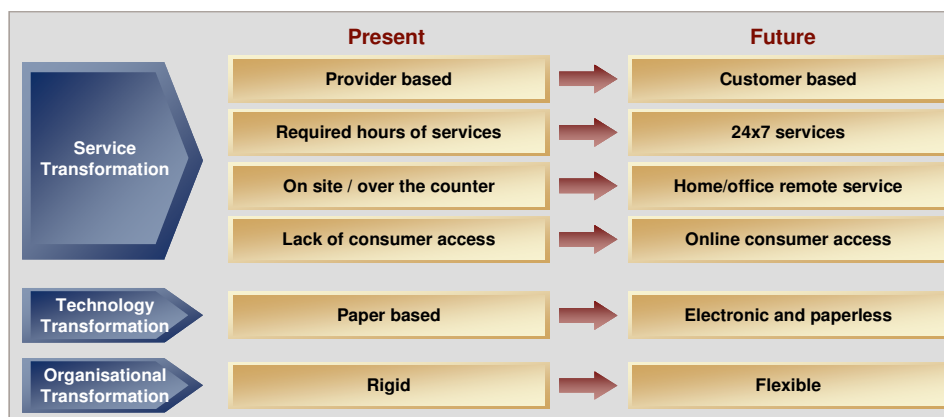
- Process and service transformation.
- Technological transformation.
- Organisational transformation.

8.2.1 Process and Service Transformation

The theme of service transformation is to move the service from what the provider needs to what the customer needs. The process is re-designed around the principles of customer (and citizen) focus. Some key concepts associated with this include:

- **24x7 online service:** The eConveyancing model implies that all essential services in the future will be provided online. This represents a considerable shift from the current status of many of the services provided. For example, at present solicitors or law searchers must physically present themselves at Courts Service or local authority offices during standard office hours to conduct searches.
- **Consumer access:** The vision for eConveyancing encompasses the facility for the consumer (i.e. purchaser and vendor) to have improved transparency to the current status of their transaction. This includes access to the activities being conducted by their solicitor as well as value-added services during the sales process (e.g. online searches, property bidding, etc.). This substantially improves from the current situation whereby the consumer may rely heavily on their solicitor and may have a limited understanding of the process.

Figure 8.4: Transformation of the Conveyancing process



8.2.2 Technology Transformation

The conveyancing process will move over an extended period of time from a predominantly paper-based to an electronically-enabled paperless process. In Table 8.1 below we introduce some of the key changes that are supported by technological transformation of the process.

Table 8.1: Key Elements of Technological Transformation

Conveyancing Activity	Now	Future
Consumer access	<ul style="list-style-type: none"> None Reliance on communication with solicitor / estate agent 	<ul style="list-style-type: none"> Online read only and real time access Online viewing of client statements Transparent sales process
Search	<ul style="list-style-type: none"> Multiple formats (paper, electronic) and repositories Complex and time consuming 	<ul style="list-style-type: none"> Electronic Single access point ("eSearch" gateway) Remotely accessible online
Contract documents	<ul style="list-style-type: none"> Paper based Duplicate form 	<ul style="list-style-type: none"> Electronic Single copy
Mapping	<ul style="list-style-type: none"> Paper Manual editing by Land Registry 	<ul style="list-style-type: none"> Digital Uploading of digital maps by surveyors
Signing of documents	<ul style="list-style-type: none"> Physical Purchaser and vendor must sign documents 	<ul style="list-style-type: none"> Digital Solicitors can sign on behalf of purchaser and vendor
Payment	<ul style="list-style-type: none"> Cheque or bank draft 	<ul style="list-style-type: none"> Funds transferred electronically (EFT)
Registration	<ul style="list-style-type: none"> Paper (with online application) Happens after closing 	<ul style="list-style-type: none"> Online and automated Registration validated in draft form at contract signed stage
Communication	<ul style="list-style-type: none"> Paper Tends to be inefficient / unclear 	<ul style="list-style-type: none"> Electronic Increased efficiency and transparency
Storage	<ul style="list-style-type: none"> Paper Can be difficult to locate 	<ul style="list-style-type: none"> Electronic Secure accessible storage
Security	<ul style="list-style-type: none"> Reliance on physical signature 	<ul style="list-style-type: none"> PKI or other access and signatory systems Audit trails within system

8.2.3 Organisational Transformation

The eConveyancing vision represents a major technological challenge for all stakeholders, particularly those who rely profoundly on paper-based communication at present. Internal business processes will be re-engineered by stakeholders and work practices must be flexible to the evolution of the eConveyancing through its phases of implementation.

8.3 Legislative Implications

We have highlighted in the report that the current conveyancing process is impacted by legislation that is outdated and in need of reform. Two initiatives currently underway will help address this situation:

- The Law Reform Commission has led substantive work with the objective of modernising the relevant land and conveyancing law that has resulted in the “Land and Conveyancing Bill” which should soon be enacted into law.
- The Land Registry proposes that Ireland should progress to a single registered system of land ownership.

In general, however, feedback from our consultations suggests that the legislative implications of the eConveyancing vision should not seriously inhibit the development and deployment of the model. The role of the professional bodies in educating their members is critical to the successful deployment of eConveyancing.

Two other areas of legislation will need to be considered in the course of the design and implementation of an eConveyancing system: digital signatures and data protection.

8.3.1 Digital Signatures

Section 10 of the Electronic Commerce Act 2000 applies to digital signatures. This specifically excludes the acceptance of digital signatures for conveyancing registrations at present. Ministerial approval would be required to enable the use of digital signatures. This is not proposed to be a significant issue should the eConveyancing model be demonstrated to be sufficiently secure (See Exhibit D).

8.3.2 Data Protection

Based on consultations with the Data Protection Commission, we understand that there are limited data protection implications. There will be no issues associated with property information and because much of the personal information in relation to individuals concerning property ownership is already in the public domain, there are no data protection requirements. The only evident issue would be where personal data is stored in a database (e.g. within the eConveyancing Hub), where normal data registration and protection policies must be applied.

8.3.3 Role of the Law Society of Ireland

As process improvement is a cornerstone of eConveyancing, we propose that the Law Society of Ireland has a vital role to play in improving the conveyancing processes and educating its members in new processes and practices. For example, our future conveyancing process emphasises the role of the vendor’s solicitor during the pre-sale phase of the process. We propose that the vendor’s solicitor replies to standard requisitions in title in advance of these being raised by the purchaser’s solicitor. We also suggest that pre-contract enquiries and requisitions on title are carried out as one process pre-contract signing. We recommend that these process changes be endorsed by the Law Society and communicated to its members in the form of practice notes and continuous professional development (CPD) forums.

9. ECONVEYANCING TECHNICAL MODEL

In this chapter of the document, we address the Technical Model required to deliver an eConveyancing solution. A Technical Model describes the technical framework and architecture necessary to support a solution such as this. There are a number of potential models, as evidenced by the different implementations in other jurisdictions such as New Zealand, Ontario, British Columbia, etc. We have taken cognisance of these implementations and have drawn on what is specifically required in an Irish context to develop our proposed Technical Model.

In developing the Technical Model, we adopted the following approach:

1. Identify appropriate selection criteria

In the first instance, we select the criteria against which the viability of the Technical Model should be measured. In general, these criteria are typical to any implementation, however, the criteria have been carefully chosen with the eConveyancing solution in mind.

2. Consider technical solution options

We then explore various technical solution options, assessing each one and arriving at our recommended Technical Model.

3. Assess model against selection criteria

We assess the proposed model against the criteria chosen earlier.

4. Develop technical implementation recommendations

We make recommendations regarding the implementation of the recommended model.

Our analysis and conclusions (below) are also structured in the above sequence.

9.1 Criteria

The criteria are selected based upon our knowledge of what is required for the eConveyancing solution and our experience in developing technical models for similar applications. These criteria will apply to any enterprise technical model and were selected in advance of developing the model. This was done to ensure that the criteria were not selected to suit the model, but rather to effectively measure the viability of the model.

9.1.1 Security

One of the main requirements of any e-business solution is that it be highly secure particularly with regards to the privacy and integrity of the data displayed. Typical security issues that an e-business solution should address include:

- How does the system authenticate users?
- How secure is the data being passed through the system?
- Once authenticated, what operations should users be allowed to perform (i.e. authorisation)?
- How can the system unify access to information held in systems with different security schemes?

However, in the context of an eConveyancing solution there are further considerations to be addressed, i.e.:

- The number of different stakeholders involved in the process and the sensitivity of the data/documents being shared.
- Many of the stakeholders may not “trust” a technical solution and will need to be educated/convinced in terms of its capability.

- In e-enabling the conveyancing process, one of the most significant potential benefits is that it could reduce manual intervention with the introduction of electronic signatures. This is significant in that it would no longer require production or storage of a signed paper version of the legal document.

9.1.2 Scalability / High Availability

For any business-critical e-business solution, two of the most important factors are high availability and scalability/performance.

Scalability is the ability of a computer application or product (hardware or software) to continue to function satisfactorily as it (or its context) is changed in size or volume in order to meet a user need. A highly available system is one that has close to zero “downtime”.

In the context of the Irish economy (where the mortgage lifespan is shortening) and based upon the experiences from other jurisdictions with an e-Conveyancing implementation, it is likely that the usage of the system will grow significantly over time. Consideration should also be given to the possibility of including extra (value-added) services in the future, which would further increase the demands on the processing capacity of the system.

This increases the importance of scalability as a feature of the model and it is therefore very important that the system be designed from the beginning to grow in scale. It becomes very difficult and expensive to make a system scale if this was not factored in from the beginning.

Measuring the cost of server, application or service downtime in a single organisation can be difficult but this is even more difficult where there are many stakeholders. For a high-profile and critical system such as eConveyancing, it is imperative that it is highly available. Potential impacts of downtime could include:

- Loss of stakeholder buy-in.
- Public mistrust of the system.
- Missed contractual obligations or possible legal liabilities.

Each of these has serious consequences for consumers and can have direct and indirect financial/economic consequences. Therefore, the solution must be capable of a high degree of resilience/fault tolerance.

9.1.3 Ease of Maintenance / Future Proofed

The ease of maintenance of a system can be difficult to measure without a complete system design but there are certain scenarios that should be avoided (e.g. different point solutions for each of the stakeholders, point-to-point interfaces, a significantly diverse range of technologies, etc.).

In general, adopting Commercial-off-the-Shelf (COTS) based solutions is desirable in preference to bespoke development. By reducing the amount of bespoke development, apart from the reduced implementation times, it will also lead to a much more maintainable and extensible solution, particularly where industry-proven products are used.

When selecting COTS based solutions it is important that the chosen products support and are committed to the relevant industry (preferably open) standards. This will help to ensure that the solution will be future proofed against technological advances.

9.1.4 Openness / Extensibility

The openness of a system is defined by its adoption of “open standards”, which are industry and vendor neutral and encompass everything from communications to programme interfaces. Without these standards, computers, networks and devices cannot communicate with each other - or if they do, it is via proprietary methods. Using proprietary methods is not satisfactory because as systems and their communications infrastructures mature, these proprietary methods will become outdated and will need constant revision.

Examples of key open standards include XML and SOAP. By deploying the system using “open” standards, the future extensibility and maintainability of the system is increased greatly.

There is no consistency across the different stakeholders in terms of the level and type of technologies deployed. Different stakeholders will use an eConveyancing solution in different ways (e.g. some act purely as information providers whereas others are more active users of the system).

It is therefore important that despite the different modes of usage the interfaces should be clear, documented and standardised. The use of open standards will facilitate the extensibility of the solution, as vendors (and technology) are much more likely to be committed to these standards.

9.1.5 Cost Effectiveness

There are three aspects to the cost of an eConveyancing solution:

- The cost of building (i.e. developing/testing/deploying/maintaining) the solution.
- The cost to the stakeholder of adopting the solution.
- Ongoing support and maintenance.

Without a detailed view of how the system is to be designed it is very difficult to measure the potential cost of building the solution. However, the relative cost to the stakeholder is easier to assess by measuring:

- The cost to the stakeholder of software needed to use the system.
- The impact on the stakeholders’ technical infrastructure of using or integrating with the system.

It is desirable that the impact to stakeholders of adopting an eConveyancing solution be minimised.

9.1.6 Risk Avoidance

Avoiding risk is always an important consideration in the selection of a technical model. Risk can be reduced by adopting measures such as:

- Where possible, select proven, industry leading products with an appropriate roadmap.
- Avoid overly complex technical architectures.
- Reduce the risk associated of vendor “lock-in” (i.e. unable to switch to an alternative system provider) with the use of open standards.

Risk is not only a component of the architecture, it can also be a component of the implementation approach. Therefore, we would recommend the use of appropriate technical “proof of concept(s)” to confirm the viability of both the architecture and the approach. Typically, a “proof of concept” would be developed to validate a particularly innovative or novel solution (both technical and functional). These can then be used to demonstrate the solution to end-users and to get their buy-in. It also presents all stakeholders with a high-degree of assurance that the solution is viable.

9.1.7 Other Requirements

There are a number of additional requirements of the solution which if not addressed would detract greatly from its value. The ability to meet these requirements is a critical measure of the technical model. The requirements include:

- Introducing greater transparency
- Reducing the amount of paper
- Accelerating the eConveyancing process
- Improving the data quality.

9.2 Options

In this section we explore various options relating to a technical model for eConveyancing. Following the description of each option we perform an assessment, make improvements and progress to the next option. We do this until the recommended technical model is identified.

9.2.1 Option 1: Solicitor Desktop

Currently, some of the most significant delays associated with the process are around the area of collaboration between solicitors. This collaboration is generally a manual task with documents dictated, printed, checked and signed in one solicitor's office and a hard copy posted to the other solicitor's office for consideration, amendment, further checking and signing. In the event of contention, these documents can be sent back and forth multiple times and the cumulative delay can become significant. There can also be little transparency as to where the delay is occurring.

This process has significant potential for improvement through the adoption of an electronic solution. For example, electronic communication between the solicitors would mean instantaneous transfer of information.

Currently the only practical option for such communication is via email, which is standard across the vast majority of solicitor's offices in the country. However, for security reasons, solicitors should not accept documents transferred to them via email without the following requirements:

- Verification that the document has not been altered in transit.
- Verification that the document has been sent by a trusted source.
- Knowledge of who sent the document.

A "Solicitor's Desktop" could incorporate features such as: secure communication, case management and document management.

The technologies, which enable secure transfer of information, are: Digital Certificates, Digital Signatures and PKI and these are described in more detail in Exhibit D.

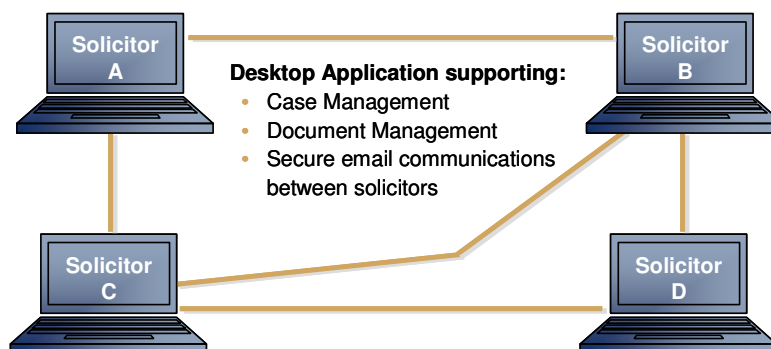
There are a number of software packages currently available on the market, which provide case management functionality and can provide many advantages to the solicitor, e.g.:

- Facilitating tracking of individual cases.
- Automating links to online search providers.
- Providing facilities to publish select material to a secure web site, enabling private clients and estate agents to view it.

The electronic communications solution mentioned previously should be integrated into the case management solution. Document management if added would allow complete tracking of changes and versions of documents.

In Figure 9.1 (overleaf), we illustrate how the solicitors could communicate using this type of desktop solution. (Note: There are direct communications requirements between each solicitor with the associated bandwidth and mail storage limitations). The “Solicitor’s Desktop” application will require an installation on the solicitor’s PC or office network.

Figure 9.1: Example of a possible solicitor’s desktop



A desktop application as described above would bring benefits including: improved communications, faster process, reduced paper and improved transparency. However, in terms of an overall eConveyancing strategy or vision it would not suffice in many respects:

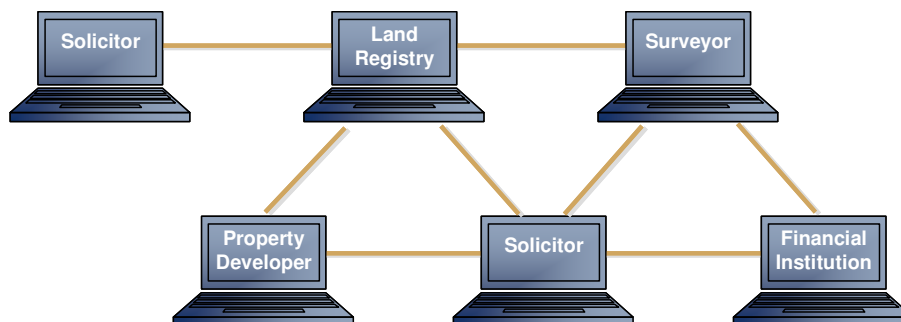
- It only addresses a subset of the stakeholders and a portion of the eConveyancing process.
- Transparency, which is a key element of the vision for an eConveyancing solution is only dealt with at the individual solicitor level.
- It is a solution to address a specific issue and does not fit on a technological roadmap towards arriving at the vision of an eConveyancing solution for all the stakeholders.
- It does not incorporate a commitment to eConveyancing in general.
- It would require the stakeholders to invest in a tool and potentially in IT infrastructure.

9.2.2 Option 2: Generic Desktop

One of the most significant limitations of Option 1 (Solicitor’s Desktop) is that it only considers a segment (albeit significant) of the potential user population for an eConveyancing solution. In order to address this limitation, the functionality of the desktop would need to be extended to consider the requirements of all stakeholders in the eConveyancing process.

In Figure 9.2 we illustrate how this solution could potentially look. Any stakeholder using this solution will need a communication link to every other stakeholder with whom they interact.

Figure 9.2: Example of a possible generic desktop



A single desktop application to suit all of the stakeholders needs would be very difficult to achieve. For example, the Land Registry and the financial institutions have their own strategies for rolling out future technology solutions and in general, they do not support this type of architecture.

Almost all of the issues raised with Option 1 remain and further difficulties are introduced such as:

- The security model would be very difficult to standardise.
- Operationally, this solution would be increasingly difficult to maintain as the user base increases. In addition, with such a large number of stakeholders it would require constant change/maintenance, which would be logistically complex and in turn, expensive.

9.2.3 Option 3: Stakeholder Portals

Almost all modern architectures involving multiple users are based upon centralised systems. A centralised system is typically implemented using an “n-tiered” architecture where the business logic is kept centrally and is reused by all the users.

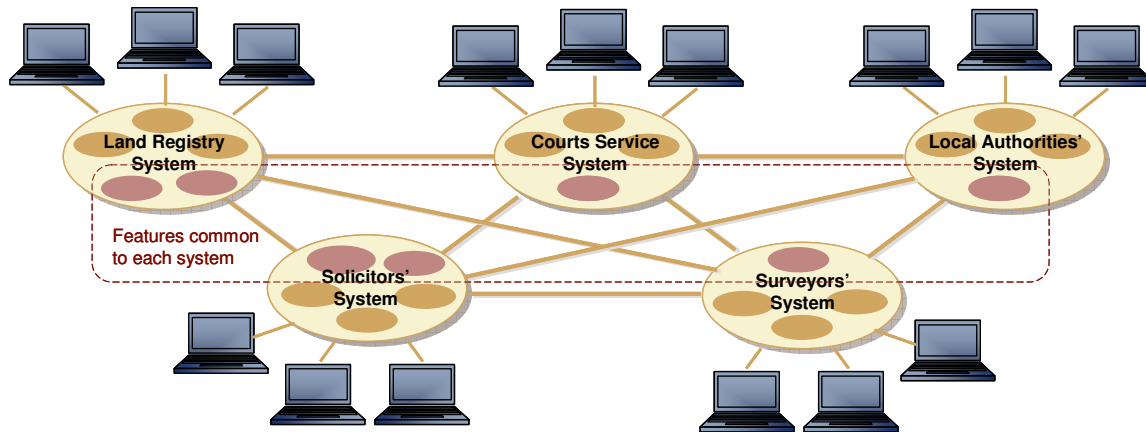
A centralised system brings some desirable features such as minimising the technical footprint (i.e. number of software products and technologies deployed) for users and maximizing the reuse of components. In fact, centralised systems are typically adopted to address the limitations exposed by the desktop options. The stakeholder analysis (see Chapter 4) indicates that those stakeholders with formal IT strategies tend to adopt a centralised system approach.

The members of a stakeholder group (e.g. solicitors) typically have very similar requirements for an eConveyancing solution. It is therefore tempting to suggest largely independent systems for each stakeholder group. These systems should be based upon centralised architectures for the reasons stated earlier. However, in the context of the eConveyancing process there would be requirements for communications between the various stakeholder systems. For example, a solicitor would connect to the solicitor’s system for solicitor-specific functionality. The solicitor’s system would then connect to other stakeholders’ systems as required.

There are many potential implementations for this type of communication (e.g. web services, messaging based communication, remote programmatic calls, file based transfer, etc.).

This type of solution is illustrated in the following diagram:

Figure 9.3: Example of a possible stakeholder portal



There are still a lot of point-to-point integrations but the amount of traffic on these will be reduced, as the majority of the traffic will typically be between stakeholders in the same grouping (e.g. solicitor-to-solicitor).

This solution is a significant improvement over Options 1 and 2 and could also serve as part of the roadmap towards the final solution. However, in the development of a model such as this, there will be duplication of effort and functionality across the different stakeholder solutions. This should be avoided both from an effort perspective and because it could result in inconsistent processes and data.

There are further disadvantages to this model, e.g.:

- There is a lack of transparency across the whole system (i.e. there is no single place to go to see the progress of a typical eConveyancing process).
- Data will be collected across many different solutions and this will lead to inconsistency in how it is collected and validated. The same data could also potentially be stored in many different locations.
- The independent solutions may be created without due consideration of the full eConveyancing process. This will result in a lack of coordination and also potentially a contrived eConveyancing process.
- There is reduced potential to expand the system to include value-added services.

9.2.4 Option 4: Central Hub

We have described the concept of a centralised system above and have presented how the eConveyancing solution could be modelled as a series of centralised systems. However, one of the major drawbacks of this approach is the lack of reuse and standardisation of services across the various systems.

A central hub containing those services that are common to Stakeholders would resolve many of these issues. Conceptually this hub should be designed as a “Service Oriented Architecture” exposing services to the various stakeholder systems. There are a variety of “open” standards for exposing and accessing these services, the most common of which are web services.

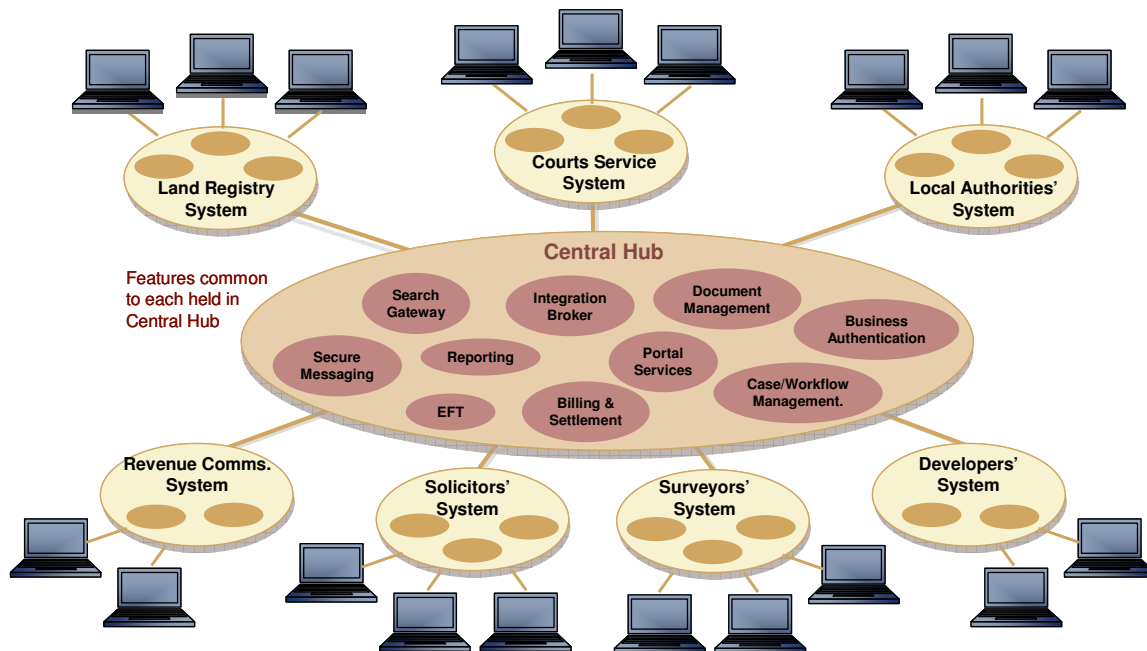
Examples of common services could include:

- **Authentication and authorisation** – ideally all users involved in eConveyancing process should be authenticated through this service and it would grant the appropriate authorisation rights.

- **Billing and Settlement** – during the lifetime of an eConveyancing process many financial transactions are undertaken between the various stakeholders. Providing this facility as a central service would give greater transparency and consistency to the stakeholders and to the citizens.
- **Electronic Funds Transfer (EFT)** – This is a facility that involves coordination between a number of financial institutions and implementing this centrally would increase reuse.
- **Portal Services** – It would be ideal but is not a requirement that each of the stakeholders systems should have a consistent look and feel. This could be facilitated by central provision of the appropriate portal services. Another potential advantage of portal related services are data validation routines – which if enforced consistently would improve the data quality.
- **Secure Messaging**– Messages have to be sent between the various stakeholders and the security of these messages is very important. Between the government agencies the GVPN provides this type of assurance. Therefore such a service is required for transactions that occur between private and public sector bodies.
- **Integration Broker** – Strategically this is an important service as it abstracts the integration between the stakeholders. With the potentially large number of integration points this is very desirable particularly from a maintenance perspective.
- **Reporting** – Every process requires management and operational reports. Centralising the services associated with generating these reports would give greater access to information throughout the various systems.
- **Document Management** – Currently, there are in excess of 100 documents produced per conveyancing transaction – there is potential to reduce this number but potential also to generate these documents electronically and reduce the paper load. A document management system would facilitate the auto-generation of documents (from templates) and give consistent authoring and versioning functionality.
- **Workflow/Case Management** – Currently many stakeholders have their own case management tools. However, a workflow service could complement the existing case management tools by giving greater visibility into the overall eConveyancing process. For example, solicitors could continue to use their case management tools but these would update the central workflow system as required.
- **Search Gateway** –Many of the information providers in the eConveyancing process are providing electronic interfaces. However it requires the searcher to know where to look for the correct information. A centralised service with business rules would make this process transparent to the user. This service could also facilitate the user searching for all information relating to a property by searching multiple repositories at once and merging the results for the user.

These are just a sample of the services that could be made available to the stakeholders and for some of the stakeholders their systems could be built almost entirely using these services. Figure 9.4 (which takes a sample of the stakeholders) illustrates how the solution could look.

Figure 9.4: Example of a possible central hub



Note: Figure 9.4 illustrates that the individual stakeholder systems continue to exist but are now less complex with fewer components as a result of the common components moving to the central hub. For example, the Land Registry systems will continue to reside in the Land Registry but they may use the authentication service on the central hub.

The implications and considerations when adopting an architecture such as this are not purely technical. For example:

- The hub will need to be governed and this will require a body of both technical and operational resources.
- There may be stakeholders who will not want to be part of this process and short of excluding them they will have to be catered for in some way. One solution would be to have resources dedicated to acting as proxies for these stakeholders (i.e. entering the data on their behalf).
- This architecture and these services are not exclusive to eConveyancing and consideration should be made for potential opportunities for expansion of these services into other areas.

9.3 Recommendation for Technical Model

In the last chapter we recommended a Technical Model based upon a central hub. In table 9.1 below we assess this recommendation by measuring the various options against the criteria we selected earlier in the section. We categorise the options against each of the criteria using Poor, Average and Good.

Table 9.1: Assess of options against selected criteria

Criteria	Option 1: Solicitors Desktop	Option 2: Generic Desktop	Option 3: Stakeholder Portals	Option 4: Central Hub
Security	Poor Available on desktop and security limited to office environment	Poor Available on desktop and security limited to office environment	Average Centralised system allows security to be controlled	Good Central hub allows a single security platform for all users
Scalability / High Availability	Poor No control over availability as the solution is on the solicitors desktop	Poor No control over availability as the solution is on the stakeholders desktop	Average Centralised solution but dependent on a variety of stakeholders to provide scalability and high availability	Good Centralised solution allows extra hardware to scale the system and provide high availability
Ease of Maintenance / Future Proofed	Poor Difficult to maintain due to number of installations.	Poor Difficult to maintain due to number of installations.	Average Maintenance is easier but future proofing dependent on implementations	Good Central hub facilitates ease of maintenance.
Openness / Extensibility	Average Dependent on implementation but difficult to roll-out extensions	Average Dependent on implementation but difficult to roll-out extensions	Average Dependent on the variety of implementations	Good A Service Oriented Architecture greatly facilitates Openness / Extensibility
Cost Effectiveness	Average Initial solution relatively inexpensive but ongoing support and maintenance potentially very expensive	Poor Initial solution expensive and ongoing support and maintenance potentially very expensive	Average Initial solution relatively inexpensive however ongoing support and maintenance more expensive than for Central Hub	Average Initial solution relatively expensive but ongoing support and maintenance less expensive
Risk Aversion	Average This is largely dependent on the technologies and approach taken	Average This is largely dependent on the technologies and approach taken	Poor There are a lot of dependencies on the different stakeholders to deliver significant parts of the system	Average Largely dependent on the technologies and approach taken. A central hub reduces dependencies on the stakeholders.

Criteria	Option 1: Solicitors Desktop	Option 2: Generic Desktop	Option 3: Stakeholder Portals	Option 4: Central Hub
Other Requirements <ul style="list-style-type: none"> Greater Transparency Reduced Paper Accelerate Process Improve Data Quality 	Poor During our narrative in the early section we described how this option failed some of these requirements	Poor During our narrative in the early section we described how this option failed some of these requirements	Average This solution addresses a number of the required functional features	Good This option addresses all of these features bringing a consistent approach and standards to all of them

Table 9.1 above validates our recommendation, however in the following table (Table 9.2) we investigate in greater detail how the Option 4 measures up against the various criteria.

Table 9.2: Assessment of Option 4 against selected criteria

Criteria	Comment
Security	Different standards of security can be implemented and we believe that in order for an eConveyancing system to be effective it requires a strict and standardised approach to security. This is a significant justification for the central hub approach as security services (such as authentication) can be implemented once and all parties can be reassured of the quality of the implementation. This will facilitate trust in the system.
Scalability / High Availability	The technologies associated with supporting a central hub type architecture all support scalability and high availability through the use of technologies such as clustering and load-balancing.
Ease of Maintenance / Future Proofed	This architecture is based upon proven and up-to-date technologies. The skill-sets associated with these technologies are current and widespread. The architecture is future-proofed via its use of technologies which are being supported and are on the roadmaps of all the major technology vendors.
Openness / Extensibility	Openness is a tenet of Service Oriented Architectures. The architecture supports interoperability between different technologies and vendors through the use of “open standards”. This also facilitates extensibility by allowing new components to be added in a standard and consistent way.
Cost Effectiveness	This technical model is very cost effective for the stakeholder as there is minimal technical footprint on the client side. Significant cost gains will also be possible through the potential for a more efficient operational model.
Risk Aversion	In terms of the architecture, all the major technology vendors are actively investing in, supporting and driving the concepts of central hubs (or Service Oriented Architectures). This concept is on the technical roadmap for all of these vendors and this ensures there will be support for any such initiative thus reducing any risk. With regard to the implementation, we have recommended a technical proof of concept both as a risk mitigation measure and as a mechanism to get buy-in from the various stakeholders.
Other Requirements: <ul style="list-style-type: none"> Greater Transparency 	<ul style="list-style-type: none"> Greater Transparency: With the introduction of workflow and reporting services the process will be more transparent than ever before. It will be possible to measure the progress of a particular eConveyancing case and to better assess the issues associated with the eConveyancing process.

Criteria	Comment
<ul style="list-style-type: none">• Reduced Paper• Accelerate Process• Improve Data Quality	<ul style="list-style-type: none">• Reduced Paper: There is significant potential for reducing the reliance on paper in any electronic system. However, in a central hub where the documents could be based on templates and populated with the appropriate data as required, this potential increases. A central hub will also facilitate the standardization of these templates.• Faster Process: By reducing the amount of manual intervention the process will be accelerated. However, a central hub can provide services with performance as a key design criterion (i.e. the search service should be implemented to provide the best performance possible). These central services can be continually monitored and improved.• Improve Data Quality: One of the most common reasons for poor data quality is lack of consistency in the data input and validation process. A central hub with common data validation services will facilitate this significantly.

9.4 Recommendations for Implementation

There are a number of implementation details, which are fundamental to the recommended model and we discuss each of these in greater detail below. These include:

- **Secure communication** – This is a fundamental consideration for any solution which requires electronic transfer of sensitive and legal information between parties.
- **Secure transfer of documents and Document Management** – This is related to Secure Communication but we present an alternative solution which may have reduced management overhead.
- **Network implications** – An electronic Conveyancing solution will have implications for a number of the stakeholders with regard to the amount of network bandwidth required by them to use the system.
- **Technology Proof of Concept** – We have addressed this earlier in the document but we strongly recommend the use of technical “Proof of Concept(s)” to validate designs and to reassure the various stakeholders.

9.4.1 Secure Communication

The secure transfer/update of legal documents via electronic means is a fundamental consideration for the implementation of an eConveyancing solution. In other jurisdictions the key enabling technologies facilitating this are Digital Certificates, Digital Signatures and PKI. Using these technologies, a solution can support secure transfer of information, non-repudiation and assurance regarding the origin of the document.

In Exhibit D to this document we go into some detail describing how Digital Certificates, Digital Signatures and PKI combine to give a secure solution. It is important to understand this process to appreciate the complexity and overhead associated with these technologies.

This technology is required for all secure communication between two parties and the associated overhead can become unmanageable, as all the parties have to be trusted. This is simplified with a centralised system because at least one of the parties (the centralised system) is trusted.

This is further justification for the centralised system and a central hub that includes authentication (security) services to manage all of the above.

9.4.2 Secure Transfer of Documents and Document Management

There are two models for transferring documents between stakeholders. One model is to transmit the document directly between the stakeholders but ensure that the transmission is secure and the stakeholders are trusted. This can be done using PKI, however it causes significant administration issues as we have described in the previous section.

An alternative model is to store the document centrally (i.e. associated with the hub). Using this model the stakeholders will access the central document and edit/change it as required. The model involves using aspects of case management and document management to ensure that the rules associated with document access are upheld. The users will have to be able to electronically sign the document (probably through digital signatures, but in a centralized environment). With this model, there is only one electronic copy of the document associated with the overall eConveyancing process. This could be an important step in the roadmap towards reducing the requirement for paper documents.

This has another potential advantage – the document could be auto-generated using templates on the central system and the data associated with the process. The use of templates would go a long-way towards effective standardization of the documents.

9.4.3 Network Implications

With the advent of an eConveyancing solution there will be increased demands on network bandwidth for the stakeholders. Instead of paper documents being posted to the office, electronic documents and files will be transmitted across internal and external networks. Some of these documents may be very large and increased bandwidth may be required for many of the stakeholders. Broadband access is quickly becoming available throughout the country and may well be available everywhere in a few years. However, in the absence of sufficient bandwidth in all localities, alternative solutions may be required, such as:

- Efficient compression algorithms to reduce the size of the documents.
- Templates stored locally so that just the changes and data associated with documents need to be transmitted.
- A document management system that just requires the full document to be sent down once and thereafter transmits only changes and updates the original document accordingly.

9.4.4 Technology Proof of Concept

As is mentioned earlier, we would recommend the development of a technology proof of concept. We believe that the most appropriate areas for technical reassurance – and so the subject of a ‘proof of concept’ - would be associated with the secure transfer of documents and digital signatures.

9.5 Conclusion

While acknowledging that implementing a solution of this scale is a significant undertaking, we believe that it is achievable due to a number of features of the proposed Technical Model:

- It is a tried and trusted model based on leading edge concepts such as Service Oriented Architecture.
- It can be implemented in a staged way thus reducing the risk by avoiding a “big bang” approach.
- It can be implemented in a way that will complement the IT strategies being implemented by a number of the key stakeholders.

10. ECONVEYANCING BUSINESS MODEL

This chapter addresses the business (i.e. operating and financial) options for running the proposed eConveyancing process and technical models as outlined in earlier sections. It considers how the stakeholders and the State may play roles in implementing the model and the financing options going forward. The discussion here draws on the experience in other countries in implementing eConveyancing and on consideration of the various stakeholder groups to the process.

10.1 Operating Model

From an operating model perspective, there are four main groupings as illustrated in Figure 10.1 below. (Note: the titles given to the groupings are intended only for purposes of ease of reference):

Figure 10.1: Operating Model

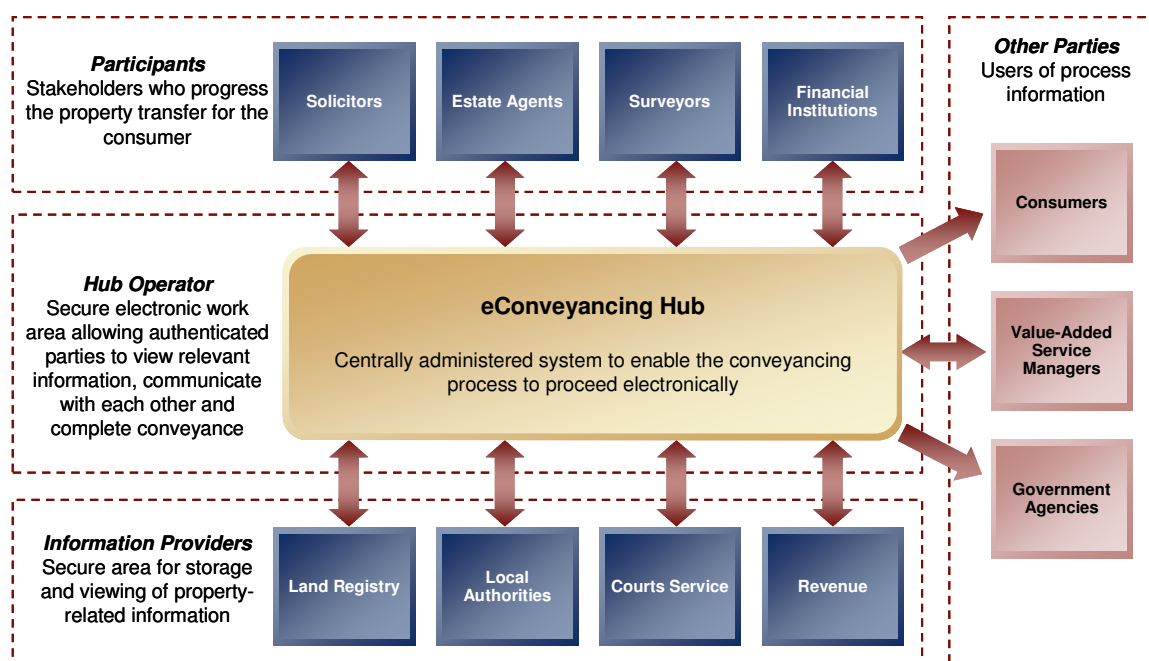


Table 10.1 below gives a brief overview of the main group who would ordinarily interact with the together and with the eConveyancing Hub.

Table 10.2: Overview of groups involved in Operating Model

Participants	These are the stakeholders directly involved in executing the conveyancing process. They are the ones who are actively involved in the transaction; others will be more passive, providing information or simply, receiving information. Central are solicitors and financial institutions; other 'participants' with an active role will be: estate agents, law searchers and surveyors. These organisations are primarily in the private sector. <i>(Note: some state bodies, e.g. local authorities, may also be participants but it is in a role acting as one of those mentioned).</i>
Information Providers	These are the stakeholders whose role is primarily to receive information or to provide it to inform the participants on matters of title, encumbrances, planning, certificates, taxes/duties, etc. They are all state bodies. The main Information Providers are: Land Registry/Registry of Deeds, local authorities, the Courts Service and the Revenue Commissioners. Other less prominent Providers include: the GRO and the CRO.

Hub Operator	This is the organisation that builds and manages the eConveyancing Hub, albeit those two roles could be also filled by different organisations. Its functions are described in earlier sections. There is a range of options regarding how this role could be filled. In other countries, it is filled by the Land Registry's counterpart or by a commercial entity, perhaps involving some stakeholder or state equity participation.
Other Parties	These are those stakeholders who have an interest in the process but are not actively involved. They include consumers acting as vendors or purchasers, some state and industry bodies collecting statistics or offering value adding services.

Each stakeholder group has a role to play in implementing the operating model and each will be impacted differently. Below we consider how each group will be impacted and the considerations in their participating in the implementation.

10.2 Funding the eConveyancing Model

There will be three types of funding required:

- Investment by individual stakeholders to avail of the service
- The initial investment to build the eConveyancing Hub
- Ongoing operating costs.

10.2.1 Initial Investment by Stakeholders

The Participants (see above) will need to make an investment: to acquire/upgrade IT facilities and systems, to build any necessary interfaces, to convert existing files and data and to train staff. As these are largely private sector organisations with a commercial mandate, there must be a clear cost/benefit case for such investment. This will be more straightforward to establish for the larger stakeholders or where there is a small number of stakeholders (e.g. financial institutions) and more complex for more diversified groups (e.g. solicitors, estate agents). The proposed technical model aims to simplify the task of joining the services, so that the level of investment is minimised. The business case can be enhanced by making it more attractive to Participants to use eConveyancing services by charging less than the equivalent paper-based communications; this is the practice adopted in other countries and can be justified by lower costs associated with an automated service.

The Information Providers are all state sector organisations. Again, a business case may be needed to justify any investment in new facilities. However, many already have eGovernment initiatives – and corresponding funding and IT plans – in place to deliver the required facilities. This is the case in the Land Registry, the Courts Service and also – albeit at an earlier stage - in the Revenue Commissioners, the CRO and the GRO. The local authorities are less prepared for participation. While planning systems are being installed in a number of authorities, there is quite a diverse range of systems and they are at different stages of development. There will be a need for a common approach and a development programme to put the necessary facilities in place across all local authorities; this is a non-trivial task and may require direction from central government to establish it as a priority.

Other parties including consumers will require minimal investment; it is anticipated that they will simply require Internet access through a web browser and access to email facilities.

10.2.2 Initial Investment for the eConveyancing Hub

A considerable investment will be required to build the eConveyancing Hub, irrespective of whether it is based on a solution already in use elsewhere or on one built. As benefits from the Hub will flow to both public and private sector participants, there is a case for both sectors funding the development.

In a number of countries, the state is leading the development through the Land Registry's counterparts (e.g. in New Zealand, Australia and England & Wales). In these cases, the priority tends to be simply automating the registration process and the earlier stages are omitted or left to the private sector to initiate and fund. The exception to this is England & Wales which plans an end-to-end eConveyancing solution, but this strategy is more influenced by the fact that the Land Registry has reserve funds to invest, which is not the case in Ireland. The South African model demonstrates that the private sector can get involved, provided it sees a commercial benefit. While the specific circumstances driving the South African initiative are not present in Ireland, there are several precedents for financial institutions, in particular, joining together to develop and run services of common benefit (e.g. credit card processing services, credit bureau services).

For the type of end-to-end eConveyancing service envisaged, Ontario (Canada) provides the best model for Ireland – see description in Chapter 6. It is a proven/working model which provides the range of services envisaged - and more - and continues to evolve in response to stakeholders' needs. It started out as part of the Land Registry, attempted expansion with venture capitalists, which did not work and later went back to develop the service using funding from long-term ("patient") investors in partnership with a computer services company; eventually, this entity was privatised yielding a return to the state. The following summarises the process followed:

- In the early 1990s, the State funded a Proof of Concept project costing approx. CA\$30m
- Private sector partners (led by Teranet) were chosen by a tendering process to form a joint venture; they invested CA\$29m as did the state; the development work was undertaken and the service launched with revenues generated from fees charged for services.
- In 1998, the joint venture acquired a line of credit of CA\$300m to fund further development, so that no state funding was required. During this time, the venture paid for development of the State's Land Registry services, benefited from lower operating cost for the Land Registry (by CA\$22m p.a.) and also, derived profits from the joint venture.
- In 2003, the State sold its 50% interest for approximately CA\$400m.

This type of approach has many similarities with a Public Private Partnership (PPP), which is an option that should be considered in developing the Irish eConveyancing service.

Launching a PPP tender to select partners would require significant preparatory work to clearly establish the commercial benefits available to a potential partner; this would include, inter alia:

- Specifying the services to be delivered and service levels to be achieved
- Getting detailed plans and firm commitments that all of the state bodies will deliver the services that are expected of them
- Getting commitments from the key stakeholders (the "Participants") that they will use the service and undertake any necessary developments within agreed timescales.
- Agreeing the pricing mechanisms and getting agreement from stakeholders to the proposed pricing
- Details of any proposals for equity participation by the state or any stakeholders and details of any funding that may be provided
- The duration and other terms of the exclusive licence that would be available.

10.2.3 Ongoing Operating costs for the eConveyancing Hub

Once the Hub is developed, further costs will arise in operating the service and in ongoing research and development for new services or to facilitate new technologies. In general, the operating costs should be covered by transaction fees paid by users, which would also allow for an agreed level of profit margin and may also provide some level of R&D and for recovery of some or all of the initial investment. New developments may also be funded partly or fully by stakeholders, if the investment can be shown to provide reasonably short-term benefits to them.

10.3 Recommendations

- Further, more detailed analysis of the business case for all stakeholders should be undertaken to establish the level of participation that can be anticipated.
- The Ontario business model should be studied in more detail to validate it as a model for the Irish eConveyancing service.
- The merits of a Public Private Partnership should be assessed as means of funding the development of the service.

11. ECONVEYANCING ROADMAP

This chapter of the report describes the main steps involved in designing, building and deploying an eConveyancing solution and the role of Government in the proposed programme. The topics addressed are:

- A summary of the case for eConveyancing and the reasons for Government involvement.
- An outline of the major activities to be undertaken to develop an eConveyancing solution for Ireland (i.e. the “eConveyancing Roadmap”).
- A description of the structures for managing them.
- Recommendations on the immediate next steps to progress the project.

11.1 The Case for eConveyancing and for Government Involvement

There is a clear ‘case for change’ to improve the current conveyancing process (as outlined in Chapters 2 and 5), notably:

- **eConveyancing would benefit Irish citizens** in undertaking residential property transactions through enhanced consistency, transparency and reduction in time and costs. An e-enabled process would also serve to augment the role of the consumer (i.e. purchaser and vendor) within the process.
- **eConveyancing would benefit other stakeholders** including: state bodies, solicitors, financial institutions and estate agents through the introduction of a standard process and technology for conveyancing. This would enable these stakeholders to reduce their time - and in some instances, costs - and to improve efficiency, ultimately improving the level of service to citizens.

We recommend that the Government takes a leadership position in informing and designing the most appropriate eConveyancing model for Ireland. The key reasons underpinning this recommendation are:

- **The Government’s mandate to continually improve the provision of public services to consumers.** The eConveyancing vision supports the Government’s mandate to improve the delivery of services to Irish consumers in an open, transparent and cost effective manner. It is closely aligned with its eGovernment objectives across the Government-to-business (G2B), Government-to-consumer (G2C), business-to-business (B2B) and business-to-consumer (B2C) areas.
- **Ireland would become less attractive to investors should it choose to do nothing.** There is widespread acceptance that the current processes are archaic, manually driven, paper based, error prone and time consuming to operate. The process encounters a high degree of frustration from the consumer and the business community. It reflects our relatively low ranking of 69th globally in the area of “property registration” by the World Bank in their “Doing Business” report compared with a ranking of 11th in “ease of doing business”.
- **The experiences of other e-enabled jurisdictions emphasise the important role of the State.** Jurisdictions, such as Ontario (Canada), New Zealand and England and Wales, have successfully reformed their conveyancing process or are in the process of doing so. Their experiences, as outlined in Chapter 6 of the report, demonstrate that the State has played key roles in leading conveyancing reform. In certain cases, the Land Registry has played a leading role, while in other instances agencies have been established for the purpose and given responsibility for the implementation of eConveyancing.
- **The State is the owner of much of the property related data.** It is largely self evident that the efficiency of the conveyancing process (for residential property) has the greatest impact on the consumer. However, the owner of certain key information resources required for the conveyancing process is the State. It is through the administration of these resources that the State can unlock the potential benefits of improved timeliness, cost effectiveness and customer service through the delivery of an open and transparent process.

- **eConveyancing could be a source of revenue and intellectual capital for the State.** The experiences of other jurisdictions illustrate that not only is it possible to save time and cost, to generate revenue, and to achieve the other benefits outlined above, but it is also possible to design and deliver additional value added services to both consumers and businesses alike.

11.2 Key Activities

This section presents our views on the key workstreams and associated activities that comprise the development and implementation of an eConveyancing solution.

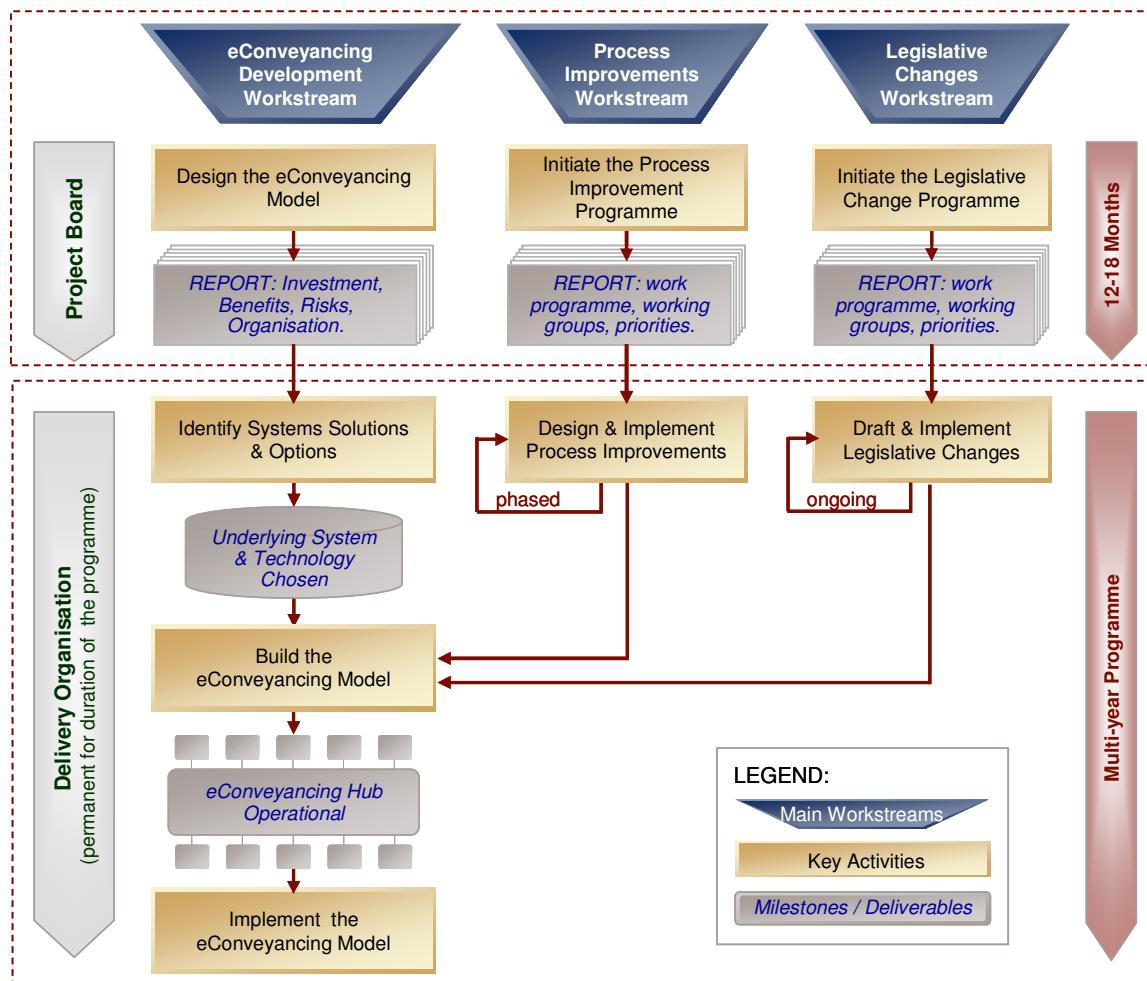
This “roadmap” has been designed to reflect our view that significant improvements can be made to the current processes, independent of – but in support of - a considerable investment that would be required in an ‘end-to-end’ eConveyancing solution.

The diagram overleaf (Figure 11.1) outlines the eConveyancing roadmap. This roadmap is organised into three key workstreams.

- **eConveyancing Development workstream:** initially, involving a detailed assessment of the appropriate model for eConveyancing (operational, technical and business) for its delivery and then, if appropriate, to move on to the next steps of building and implementing the full eConveyancing model.
- **Process Improvement workstream:** involving the identification, organisation and implementation of improvements to the current process, based on the opportunities identified in this report. Many of these are independent of eConveyancing and can bring short-term benefits to stakeholders and consumers. Many will also facilitate the design and development of the eConveyancing system. We envisage that process changes will be agreed and implemented on a phased basis between groups of stakeholders. This workstream would also link appropriately with the eConveyancing Development workstream as its activities progress.
- **Legislative Changes workstream:** similarly, some legislative changes are identified which facilitate and underpin the eConveyancing model. These too should be addressed incrementally and also link appropriately with the eConveyancing Development workstream as its activities progress.

Each workstream is described in more detail in the sections that follow.

Figure 11.1: High Level Roadmap for eConveyancing



11.2.1 eConveyancing Development Workstream

The eConveyancing Development workstream is primarily concerned with assessing in detail the design and deployment of the most appropriate eConveyancing model for Ireland. This project would be concerned with the development and deployment of the eConveyancing solution from operational, technical and business model perspectives. The following is an outline of the key tasks for the eConveyancing Development project:

11.2.1.1 Design the eConveyancing system

The eConveyancing Development project would initially be concerned with conducting a detailed design of the most appropriate model for Ireland, from an economic, consumer and financial perspective. This design of the eConveyancing system should include the following activities:

- Design an appropriate business model for eConveyancing

The financial case study and the study of other jurisdictions should inform the decision of the most appropriate business model for the eConveyancing model. This would also include the most appropriate investment vehicle and ongoing revenue generation model.

A cost/benefit analysis would assess the viability of a complete or partial project implementation of eConveyancing. It would include consideration of the investment required, revenue generation potential and return on investment period.

- Learn from the experiences of similar implementations in other jurisdictions

The project should undertake further analysis and consultation with the relevant jurisdictions (e.g. Ontario, England and Wales, British Columbia) to ensure that there is a clear understanding of the most appropriate model for Ireland. This process may support the compilation and clarification of possible collaboration approaches with solution vendors and understanding of lessons learned by the implementers in other jurisdictions.

The output of these activities will be a report containing:

- Detailed business model for eConveyancing.
- Clear understanding of available system solutions and international experience.
- Understanding of available sources of funding and the most appropriate business model.

11.2.1.2 Identify system solutions and options

The “Design the eConveyancing System” phase will direct subsequent work to be conducted as part of the eConveyancing Development workstream. The “Identify System Solutions and Options” phase would be responsible for agreeing the most appropriate technical model for an eConveyancing solution.

The ultimate system solution will need to satisfy a number of key criteria such as: secure communication, secure transfer of documents, document management, network bandwidth implications and successful proof of concept. (Note: The features of the solution envisaged are discussed in greater detail in Chapter 9.)

The outcome of these activities will be:

- A “tried and tested” system solution for implementation.
- Costs and technical approach to development of the solution.

11.2.1.3 Build the eConveyancing model

There are a number of approaches that can be undertaken in order to build the eConveyancing model. Based on our analysis to date, the most suitable approach would seem to be an incremental approach (as against a “big bang” implementation) to building (as well as implementing) eConveyancing. This may involve focusing attention initially on certain components of the modules associated with eConveyancing as illustrated in Exhibit C.

A “proof of concept” should be developed. A proof of concept is a short and / or incomplete realisation of the system demonstrating its feasibility. It can be an effective tool for understanding that the project can be implemented and also serves to communicate effectively to relevant stakeholders how an eConveyancing model would operate in an Irish context.

The outcome of these activities will be:

- Working modules of an eConveyancing system developed and ready for deployment.
- Future work identified and ongoing on the roadmap to eConveyancing.

11.2.1.4 Implement the eConveyancing model

The design and implementation of process and technology improvements to the current conveyancing process will run concurrently across the lifecycle of the programme. Where systems developments are already planned and / or are underway (e.g. in other agencies such as: Land Registry, Courts Service, Revenue Commissioners, etc) then such developments should proceed but within the context of the eConveyancing vision. This will ensure an easier implementation for the final eConveyancing solution with the eConveyancing Hub and associated modules.

The timeframe and approach may be best determined by undertaking a comprehensive pilot that involves all of the key stakeholders and identifies any outstanding risks or issues that might impact on the continuing implementation of the solution.

In terms of rollout of a new system, careful consideration will need to be given to an appropriate implementation strategy. For example, modules could be implemented geographically (e.g. as they apply to local authorities) or by stakeholder.

The outcome of these activities will be:

- A solution implementation underway and following-on an iterative or phased process.
- Stakeholders actively involved in the implementation.

11.2.2 Process Improvement Workstream

The experience of other jurisdictions, which have been successfully involved in eConveyancing projects, indicates that it is imperative that the existing conveyancing process be enhanced through process improvement (see Chapter 5) as part of the overall programme.

The Process Improvement Workstream is principally concerned with the identification and implementation of improvement opportunities associated with the current conveyancing process. There are major benefits to be derived for the successful implementation of the process improvements identified in Chapter 5 and a significant proportion would not require a major system investment. This involves supporting the re-engineering of the end-to-end and associated processes which may include the sequence and format of process steps, information requirements and standards, (quick-win) IT solutions, legislative, education and change management opportunities.

Significant input and participation would be required from private sector stakeholders, including amongst others: the legal profession, financial institutions, estate agents, surveyors and property developers.

An initial outline of the key activities of the “Process Improvement” workstream is described below.

11.2.2.1 Initiate the Process Improvement Programme

This is an initial planning exercise to develop a work programme to address the improvement opportunities identified. We envisage a series of multilateral working groups will be formed between stakeholders to address specific topics or groups of opportunities. These measures will need to be co-ordinated and prioritised in order to ensure an orderly and efficient programme. The output of this process will be a phased work programme, identifying a series of projects designed to address specific issues and working groups, representative of the stakeholders who need to be involved.

11.2.2.2 *Design and Implement Process Improvement Opportunities*

In Chapter 5 of the report, we outline some of the key issues associated with the current conveyancing process, provide examples of them and outline several improvement opportunities to be considered. Exhibit C describes an initial end-to-end future conveyancing process. These would serve as valuable inputs to this activity. The scope of improvement opportunities should relate to the following principles:

- **Process:** Simplify and standardise the conveyancing process where possible with improved levels of accountability, efficiency and transparency.
- **Information:** Increase the use of standard document formats, templates and electronic forms, rationalise the number of documents currently in use within the process. There should be a concerted effort to move away from paper-based documents with the support of effective legislation and the use of central locations for storing and retrieval of documents where possible.
- **IT Systems:** There are a number of opportunities for improvement identified under this heading, they all attempt to ensure that information is securely stored and easy to retrieve enabled by moving paper based documents onto databases and then moving towards central storage and access. Increased use of electronic messages between the participants to a conveyance will increase the speed of delivery.
- **Legislation:** There are a number of legislative changes that are currently in the process of ratification. Other legislative requirements, such as bringing into force the relevant provisions of the Electronic Commerce Act would support eConveyancing.
- **Culture and Tradition** Changes to processes and documents will require a concerted change management approach. While the eConveyancing Project Board may have taken an initial leadership role in this, the ongoing involvement of professional bodies and the Process Improvement project team members will be equally critical.
- **Education and Understanding:** Effective education of all of the stakeholders and public in relation to conveyancing is essential. An ongoing communications and training plan should be developed at an early stage and implemented throughout the whole project.

The opportunities for improvement should be prioritised, from an implementation perspective, upon a set of agreed criteria. These criteria should be agreed upon mobilisation but may include the following:

- **“Quick wins”:** i.e. those process improvements that could be implemented relatively simply, with little risk and at relatively low cost (e.g. do not require major investment by stakeholders). An example of this may be a standard land survey template or mortgage application process across the financial institutions.
- **“Key problem areas”:** i.e. Improvement opportunities to those processes that are a significant source of delay and frustration to stakeholders. An example may be the current first registration process at the Land Registry.
- **“eConveyancing dependent”:** i.e. improvements that are linked to or dependent on the eConveyancing system and associated modules.

The purpose of this segmentation of the process enhancements is to support the implementation, thereby ensuring a co-ordinated and consistent approach to the eConveyancing project. It also enables stakeholders to accelerate those process improvements that can be implemented in advance of the eConveyancing solution development project.

Improvement solutions would be implemented by the appropriate stakeholders, mostly on a phased basis. This is a critical phase of the overall programme. While the representative bodies may accept “in principle” the issues identified and their appropriate solutions, achieving “buy-in” and commitment to their implementation, by relevant stakeholders, will be critical to the success of these initiatives. Issues associated with the benefits to be derived, timeframe for implementation and ease of implementation would be considered by stakeholders.

11.2.3 Legislative Changes Workstream

There are a number of areas for improvement identified in Chapter 5 in relation to: early enactment of certain bills into law, consideration of a moratorium in relation to aspects of current legal requirements associated with planning, promotion of the use of qualified title, removal of the need for physical stamping or sealing of documents and other relevant changes.

It is important that the implementation of correct legislative supports is undertaken to help ensure that the legal framework is in place to enable a move to more simplified conveyancing legislation in the shorter term and legislation that fully supports eConveyancing in the longer term.

As with the Process Improvements workstream, there should be an initial planning exercise to develop a work programme and to form working groups which are representative of the interested parties. Work on the various measures may proceed in parallel and may be implemented over a period of time.

11.3 Governance

Our review of the conveyancing process concludes that the combination of a modernisation of associated statutes and improvements in business processes, enabled by new technologies, could result in significant benefits to a wide range of stakeholders. A proposed modernisation of the conveyancing process needs also to be considered in the context of the development of the Irish economy.

The eConveyancing vision that we have proposed implies significant changes to existing processes, technology, legislation, established tradition and culture, education and understanding of the process by a diverse stakeholder community. This represents a large-scale, multi-year and complex transformation programme. However, experience in other jurisdictions has shown that considerable anticipated benefits have accrued to the stakeholders involved thereby making the investment worthwhile.

We believe that implementing eConveyancing successfully requires an active, committed role from Government. We recommend that the Government's initial priority should be to establish an organisational structure with the resources and mandate to effectively deliver improvements in processing, timescales and costs to the end-to-end conveyancing process. An inter-agency body would co-ordinate the three workstreams, namely eConveyancing Development, Process Improvement and Legislative Changes. This body would lead development and implementation of improvements and report to the Government specifying a roadmap to eConveyancing in greater detail.

We therefore recommend that the development of the eConveyancing programme should commence with the establishment of an appropriate governance structure to lead, manage and monitor the design and development of the eConveyancing programme. In advance of a permanent Organisation being identified to lead the eConveyancing programme in the longer term we recommend that an eConveyancing Project Board be established to manage the programme for the next 12 -18 months (as identified in Figure 11.1).

The proposed Project Board would be to conduct a detailed assessment of the most appropriate model for eConveyancing in Ireland including preparation of proposals for Government as to the design, establishment, operation, governance and implementation of the actual model. Thereafter, it would be a matter for Government to decide the appropriate long-term organisational and governance structures for the next phases of the project.

11.3.1 Role of the eConveyancing Project Board

A key challenge in the design and deployment of eConveyancing is the multiplicity of stakeholders involved in the process and the differing states of readiness, priorities and cultures inherent within them. Membership of

the Project Board should include the key stakeholders within the relevant Government agencies and should also include membership from the representative bodies of key “private sector” stakeholders including the legal profession. The Project Board should be given adequate resources and budget to enable them to deliver on their terms of reference.

The Project Board would be ultimately responsible for ensuring that effective governance and implementation controls are in place for developing and managing the eConveyancing roadmap during the initial 12 – 18 month period:

- **Ensures ongoing implementation of a consistent vision** – The vision for eConveyancing must be clearly defined and communicated. It will serve to guide decision making, resource allocation and commitment building throughout. This vision must be shared across stakeholders.
- **Provides for continuity in implementation of eConveyancing** – The programme needs stability and commitment throughout. The establishment of a Project Board provides the organisational continuity required to ensure the project is adequately resourced.
- **Enables coherent co-ordination and allocation of resources** – The Project Board would act as a Programme Management Office with responsibility for planning and allocating resources appropriately throughout.
- **Represents and manages stakeholders fairly** – The Project Board would play the vital role of ensuring the interests and priorities of all stakeholders are represented in an equitable manner.
- **Progresses decision making** – The Project Board would facilitate consistent and speedier decision making through ongoing communication with relevant stakeholders.
- **Provides for effective programme management** – It provides the eConveyancing programme with the requisite organisational foundation required to manage the project, including budget, implementation timeline and participation.
- **Acts as a change management agent for the programme** - A significant challenge for the success of eConveyancing is the “sales and marketing” of the overall programme to stakeholders and the change management effort associated with implementing changes to processes, documents, legislation, training programmes, etc. While responsibility for individual (micro) projects may reside with relevant stakeholder (e.g. state agencies such as Land Registry or The Courts Service or private sector stakeholders such as financial institutions or solicitors), the eConveyancing Project Board will be required to take a leadership position in developing the overall solution over the next 12-18 months.

11.3.2 Objectives for the eConveyancing Project Board

It is important that a clear mandate is defined and communicated to the Project Board. We suggest that the Project Board will play roles related to each of the workstreams, as follows:

- Lead the next phase of the eConveyancing Development workstream (i.e. Design of an eConveyancing System)

The Project Board will be responsible for determining and designing an appropriate eConveyancing model over a 12-18 month period and will present its findings and recommendations to Government.

- Oversee and support the Process Improvement workstream

We propose that the eConveyancing Project Board would be responsible for supporting the co-ordination and direction setting for this workstream through the appropriate representative bodies for key stakeholders as well as state agencies.

The Project Board will work with the various stakeholders to identify, organise and implement improvement opportunities to the current process. While the representative bodies will be required to lead efforts in this area, the Project Board should oversee, offer advice and ultimately ensure process improvements are aligned or feed into the overall eConveyancing solution. We propose that the establishment of joint working parties with stakeholders as a useful organisational structure/mechanism to realise this.

It will not be possible for the eConveyancing Project Board to ensure implementation of identified improvements, across the private and public sectors, however the Project Board should get involved in supporting implementation of the improvements with the stakeholders.

- Oversee and support the Legislative Changes workstream

In a similar manner, the Project Board should initiate this workstream and retain an oversight role on the work programme.

11.4 Next Steps and Conclusions

Experience from other jurisdictions demonstrates the criticality of long-term vision, adequate funding and commitment from the Government and stakeholders if the eConveyancing programme is to be successfully deployed. Ontario's eConveyancing project continues to be deployed, upgraded and improved since its initial development in 1991 while the National Electronic Conveyancing System (NECS), Australia's joint government and industry initiative, has an initial four-year plan to establish and migrate the most appropriate eConveyancing process across all territories in Australia, using the Victoria model as its blueprint.

The priority for Government is to identify and agree clear ownership and responsibility for the further development of the eConveyancing programme. We believe that the ongoing role of the Irish Government in this programme is fundamental to its long term success. We believe that the development of the eConveyancing project should commence in 2006 with the establishment and appointment of an eConveyancing Project Board, with a clear mandate of deliverables, to set out the eConveyancing programme through its next phase of design and development.

We recommend the following key steps:

1. Establish the eConveyancing Project Board

An eConveyancing Project Board (as described in 11.3) should be established. It is important that this is done without delay to ensure continuity and to build upon the momentum arising from the work done by the Law Reform Commission, government departments, state agencies and other stakeholders.

Membership of the Project Board should include the key stakeholders within the relevant Government agencies and should also include membership from the representative bodies of key "private sector" stakeholders including the legal profession.

The eConveyancing Project Board should be given adequate resources and budget to enable them to deliver on their terms of reference.

2. Develop and agree Terms of Reference for the eConveyancing Project Board

The initial key objective of the Project Board will be to recommend the most appropriate mechanism to implement the recommendations from this report to Government. This includes the following outputs:

- (a) The specific recommendations that should be implemented, considering value for money for the public sector, role of (and benefits to) key participants, benefits to the citizen and to ensure effectiveness, openness and transparency in the conveyancing process.
- (b) The level of investment and projected benefits to be gained from the phased implementation of these recommendations, including the identification of specific metrics that can be used to assess their progress.
- (c) The organisation and infrastructure, whether new or existing, (including its funding model, structure, governance and the operational processes it will support) required to implement the recommendations.
- (d) An assessment of the risks and approach to their mitigation. This risk assessment will be of particular importance where certain activities will be undertaken for the first time, either from an organisational perspective (e.g. funding models), or from a process perspective (e.g. business authentication, electronic payment mechanisms).
- (e) The development of a high-level solution architecture to support the processes that will be managed by the organisation. In doing so, there should be particular reference to where elements of the solution exist in other agencies within the public service.
- (f) Develop effective communications channel with relevant stakeholders and ensure their continuing involvement with and buy-in to the project.

3. The Project Board should report to Government within 12-18 months

The Project Board will develop a report detailing its recommendations. We strongly recommend that this should be completed within a 12-18 month timeframe and presented to Government for decision-making with regard to the subsequent implementation of an eConveyancing system.

NOTE:

The above recommendations are based on the following assumptions:

- 1. The Project Board should leverage previous international experience where appropriate. Consequently, it would be prudent for the Project Board to build further on its relationship with the appropriate organisations implementing eConveyancing in other jurisdictions.
- 2. Recommendations regarding solution architecture will be at a high level in order to enable identification of detailed services and opportunities for re-use of existing technologies. It is assumed that the organisation charged with responsibility for subsequent development of the roadmap will prepare and issue a request for tender to interested IT software providers. The responses submitted will provide additional suggestions and detail regarding the most appropriate solution architecture for eConveyancing.
- 3. The Project Board will only be in a position to oversee and advise stakeholders in implementing process improvements and legislative changes rather than being in a position to direct action by stakeholders.
- 4. The process improvements that the organisation will implement will be largely based upon those improvements identified in this report.

EXHIBITS

A Acknowledgements

B ‘To be’ Process Description

This section gives a more detailed process walkthrough of how the conveyancing process will operate under the proposed future eConveyancing Model.

C Approach to building the modules for an eConveyancing model

This is a high-level description of the approach to move from the current method of conveyancing to “eConveyancing”.

D Glossary of Terms

This is an explanation of terms used within this document.

E Digital Certificates, Digital Signatures and PKI

This gives a high-level overview of the above-mentioned technologies.

Exhibit A: Acknowledgements

The table below (Table A.1) is the list of stakeholders and subject matter experts whom we consulted with in order to develop an understanding of the current provisioning process, the state of readiness of key stakeholders to move into an eConveyancing environment and the possible structure of a future eConveyancing model. We would like to acknowledge their input and express our gratitude to them for their co-operation.

We would like to thank the Law Reform Commission's Project Steering Group for their advice and guidance to us in conducting the project and also our specialist advisors: A&L Goodbody Solicitors, Mr Art Daniels, former Assistant Deputy Minister Public Service Excellence and Innovation Office, Cabinet Office, Province of Ontario and Mr Jon Atkey, Deputy Programme Manager, eConveyancing Task Force, HM Land Registry in the UK for the invaluable expertise and experience they brought to the project.

Table A.1: List of stakeholders and subject matter experts consulted

Developers	Construction Industry Federation Castlepark Construction Park Developments
Estate Agents	Irish Auctioneers and Valuers Institute Institute of Professional Auctioneers & Valuers Sherry Fitzgerald Cohalan and Dowling (Cork) Philips Partnership (Delgany) Daphne L Kaye & Associates
Financial Institutions	Irish Mortgage Council Bank of Ireland / ICS Permanent TSB EBS AIB
Land Registry	Land Registry
Registry of Deeds	Registry of Deeds
Law Searchers	Irish Law Searchers' Association Brady & Co
Local Authorities	Dublin City Council Cork City Council Kilkenny County Council Offaly County Council Clare County Council Local Government Computer Services Board (LGCSB)

Solicitors	<p>Law Society of Ireland</p> <p>Dublin Solicitors Bar Association</p> <p>Matheson Ormsby Prentice</p> <p>MacDowell Purcell</p> <p>King Solicitors</p> <p>Partners at Law</p> <p>Coakley Moloney (Cork)</p>
Surveyors	<p>Irish Institute of Surveyors</p> <p>Royal Irish Architects Institute</p> <p>Society of Chartered Surveyors</p> <p>Val O'Brien and Associates</p>
Property Managers	<p>McNally Handy and Partners</p> <p>Spain Courtney Doyle</p> <p>Green Property</p>
Information Providers	<p>Revenue Commissioners</p> <p>Ordnance Survey Ireland</p> <p>Courts Service</p> <p>Companies Registration Office</p> <p>General Register Office</p>
Other Parties	<p>Reachservices</p> <p>nicemove.ie</p> <p>ezhome.ie</p> <p>myhome.ie</p> <p>Electricity Supply Board</p> <p>National Roads Authority</p> <p>Chief State Solicitor's Office</p> <p>Information Society Commission</p> <p>Centre for Management and Organisation Development</p> <p>Department of the Environment, Heritage and Local Government</p> <p>Sustainable Energy Ireland</p> <p>Irish Financial Services Regulatory Authority</p> <p>Data Protection Commission</p> <p>National Spatial Strategy</p> <p>Valuation Office</p> <p>Consumers' Association of Ireland</p>

Exhibit B: 'To Be' Process Description

This exhibit provides a more detailed description of the activities involved in the "To Be" eConveyancing process.

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
1	<p>Vendor appoints an estate agent to market property (if desired)</p> <p>The vendor of a property selects an estate agent to market and sell the property.</p> <p>The estate agent could be selected through accessing the eConveyancing portal and data entered by the vendor/estate agent can be automatically sent to the solicitor at the sale agreed phase.</p> <p>The facility should also be available for a vendor to manage the sale independently of an estate agent. There may be access and authorisation issues associated with this however. Certain rules may apply. For example, they may be able to set up an account and lodge an appropriate fee with the host sales portal. The detail of this would need to be examined in more detail.</p>	Relevant privately operated website and/or eSales	<ul style="list-style-type: none"> Improves transparency of appointment of solicitor process, including fees and services provided by estate agents Provides facility for vendor to set up an online account to monitor sale of property transaction Improves the ability of a vendor to manage a sale independently
2	<p>Market property online</p> <p>We expect that online media will be deployed to a greater extent in the sales process. There may be opportunity for online auction / sale of property, virtual tours and review of associated documentation online.</p>	Relevant privately operated website and/or eSales	<ul style="list-style-type: none"> Adds significant functionality to services provided online Improves transparency of current process to vendor and interested purchasers Increases revenue generating potential to information providers
3	<p>Vendor appoints a solicitor to act on their behalf</p> <p>The solicitor could be selected through the eConveyancing portal and fees agreed upfront.</p> <p>The vendor would complete and sign a letter that authorises the solicitor to act on behalf of the vendor (e.g. a combined Section 68 Letter and Letter of Appointment). This would allow the vendor's solicitor to digitally sign on their behalf. This letter may be completed online but the purchaser would be required to sign it physically for the foreseeable future.</p> <p>Note: This process is the same for the purchaser and the purchaser's solicitor relationship.</p> <p>Note: In regard to new developments, the vendor (i.e. the property developer) would typically appoint the solicitor earlier in the process and may have special arrangements with the firm.</p>	eContract	<ul style="list-style-type: none"> Improves transparency of appointment of solicitor process Removes requirement for client to physically sign documents and attend meetings with solicitor

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
4	<p>Vendor's solicitor creates the property transaction file on the system and accesses the title deeds</p> <p>The vendor's solicitor creates a property transaction file for the sale of the property. The solicitor will "control" this file. Initial data is entered or migrated from the estate agent's database, including:</p> <ul style="list-style-type: none"> • Property for sale • Details about the vendor • Related parties to the transaction (e.g. estate agent, financial institution / local authority) • Client account details (including relevant account numbers and sort codes for EFT purposes) <p>Each property transaction will be allocated a unique identifier ("matter number"). This matter number will apply for the entire transaction and be common across stakeholders central to the transaction.</p> <p>Other activities to be conducted by the vendor's solicitor include:</p> <ul style="list-style-type: none"> • The vendor's solicitor may request that a nominal sum is lodged by the vendor. This would cover any pre-sale activities conducted (and costs incurred) by the solicitor (e.g. survey and searches) • Vendor's solicitor applies for mortgage redemption quote (if desired). If there is an existing mortgage on the property and the vendor wishes to receive a quote, a message is sent to the relevant financial institution for the redemption figures based on the approximate closing date of sale. • Vendor's solicitor accesses the title deeds. The vendor's solicitor requests access to the system to retrieve the title deeds. The title deeds are uploaded to the property file for viewing. The solicitor reviews the title deeds to ensure there is good marketable title to the property. 	<p>eContract (i.e. data capture in regard to the property, vendor and account details)</p> <p>eMortgage (i.e. for mortgage redemption quote)</p> <p>eStorage (i.e. to access title deeds)</p>	<ul style="list-style-type: none"> • Allows client to access portal and information related to the property transaction • Creates a secure and transparent collaborative workspace for the purchaser and vendor's solicitors to communicate with each other • Enables consistent data information flows • All information pertaining to a transaction is linked with a common unique identifier • Allows for easy identification of title deeds
5	<p>Conduct appropriate search(es)</p> <p>Searches to be conducted by the vendor's solicitor should serve to ensure that the vendor has good marketable title. This typically involves carrying out searches with the relevant Registry and local authority in relation to title, planning permission, road access etc.</p> <p>Searches can be carried out online through the eConveyancing system's eSearch capabilities. The solicitor could conduct any searches remotely and/or engage a law searcher to do the searches. The results of the search can be uploaded to the property transaction file.</p>	<p>eSearch</p> <p>May include linking to databases at:</p> <ul style="list-style-type: none"> • Land Registry • Registry of Deeds • Local authority • CRO 	<p>All searches are accessible remotely and centrally</p> <p>Search results can be uploaded to the system and viewed by the purchaser's solicitor</p> <p>Searches conducted by the solicitor are tracked by the system</p>

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
6	<p>Developer's solicitor generates a booklet of title (New developments only)</p> <p>The vendor (i.e. property developer) gathers a standardised booklet of title (where appropriate) for a new property development.</p> <p>In the future, a booklet of title should be completed for new developments and sent to the purchaser's solicitor. This could be compiled electronically with the relevant documents.</p> <p>Note: We understand that it would be easier to standardise a booklet of title for registered properties than unregistered properties, particularly in regard to title related documentation.</p>	Not envisaged within scope of eConveyancing system at present	<ul style="list-style-type: none"> • Requirement for booklet of title accepted as standard • Provides information about the property to purchaser at an early stage in the process • Reduces level of pre-contract enquiries from solicitors • Improves efficiency of process
7	<p>Purchaser applies for financing approval in principle (if applicable)</p> <p>The purchaser may need to secure financing from third parties, e.g. local authority or financial institution, in advance of agreeing the terms of the sale.</p> <p>The purchaser can apply for a mortgage to a financial institution through links from the eConveyancing portal. The purchaser receives online mortgage quotes from the respective financial institutions (including the relevant local authority), saves quotes and proceeds to mortgage contract stage (as appropriate).</p> <p>Information required by financial institutions to generate a quote may include: name of borrower, correspondence address, loan amount and repayment capacity.</p> <p>Note: This would be similar to the current online facilities developed by some insurance companies in regard to certain product quotes.</p>	eMortgage – online mortgage application and approval	<ul style="list-style-type: none"> • Enables purchaser to apply for mortgage online through a single access point and data entry • Reduces administrative effort associated with negotiating with multiple providers • Improves transparency with respect to the different financing product offerings and associated costs
8	<p>Purchaser identifies and places an offer on the property</p> <p>We envisage that the purchaser will rely on an online system more substantially in the future. The purchaser may have increased visibility of the sales process. This may include the facility to arrange viewings for the property, bid for a property online, track bids and conduct surveys / searches online, etc.</p>	Relevant privately operated website and/or eSales	<ul style="list-style-type: none"> • Increased transparency with respect to bidding on properties • Empowers the purchaser to conduct searches online • Reduces administrative function within estate agencies

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
9	<p>Vendor commissions a property survey</p> <p>The vendor may be advised to conduct a property survey on the property to support the efficiency of the conveyancing process. The results of the survey are uploaded to the property transaction file. This is available to the purchaser's solicitor at sale agreed stage in the case of private treaty transactions and in advance of the auction date for auction sales.</p> <p>The type of survey to be conducted can vary depending on the property but we envisage that it could include a general / building survey and/or land survey as well as an energy efficiency survey (which is planned to be mandatory). Ultimately, the type of survey to be conducted could be generated automatically through an analysis of the property address and associated properties in the locality.</p> <p>The survey process involves the vendor's solicitor commissioning a survey online from a list of validated surveyors.</p> <p>Note: The costs of any survey carried out could be paid by the vendor's solicitor and charged to the client account.</p>	eSurvey	<ul style="list-style-type: none"> Improved consumer and stakeholder understanding of the various forms of survey Title issues (e.g. mapping) can be resolved earlier in the overall process
10	<p>Surveyor completes the survey and submits the results to the property file</p> <p>The surveyor carries out the survey and uploads the results directly on to the system and into the relevant property file</p> <p>The results are filled in on a standard form relevant to the particular type of property</p>	eSurvey	<ul style="list-style-type: none"> Standard survey form developed for the different types of surveys Survey results are easily retrievable
11	<p>Vendor agrees terms with the purchaser</p> <p>The vendor and the purchaser agree terms for the sale and purchase of the property in question. This could be managed directly online through the relevant online sales website or via the estate agent.</p> <p>Note: It has been suggested that there may be a "cooling off" period (e.g. 5 working days). This period commits the vendor to sell the property at an agreed price to the purchaser. The purchaser has this period to commit to the transaction. This could serve to reduce the time delay and uncertainty inherent in the conveyancing process as well as reduce the opportunity for gazumping. The "cooling period" could be triggered on the eConveyancing system.</p>	eSales	<ul style="list-style-type: none"> "Cooling off period" reduces consumer uncertainty by committing both parties earlier in the process Reduces risk of gazumping in the process
12	<p>Estate agent notifies terms to the vendor's solicitor</p> <p>The estate agent notifies the terms of sale (i.e. "heads of agreement") electronically to the vendor's solicitor using a standard template form through the eConveyancing system.</p>	eSales	Consistent electronic transfer of data from estate agent to vendor's solicitor

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
13	<p>Vendor's solicitor drafts the Contract for Sale and replies to standard requisitions</p> <p>The vendor's solicitor drafts the contract and conditions for sale using standard documents/ clauses, etc. contained in the eContract facility of the system. They may provide replies to the standard requisitions on title based on the template developed by the Law Society. These files are uploaded to the property file.</p> <p>The vendor's solicitor notifies the purchaser's solicitor electronically with access to the relevant section of the property transaction file, including the Contract for Sale and requisitions on title.</p>	eContract	<ul style="list-style-type: none"> Contract for Sale is drafted electronically and uploaded to property file for online viewing Vendor's solicitor provides replies to standard requisitions upfront in the process, improving efficiency of overall enquiry process
14	<p>Purchaser's solicitor reviews the property transaction file and proposes amendments the Contract for Sale, if required</p> <p>Purchaser's solicitor accesses the property file on the system and reviews the draft Contract for Sale. They review the replies to the requisitions on title and refer to other relevant documentation in the property file (e.g. title deeds, surveys, search results, etc.).</p> <p>If applicable, the purchaser's solicitor can amend terms of the Contract accordingly (with relevant tracking functions). The vendor's solicitor will be notified of any proposed new terms of the contract.</p>	eContract	<ul style="list-style-type: none"> Efficient access and editing of Contract for Sale Reduces duplicative work effort Any changes to the Contract for Sale are recorded and authored
15	<p>Purchaser's solicitor conducts searches and sets trigger</p> <p>The purchaser's solicitor conducts any (online) searches that are appropriate. This activity could also be carried out by a law searcher on behalf of the solicitor.</p> <p>A facility could be available whereby the law searcher / solicitor can insert an indicative closing date to apply a trigger on the relevant search. This trigger will automatically notify the law searcher / solicitor by email should there be changes to the relevant property / person registered before closing. This closing date can be amended when the closing date has been finalised by the solicitors.</p>	eSearch	<ul style="list-style-type: none"> All searches can be conducted remotely and efficiently Removes requirement for closing searches (where a trigger has been applied)
16	<p>Purchaser's solicitor raises enquiries and/or rejoinders to the requisitions on title</p> <p>The purchaser's solicitor raises enquiries and/or rejoinders to the requisitions on title with the vendor's solicitor. It is proposed in the future that both pre-contract enquiries and requisitions on title be resolved (as appropriate) before the contract is signed.</p>	eContract – templates for conducting pre-contract enquiries / requisitions would be available on the system	Standard templates are used by the solicitors to submit enquiries

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
17	<p>Vendor's solicitor responds to enquiries / rejoinders accordingly</p> <p>The vendor's solicitor responds to any enquiries and/or requisitions on title submitted electronically by the purchaser's solicitor prior to contract signing. The responses can be viewed and stored by the purchaser's solicitor.</p> <p>This e-enabled process continues until both parties are satisfied with the responses. Any edits to be made to the draft Contract for Sale are also saved and stored on the solicitors' systems.</p> <p>Note: An audit trail will enable changes to contract data to be tracked and parties making amendments will be identified.</p>	eContract	<ul style="list-style-type: none"> Improves efficiency of the enquiry process Eliminates paper based communication flows between the solicitors
18	<p>Purchaser's and vendor's solicitors sign contract and lodge deposit</p> <ul style="list-style-type: none"> Purchaser's solicitor digitally signs the Contract for Sale Vendor's solicitor digitally signs the Contract for Sale <p>When agreement has been reached between the purchaser's and vendor's solicitors, the Contract is digitally signed by the purchaser's solicitor and subsequently signed by the vendor's solicitor. Both parties are signing the Contract on behalf of their clients.</p> <p>The purchaser's solicitor pays a deposit of 10% of the purchase price and this is lodged to the vendor's client account. This transaction is conducted through electronic funds transfer (i.e. from the purchaser's solicitor to vendor's solicitor). An electronic receipt is sent to the purchaser's solicitor to confirm that the lodgement has been successful.</p> <p>The process may also involve other activities, including:</p> <ul style="list-style-type: none"> Enter closing date into the system. This activates a trigger in the system that notifies the solicitors a certain period in advance of the proposed closing date. Purchaser's solicitor enters any other information required for registration (e.g. family home consent). 	eContract	<ul style="list-style-type: none"> Purchaser and vendor no longer required to physically sign Contract for Sale Contract for Sale is securely signed and stored electronically Closing date trigger supports solicitors' case management processes

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
19	<p>Submit draft registration to Land Registry</p> <p>Upon signature, the purchaser's solicitor electronically transmits key information to the Land Registry for automatic validation checks on the data. This compares contract data held on particular fields within the system to the data contained within the Land Registry's records. An electronic message will be sent back to the solicitor indicating whether the data is consistent or what, if any, discrepancies exist between the data.</p> <p>Where applicable, a digital map developed for the purchaser will also be viewed and lodged with the Land Registry. This map will be evaluated against the current Land Registry records. Should the map be in order, the map will have a draft status that is confirmed upon registration at closing.</p> <p>A new "notional" register is built within the Land Registry to show what the new register would look like upon registration. This register remains in "notional" (draft) status until the sale is closed and the transaction submitted for registration.</p>	eRegistration	<ul style="list-style-type: none"> Contract data is automatically validated against Land Registry records Errors / inconsistencies can be rectified earlier in the process Reduces numbers of registration rejections as Land Registry rules are embedded into the system
20	<p>Purchaser completes the mortgage application process</p> <p>The vision is that the mortgage application process could be completed online. The purchaser can log into the relevant mortgage system and retrieve the mortgage approval.</p> <p>The application process could be entered by the applicant through an online system that is linked to the financial institution's / local authority's mortgage application system.</p>	eMortgage	<ul style="list-style-type: none"> Purchaser can access information related to mortgage application remotely Improves transparency of information related to mortgage application Purchaser can upload documents electronically where appropriate

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
21	<p>Process mortgage application and commission a valuation survey</p> <p>The purchaser provides the financial institution with the requisite evidence to support the loan application process. The objective should be that this process be standardised and e-enabled as appropriate. This may involve information flow between the purchaser, financial institution and other third parties, including other financial institutions (e.g. savings accounts with other financial institutions), Irish Credit Bureau and Revenue Commissioners. While solutions are developed between these stakeholders, the process will require that the purchaser submits some paper based documents to be reviewed and scanned by the financial institution for the foreseeable future.</p> <p>The efficiency of the valuation survey process currently conducted could potentially be significantly enhanced through the deployment of IT. The purchaser's financial institution could commission a survey online by selecting from a list of validated surveyors.</p> <p>The costs of any survey carried out could be charged to the purchaser's solicitor who lodges them against the client's account.</p>	eMortgage eSurvey	<ul style="list-style-type: none"> • All information related to mortgage application stored centrally and electronically • Reduces administrative resources associated with valuation survey process
22	<p>Surveyor completes the valuation survey and submits it to the purchaser's financial institution</p> <p>The surveyor conducts the valuation survey and uploads the results online through the portal. The results can be merged into a database maintained by the relevant financial institution.</p>	eSurvey	<ul style="list-style-type: none"> • Provides for a standard survey offering and report • Enables financial institution to build a property valuation database
23	<p>Commission a snag list (New properties only)</p> <p>In relation to new developments, the purchaser is notified that the property is ready for "snagging". This can be done by the current method and/or via a messaging service.</p> <p>The purchaser could commission an architect / surveyor, etc. to conduct the snag list through the eConveyancing portal.</p>	Not envisaged directly within eConveyancing solution but electronic messaging could be used	
24	<p>Conduct a snag list (New properties only)</p> <p>The relevant architect / surveyor conducts the "snagging". This can either be conducted as per the current process and/or the results of the report communicated to the vendor (i.e. property developer / estate agent) electronically via the eConveyancing portal.</p>	Not envisaged directly within eConveyancing solution but could operate like eSurvey	Enables all property related information to be accessible from one electronic file

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
25	<p>Purchaser's and vendor's solicitors confirm the closing date</p> <p>Both the purchaser's and vendor's solicitors receive an automatic reminder notification about the due date for closing of the property transaction. An indicative date for closing would have been entered at the contract signing stage which triggers this notification. Upon notification, the solicitors will communicate whether the date is still valid. If they agree this to be so, the solicitors proceed to close. Otherwise, the closing date can be changed on the system and the trigger re-set.</p> <p>Both parties will agree on a definitive closing date for the transaction on the system. Once finalised, the system triggers the purchaser's financial institution to allow for draw down of funds and the vendor's financial institution to provide any mortgage redemption figures. The purchaser and vendor are both alerted to the closing date.</p>	eContract, with notification to eMortgage database	<ul style="list-style-type: none"> Provides flexibility to solicitors and their clients to change closing dates by way of a transparent electronic and efficient process Closing date automatically triggers relevant financial institutions
26	<p>Purchaser's solicitor checks the status of the purchaser's documentary requirements</p> <p>The purchaser's solicitor accesses the system to review the current status of the purchaser's documentary requirements. This includes the eMortgage database to review the eMortgage application checklist to determine if there are any outstanding documents due to be submitted by the purchaser.</p>	eContract and/or eMortgage	Provides an online checklist for the purchaser's solicitor to check the current status of the purchaser's requirements with their financial institution
27	<p>Purchaser's and vendor's solicitor agree the purchase deed</p> <ul style="list-style-type: none"> Purchaser's solicitor drafts the purchase deed Vendor's solicitor agrees the purchase deed <p>The purchaser's solicitor drafts the purchase deed from an online template and then saves it to the property file. The purchase deed continues to be a separate legal document but the relevant data would be automatically populated from the Contract for Sale.</p> <p>The draft purchase deed is reviewed by the vendor's solicitor and makes any amendments that are needed. A tracking of any edits will be stored within the system.</p>	eContract	<ul style="list-style-type: none"> Avoids duplicative data re-entry as the purchase deed data is automatically populated from the Contract for Sale Ensures consistent data between Contract for Sale and purchase deed All edits to purchase deed are recorded and authored
28	<p>Vendor's financial institution provides mortgage redemption figures</p> <p>This is an automated workflow function whereby the vendor's financial institution provides the mortgage redemption figures to the vendor's solicitor. It enables an automated vacate of mortgage upon acknowledgment of the funds.</p>	eMortgage	<ul style="list-style-type: none"> Allows for accurate real time provision of mortgage redemption figures to the vendor's solicitor Enables solicitor to set up requisite EFT payment to financial institution in advance of closing

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
29	<p>Purchaser's financial institution transfers drawdown of funds</p> <p>This is an automated workflow function whereby the purchaser's financial institution transfers the agreed mortgage funds into the purchaser's solicitor for draw down.</p> <p>The purchaser's solicitor acknowledges receipt of the requisite purchase funds and confirms transfer arrangements for the funds to the vendor's solicitor.</p>	eMortgage / EFT	Ensures that draw-down of funds are in place in advance of closing
30	<p>Purchaser's and vendor's solicitors digitally sign the purchase deed and close the sale</p> <ul style="list-style-type: none"> • Vendor's solicitor signs the purchase deed • Purchaser's solicitor signs the purchase deed <p>The vendor's solicitor digitally signs the purchase deed and the deed is forwarded to the purchaser's solicitor. This passes ownership title from the vendor to the purchaser.</p> <p>The purchaser's solicitor acknowledges receipt of the funds and signs the purchase deed. This triggers the transfer of the purchase funds to the vendor's solicitor's account.</p>	eContract	<ul style="list-style-type: none"> • Ensures both parties sign purchase deed, enabling automated closing • Removes requirement for engrossed physical deed documents
31	<p>Auto-vacate any outstanding mortgage</p> <p>Where the vendor's solicitor has set up the EFT transaction to vacate the mortgage in advance, a message is sent to vendor's financial institution to acknowledge receipt of the funds automatically and vacate the outstanding mortgage upon signature of the purchase deed. This automatically updates the status of the mortgage deed to "vacated".</p> <p>The vendor's financial institution sends electronic notification of the vacation of the mortgage to the vendor's solicitor, the purchaser's solicitor and the Land Registry.</p>	eMortgage	<ul style="list-style-type: none"> • Automates mortgage vacation process • Reduces administration involved in process
32	<p>Auto-vacate charge on the Land Registry system</p> <p>The Land Registry system will automatically remove any charges / burdens on the property and send notification to the vendor's solicitor.</p>	eRegistration	<ul style="list-style-type: none"> • Automates removal of charge on Land Registry system • Reduces administration involved in process
33	<p>Vendor's solicitor pays taxes through the Revenue Commissioner's online system (ROS)</p> <p>The vendor's solicitor pays any applicable taxes, such as Capital Gains Tax and Capital Acquisitions Tax by means of an EFT through the Revenue Online Service. A secure message is sent to the vendor's solicitor which acts as a clearance certificate for the vendor.</p> <p>The property file number could be attached to the EFT to ROS to facilitate any future audit that may be required.</p>	eTax EFT	<ul style="list-style-type: none"> • All applicable taxes can be paid securely through the Revenue Online System • Provides for electronic notification of clearance of obligations which is stored within the property file

Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
34	<p>Vendor's solicitor discharges any undertakings</p> <p>This involves the following activities:</p> <ul style="list-style-type: none"> • Prepare the client statement. An audit trail tracks and itemises activities conducted by both solicitors and the costs incurred throughout. The vendor's solicitor prepares the final invoice and sends it to the vendor, electronically and/or by post. The client statements may be viewed by the purchaser or vendor respectively throughout the transaction. This allows the clients to monitor the activities being managed by the solicitors and incurred costs. • Transfer fees to estate agent (if applicable). The vendor's solicitor pays the estate agent by means of EFT. • Transfer net proceeds to vendor's account via EFT. Net proceeds from the transaction are transferred to the vendor's account by means of an EFT. 	eContract EFT	<ul style="list-style-type: none"> • Provides a transparent and automated client statement to the purchaser / vendor • All fees due are paid simultaneously and electronically
35	<p>Purchaser's solicitor pays stamp duty (if applicable)</p> <p>This process can be significantly automated as the process is embedded into a workflow system. The vision encompasses the following key process and system steps:</p> <ul style="list-style-type: none"> • The purchaser's solicitor uses an online stamp duty calculator developed by the Revenue Commissioners and migrated to the eConveyancing system to calculate stamp duty due. This calculator is linked to particular digital documents (and fields such as "purchase price") to enable the correct amount of stamp duty to be calculated. This solution removes the current requirement for formal documents to be presented to the Revenue Commissioners. • Upon signature of the purchase deed, a message and EFT payment is sent to the Revenue Commissioners with the requisite stamp duty due. • The Revenue Commissioners' system confirms that the EFT payment has been received and acknowledges that the stamp duty has been paid. This confirmation is sent to the purchaser's solicitor and the Land Registry. 	eTax	<ul style="list-style-type: none"> • Significantly reduces risk of errors in calculation of stamp duty as rules / rates and exemptions are built into the system • Enables automated payment of stamp duty upon closing

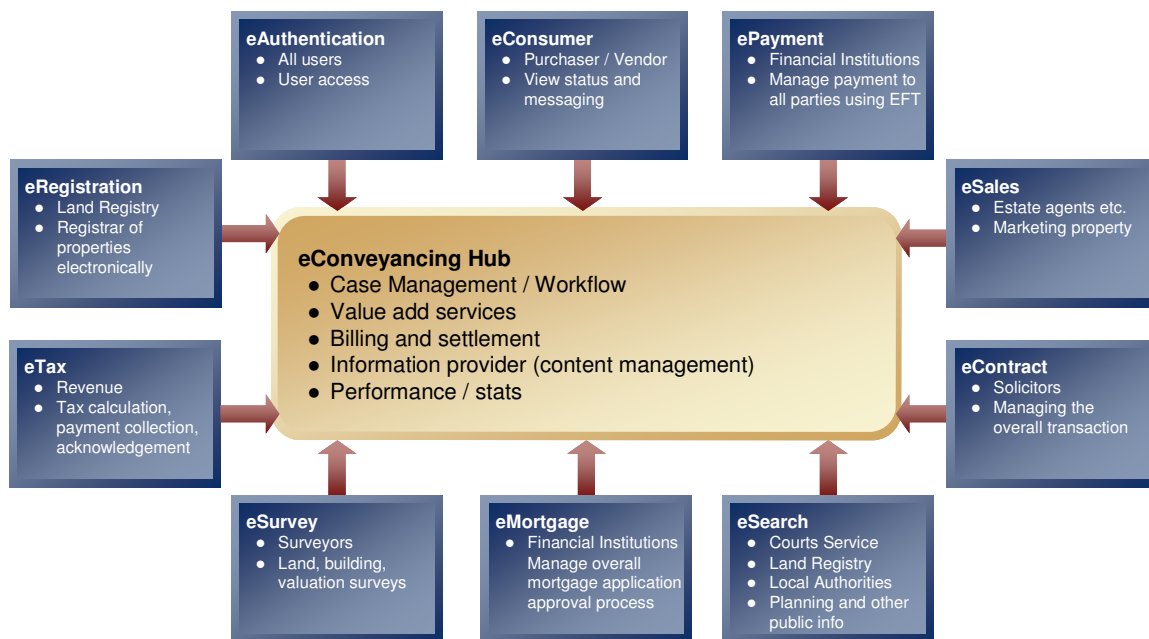
Step No.	Level 1 Step and Brief Description	Relevant eConveyancing Module	Benefits
36	<p>Register title in the Land Registry</p> <p>When the purchase deeds have been signed, the eConveyancing system will note existence of the deed and will check its entry against the notional register entry that was entered at contract signing stage. (This should be consistent as the data entered for the Contract for Sale is linked to the equivalent data on the purchase deed).</p> <p>The Land Registry recognises the change in ownership on the property and the existence of the requisite documentation. Title and the new folio are registered automatically. Notification is sent to the purchaser's solicitor that registration has been successful.</p>	eRegistration	<ul style="list-style-type: none"> • Enables automated registration (of title and map) • Significantly reduces rejections / queries as data has been validated during the process • Allows Land Registry to focus on complex registrations, such as first registration

Exhibit C: Approach to Building the Modules for an eConveyancing Model

This section provides details of the main modules required to develop an end-to-end eConveyancing solution for Ireland.

The figure below identifies the main modules contained in the eConveyancing solution and the following tables provide an initial estimate of the main steps required to be carried out in order to move from the current environment to one of an eConveyancing environment.

Figure C.1 Modules for Building the eConveyancing Model



Module: eConsumer		
Code	Action Step	Stakeholders Involved
eC1	<p><i>Publish information related to the conveyancing process and associated responsibilities for the consumers</i></p> <p>Information such as a high level process map and description should be provided to inform consumers as to their roles and responsibilities in the process</p>	OASIS, REACH, eConveyancing Hub, Consumer
eC2	<p><i>Facility to appoint estate agent online and set-up property transaction account</i></p> <p>The consumer can now search for and appoint an estate agent online who in turn can set up the property transaction file for the entire conveyancing process</p>	Consumer, estate agents
eC3	<p><i>Facility to appoint solicitor agent online</i></p> <p>The consumer can now search for and appoint a solicitor using an online facility</p>	Consumer, Solicitors
eC4	<p><i>Log-in / authentication to access property transaction file</i></p> <p>Parties such as the solicitor and the estate agent can access the property transaction file using appropriately secure login details</p>	Consumer, solicitor, estate agent
eC5	<p><i>Online access to workflow and client statement</i></p> <p>Parties can now access the system to get updates of the work done so far and the solicitor can furnish their client with a statement of work done and costs incurred</p>	Consumer, solicitor
eC6	<p><i>Electronic messaging to solicitors</i></p> <p>The consumer can now communicate electronically to the solicitor</p>	Consumer, solicitor
eC7	<p><i>Online tools</i></p> <p>Tools such as an online stamp duty calculator and mortgage redemption quote service are available to provide indicative information to the consumer</p>	Consumer, Revenue Commissioners, financial institutions
eC8	<p><i>Online bidding for property</i></p> <p>The consumer can now make offers on property using an online service</p>	Consumer, estate agents
eC9	<p><i>Online appointment of surveyors</i></p> <p>The consumer can now search and select a surveyor using an online service</p>	Consumer, surveyors
eC10	<p><i>eSearch facility for consumers</i></p> <p>The consumer can conduct some initial searches using an online search facility</p>	Consumer, local authorities

Module: ePayment		
Code	Action Step	Stakeholders Involved
eP1	<i>New payment method for same process</i> Existing payments are now carried out by EFT with certain stakeholders identified for early trials. Payment is arranged and triggered manually	Financial institutions, solicitors, estate agents, Revenue Commissioners
eP2	<i>Develop settling system</i> A settling agent is appointed to deal with and coordinate all EFT payments	Financial institutions
eP3	<i>Automated electronic settlement of core transactions related to registration on closing</i> Core transactions such as: mortgage vacation, funds draw down and tax payments are paid automatically by means of EFT	Financial institutions, Revenue Commissioners
eP4	<i>Workflow Controlled</i> All transactions are carried out by EFT and are coordinated and triggered automatically by the ePayment system	Financial institutions, Revenue Commissioners, solicitors, estate agents, consumer

Module: eSales		
Code	Action Step	Stakeholders Involved
eS1	<i>Improve functionality of existing online offering</i> Online services are improved to include virtual tours and booking viewing appointments.	Estate agents, consumer
eS2	<i>Standardise format and method of communication between estate agents and solicitors</i> Communication between the estate agent and solicitor is e-enabled through messaging in the property transaction file thus reducing data re-entry	Estate agents, solicitors
eS3	<i>Integrate with other information providers</i> Online access with other information providers such as: the local authorities, CRO, etc. is now available	Estate agents, solicitors, local authorities, CRO, Land Registry
eS4	<i>Secure payment system for online services</i> Secure payment methods are in place for services such as planning searches	Financial Institutions, solicitors, Land Registry, local authorities
eS5	<i>Online property bidding</i> Offers for property can now be conducted online	Solicitors, estate agents

Module: eContract		
Code	Action Step	Stakeholders Involved
eCT1	<i>Improving existing processes</i> The existing process is improved through retiring defunct documents, identifying standardized documents and reviewing the enquiries and requisitions process	Solicitors
eCT2	<i>Scan documents and send electronically to other solicitors</i> Solicitors draft documents and then scan them to other solicitors by electronic means	Solicitors
eCT3	<i>Introduce legislation to support online working by solicitors</i> Legislation is enacted to support the legality of communication and correspondence between solicitors	Solicitors, Department of Justice, Equality and Law Reform
eCT4	<i>Standard electronic conveyancing templates</i> Standard templates are created for documents and are made available on the system	Solicitors
eCT5	<i>Workflow/Case Management development</i> A workflow structure is introduced allowing solicitors to conduct the chain of events in the process online	Solicitors
eCT6	<i>Digital signatures to enable contract signing online</i> The contract can be signed online by the two solicitors using digital signatures	Solicitors

Module: eSearch		
Code	Action Step	Stakeholders Involved
eSRC1	<i>Paper records are migrated to databases</i> Back scanning of paper records occurs to transfer paper records to electronic databases	Courts Service, local authorities, Registry of Deeds
eSRC2	<i>Databases are made available online</i> The databases created in eSRC1 are made available online for searching	Courts Service, local authorities, Registry of Deeds
eSRC3	<i>Data Mapping Strategy</i> All databases are integrated as part of the Irish Spatial Data Infrastructure enabling consolidated searching	Information providers, Department of the Environment, Heritage and Local Government
eSRC4	<i>Workflow support for user</i> Users are directed to the sources in their searching functions by a workflow function	Solicitors, local authorities, Land Registry, Registry of Deeds, Courts Service
eSRC5	<i>Automated search flow</i> A menu of search options are available to solicitors who simply select the desired searches which the system automatically conducts	Solicitors, local authorities, Land Registry, Registry of Deeds, Courts Service

Module: eMortgage		
Code	Action Step	Stakeholders Involved
eM1	<i>Online mortgage application/quote</i> Automatic underwriting is built into the system and purchasers are able to receive approval in principle electronically. Some documents are required in paper format	Consumers, financial institutions, solicitors
eM2	<i>Standard mortgage application documents across financial institutions</i> Documents are standardised across the industry	Financial institutions, consumers
eM3	<i>Electronic legal pack and shared electronic checklist for purchaser's solicitor</i> <ul style="list-style-type: none"> The legal pack is issued to solicitors electronically A checklist is available online for solicitors to view. This checklist details the actions completed and the outstanding actions that must be completed by the purchaser. 	Solicitors, financial institutions, consumers
eM4	<i>eBroker Mortgage application process/engine</i> An online broker engine is linked to each financial institution's mortgage system.	Brokers, financial institutions consumers
eM5	<i>Automated draw down of funds to solicitor's client account</i> Funds are available electronically. A message is sent to the financial institution to initiate draw down. The funds are automatically sent via electronic funds transfer to a solicitor's client account.	Financial institutions, solicitors
eM6	<i>Automated vacate/discharge of mortgage</i> The mortgage is automatically vacated once the redemption figure has been transferred electronically to the financial institution.	Financial institutions, solicitors
eM7	<i>Online real time redemption quotes</i> A message is sent from the solicitor to the financial institution requesting the redemption figure. Vendors with outstanding mortgages can get online real time redemption quotes.	Financial institutions, solicitors, consumers
eM8	<i>Electronic communications between financial institutions and solicitors</i> Financial institutions and solicitors use electronic forms of communication for example, e-mail. Messages are sent back and forth between the two stakeholders through the system.	Financial institutions, solicitors
eM9	<i>Digital signatures</i> Digital signatures are used to sign documents with the solicitors signing on behalf of their clients	Financial institutions, solicitors

Module: eSurvey		
Code	Action Step	Stakeholders Involved
eSUR1	<i>Standardise/agree list of survey types/products</i> Standard definitions of the different types of surveys are agreed upon. Standard templates are available to record the results of the survey	Surveyors
eSUR2	<i>Send survey reports to "clients" by email</i> Survey reports are sent in electronic format via email from the surveyor to the client	Surveyors, financial institutions, solicitors, consumers
eSUR3	<i>Non land surveys</i> The survey reports are completed electronically. This is uploaded onto a database and linked to the property transaction file	Surveyors, solicitor's financial institutions, solicitors
eSUR4	<i>Land Surveys</i> A common mapping platform is available allowing maps to be submitted to the Land Registry digitally. Land survey maps can be uploaded automatically to the Land Registry database if the map satisfies all the pre-determined mapping criteria	Surveyors, Land Registry

Module: eTax		
Code	Action Step	Stakeholders Involved
eTAX1	<i>Online stamp duty calculator on Revenue Online System (ROS)</i> Stamp duty can be calculated on a calculator on ROS which is available to both the consumer and the solicitor. Once the stamp duty has been calculated on ROS, the payment can be made electronically. Manual stamping is still required as proof	Revenue Commissioners, solicitors, consumers
eTAX2	<i>Migrate calculator to eConveyancing system, embed in workflow</i> The calculator is available in the eConveyancing system as part of the workflow process and the calculation is validated by the Revenue Commissioners	Revenue Commissioners, solicitors, consumers
eTAX3	<i>Digital signature for stamping</i> Documents are no longer manually stamped with a hologram, instead a digital stamp is placed on documents submitted electronically serving to inform the Land Registry that stamp duty has been paid on the property	Revenue Commissioners, solicitors, consumers, Land Registry

Module: eRegistration (Standard Registration)

Code	Action Step	Stakeholders Involved
eRS1	<i>The documents required for registration are available electronically and are standardised</i> Solicitors can download templates for registration	Land Registry, solicitors
eRS2	<i>Process improvements for complex registrations are identified</i> Complex registrations are simpler due to an improved process	Land Registry, solicitors
eRS3	<i>Scan relevant documents and link to Folio</i> Relevant documents for registration are scanned and submitted to the Land Registry to enable searching of associated documentation	Land Registry, solicitors
eRS4	<i>The functionality of Registry of Deeds' systems are enhanced including an online search facility</i> Searching facilities are available as the Registry of Deeds database has been made available electronically	Land Registry, solicitors, Registry of Deeds
eRS5	<i>Systemise Land Registry rules / standards into eConveyancing Workflow</i> The rules for Land Registry submission are embedded into the workflow process so validation is ongoing thus increasing the acceptance rate	Land Registry, solicitors,
eRS6	<i>Build "notional" register capability into workflow solution</i> A notional register is created allowing documents to be submitted and validated on an ongoing basis. Digital signatures are used to authenticate users. Validation is on an ongoing basis allowing automatic registration upon closing.	Land Registry, solicitors, Registry of Deeds, Revenue Commissioners

Module: eRegistration (First Registration)

Code	Action Step	Stakeholders Involved
eRF1	<i>Promote the use of qualified title as a means of conducting first registration</i> The process of first registration is improved by using "qualified title" to reduce complexity	Land Registry, solicitors
eRF2	<i>Introduce compulsory registration across Ireland</i> Registration is compulsory across Ireland thus reducing the complexity of future registrations	Land Registry, solicitors
eRF3	<i>Set up and promote electronic communication between the solicitor and the Land Registry</i> Communication is conducted between the solicitors and the Land Registry by electronic means	Land Registry, solicitors
eRF4	<i>First registration is automated so that it is available online</i> Registration is automated using the action steps relevant from standard registration	Land Registry, solicitors

Module: eAuthentication		
Code	Action Step	Stakeholders Involved
eAUT1	<i>Stakeholder bodies develop lists of accredited members</i> The stakeholder representative bodies create lists of members who are in the conveyancing process so they receive authentication information	Solicitors, estate agents, surveyors
eAUT2	<i>Determine access control points</i> The point of access for each of the various stakeholders is identified as is their need for a digital signature	Solicitors, estate agents, surveyors
eAUT3	<i>Select appropriate access/digital signature</i> Protocols are developed for issuing access rights and digital signatures. The managing agent for the authentication system is identified	Land Registry, solicitors

Module: eStorage		
Code	Action Step	Stakeholders Involved
eST1	<i>Paper based records are consolidated</i> Paper records are consolidated by the various information providers to enable back scanning for archiving and search criteria definition	Information providers (e.g. local authorities)
eST2	<i>Standardise stakeholder databases</i> Databases are standardised to enable integration into the search function	Local authorities, Courts Service, financial institutions
eST3	<i>Digitise document formats/information</i> Documents are digitised and not scanned to increase system functionality	Information providers
eST4	<i>Feasibility study of storage hub</i> The possibility of a central storage hub is investigated and issues such as: information ownership, data protection and storage security are resolved	All stakeholders
eST5	<i>Access to records/documents/online account maintenance</i> Access rights for each stakeholder to records and documents are determined as is the stakeholder responsible for online account maintenance	All stakeholders

Exhibit D: Digital Certificates, Digital Signatures and PKI

In order to provide the security features mentioned previously, digital certificates, digital signatures and a Public Key Infrastructure (PKI) are required. In the following narrative we present a very high-level overview of these technologies and what is required to implement them. This is relatively complex but it is a core component of any eConveyancing solution (see New Zealand etc.) and the conclusions are important in selecting the technical model.

A full PKI implementation is made up of trust and technology. The implementation will have to start with the technology (i.e. Cryptography and Digital Signatures) and end with the trust part (i.e. Digital Certificates, PKI Authorities).

Cryptography is the science of secret writing (i.e. the encryption and decryption of secret messages). There are two variations of cryptography (i.e. Symmetric and Asymmetric).

- Symmetric cryptography involves a single key (shared secret) which is shared between the parties, however this key is vulnerable to discovery and key management becomes very difficult where you need to share a unique key with each party with whom you want to communicate.
- Asymmetric cryptography involves two mathematically related keys (unable to derive one from the other) whereby you encrypt with one and decrypt with the other. Typically this is implemented as Public Key Cryptography where the public key is published for all to see and the private key is kept secret. The advantages of asymmetric encryption are that:
 - There is no shared secret key
 - Public key is public and this means the key management is much easier
 - Private key is known only to the owner
 - Supports non-repudiation – if X sends a message to Y encrypted with X's private key and Y is able to decrypt using X's public key then Y knows the message came from X. As only the sender knows the private key then only the sender could have sent that message. This also acts as an authentication mechanism and is the basis for digital signatures.

An electronic signature has been defined as “an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record”. A digital signature is a type of electronic signature and it is implemented as an attachment to a message. The encryption and decryption of this attachment is executed using the public/private key mechanism described previously.

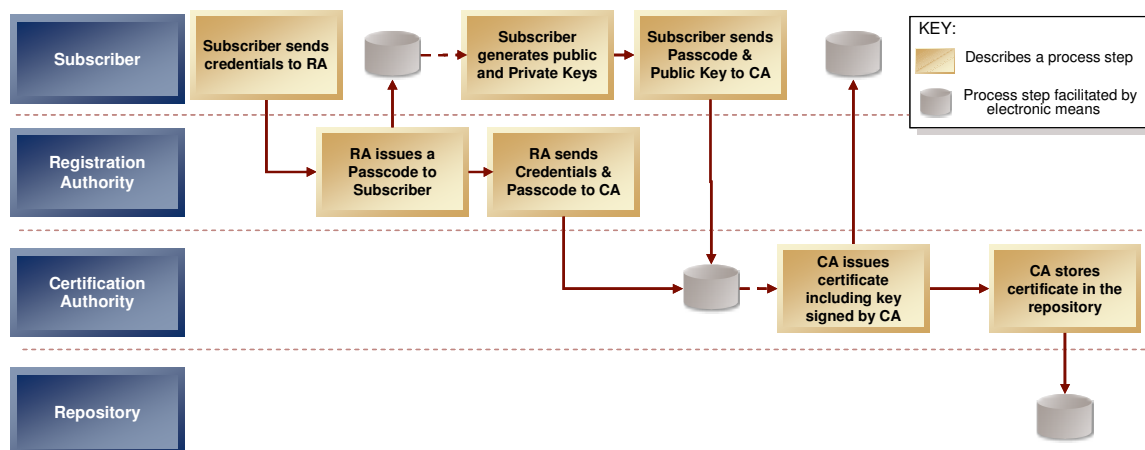
However, how is it possible to know for sure who is the owner of the public key? Public Key Infrastructure (PKI) provides the means to bind public keys to their owners and helps in the distribution of reliable public keys in large heterogeneous networks.

This involves a further digital certificate (public key certificate) to bind a public key to its owner. This is issued and digitally signed by a “trusted” third party. The components of PKI are Certification Authority, Registration Authority, Repository, Archive and Users.

- **Certification Authority (CA):** This is a trusted third party, which creates, signs and publishes certificates. It issues Certification Revocation Lists (CRLs) and maintains status information.
- **Registration Authority (RA):** This is an authority, which verifies certificate contents for the Certification Authority. A Certification Authority may have multiple Registration Authorities.

- **Repository:** This is a directory used to store and distribute certificates, CRLs and other PKI information and policies.
- **Users:** These are subscribers who hold the certificate and they have to ensure security of the private key. This is typically done using a hardware token / smart card and certificates, CRLs, etc.
- **Archive:** This provides long-term storage on behalf of a Certificate Authority and facilitates proof that a signature was valid at the time of signing. The best security typically has a biometric component.

The process used by a PKI to issue certificates is illustrated in the following diagram:



There is a requirement for everyone to trust the Certificate Authority but a single Certificate Authority does not scale very well and is particularly difficult to manage across large or diverse user communities.

The traditional model for PKI is hierarchical and as long as both parties get their certificate from the same hierarchical tree then they trust each other. However, where a wide and diverse number of users exist in a process this gets increasingly difficult. There are new PKI architectures coming on board (mesh, bridge) to help with this issue.

In conclusion, PKI and the associated technologies are a potentially enabling technology for the eConveyancing process. It provides data confidentiality, data integrity and non-repudiation. The technology is complicated but manageable. The biggest difficulty is in establishing trust, particularly if a community of stakeholders as broad and diverse as will be involved in eConveyancing in Ireland.

Exhibit E: Glossary of Terms

This section provides an explanation of terms and acronyms used in this report as follows:

- **Term:** the actual term referred to in the report (in alphabetical order)
- **Explanation:** a short description of the term or expansion of the acronym
- **Description:** a more detailed description or explanation.

Term	Explanation	Description
APAS	Planning System	This is a computerised database held by local authorities that allows scanned documents from the planning process to be viewed.
ARCMIS	GIS Planning Enquiry System used in South County Dublin County Council	This is an internet based system developed by the LGCSB that enables users of the South County Dublin County Council site to view the location of a planning application on a map and access the details of that application.
CAT	Capital Acquisitions Tax	A group of taxes that includes: Gift Tax, Inheritance Tax and Discretionary Trust Tax.
CGT	Capital Gains Tax	Capital Gains Tax (CGT) is chargeable on gains arising on the disposal of assets, subject to certain conditions.
CIF	Construction Industry Federation	This is the representative body for the construction industry in the Republic of Ireland.
CORT System	Computerised Objections and Requisitions on Title	This is a computerised system for raising and replying to requisitions in conveyancing cases, used by many solicitors.
CRO	Companies Registration Office	The CRO is the statutory authority for holding information on companies (e.g. annual returns) and for registering new companies in the Republic of Ireland.
DSBA	Dublin Solicitors Bar Association	The DSBA is an association for solicitors practising solicitors in the Dublin area to represent their interests and views.
DX	Document Exchange	This is a next day delivery service for documents (run by a UK company, Hays). It is used extensively by solicitors.
EAS System	Electronic Access System	The Land Registry Electronic Access Service (EAS) allows users to avail of online services on-line including: <ul style="list-style-type: none"> • Details of pending and completed applications. • Inspect and print folios & maps • Names index searches • Request certified copy folios and filed plans • Submit Form 17 and instantly receive dealing number.
ECDL	European Computer Driving Licence	ECDL is a scheme of certification for computer skills. Its aim is to encourage people to undertake study programmes to improve their IT skills in areas such as: IT concepts, word processing, spreadsheets, presentations, databases, etc.
EFT	Electronic Funds Transfer	This is a system of transferring money from one bank account electronically in a paperless fashion.

Term	Explanation	Description
gPlan	GIS Planning Enquiry System	This is an internet based system developed by the LGCSB that enables users of local authority sites to view the location of a planning application on a map and access the details of that application.
GPS	Global Positioning System	This is a navigation technology that uses satellites to pinpoint geographic location. Increasingly being used for mapping purposes.
HPSS	House Price Statistical System	This is a system used the Dept. of the Environment that facilitates the collection of information on borrowers (e.g. first time buyer or not, number of male/female borrowers, age of borrowers, etc.); loan details (e.g. type of loan, rate options, term of years, etc.); and details of the property (e.g. price of property, location, year of construction, dwelling type, etc). This data then forms part of a house price statistics database.
IAVI	Irish Auctioneers and Valuers Institute	The IAVI represents over 1,500 real estate agents and auctioneers in Ireland.
Idocs	A document imaging system developed by the LGCSB	This system is used to scan in documents produced during the different processes.
IFRS	International Financial Reporting Standards	These are internationally accepted financial reporting and accounting standards.
IFSRA	Irish Financial Services Regulatory Authority	This is the national regulatory body for all financial service companies.
ILSA	Irish Law Searchers' Association	This is a representative body for law search agents in the Republic of Ireland.
IMC	Irish Mortgage Council	This is a representative body for mortgage lenders in the Republic of Ireland.
IPAV	Institute of Professional Auctioneers and Valuers	The IPAV represents in excess of 700 real estate agents and auctioneers in Ireland.
iPlan	Planning Administration System	This is a computerised system used to process and monitor planning applications through the different stages of the planning process from receipt to decision applying the time constraints as determined by Planning Acts.
ITRIS	Integrated Title Registration Information System	This is a computerised system that is operated by the Land Registry during the conveyancing process.
LGCSB	Local Government Computer Services Board	The Local Government Computer Services Board (LGCSB) provides IT systems, services and advice to local authorities in Ireland.
PAYE	Pay as you earn	This is a form of income tax that is paid at source (i.e. deducted from gross salary/wages by the employer).
POLARIS	Province of Ontario Land Registration Information System	This is a land database that is operated in Ontario as part of the Teranet eConveyancing solution.
PPP	Public Private Partnership	This is a method of procuring public services and infrastructure by combining both the public and private sector.

Term	Explanation	Description
PPS Number	Personal Public Service Number	The Personal Public Service (PPS) number is a unique reference number that helps to you to gain access to social welfare benefits, public services and information in Ireland.
PSB	Public Services Broker	The PSB is an Irish Government facility to enable the electronic exchange of information between government bodies. It is a key element of eGovernment in Ireland and is managed by Reachservices, a state agency. It could form part of an eConveyancing solution.
RAMIS System	Registry of Deeds Abstract Management System	This is the main computer system/database used in the Registry of Deeds.
ROS	Revenue Online Service	This is a service provided by the Revenue Commissioners that allows tax-related functions to be conducted online (e.g. making a tax return, requesting information).
SMS	Short Message Service	This is a service that allows messages with 160 text characters to be sent from one mobile phone to another.
SOX	Sarbanes Oxley	It introduced significant legislative changes to financial practice and corporate governance to protect investors by improving accuracy and reliability of corporate disclosures made pursuant to the securities laws.
VAT	Value Added Tax	VAT is chargeable on the supply of goods and services within the State by a taxable person in the course or furtherance of any business carried on by him or her, and on goods imported into the State from outside the EU.