

Online questionnaire report: Inquiry into the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022

As part of its inquiry into the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022, Portfolio Committee No. 4 launched an online questionnaire to enable public participation in an efficient and accessible way.

The questionnaire was not intended as a statistically valid, random survey. Like the submission process, respondents self-selected in choosing to participate. This means that respondents were not a representative sample of the New South Wales population, but rather interested members of the public who volunteered their time to have a say. The questionnaire was complementary to and did not replace the usual submission process. The submission portal was also available to individuals and organisations who wished to provide a more detailed response to the inquiry's terms of reference. In this regard, some respondents may have completed the questionnaire and also made a submission.

The questionnaire asked respondents for their position on the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022 and their views on the issue.

The full list of questions is at Appendix 1.

Responses to questions

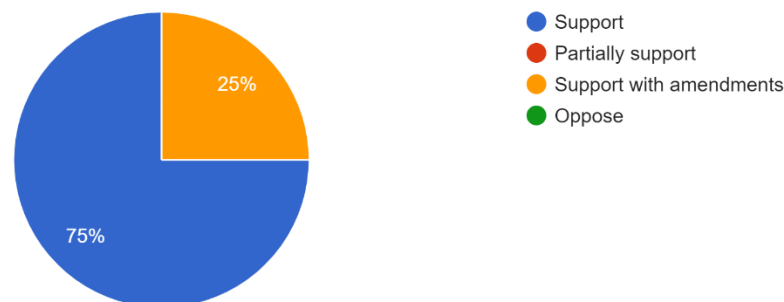
The questionnaire was open from 25 February 2022 to 11 March 2022 and received four responses. A sample of answers and summaries of responses are provided for each question below. The samples have been selected to represent the various viewpoints expressed in the responses.

Based on your own understanding and the description below, what is your position on the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022?

Three respondents (75 %) supported the bill as drafted and one respondent supported it with amendments.

Select one of these options:

4 responses



Please explain why you support the bill.

Two respondents provided an explanation for their support of the bill. One cited the benefit of competition, describing it as 'great for everyone'. The other respondent spoke in favour of the interoperability requirements of the bill and the opportunities for innovation they would promote:

'Currently eConveyancing is a monopoly. This means there is no competition and it will result in increasing costs to consumers over time. It also will mean that innovation and efficiency in the industry will remain unchallenged and potentially stifled as a result. Interoperability will support choice by both banks and conveyancers and promote opportunities for innovation. Competition will result in better outcomes both in terms of costs and efficiency.'

Please explain why you partially support the bill.

No respondents answered this question.

What amendments would you like incorporated?

The respondent who indicated that they supported the bill with amendments put forwarded the following proposals:

'The Bill only deals with the lodgement of the transaction with the land titles office; it doesn't deal with the more significant matter of the purchasers money being transferred across a different ELNO to which a Subscriber has no relationship with. The legislation should explicitly propose rules regarding financial settlement and not just restrict to lodgement of documents. Dealing with financial line items in the workspace (as is written in the Bill) is completely different to the instructions that one bank sends to another upon receipt of a direction to pay. The Registrar General should be given power to make rulings on matters where payments have gone missing, or did not go through because of any issues related to interoperability.'

The so-called "ELNO agreements" in which they are supposed to deal with issues that affect ordinary citizens in case things go wrong are confidential between themselves; it should be 'hard-coded' in the legislation to give everyone transparency and assurance that the law acknowledges and deals with these matters.'

Please explain why you oppose the bill

No respondents answered this question.

Do you have any other comments on the bill?

One respondent provided further comments on the bill, questioning why changes to the eConveyancing system were being introduced via two separate bills:

"This legislation is supposed to be a "part one" of two parts. The Bill should be a single proposal which gives industry a better understanding of how the whole framework operates. The law and requirements of eConveyancing are hard enough to understand - bringing in legislation piecemeal will confuse industry and consumers of the system. Why not bring in a single Bill until all the proposals are settled on?"

Appendix 1: List of questions

1. Please enter your contact details.

Name:

Email address:

Postcode:

2. Are you a resident of NSW? Select one of these options:
 - a. Yes
 - b. No

3. Position on the bill:

The object of the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022 is to amend the Electronic Conveyancing National Law (ECNL) set out in the Appendix to the *Electronic Conveyancing (Adoption of National Law) Act 2012*. The ECNL provides the basis for a national scheme for the electronic lodgment and processing of conveyancing transactions. The proposed amendments to the ECNL include amendments to—

- (a) require Electronic Lodgment Network Operators (ELNOs) to ensure an Electronic Lodgment Network (ELN) operated by the ELNO is interoperable, meaning it may be used—
 - (i) by a subscriber to complete conveyancing transactions involving a subscriber to an ELN operated by another ELNO without requiring the subscriber to be authorised to use both ELNs, and
 - (ii) to prepare documents in electronic form using data from different ELNs, and
- (b) enable the Registrar to waive the requirement specified in paragraph (a) (the *interoperability requirement*) in certain circumstances, and
- (c) enable ELNOs and financial institutions to rely on digital signatures created for a registry instrument or other document in certain circumstances, and
- (d) provide that certain matters, including matters relating to the interoperability requirement, may be included in requirements determined by the Registrar relating to the operation of ELNOs and the provision and operation of ELNs (*operating requirements*), and
- (e) allow the Registrar to conduct an investigation to determine compliance with the interoperability requirement.

Based on your own understanding and the description above, what is your position on the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022? Select one of these options:

- a. Support
 - b. Partially support
 - c. Support with amendments
 - d. Oppose
4. *Based on the response selected at question 3, the respondent will be directed to a customised question asking them to explain their position on the bill:*
 - a. Please explain why you support the bill (max 300 words)
 - b. Please explain why you partially support the bill (max 300 words)

- c. What amendments would you like incorporated? (max 300 words)
 - d. Please explain why you oppose the bill? (max 300 words)
5. Do you have any other comments (max 300 words)