



AUSTRALIAN REGISTRARS NATIONAL ELECTRONIC CONVEYANCING COUNCIL

The Hon. Mark Banasiak, MLC  
Chair  
Portfolio Committee No. 4 - Customer Service and Natural Resources  
Parliament House  
**SYDNEY NSW 2000**

Email: [portfoliocommittee4@parliament.nsw.gov.au](mailto:portfoliocommittee4@parliament.nsw.gov.au)

Dear Chair

**Re: Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022  
– steps required for any amendments to the Bill and NSW Application legislation**

Thank you for the opportunity for ARNECC to provide a submission, and for inviting me to represent ARNECC as a witness, during the Committee's inquiry into the *Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022*.

I am writing with further information on the process jurisdictions would require under the existing National Applied Law Scheme, and the Intergovernmental Agreement for an Electronic Conveyancing National Law (IGA) signed by all Australian states and territories, for considering any amendment to the current Bill, or the related NSW Application Act.

ARNECC wanted to share this information with the Committee following PEXA's supplementary submission recommending changes to the NSW amending legislation to require in NSW: (1) system readiness testing for interoperability, and (2) a new process for introducing changes to the national operating requirements in NSW.

We confirm in both cases, the following steps would be required in order to maintain national uniformity and ensure proper stakeholder consideration, consistent with the IGA, and National Applied Law Scheme format.

1. Any changes to the current Bill, or the NSW amending legislation, would first need to be considered by ARNECC. ARNECC may decide to undertake targeted consultation on the proposed changes with national industry bodies.
2. Amendments would need to be drafted under the direction of the Parliamentary Counsel's Committee (PCC) and will be dependent on their timetabling and priorities. All Parliamentary Counsels in each jurisdiction would also need to be consulted and sign off on the amended Bill.
3. Most jurisdictions will require executive approval (including Cabinet approval in some cases).

This national process, via the National Applied Law Scheme, and under the guidance of the IGA, is designed to avoid the situation of jurisdictions having multiple different requirements for regulating electronic conveyancing ie both national and local requirements. This is to ensure national consistency, which is of benefit to all stakeholders, and avoids jurisdictional divergence. It also avoids each jurisdiction having to separately conduct consultation with many of the same stakeholders (for example, Australian Bankers Association, Australian Institute of Conveyancers, Law Council of Australia, and Electronic Lodgment Network Operators), before adopting and applying changes to law, and new Operating Requirements or Participation Rules at the state or territory level.

Both the Operating Requirements and the Participation Rules, which in most jurisdictions are legislative instruments, contain an amendment process which includes national stakeholder consultation. ARNECC follows an agreed national Stakeholder Consultation Framework ([www.arnecc.gov.au/wp-content/uploads/2021/08/arnecc-stakeholder-engagement-framework.pdf](http://www.arnecc.gov.au/wp-content/uploads/2021/08/arnecc-stakeholder-engagement-framework.pdf))

The impact of the proposed changes to the NSW Application Act would include:

- a) detracting from national uniformity,
- b) potentially substantially delaying the interoperability reform, and
- c) increasing the cost for governments and stakeholders in the duplicated processes.

We note the requirements PEXA is seeking to include in the NSW Application Act are already part of ARNECC's existing work program. ARNECC has committed to system readiness tests to occur before interoperability goes live. ARNECC will consider the proposal to update the approach to rule making for the national Operating Requirements and Participation Rules, as part of the current consultation for the second round of changes to the *Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022*. This will be progressed via the existing national consultation process, so all jurisdictions, and stakeholders, are part of this approach.

We hope this information is helpful in your considerations. Please do not hesitate to contact should you wish for further information on state and territory governments' commitment to a national approach.

Your sincerely

Bruce Roberts  
**Chair**  
**Australian Registrars' National Electronic Conveyancing Council**

30 March 2022