

INQUIRY INTO COMPETITION REFORMS IN ELECTRONIC CONVEYANCING

Organisation: Independent Pricing and Regulatory Tribunal NSW (IPART)
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The Hon, Taylor Martin, (MLC)
Chair, Select Committee on Competition Reforms in
Electronic Conveyancing
Parliament House
Macquarie Street
Sydney, NSW, 2000

via inquiry submission portal

Dear Mr Martin

2025 Select Committee inquiry into competition reforms in electronic conveyancing

Thank you for the opportunity to provide a submission to the NSW Select Committee inquiry into competition reforms in electronic conveyancing (eConveyancing).

IPART's previous reviews of eConveyancing

The NSW Government, on behalf of other Australian jurisdictions that are represented by the Australian Registrars' National Electronic Conveyancing Council (ARNECC), has commissioned IPART to undertake reviews on aspects of eConveyancing. IPART's Final Reports on its 2 previous reviews may be found at:

- [2018-19 Review of pricing regulation of electronic conveyancing services in NSW](#)
- [2022-23 Review of interoperability pricing for Electronic Lodgment Network Operators](#).

IPART's first review in 2019 assessed the state of the eConveyancing market in NSW and found there was a need to regulate ELNO service fees. This was largely due to the dominance of Property Exchange Australia (PEXA), which effectively had 100% market share of the eConveyancing market, and NSW Government mandates to transition all conveyancing transactions from paper to electronic conveyancing. In this review, we recommended a maximum price that ELNOs can charge their subscribers, as well as maximum prices for services provided to ELNOs by the NSW Land Registry Services and by Revenue NSW. We recommended maximum prices be set at PEXA's then current prices and increased by the Consumer Price Index (CPI) annually for 2 years before being reviewed again, ideally by a national regulator such as the Australian Competition & Consumer Commission (ACCC), (or on a state-by-state basis by regulators including IPART).

IPART's second review in 2022 made recommendations on the fees that could be charged between ELNOs for interoperable transactions. We undertook this review following June 2022 changes to the Electronic Conveyancing National Law to support progress towards interoperability. During this review, we found that ELNO service fees should be reviewed again to reflect changes in inputs such as transaction volumes, cost efficiencies and innovation, as well as the costs of developing and implementing Application Programming Interfaces to enable interoperability. At IPART's suggestion in December 2022, the NSW Government revised the Terms of Reference for this review to include a second task for IPART to investigate ELNO service fees once one of 3 trigger conditions had been met, or from 1 July 2025, if we reached that date without a trigger condition being met.

Key observations from IPART's previous reviews

Need to improve competition: Across these reviews, we observed the importance of improving competition in the eConveyancing sector. Competition in ELNO services, including the threat of competition, can deliver continuous improvement by driving innovation and the uptake of new technology. It allows new, more efficient ELNOs to compete and puts pressure on existing ELNOs to improve their own efficiency, to ensure that service offerings are responsive to the changing needs of participants and that prices are reasonable.

Network effects confer advantages on larger, established ELNOs: The market for ELNO services is characterised by 'network effects' that give larger and more established ELNOs a competitive advantage over smaller new entrants, since their users can connect with a larger number of other users to complete transactions.¹

Interoperability reduces network effects: Interoperability (where the systems of different ELNOs can exchange information, or 'talk' to each other, to complete a transaction) reduces the impact of network effects and enables competition to develop. In the absence of intervention to mandate interoperability, network effects mean that new entry is discouraged, and competition is likely to remain limited. In the absence of effective competition, innovation is less likely to occur, and continued price regulation may be needed.

We describe these 2 earlier reviews and findings in more detail, and the scope of our current review, in the attachment to this letter.

IPART's current review

We have recently commenced work on the second task (our third review) outlined in the [revised Terms of Reference](#) and will submit our Final Report to the Minister by 30 June 2026. The second task requires us to investigate whether there is a need for continued regulation of ELNO service fees and if so, how these fees should be regulated. While we are in the early stages of this review and have not yet formed a view on these questions, we note that the eConveyancing market has remained highly concentrated, and reforms to implement interoperability have paused.

We have recently consulted stakeholders on key issues and will publish the submissions we receive in late October. We will issue and consult on a Draft Report which we intend to publish in March 2026. We also intend to consider the outputs of the Select Committee inquiry and any other relevant reviews.

The attachment to this letter provides more detailed information about our previous and current reviews.

¹ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Issues Paper](#), March 2019, p 24; and IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, p 11.

IPART's contact officer for this matter is Jennifer Vincent, contactable on Yours
sincerely,

23/09/2025

X

Andrew Nicholls PSM
Chief Executive Officer
Signed by:

Attachment – more detailed information on IPART's reviews into aspects of eConveyancing

2018-19 Review of pricing regulation of electronic conveyancing services in NSW

In 2018, the NSW Government provided IPART with a Terms of Reference on behalf of ARNECC to investigate and report on an appropriate pricing regulation framework for the provision of electronic conveyancing services in NSW. This included:

- a maximum price or pricing methodology for the provision of services by an ELNO
- maximum prices or pricing methodology for services provided to ELNOs by the NSW Land Registry Services and by Revenue NSW.²

IPART was asked to conduct this review because at the time:

- the eConveyancing market was highly concentrated (with one single player)
- the NSW Government mandate for the electronic lodgment of the main conveyancing transactions from 1 July 2019 would remove the source of competition from paper conveyancing
- there had been no regulatory assessment of ELNO prices - national regulations required the ELNO, PEXA, to determine its fees according to a publicly available, equitable and transparent pricing policy.³

PEXA dominated the ELNO market throughout the review. Sympli had only completed its first transaction in NSW in October 2019.⁴ We completed this review in November 2019.

We recommended that ELNO maximum prices be based on PEXA's prices and increased by the Consumer Price Index (CPI) each year for 2 years

We recommended ELNO services fees be regulated due to market concentration and the removal of competitive pressure from paper conveyancing. In this review, we engaged an independent expert, AECOM, to estimate the costs of an efficient ELNO and compared these with those of the incumbent, PEXA which had effectively 100% of the market. AECOM provided advice on the capital and operating costs for a benchmark efficient new entrant and an established ELNO based on various market share scenarios.⁵

The review found that PEXA's fees were reasonable (compared with modelled scenarios) and recommended that maximum prices be based on PEXA's prices and increased by CPI each year for 2 years before being reviewed again. We did not find compelling evidence to suggest that maximum prices should be lower than PEXA's current prices so recommended that maximum prices for all ELNOs be set at PEXA's current prices and then indexed.⁶

² NSW Government, [Review of electronic conveyancing services in NSW – Final Terms of Reference](#), January 2019. The NSW Government first provided a Draft Terms of Reference in October 2018 which IPART consulted stakeholders on. The Final Terms of Reference was provided in January 2019.

³ NSW Government, [Review of electronic conveyancing services in NSW – Final Terms of Reference](#), January 2019.

⁴ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, p 8.

⁵ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, pp 46-53.

⁶ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, pp 45-46.

We also investigated prices being charged by settlement agents, both for paper settlements prior to the eConveyancing mandate, and for 'e-settlement' services, where the agents take on some of the administrative tasks of using PEXA's platform. We found that PEXA's prices were no higher than the prices paid for paper settlement. This meant that IPART's recommended pricing framework would ensure consumers pay no more for eConveyancing than they did for paper conveyancing.⁷

For services provided to ELNOs by the NSW Land Registry Services and Revenue NSW, we found that:

- NSW Land Registry Services could absorb the cost of modifying its technology platform to permit connection by multiple ELNOs without introducing a new fee. The fees charged at the time could cover the costs of technology required to deliver services to ELNOs.⁸
- Revenue NSW's prices should be set to recover some of the costs of its duties verification services, as these are outside its tax collection activities, and that these prices should recover only the cost items that ELNOs impact and could avoid or minimise.⁹

We recommended the eConveyancing market be monitored regularly

The review found that the eConveyancing market in NSW was highly concentrated and was likely to remain concentrated in the short term. We recommended the eConveyancing market be monitored at least every 2 years, ideally by a national regulator such as the ACCC or ARNECC (or on a state-by-state basis by regulators including IPART), to assess the effectiveness of competition and inform governance and pricing policy decisions.¹⁰

We found interoperability would improve competition in the eConveyancing market and recommended implementing interoperability as soon as possible

In our Final Report we recognised the importance of competition and explained that:

*"Competition, including the threat of competition, drives innovation and technology improvements (ie, 'dynamic efficiency'). Competition in the eConveyancing market, facilitated by interoperability, would foster entry of more efficient or innovative ELNOs and put pressure on existing ELNOs to be more efficient or innovative, ensuring the eConveyancing market delivers improvements to all participants. Dynamic efficiency in the industry may not necessarily mean there will be an ever increasing number of ELNOs over time, but could alternatively result in non-adaptive ELNOs being replaced by more efficient or innovative competitors."*¹¹

The review found that interoperability would improve competition in the eConveyancing market and would reduce barriers to entry. Submissions from a number of stakeholders supported interoperability as a means of opening up the network effects in the market, and allowing solicitors, conveyancers and financial institutions to use their preferred ELNO(s).¹²

⁷ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, pp 60-61.

⁸ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, p 64.

⁹ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, p 69.

¹⁰ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, pp 9-11.

¹¹ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, p 10.

¹² IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, pp 11-12.

We analysed 4 different models for interoperability including an information hub, central infrastructure, access regime and direct connections, and compared their potential to promote competition and their costs. Our analysis found that establishing a direct connection between the 2 existing ELNOs was likely to be the most cost-efficient way to achieve interoperability in the short term, while maximising the potential for competition and innovation in the market. We recommended a direct connection between the ELNOs be implemented as soon as possible to promote competition.¹³

2022-23 Review of interoperability pricing for Electronic Lodgment Network Operators (ELNOs)

In 2022, the NSW Government provided IPART with a Terms of Reference on behalf of ARNECC to investigate and report on a pricing regulatory framework for interoperable transactions between ELNOs. This included an investigation on the fees ELNOs can charge each other for interoperable transactions which would apply nationally.¹⁴ We completed this review in June 2023.

In June 2022, with the approval of all states and territories, the NSW Parliament enacted proposed changes to the Electronic Conveyancing National Law to support the national implementation of interoperability.¹⁵ The Model Operating Requirements were at the time being updated to include provisions for interoperability and proposed:

- the role of a Responsible ELNO, which would interact with Land Registries and Revenue Offices, and perform the transaction Settlement and Lodgment
- other ELNOs hosting subscribers in the transaction to be designated as Participating ELNOs
- provisions for Interoperability Service fees which were fees to be charged by an ELNO to another ELNO or to a subscriber. These fees were in relation to:
 - establishing and maintaining Interoperability with the other ELNO
 - carrying out the functions of the Responsible ELNO.¹⁶

ARNECC decided to implement the direct connections model of interoperability, enabling interoperability between ELNOs through Application Programming Interfaces. The eConveyancing industry was working towards developing the technical and governance arrangements for interoperability, with the rollout of interoperability to be staged.¹⁷

¹³ IPART, [Review of the pricing framework for electronic conveyancing services in NSW – Final Report](#), November 2019, pp 24-25.

¹⁴ NSW Government, [Interoperability pricing for Electronic Lodgment Network Operators and ELNO Service Fees for Electronic Lodgment Network Operators – Terms of Reference](#), December 2022. The NSW Government first provided a Draft Terms of Reference in April 2022 which IPART consulted stakeholders on. The Final Terms of Reference was provided in June 2022 and was revised in December 2022.

¹⁵ NSW Government, [Interoperability pricing for Electronic Lodgment Network Operators and ELNO Service Fees for Electronic Lodgment Network Operators – Terms of Reference](#), December 2022.

¹⁶ NSW Government, [Interoperability pricing for Electronic Lodgment Network Operators and ELNO Service Fees for Electronic Lodgment Network Operators – Terms of Reference](#), December 2022, p 1.

¹⁷ IPART, [Review of interoperability pricing for Electronic Lodgment Network Operators – Final Report](#), June 2023, pp 3-4.

Interoperability was anticipated to change the way each ELNO incurs costs in a transaction. For this reason, IPART was asked by the then NSW Minister for Customer Service and Digital Government, on the request of ARNECC, to investigate and make recommendations on whether eConveyancing interoperable transaction fees should be charged and, if so, how they should be set. This included how such fees should be passed on to subscribers, what model should apply to setting these fees and any amendments required to the Model Operating Requirements.¹⁸

We recommended 2 types of interoperable transaction fees: a Responsible ELNO fee and a default Responsible ELNO surcharge

Our review found that fees should be charged by the Responsible ELNO to Participating ELNOs for participation in an interoperable transaction. We considered that interoperability would be a function that all ELNOs would need to have so any additional costs of establishing and maintaining interoperability should be recovered through ELNO service fees, and not through a separate interoperable transaction fee. We recommended the form of regulation for interoperable transaction fees should be regulated prices. This would provide certainty and transparency to the industry.

To reflect the additional activities that a Responsible ELNO performs in an interoperable transaction, we recommended there should be 2 types of interoperable transaction fees: the Responsible ELNO fee and the default Responsible ELNO surcharge.

We recommended a maximum:

- **Responsible ELNO fee** of \$0.75 (\$2023-24 ex GST) paid by the PELNO for each subscriber they represent in an interoperable transaction. This reflects the additional costs an ELNO incurs from fulfilling its role as the Responsible ELNO that are avoided by the PELNOs.
- **Default Responsible ELNO surcharge** of \$6.20 (\$2023-24 ex GST) per transaction. This would apply in situations when an ELNO is not able to perform this role, because it lacks the capacity to do so, and the Responsible ELNO role is redesignated to another ELNO. The ELNO that could not perform the Responsible ELNO role would pay this charge. The default Responsible ELNO surcharge reflects the per transaction share of the costs of developing a full suite of financial settlement and lodgment infrastructure.¹⁹

We considered that subscribers who participate in an interoperable transaction should not pay more than subscribers in a single ELNO transaction, as this would help to promote the benefits of competition and choice for subscribers (and their customers) in the long term.²⁰

We recommended these fees apply until 18 months after full interoperability had commenced and that these fees should be indexed by CPI every year from 2024-25 until new fees apply.²¹

¹⁸ NSW Government, [Interoperability pricing for Electronic Lodgment Network Operators and ELNO Service Fees for Electronic Lodgment Network Operators – Terms of Reference](#), December 2022, pp 1-2; IPART, [Review of interoperability pricing for Electronic Lodgment Network Operators – Final Report](#), June 2023, pp 1-2.

¹⁹ IPART, [Review of interoperability pricing for Electronic Lodgment Network Operators – Final Report](#), June 2023, pp 3-4.

²⁰ IPART, [Review of interoperability pricing for Electronic Lodgment Network Operators – Final Report](#), June 2023, p 4.

²¹ IPART, [Review of interoperability pricing for Electronic Lodgment Network Operators – Final Report](#), June 2023, pp 3.

We considered that ELNO service fees needed to be reviewed

Throughout this review, we considered that ELNO service fees also needed to be reviewed to reflect changes in price inputs, such as transaction volumes, cost efficiencies and innovation, as well as the costs of developing and implementing Application Programming Interfaces to enable interoperability. Therefore, at IPART's suggestion in December 2022, the NSW Government revised the Terms of Reference to include a second task for IPART to investigate ELNO service fees.

2025-26 Review of ELNO service fees.

IPART is currently undertaking a review of ELNO services fees as per the Terms of Reference provided and revised in 2022. Commencement of this second task was triggered on 1 July 2025.²²

We have been asked to investigate and make recommendations on:

- whether the service fees ELNOs charge should be regulated
- if so, whether a regulated method or level of price should apply, what this should be and when this should apply
- how these prices should be adjusted and reviewed.²³

This review will consider the state of the market and appropriate regulatory framework for eConveyancing services. We will investigate the prices PEXA and Sympli charge that apply to all Australian jurisdictions.

In investigating and making these recommendations, we will consider:

1. Supporting and promoting competition in the ELNO market.
2. Promoting ongoing investment by ELNOs.
3. Efficient costs of providing eConveyancing services.
4. Equitable access to eConveyancing services for customers across Australian jurisdictions.
5. Reasonable prices for eConveyancing services for customers across Australian jurisdictions.
6. The current and evolving structure of the eConveyancing market.
7. Avoiding unnecessary regulatory or administrative burdens on ELNOs.
8. Any other matter the Tribunal considers relevant.²⁴

²² The [Terms of Reference](#) directed IPART to commence work on the second task when the soonest of the following 4 events occurred: 1) Six months after Day 2 functionality is available to facilitate interoperable transactions, 2) ARNECC notifies IPART that an ELNO has applied to ARNECC to change its Pricing Table, because a change in law has given rise to a change in the ELNO's operating costs; 3) 1 July 2025, or 4) ARNECC notifies IPART it is to commence work on recommending ELNO services fees.

²³ NSW Government, [Interoperability pricing for Electronic Lodgment Network Operators and ELNO Service Fees for Electronic Lodgment Network Operators – Terms of Reference](#), December 2022, p 2.

²⁴ NSW Government, [Interoperability pricing for Electronic Lodgment Network Operators and ELNO Service Fees for Electronic Lodgment Network Operators – Terms of Reference](#), December 2022, p 3.

Under our typical process, we will consult stakeholders throughout this review including seeking submissions and holding workshops and/or a public hearing. Under our Terms of Reference, we are required to consult with:

- Economic regulators from other Australian jurisdictions
- Treasuries from other Australian jurisdictions
- ARNECC nominees/Registrars
- ELNOs
- ELNO subscriber representatives
- Australian Competition and Consumer Commission.²⁵

²⁵ NSW Government, [Interoperability pricing for Electronic Lodgment Network Operators and ELNO Service Fees for Electronic Lodgment Network Operators – Terms of Reference](#), December 2022, p 3.