

**INQUIRY INTO COMPETITION REFORMS IN
ELECTRONIC CONVEYANCING**

Organisation: NSW Government

Date Received: 3 October 2025

The Hon. Taylor Martin MLC
Committee Chair
Select Committee on Competition Reforms in Electronic Conveyancing

By email: electronicconveyancing@parliament.nsw.gov.au

Dear Mr Martin

NSW Government submission – Inquiry into competition reforms in electronic conveyancing

I am pleased to provide the NSW Government submission for the Select Committee's Inquiry into Competition Reforms in Electronic Conveyancing.

eConveyancing is a significant reform that has transformed how real property transactions are completed in NSW. In 2021, the paper-based system was almost completely replaced by an electronic system that is more efficient, provides greater security for customers, has had lower incidence of fraud, and gives customers in regional and remote areas the same access to property transactions as customers in Sydney. Every year, around 940,000 real property transactions occur in NSW through eConveyancing.

eConveyancing is a national reform, implemented by states and territories through the Australian Registrars' National Electronic Conveyancing Council (ARNECC), which seeks to develop nationally consistent regulation of ELNOs and Subscribers. While eConveyancing was established as a Council of Australian Governments reform, the Commonwealth Government is not part of ARNECC. The 2024 NSW Productivity and Equality Commission eConveyancing Market Study made several recommendations to strengthen oversight of this reform, highlighting opportunity for greater involvement by Commonwealth government and regulators.

The NSW Government has also worked closely with other states and territories to set up the conditions for effective competition to emerge. This submission sets out the challenges that have made it difficult to achieve effective competition in this market and the work that is underway to identify approaches to address these.

The NSW Government welcomes the Legislative Council's insights and would be pleased to provide further assistance to the Select Committee.

Yours sincerely

Danusia Cameron
Registrar General

Date: 3 October 2025

Table of Contents

Glossary	3
Inquiry topics:.....	4
1. Outages, and impact on property settlements	4
1.1 Overview	4
1.2 eConveyancing has delivered both time and cost savings to industry	4
1.3 Most outages are triggered by technical issues at an ELNO or another entity in the eConveyancing ecosystem	4
1.4 Regulatory framework for incidents and outages	6
1.5 Market resilience may be increased by more than one ELNO	7
2. Regulation of prices that ELNOs charge Subscribers	9
2.1 Overview	9
2.2 Prices that ELNOs can charge Subscribers are generally capped at CPI	9
2.3 Regular pricing reviews are appropriate to ensure pricing meets market needs	10
2.4 Decisions around pricing are made following expert analysis.....	12
2.5 Pricing controls can be used as a regulatory lever to drive competition	13
3. Enabling effective competition through interoperability	14
3.1 Overview	14
3.2 The legal framework for eConveyancing allows multiple ELNOs to operate	14
3.3 Government worked with stakeholders to develop a model for effective competition in the ELNO market	14
3.4 Challenges with the reform	18
3.5 Timing for the interoperability reform	19
3.6 Potential requirements to implement interoperability by direct connect	20
3.7 Transparency on the reform.....	21
4. The Registrar General's enforcement powers	23
4.1 Overview	23

4.2 Summary of enforcement powers	23
4.3 The Registrar General has taken regulatory action to support ARNECC's review	23
4.4 Further regulatory or enforcement action will depend on the relevant circumstances.....	23
5. Recommendations of the NSW Productivity and Equality Commission's eConveyancing Market Study.....	24
6. The relationship between the banks and the monopoly network	27
6.1 Overview	27
6.2 Delivery vs payment and the role of banks in eConveyancing	27
6.3 Oversight of bank / ELNO arrangements	27
6.4 Arrangements between banks and ELNOs and the interoperability reform.....	29
7. Other related matters	30
7.1 Oversight of eConveyancing reforms should be strengthened	30
7.2 Specific matters relating to Revenue NSW	30

Glossary

ACCC: Australian Competition and Consumer Commission

ARNECC: Australian Registrars' National Electronic Conveyancing Council

ECNL: Electronic Conveyancing National Law; appendix to the *Electronic Conveyancing (Adoption of National Law) Act 2012* (NSW)

ELN: Electronic Lodgment Network¹

ELNO: Electronic Lodgment Network Operator

ELNO System: the ELNO's systems for facilitating the preparation and lodgment of electronic documents and the financial settlement of an eConveyancing transaction

Interoperability: means the interworking of ELNs operated by ELNOs in a way that enables —

- (a) a subscriber using an ELN (the **first subscriber**) to complete a conveyancing transaction that involves a subscriber using another ELN without the first subscriber having to be a subscriber to the other ELN, and
- (b) the preparation of a registry instrument or other document in electronic form using data from different ELNs.²

IPART: NSW Independent Pricing and Regulatory Tribunal

Participating ELNO: In an interoperable transaction, any ELNO other than the Responsible ELNO

MOR: Model Operating Requirements developed by ARNECC and used by Registrars as the basis for determining the Operating Requirements in their jurisdiction

NSW ORG: NSW Office of the Registrar General

PEXA: Property Exchange Australia Pty Ltd

RBA: Reserve Bank of Australia

Responsible ELNO: In an interoperable transaction, the ELNO which performs lodgment and settlement functions

Subscribers: customers of ELNOs that subscribe to an ELN

Sympli: Sympli Australia Pty Ltd

¹ An "Electronic Lodgment Network" is an electronic system that enables the lodging of registry instruments and other documents in electronic form for the purposes of the land titles legislation: ECNL, s 13.

² ECNL, s 3.

Inquiry topics:

1. Outages, and impact on property settlements

1.1 Overview

eConveyancing has delivered both time and cost savings to industry and has reduced settlement delays and errors compared to the paper-based system. With industry's reliance on eConveyancing, it is important that ELN service interruptions are kept to a minimum to enable property transactions for customers that are as efficient and seamless as possible. The regulatory framework is designed to ensure the Registrar General is informed about customers' experience of outages and sets performance levels for ELNOs.

The interconnected nature of the eConveyancing ecosystem means that an issue with one participant can impact others, and end users, being the people and companies transacting in land. Resilience – protection against incidents and outages – can be achieved in a number of ways, including by reducing single points of dependency in the ELNO market.

1.2 eConveyancing has delivered both time and cost savings to industry

Generally, lawyers and conveyancers have reported that they complete transactions faster in eConveyancing than compared to paper. ELNOs allow all parties – lawyers, banks, and conveyancers – to work in a shared digital workspace, enabling real-time updates and faster issue resolution; reducing human error (e.g., misplaced or incorrectly signed documents), and minimising costly delays and rework. Clients and professionals receive updates throughout the transaction, reducing uncertainty and improving communication. Lawyers and conveyancers no longer need to physically attend settlements (which is especially beneficial in regional areas where travel was previously required, and which reduces costs for the client). Additionally, transactions through eConveyancing eliminate the need for settlement agents, courier services, and bank cheques. These savings are often passed on to clients.

In NSW eConveyancing has allowed around 85% of land dealings to be automatically registered upon lodgment, minimising errors and improving efficiency.

1.3 Most outages are triggered by technical issues at an ELNO or another entity in the eConveyancing ecosystem

An *outage* is generally understood to be any period during which a service, application or system is unavailable or not functioning as intended (this term is not defined in the legal framework applying to eConveyancing).

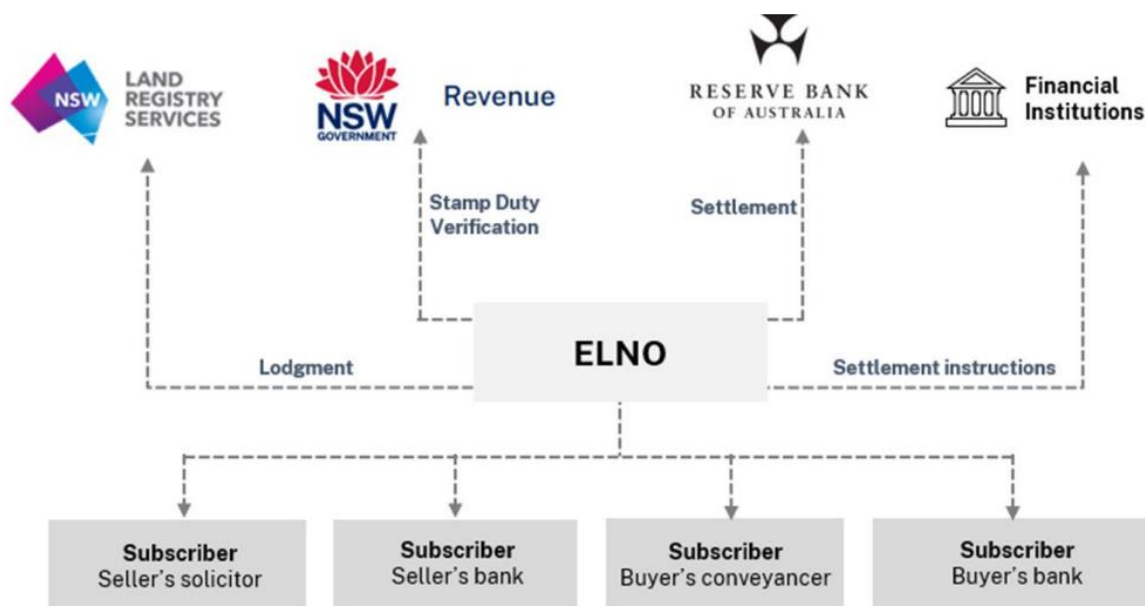
Outages can be scheduled or unplanned. Scheduled outages are important to enable technology companies to perform necessary upgrades. Scheduled outages are implemented during times of low customer activity, and customers are notified in advance.

Unplanned outages are caused by *incidents*, being the unplanned events which cause outages to occur.³ Incidents can arise from technical issues (such as a cyberattack or software bug), operational issues (human error or fraud/misconduct) or physical issues (natural disaster or accidental damage to equipment).

The focus in this submission is on unplanned outages caused by incidents.

The majority of ELN-related incidents and outages are technical and can occur for a number of reasons. For example, they can be caused by the ELN or ELNO System itself or a party connected to an ELNO's system, such as a financial institution, land registry or revenue office.

The eConveyancing ecosystem is complex and has a number of interrelated components, as set out below. An incident at a financial institution, the land registry or the revenue office may cause an outage at an ELNO.



1.3.1 Impacts of outages on customers

We understand that customers expect very high levels of availability and reliability, given the criticality of the eConveyancing system to transacting in property and the value of property transactions to individuals and businesses. We also understand that people transacting in property make arrangements on the expectation that the transaction will progress seamlessly.

An outage may mean that a lawyer, conveyancer or bank (i.e. Subscriber) is not able to access ELNO services – or those services are not functioning correctly. This can cause a delay in completion of the property transaction, being settlement with the banks and lodgment at the land titles registry.

The delay may be short (e.g. less than 30 minutes); it may extend for some hours but be resolved in time for settlement to occur later on the same day; or it may require

³ See [NSW Operating Requirement 2.1.2](#) definition of "Incident".

settlement to be pushed to a later date.⁴ The impact to the customer can depend on the duration of the outage.

Where a transaction extends beyond a business day, customers are likely to incur additional costs. These could include additional interest on loan funds, penalties for delayed settlement under the sale contract, legal costs, extending arrangements for storage of possessions and equipment and removalist services. Alternate accommodation arrangements may also be needed.

To achieve the benefits of eConveyancing (described above), NSW has mandated the use of eConveyancing. (Other jurisdictions, such as Victoria, have also taken this step.) This makes it practically impossible to revert to a paper transaction should a widespread and extended outage occur.

1.4 Regulatory framework for incidents and outages

The Registrar General is responsible for regulating ELNOs in NSW. It is important that the Registrar General understands the customer experience, including any outages that impact customers, and the cause of the underlying incident. Under the regulatory framework, ELNOs are required to provide reporting on incidents and outages to the Registrar General.

The Model Operating Requirements (MOR) require ELNOs to meet minimum Performance Levels for availability and reliability of the ELNO System (99.8% during core hours (i.e. 6am to 10pm AEST on a business day) and 99% during non-core hours) and identify the root cause of any service disruption within 3 business days (OR 11 and Schedule 2).

In addition, the NSW approval conditions applying to ELNOs complement the MOR by requiring ELNOs to:

- promptly (and in any event within 1 Business Day) provide a report to the Registrar following any problem or incident affecting the security, integrity or performance of the ELN, such report to include any available root cause analysis in respect of the problem or incident.
- provide a monthly report to the Registrar which includes (amongst other things) the ELNO's performance against the Performance Levels and a list of all unplanned system outages and security incidents during the month, including for each outage and incident the root cause analysis, rectification and remediation actions.⁵

When assessing an ELNO's compliance with the Performance Levels, the Registrar General considers outages caused by incidents within the ELNO's systems, or systems of any of its vendors. However, outages that are caused by incidents elsewhere in the ecosystem (such as within financial institutions) are not included in this measurement.

⁴ For example, on 30 June 2021, a major outage at PEXA occurred which prevented Subscribers accessing the ELN, delaying settlement of 4,334 workspaces nationally that were due to settle on that day.

⁵ [NSW approval conditions, general conditions version 2, clauses 5.3\(a\) and \(b\)](#).

1.4.1 NSW continues to strengthen regulations applying to incidents and outages

The Registrar General is currently updating the NSW approval conditions to provide for more detailed reporting by ELNOs. Updates are expected to include:

- more specific obligations around notifying the Registrar of a problem or incident affecting the security, integrity, performance or availability of the ELNO System; promptly investigating the root cause(s) and implementing effective rectification measures; and providing a Post Incident Review to the Registrar's satisfaction within 10 business days;
- expanding the reportable unscheduled system outages to encompass outages affecting the ELNO System (not just the ELN); and
- expanding the scope of root cause analysis and remediation actions to include outages caused by third parties such as a financial institution or contracted service provider (in addition to outages caused by the land registry or revenue office).

NSW will continue to work with colleagues in other states and territories in relation to uplifting reporting by ELNOs, in order to better assess and hold ELNOs to account for their performance.

There may also be opportunities for further analysis with Commonwealth agencies of ELN outages that are caused by incidents at banks. For example, banks voluntarily publish statistics about the reliability and availability of their retail payment services, including details of incidents and outages, as part of the RBA's *Retail Payments Service Reliability* disclosure regime.⁶

NSW ORG is developing guidance for ELNOs on how incidents should be categorised and reported under the current reporting requirements, working with ARNECC. NSW ORG will also work through ARNECC to ensure that ELNO performance levels, incident reporting and remediation obligations are fit for purpose.

1.5 Market resilience may be increased by more than one ELNO

As conveyancing in NSW is now fully electronic, the resilience of ELNO systems is of critical importance. A single ELNO market can create a single point of failure.

The existence of multiple ELNOs in the market theoretically means that, in the event of an extended outage or service disruption affecting one ELNO, there is an alternative ELNO to which Subscribers could switch to undertake and complete transactions.

Practically, this would require more than one ELNO to participate effectively in the market, including to offer the full suite of dealings required for all real property transactions in the market. In this model, Subscribers - lawyers, conveyancers and banks - would need to be Subscribers of more than one ELNO (i.e. multi-homing), or - following the incident - become a Subscriber to another ELNO.

⁶ Reserve Bank of Australia, "Disclosure on Retail Payments Service Reliability" <<https://www.rba.gov.au/payments-and-infrastructure/resources/reliability-disclosures.html>> (21 August 2025).

Switching ELNOs in the event of an extended outage or service disruption may not be seamless. There would likely be delays to existing transactions during the switching process, and challenges for Subscribers to learn and use a different ELNO.

2. Regulation of prices that ELNOs charge Subscribers

2.1 Overview

The fees that ELNOs can charge Subscribers (lawyers, conveyances and banks) are regulated: ELNOs cannot increase fees for Subscribers above what is specifically permitted by the regulation. Currently, ELNOs are permitted to raise prices by CPI each year; some additional increases are permitted in specific circumstances.

The regulatory framework draws on a 2019 review by NSW's Independent Pricing and Regulatory Tribunal (IPART) that assessed the service fees that ELNOs can charge Subscribers. IPART is currently undertaking a second review of ELNO service fees.⁷

2.2 Prices that ELNOs can charge Subscribers are generally capped at CPI

The current pricing regime imposes a Consumer Price Index (CPI) cap on ELNO price increases.

Under the Model Operating Requirements (MOR), an ELNO:

- must publish a Pricing Table for each financial year, which includes all fees charged to Subscribers for ELN services (OR 5.4.2(a));
- must not charge a fee greater than the amount specified in the Pricing Table (OR 5.4.2(b)); and
- may increase the fees listed in its Pricing Table on 1 July each year, provided that the increase must not exceed the percentage increase in CPI (OR 5.4.3).

2.2.1 In NSW, price increases can be capped at an amount that is less than CPI

The NSW approval conditions permit the Registrar to adjust the CPI cap on increases by a "Factor". The Factor can operate to permit a larger fee increase or reduce the permitted fee increase, including to zero, which would mean that an ELNO could not increase its prices in NSW for that financial year.⁸ In determining the Factor, the Registrar must have regard to cost-reflective pricing and the outcomes of any IPART review of ELNO fees.⁹ To date, the Registrar General has determined a Factor of zero, permitting price increases at CPI each year in line with the MOR.

2.2.2 ELNOs may increase fees above CPI in certain circumstances, with Registrar approval

ELNOs can seek the Registrar's approval to increase their fees in addition to CPI increases, including in circumstances where:

- the ELNO's insurance premiums have increased
- a change in law gives rise to additional operating costs
- additional fees, charges or costs are imposed on the ELNO by the Registrar, Land Registry or a government agency; or in order to operate an ELN.¹⁰

⁷ IPART, *Review of Electronic Lodgment Network Operator service fees (2025-2026)*.

⁸ NSW approval conditions, general conditions version 2, clause 3.1(c).

⁹ Ibid, clause 3.1(d).

¹⁰ NSW Operating Requirement 5.4.4; NSW approval conditions, general conditions version 2, clause 3(e).

ELNOs are not automatically entitled to pass on additional costs through higher prices – the ELNO may, at any time, request the Registrar’s approval for the increase, which may not be unreasonably withheld.

2.3 Regular pricing reviews are appropriate to ensure pricing meets market needs

The ELNO market currently comprises two ELNOs, one of which has a significant share of the market. In the absence of competition, which can force market participants to compete on price, it is appropriate to undertake regular pricing reviews.

To date, the Treasurer has commissioned IPART to undertake pricing reviews (in 2019, and 2025, currently underway; in addition, in 2022, IPART also reviewed prices that ELNOs would charge each other in interoperable transactions). The NSW Productivity and Equality Commission also considered pricing in its 2024 eConveyancing Market Study.

2.3.1 IPART 2019 review of ELNO pricing

In 2019, IPART undertook a review of the pricing framework for electronic conveyancing services in NSW. IPART was tasked with assessing the state of the market, recommending an appropriate pricing regulatory framework that included a maximum price or pricing methodology for the provision of services by an ELNO, and maximum prices or pricing methodologies for services provided to ELNOs by NSW Land Registry Services (NSW LRS) and by Revenue NSW.

In this review, IPART considered the need to protect customers from excessive prices while allowing ELNOs to recover their efficient costs, and the need to promote competition in the market. IPART noted that effective competition can drive both lower prices and innovation in service delivery.

IPART found that PEXA’s then prices were reasonable as a maximum price for all ELNOs and that maximum prices indexed by CPI annually were appropriate while competition develops. This approach was partially adopted by ARNECC in the MOR. As noted above, ELNO maximum prices were indexed at CPI annually (as set out in the ELNO’s published Pricing Table). However, PEXA’s prices were not adopted as a maximum price for all ELNOs.

In 2019, IPART recommended that:

*“the eConveyancing market be monitored at least every two 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”.*¹¹

2.3.2 IPART 2022/2023 review of ELNO interoperability fees

In 2022 to 2023, IPART undertook a review to determine a framework for interoperability fees, being the fees that ELNOs charge each other as part of an interoperable

¹¹ IPART (2019) “Review of the Pricing Framework for Electronic Conveyancing Services in NSW” <[final-report-review-of-pricing-framework-for-electronic-conveyancing-services-in-nsw-november-2019.pdf](#)> (21 August 2025), page 11.

transaction (see section 3 of this submission for further information on ELNO interoperability). IPART made a number of key findings and recommendations:

- Subscribers should not pay more for an interoperable transaction than a single-ELNO transaction
- The Responsible ELNO should be permitted to charge Participating ELNOs fees for an interoperable transaction, being:
 - A **RELNO fee** of \$0.75 per transaction, reflecting the marginal costs of the Responsible ELNO of performing lodgment and settlement of the transaction
 - A **Default RELNO Surcharge** of \$6.20 per transaction, paid by an ELNO when it is designated as the Responsible ELNO by business rules, but does not perform this role and the role is designated to another ELNO. This fee should reflect the per transaction share of costs of developing a full suite of financial settlement and lodgment infrastructure
- PEXA should not be entitled to charge a “common user charge” to other ELNOs, reflecting its role in creating the existing eConveyancing system. IPART found that such a fee is not justified, would create barriers to entry for new ELNOs and stifle competition.¹²

The review also identified broader issues with the pricing of ELNO services and the design of the eConveyancing market, which led to the Terms of Reference being amended to provide for a second stage review of ELNO service fees generally. These issues included:

- The CPI limit on ELNO price increases may not be appropriate as an ongoing regulatory approach, noting the transition to 100% electronic lodgment in NSW and ongoing uncertainty about the timing for a competitive market.
- The requirement for ELNOs to provide baseline services in all jurisdictions (a “Universal Service Obligation” or USO) gives rise to pricing considerations that are beyond the scope of the review.
- The costs of establishing and maintaining interoperability are not yet known and these costs should be considered as part of a review of ELNO prices.

¹² IPART (2023), “Interoperability pricing for Electronic Lodgment Network Operators” <https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Final-report-Interoperability-pricing-for-Electronic-Lodgment-Network-Operators-June-2023.PDF> (June 2023), page 8.

2.3.3 IPART 2025 review of ELNO fees

IPART is currently undertaking a broad review of ELNO service fees – this is the second stage of the review which commenced with the 2022/2023 review of interoperability fees.

The Terms of Reference require IPART to investigate and make recommendations on ELNO service fees, including:

- a) Whether such fees should continue to be regulated.
- b) If continued regulation is recommended, whether a regulated method or level of price should apply to ELNO service fees, and if so:
 - i. what that method or level of price should be; and
 - ii. when that method or level of price should apply, following delivery of the Tribunal's final report on the second task.
- c) Future adjustment and review processes for ELNO service fees.

The full Terms of Reference and current status of this review are published on IPART's website: [Review of Electronic Lodgment Network Operator service fees | IPART](#).

2.3.4 NSW Productivity and Equality Commission market study

The NSW Productivity and Equality Commission also considered ELNO pricing in its 2024 market study.¹³ The study found that the eConveyancing market was uncompetitive and that market power was concentrated with PEXA, creating barriers to entry and allowing PEXA to achieve above-normal profits. In relation to pricing, the review recommended that:

- the ACCC conduct a comprehensive review of ELNO price controls, with consideration given to a weighted average price cap which would require ELNOs to reduce prices over time as efficient operating costs decrease.
- price controls should only apply to ELNOs which have substantial market power, as universal price controls are unjustified and create barriers to entry.
- ARNECC should review the USO and current pricing controls which effectively “lock-in” nationally consistent pricing, limiting ELNOs' flexibility to change their fee structure with market changes.

2.4 Decisions around pricing are made following expert analysis

In considering its regulatory approach to prices that ELNOs can charge Subscribers, the Government has regard to expert analysis, drawing on findings and recommendations of pricing regulators. To date, pricing analysis in relation to ELNOs has been undertaken by IPART as the Government's pricing regulator. In the future, the Government may draw on analysis by other agencies – for example, the NSW Productivity and Equality Commission 2024 market study recommended analysis by the Australian Competition and Consumer Commission.

¹³ NSW Productivity and Equality Commission, *eConveyancing market study* (June 2024) <<https://www.productivity.nsw.gov.au/sites/default/files/2024-06/20240628-econveyancing-market-study.pdf>>.

Pricing regulation is also a feature of the ARNECC regulatory framework, through the MOR. The Registrar General will continue to consult with colleagues in other states and territories through ARNECC in relation to pricing settings.

2.5 Pricing controls can be used as a regulatory lever to drive competition

Pricing controls can be used as a regulatory lever to drive competition, while also addressing risks associated with a monopoly (or near monopoly) market until competition develops. Mechanisms include:

- establishing operational or regulatory targets and providing financial benefits if those targets are met, or financial penalties if the targets are not met or regulated entities demonstrate delay or resistance. The financial benefits/penalties could be in the form of an adjustment of a cap on fees.¹⁴
- financial incentives for efficient transition to a competitive market – for example, by allowing a dominant provider to charge high access fees for a short period but then reducing the permitted access fees over time. This incentivises the dominant provider to facilitate access quickly as the ability to recover costs will reduce over time.

These types of pricing controls could be used to expedite competition in the eConveyancing market – for example, by establishing financial incentives to meet interoperability milestones, or adjusting the level of interoperability fees to incentivise the efficient integration of ELNO systems to facilitate interoperability.

Any proposed use of pricing controls would need to be considered and recommended by an expert pricing authority such as IPART. This would include consideration of potential impact on other ELNOs and customers – for example, whether an initial period of high access fees creates an additional barrier to entry for smaller ELNOs; and whether financial incentives to deliver interoperability could result in higher prices for Subscribers, at least in the short term.

¹⁴ For example, the electricity distribution market creates financial incentives for providers to meet efficiency and service targets – a provider's performance against these targets will lead to an adjustment to its building block revenue allowance, which underpins its fees.

3. Enabling effective competition through interoperability

3.1 Overview

The ELNO market is contestable. With the entry of a second ELNO in 2019, interoperability (via direct connect) was identified as the preferred model for competition. The NSW Government has worked with ARNECC to progress the interoperability reform over a number of years, including by updating the legal framework and by holding workshops with ELNOs to design, build and test the APIs for interoperability.

In 2024, issues relating to the scope of interoperability, including issues raised by financial institutions, caused ARNECC to pause its design, build and test workshops, and to commission further reviews. It is anticipated that ARNECC's functional requirements review and cost benefit analysis will be complete by the end of 2025. These reviews will assist states and territories to determine the next steps forward for the reform, noting that market decisions can have long-term consequences for customers.

3.2 The legal framework for eConveyancing allows multiple ELNOs to operate

Since the introduction of national eConveyancing, the Electronic Conveyancing National Law (ECNL) framework has enabled the approval of multiple ELNOs to operate an ELN in each state and territory, and the development of a competitive market. The potential for a competitive ELNO market was identified in the Regulation Impact Statement for the ECNL when it came into effect in 2012.¹⁵

The original ELNO, PEXA, was established by state governments, including NSW. In 2018, a second ELNO, Sympli, was granted 'Category 1' approval and 'Category 2' approval under the MOR. In early 2019, governments sold their shares in PEXA and it is now listed on the ASX. In July 2019, NSW approved Sympli to operate in NSW.

3.3 Government worked with stakeholders to develop a model for effective competition in the ELNO market

The costs of eConveyancing are borne by buyers and sellers of property, including first home buyers. Competition would bring benefits for consumers such as lower prices, improved service quality and innovation. It could also help promote greater resilience in the housing market if transactions were able to be diverted to an operating ELNO in the event of major outage in another ELNO.

Without effective competition, the market will revert to a monopoly. This will still require effective regulatory scrutiny to ensure that the incumbent ELNO's market power is not being exploited at the expense of buyers and sellers of property. But the benefits of competition such as greater choice and innovation will be foregone.

¹⁵ ARNECC (2012), *Consultation Regulation Impact Statement*
<<https://oja.pmc.gov.au/sites/default/files/posts/2012/07/02-electronic-conveyancing-RIS-201207231.pdf>> (July 2012), p 30.

With the introduction of a second ELNO in 2019, a number of reviews assessed how to support effective competition among ELNOs,¹⁶ including:

- in November 2019, a review by NSW's Independent Pricing and Regulatory Tribunal (IPART) of pricing regulation of eConveyancing services in NSW – IPART supported interoperability as a driver for innovation and lower costs;
- in December 2019, an Australian Competition and Consumer Commission (ACCC) report on eConveyancing market reform – the ACCC supported interoperability as the preferred approach over the alternative of a regulated monopoly, and noted benefits of competition such as innovation, price pressure and responsiveness to stakeholder concerns;
- in December 2019, a review into the Intergovernmental Agreement for the Electronic Conveyancing National Law, conducted by consultancy Dench McClean Carlson – the review considered the regulatory framework and various competition models;
- in September 2020, a cost benefit analysis by the Centre for International Economics that compared interoperability with a regulated monopoly ELNO and multiple non-interoperable ELNOs – the report supported interoperability as the preferred option for delivering greater benefits to the community.

In addition, stakeholders, including ELNOs and banks, were consulted about the appropriate technical approach to interoperability, including through technical workshops. The 'direct connect' model was identified as the preferred pathway to enable interoperability. 'Direct connect' relies on APIs between ELNOs, supported by a data standard.

3.3.1 Interoperability is a standard tool for digital systems

Interoperability is widely recognised as an effective mechanism to facilitate competition and innovation in digital markets.¹⁷ Interoperability has been implemented in different forms in various markets including mobile phone networks, payment systems and cloud computing services.

Interoperability will be most effective in markets which exhibit strong network effects. Network effects occur when the value of a service increases with the number of users of the service. In the ELNO market, network effects are driven by the requirement for all parties to a transaction to use the same ELNO network.

A number of independent expert authorities, including the NSW Productivity and Equality Commission, IPART and the ACCC, have identified that network effects are a barrier to effective competition in the ELNO market; and that interoperability will address this by significantly reducing network effects. The European Union has recognised the criticality of interoperability in digital markets by enacting the Digital Markets Act, which requires certain service providers to facilitate interoperability, including through data portability, shared protocols and common technical and data

¹⁶ Reviews are available at: [Interoperability | Registrar General](#).

¹⁷ Ofcom (2023), *Mandated interoperability in digital markets – Economics discussion paper series*, Issue 8 at <<https://www.ofcom.org.uk/siteassets/resources/documents/research-and-data/economic-discussion-papers-/>> (21 August 2025).

standards. Non-compliance with the Act can result in fines up to 10% of global turnover, and up to 20% for repeat offences.

3.3.2 The interoperability reform was designed to support the customer, while maintaining opportunity for innovation

In late 2023, ARNECC published the following principles for interoperability:

- 1) Security and integrity of the eConveyancing ecosystem must be maintained at all times:
 - a. Secure by design.
 - b. Maintain transactional nonrepudiation.
 - c. Automated exception and error management.
- 2) Maintains or enhances the customer experience in keeping with the capability and experience of the ELN chosen by the customer.
 - a. Data needs to be exchanged to maintain individual ELN functionality.
- 3) Interoperability must enable competition:
 - a. Simple to adopt efficient integration patterns.
 - b. Standardised data exchange at the core.
- 4) Interoperability must allow for innovation.
- 5) The interoperable solution must be simple and effective for ARNECC to administer.¹⁸

3.3.3 The regulatory framework has been updated to support interoperability

In 2022, the ECNL was updated to support interoperability by adding the following provisions:

- New section 18A –imposing a requirement for an ELNO to establish interoperability with each other ELNO
- Amendments to section 12 –extending the digital certificate reliance regime to include other ELNOs and financial institutions
- Amendments to section 22 –providing the Registrar with power to make operating requirements in relation to interoperability matters, including agreements between ELNOs, data standards, dispute resolution and fees and charges.

In March 2024, the Model Operating Requirements (MOR) were updated to include requirements to support interoperability, including:

- ORs 5.2.2 and 5.2.3 –establishing a timetable for ELNOs to develop interoperability capability across all documents over three releases, from July to December 2025
- OR 5.4.7 –extending pricing controls to include interoperability fees
- OR 7.4.2 –restricting ELNOs' use of data obtained from an interoperable transaction
- OR 5.7 –creating a framework for ELNOs to establish interoperability, including entry into interoperability agreements and dispute resolution
- OR 5.7.7 –a requirement for ELNOs to interoperate with all other ELNOs on an equivalent basis and to ensure that the standard of performance of its ELN is equivalent between interoperable and non-interoperable transactions
- OR 5.8 –establishing the functions and responsibilities of a Responsible ELNO and Participating ELNOs in a transaction

¹⁸ [ARNECC, Key Guiding Principles for Interoperability \(16 November 2023\).](#)

- OR 9.2(b) – a requirement for ELNOs to use reasonable endeavours to ensure that interoperability does not increase the risk of fraud or error compared to a non-interoperable transaction
- OR 10.3.2 – a requirement for ELNOs to use the National Electronic Conveyancing Interoperability Data Standard (NECIDS) to conduct interoperable transactions
- Schedule 8 – establishing the matters to be addressed in ELNOs’ interoperability agreements, including dispute resolution, claims management, root cause analysis of incidents and outages, systems testing, management of security risks, privacy, and fee sharing arrangements.

In September 2023, the first interoperable transactions occurred, being two limited scope refinance transactions relating to property in Queensland and involving both PEXA and Sympli. The transactions demonstrated that the technical solution was capable of delivering on its objective – enabling ELNOs to interoperate in order to complete an electronic conveyancing transaction.

3.3.4 The detailed scope for interoperability is defined by the data standard for messaging between ELNOs

A central part of the interoperability program has been development of the data standard for the exchange of data between ELNOs to complete an interoperable transaction, and the design of the Application Programming Interfaces (APIs) for the connections between ELNs.

APIs are an established solution for data exchange, already used by ELNOs to interact with land registries, revenue offices, banks and the RBA as part of the eConveyancing system. The APIs for interoperability are designed using a “Reg Tech” approach – regulatory requirements are directly encoded into the data standards that participants are required to use – supporting the security by design principle for interoperability.

As noted above, ARNECC’s principles of interoperability include that it must *maintain or enhance the customer experience in keeping with the capability and experience of the ELN chosen by the customer*. The data standard focuses on the exchange of data, rather than prescribing the functions that are required to be performed. This means the reform can preserve space for innovation by each ELNO (which is also a principle of interoperability).

Prior to the pause in ARNECC’s technical program in June 2024, the APIs were designed collaboratively, through government technical experts convening workshops with ELNOs. Between January 2021 and June 2024, the Interoperability Operational Committee generally convened two separate three-hour workshops each week, around 260 workshops in total. These regular workshops were supported by two separate two-day in-person workshops in late 2023 and early 2024. The intent of this approach was that the standard needed to work for both ELNOs, rather than being developed independently, and imposed on one or both ELNO.

In 2023, ARNECC commissioned an independent assessment of timing to build the APIs for interoperability. This formed the basis of the timetable that ARNECC included in the MOR, and which the NSW Registrar General brought into effect in NSW in March 2024. Throughout the reform, ARNECC played a key role in developing the data standard for the reform.

3.3.5 Progress of the design, build and test work

By March 2024, the ARNECC interoperability program had completed and baselined 7 of 11 tranches of the APIs required for Release 1 of interoperability, scheduled to be implemented by July 2025. At that time, design, build and joint integration testing of the interoperability solution was progressing to schedule. However, as noted below, the program encountered ongoing issues regarding the extent of interoperability and the scope of the interoperability data standard.

3.4 Challenges with the reform

While progress has been made, the reform has encountered a number of challenges. These are summarised below.

- **Scope and financial settlement:** In 2023 and early 2024, the banking industry raised issues relating to financial services aspects of the interoperability program. In particular, banks indicated that the interoperability technical scope approved by ARNECC in October 2023 was not sufficient to deliver the comprehensive services and functionality available to banks in a single-ELN transaction, and that this would lead to an increase in settlement delays and failures for interoperable transactions. As set out in section 6 of this submission, these financial services aspects are beyond the remit of state and territory Registrars to address effectively.¹⁹
- **Scope and intellectual property rights:** Development of a comprehensive scope was hindered due to insufficient information being made available about ELNO-bank integrations. PEXA has asserted that disclosure of this information would infringe its intellectual property rights and confidential information. Banks have indicated they are not able to discuss such information with ARNECC due to PEXA's intellectual property and confidentiality claims.
- **Implementing interoperability may require ELNOs to make significant updates to their internal systems:** As noted above, the direct connect model of interoperability relies on APIs between ELNOs, supported by a data standard. Each ELNO needs to ensure that its own systems are capable of sending and receiving data via the purpose-built APIs. This may require the ELNO to update its internal systems. The extent of system changes needed to implement the APIs depends in part on how ELNOs' existing systems are configured.
- **This complex reform is overseen by eight jurisdictions, through ARNECC:** The interoperability reform required eight jurisdictions to collaborate to oversee a complex program of technical work among ELNOs.

Ministers considered challenges of the reform at a June 2024 Ministerial Forum.

¹⁹ [Ministerial Statement on National eConveyancing \(26 June 2024\)](#).

In June 2024, ARNECC paused the technical work for the reform, while jurisdictions considered options on next steps.²⁰ Titles Queensland undertook a review of the reform, supported by NSW; this review concluded in late 2024.

The challenges of delivering a competitive ELNO market are underscored by the withdrawal of Lextech Pty Ltd – a potential third ELNO – in May 2025, leaving Sympli as the only potential competitor to PEXA in the current market.

3.5 Timing for the interoperability reform

These challenges mean that the reform has not met the July 2025 deadline in the MOR. NSW has issued each ELNO a waiver of this requirement, on the condition that it participates in and complies with ARNECC's functional requirements review.

In relation to the December 2025 deadline in the MOR, ARNECC is currently undertaking a functional requirements review and cost benefit analysis. It is anticipated that these reviews will be completed by the end of 2025. Government will need to consider the outcomes of these reviews, including through consultation with other states and territories. This means that it is unlikely that the interoperability reform will meet the December 2025 deadline.²¹

3.5.1 ARNECC is reviewing the reform

In February 2025, ARNECC announced a review program of work comprising:

- an in-depth review of the functional requirements for interoperability, involving an independent expert engaging with ELNOs and Subscribers to develop a functional scope necessary to maintain an equivalent Subscriber experience for interoperable and non-interoperable transactions; and
- cost benefit analysis, to test whether the direct connect interoperability model continues to be the most appropriate model.²²

These reviews are underway and estimated to conclude in late 2025.²³

It is possible that an interim form of interoperability by direct connect, such as a 'practitioner choice' scope,²⁴ could mitigate the impact of some of these challenges, bringing competition benefits to customers sooner. Under the 'practitioner choice' scope, choice of ELNO through interoperability would be available to lawyers and conveyancers, but not to all subscribers. A 'practitioner choice' scope could comprise an initial stage, before full direct connect between ELNOs can be implemented. This concept is being reviewed in ARNECC's functional requirements review and cost benefit analysis.

ARNECC's reviews will inform decisions on next steps for the reform and further engagement with the Commonwealth on eConveyancing regulatory issues. This includes

²⁰ [ARNECC's Decision on Interoperability \(24 September 2024\)](#).

²¹ ARNECC, [Next Steps on Interoperability \(19 February 2025\)](#).

²² Ibid.

²³ [ARNECC 2025 Reviews Project Update \(23 July 2025\)](#).

²⁴ [ARNECC Cost Benefit Analysis Terms of Reference](#), Model 3 of 6, page 12

consideration of competition reform in Conveyancing being included in a future reform tranche of the National Competition Policy reform program.

3.6 Potential requirements to implement interoperability by direct connect

The ARNECC reviews will provide more information about the next steps for the reform, including the costs and benefits of interoperability via direct connect, compared to other market models.

Assuming interoperability by direct connect is supported, significant work is likely to be needed to resume a technical program and provide governance during the reform and after implementation. A national program would also need to be set up to deliver the reform, that addresses the legal challenges noted above and meets the expectations of stakeholders. This would likely include the matters set out below.

- **Ongoing role of government to develop the interoperability data standard:** Governments would have an extensive and ongoing role to support development of the data standard and related APIs, potentially through workshops with ELNOs. It is likely that processes would need to be established so that ELNOs can share information required by the interoperability data standard without risk of disclosing to other ELNOs confidential information, intellectual property or future innovations. (Similar processes have been implemented to enable ARNECC's current functional requirements review.)
- **Further reviews of pricing and security:** As noted in section 2.3.2 of this submission, IPART has reviewed prices that ELNOs would charge each other in interoperable transactions, and has determined a transfer price that the 'Participating ELNO' would pay the 'Responsible ELNO' in some circumstances. As IPART's review of these transfer prices was completed in 2023, it may be appropriate for this fee to be re-assessed and updated to reflect any relevant changes since 2023. A security assessment would also need to be undertaken in relation to security aspects of the technology solution before the solution goes live.
- **Developing data standards in relation to ELNO / bank arrangements:** The program would need to have a framework for identifying what items are in scope to meet banks' requirements and the interoperability principles, and how these are delivered. This would require deep engagement with the banks.

As noted in section 3.4 of this submission, Registrars have specific and limited powers to regulate, and do not have the necessary experience in relation to, the financial aspects of conveyancing transactions. The NSW Government considers that the overarching regulatory structure would be strengthened by ongoing Commonwealth representation. It is the Commonwealth that has expertise in financial services and competition issues and regulatory authority over banks.

As a further consideration, the industry may benefit from standardisation of data flows between ELNOs and banks, in the same way data standards have been established for ELNO-land registry and ELNO-revenue office data flows, and partially

developed for ELNO-ELNO data flows (until the interoperability program was paused). This issue underscores the need for involvement of the Commonwealth Government and regulators with authority and expertise in financial services.

- **ELNOs settling their interoperability agreements:** The MOR require ELNOs to enter into an interoperability agreement that addresses matters such as dispute resolution, claims management, root cause analysis of incidents and outages, systems testing, management of security risks, privacy, and fee sharing arrangements. Where ELNOs are not able to reach agreement, the MOR provide for these matters to be considered through a negotiate arbitrate process. If this were to occur, states and territories may have a role in ensuring both ELNOs adhere to the process set out in the MOR.

In addition, while the regulatory framework has already been established, stakeholders commented as part of the 2024 Titles Queensland review that further consideration may be needed in relation to risk, dispute resolution and change management processes, and trust account issues.

3.6.1 The reform would require ongoing oversight by ARNECC

There would need to be ongoing oversight of the interoperability aspects of the eConveyancing market. This would include an ongoing role owning and curating the data standard for interoperability (the National Electronic Conveyancing Interoperability Data Standard, NECIDS), just as governments arrange for the ownership and curation of the data standard between ELNOs and land registries. The curation role would include ongoing decisions as to whether particular data items should become part of the scope to support ELNO functionality (like the work being done to develop the NECIDS).

Governments would also have an ongoing role in overseeing the regulation applying to interoperability, for example, ensuring that the dispute resolution processes under the MOR are followed.

However, all market models will require a level of regulatory oversight. For example, ongoing pricing reviews are appropriate until such time as effective competition causes ELNOs to compete on price. Oversight of a monopoly market would likely require significantly higher and more intrusive regulation than is currently in place. ARNECC's cost benefit analysis is considering these issues.

3.7 Transparency on the reform

The interoperability reform is led by ARNECC, and so communications to industry are led by ARNECC.

As noted above, ARNECC is currently undertaking a functional requirements review and cost benefit analysis which it announced to industry in February 2025. ARNECC provides progress updates on these reviews to industry with the most recent update published in July 2025.

In addition, the Registrar General provides an annual report to the NSW Parliament on the progress of the interoperability reform. These reports are required to cover the technical solution, regulatory framework, stakeholder participation and project implementation, as well as updates on the implementation of a stronger financial

settlement oversight regime for eConveyancing, and security aspects. These progress reports are published in the “Tabled Papers” section of the NSW Parliament website.

4. The Registrar General's enforcement powers

4.1 Overview

If an ELNO contravenes the regulatory framework, the NSW Registrar General has a wide range of enforcement powers. The interoperability reform is currently being analysed through two reviews being undertaken by ARNECC. Once these reviews are complete, governments will make a decision on the next steps in relation to the reform. The Registrar General will support these next steps with appropriate regulatory action, which may include enforcement action if there is a contravention of the legal framework.

4.2 Summary of enforcement powers

The Registrar General is empowered to:

- enter into an enforceable undertaking with an ELNO, where the ELNO commits in writing to specific remediation measures²⁵
- issue a remedial direction to an ELNO, requiring specific remediation measures²⁶
- commence Supreme Court proceedings to impose a financial penalty on an ELNO up to the following maximum amounts, if the Court determines that an ELNO has contravened one of the following requirements:
 - for a contravention of the provisions of the ECNL requiring the ELNO to establish and maintain interoperability – (i) \$10,000,000, and (ii) for a continuing contravention, a further \$250,000 for each day the contravention continues,
 - for a contravention of the ELNO's obligation to cooperate with the compliance examination provisions of the ECNL – \$250,000,
 - for a contravention of a requirement of a remedial direction or an interim remedial direction – \$10,000,000.²⁷

4.3 The Registrar General has taken regulatory action to support ARNECC's review

ARNECC is currently undertaking a cost benefit analysis and a functional requirements review (see section 3.5.1 of this submission).

The Registrar General has issued each ELNO a binding direction under NSW Operating Requirement 5.3(i), requiring their full cooperation in the functional requirements review process, including by providing relevant information to the reviewers.²⁸ The NSW Registrar General is monitoring the ELNOs' compliance with those directions.

4.4 Further regulatory or enforcement action will depend on the relevant circumstances

The Registrar General considers taking regulatory or enforcement action, depending on the relevant considerations at the time. If an ELNO does not comply with the regulatory framework, the Registrar General would consider enforcement action.

²⁵ *Electronic Conveyancing Enforcement Act 2022* (NSW) s 5.

²⁶ *Ibid* s 10.

²⁷ *Ibid* s 16.

²⁸ [NSW Office of the Registrar General, *Interoperability Progress Report* \(June 2025\).](#)

5. Recommendations of the NSW Productivity and Equality Commission's eConveyancing Market Study

Many recommendations of the 2024 NSW Productivity and Equality Commission analysis relate to actions to be taken by the Commonwealth Government and Commonwealth regulators.

A status update on the recommendations of this Market Study²⁹ is set out below:

Recommendation	Update
1: ARNECC should ask the Australian Treasury to request the ACCC to immediately conduct a comprehensive review of the current price control arrangements relating to eConveyancing services	ARNECC continues to meet with the Council of Financial Regulators (which includes ACCC as an observer). The NSW Independent Pricing and Regulatory Tribunal (IPART) commenced a review of ELNO Service Fees in July 2025, in accordance with terms of reference published in 2022.
2: ARNECC to develop and publish a detailed industry roadmap for achieving the launch of interoperability by December 2025.	ARNECC has commissioned a functional requirements review and cost benefit analysis to inform next steps for the reform. Once the reviews are complete, Government will consider the next steps for the reform.
3: ARNECC (or individual Registrars) should impose regulatory requirements on all ELNOs to meet specific key milestones to achieve the interoperability date of December 2025.	See update for 2 above. NSW has issued a Direction to each ELNO in relation to ARNECC's functional requirements review. NSW has also issued waivers for the July 2025 release date in the NSW Operating Requirements, that are conditional on compliance with the Direction. It is likely that ELNOs will not be able to meet the December 2025 deadline in the NSW Operating Requirements.
4: Consideration by ARNECC and the ACCC should be given to removing requirements in the MOR that create barriers to entry in the eConveyancing market.	ARNECC is commissioning a holistic regulatory review of the MOR that apply to ELNOs.
5: Ongoing price regulation of eConveyancing services should only apply to those provided by ELNOs which can be demonstrated to have substantial market power. Price regulation should be immediately removed from the services provided by ELNOs that do not have substantial market power.	See update for 1 above.
6: ARNECC should update Section 18 of the MOR to include an obligation on all licensed ELNOs to provide ARNECC with a confidential report on a quarterly basis that sets out a range of matters relating to ELNO service fees. In providing for this power in the MOR, ARNECC	See update for 1 above.

²⁹ [NSW Productivity and Equality Commission, eConveyancing Market Study \(June 2024\).](#)

Recommendation	Update
should make explicit that it can provide this data to other relevant regulatory or policy-making bodies, such as the ACCC.	
7: States and territories should expedite the transfer of ownership and responsibility for all eConveyancing technical and data standards from PEXA to NECDS Ltd, to ensure fair and equal access to the standards and objective oversight and management of the standards.	In late 2024, NECDS Ltd acquired the intellectual property rights in the eConveyancing data standards and took over oversight, management and curation of those standards.
8: ARNECC should expedite the legally binding formal resolution of any IP issue in an appropriate manner to support the achievement of ARNECC's interoperability timeline.	See update for 2 above.
9: Members of ARNECC and the Council of Financial Regulators (CFR) should be equally represented in a body that meets quarterly to discuss policy and regulatory matters relevant to the financial settlement component of eConveyancing. The ACCC should also attend this meeting in the capacity of an observer and an adviser on competition matters relevant to financial settlement issues.	ARNECC has been meeting regularly with CFR agencies.
10: ARNECC should receive annual funding to appropriately resource its ongoing activities. Accordingly, ARNECC should be required to submit to the Australian Treasury every three years a forward-looking funding and fee proposal.	ARNECC is considering ongoing funding arrangements.
11: ARNECC, state and territory governments, and the Australian Government should give consideration to the ACCC becoming responsible for the ongoing market oversight and monitoring of the eConveyancing market in Australia.	Noted.
12: Given the ACCC's current functions with respect to digital platforms, consideration should be given as to whether the ACCC's new role in respect of the ongoing market oversight and monitoring of the eConveyancing market warrants the establishment of a dedicated Digital Platforms Regulation Branch of the ACCC.	See update for 11 above.
13: The ACCC's roles and functions with respect to the eConveyancing market should be funded via annual ELNO operating fees set by ARNECC on a three-yearly basis in consultation with the ACCC and the Australian Treasury (see recommendation 10).	See update for 11 above.

Recommendation	Update
14: From time to time as appropriate, but no less than every five years, ARNECC should issue the ACCC with a formal Statement of Expectations providing it with direction on relevant government policies and operational priorities. The Statement of Expectations should be published by the ACCC.	See update for 11 above.
15: No more than three years after the introduction of interoperability, ARNECC should initiate a competition and regulatory review of the eConveyancing market in Australia.	See update for 2 above.
16: The implementation of the AusPayNet Code should be expedited and, simultaneous with the implementation, the eConveyancing regulatory framework amended to require ELNOs to participate in and comply with the Code.	AusPayNet declared the Code open for membership in March 2025. Updates to the eConveyancing regulatory framework requiring ELNOs to become a member of and comply with the Code, once it takes effect, commenced on 9 May 2025.
17: State and territory governments should refer concerns about the absence of effective competition in the eConveyancing market to the Australian Government's Competition Review.	NSW Treasury is working with the NSW Office of the Registrar General and other stakeholders to identify options to include interoperability in a future reform tranche.
18: As part of its Competition Review, the Australian Government should consider whether the Competition and Consumer Act 2010 (Cth) is sufficient for dealing with potential anti-competitive conduct in the eConveyancing market and other competition matters related to digital platforms.	See update for 17 above.

6. The relationship between the banks and the monopoly network

6.1 Overview

Completion of a conveyancing transaction requires lodgment of instruments with the land registry (to transfer ownership and create other legal interests, such as a mortgage) and financial settlement involving banks to transfer funds required for the transaction (including payment of the sale price, stamp duty and utilities).

The eConveyancing regulatory framework is asymmetric: the Registrar General (and Registrars in other states and territories) has oversight of the relationship between an ELNO and the land registry but there is limited oversight of the relationship between an ELNO and banks.

6.2 Delivery vs payment and the role of banks in eConveyancing

The concept of ‘delivery vs payment’ is central to a conveyancing transaction – that no party holds both title and funds at the same time.³⁰ This is particularly important to Registrars in electronic conveyancing because settlement and lodgment occur concurrently: in NSW, 85% of dealings settle and are automatically registered.

Under the Torrens system of land registration, registered transactions become indefeasible, with the State guaranteeing the accuracy of the Register. A person who suffers loss or damage as a result of the operation of the *Real Property Act 1900* (NSW), where that loss or damage arises as a consequence of fraud or error, can claim compensation from the Torrens Assurance Fund. It is vital that Registrars know that financial settlement has taken place before changes are made to the Register.

Banks have two distinct roles in the eConveyancing process:

- as Subscribers, they participate in the ELN workspace by populating registry instruments and the financial settlement statement and digitally signing those documents so that the workspace is ready for settlement
- once the ELN workspace is locked and ready for settlement, banks are responsible for executing the financial settlement to transfer the funds as required, based on instructions issued by the ELNO.

To execute the financial settlement, ELNOs (directly or through an intermediary) and banks currently use the RBA’s Reserve Bank Information and Transfer System (RITS) to initially reserve and then transfer funds between Exchange Settlement Accounts, to effect batch settlement of eConveyancing payments in a way that sequences lodgment and settlement processes to ensure delivery vs payment is achieved.

6.3 Oversight of bank / ELNO arrangements

The financial settlement component of eConveyancing is not comprehensively regulated through the ECNL regulatory framework – it is supplemented by other regulatory and self-regulatory arrangements.

³⁰ See [NSW Operating Requirement 10.8](#).

Registrars have very limited oversight of ELNO financial settlement functions, and do not manage settlement payments or arrangements between banks and ELNOs. It is the Commonwealth that has expertise in financial services and competition issues and regulatory authority over banks.

6.3.1 e-Conveyancing Payments Industry Code

Following a decision in 2021 by the Council of Financial Regulators (CFR), Australian Payments Network Limited (AusPayNet) – the industry association and self-regulatory body for the Australian payments industry – led the development of an e-Conveyancing Payments Industry Code. The Code was declared open for membership in March 2025.

The Code establishes a framework for regulation of the payment aspects of eConveyancing transactions between ELNOs and financial institutions. Specifically, the Code:

- establishes a governance framework across all ELNOs and financial institutions directly participating in eConveyancing transactions
- introduces a process between financial institutions and ELNOs for managing mistaken or incomplete payments
- ensures that participants use only an approved settlement model, which incorporates the delivery versus payment concept where both the lodgment and financial steps must occur together and be irrevocable, and establishes a process for authorising those models
- provides a standard message format for any new ELNO who wants to use the existing approved settlement model to enter the market.

The Code does not address other financial settlement issues such as:

- ELNO-bank integrations to facilitate workspace automation and efficiencies. This means the Code has not been able to assist with issues relating to interoperability scope and intellectual property and confidential information. These issues have impeded the interoperability reform and led to the pause of technical work in June 2024 (described in sections 3.1 and 3.4 of this submission)
- outages caused by banks' systems or processes which impact the financial settlement component of an eConveyancing transaction, causing settlement delays and poor customer outcomes.

6.3.2 Australian Financial Services (AFS) licence regime

ELNOs are captured as providers of “non-cash” services under the AFS licence regime. However, both ELNOs currently hold conditional exemptions from the requirement to hold an AFS licence and the obligations which attach to licensees.³¹ The conditions of the exemptions include requirements regarding dispute resolution procedures, arrangements for possible mistaken payments, independent review regarding settlement systems, and warning messages for Subscribers.

³¹ [Commonwealth of Australia, ASIC Gazette No. A46/19, Tuesday 5 November 2019 \[19-1113\], pp 24 to 26 of 45 \(Sympli\)](#); [Commonwealth of Australia, ASIC Gazette No. A26/20, Tuesday 30 June 2020 \[20-0584\], pp 14 to 17 of 32 \(PEXA\)](#).

6.3.3 Other Commonwealth regulatory frameworks

Other Commonwealth regulatory frameworks may be relevant in relation to oversight of ELNO / bank arrangements. For example:

- amendments to the *Payments Systems (Regulation) Act 1998* (Cth) to expand the scope of payment systems that may be regulated by the RBA, to address specific public interest concerns related to the competitiveness, efficiency, and safety of the payment system (as at September 2025, these amendments have been passed by Parliament but have not yet taken effect).
- changes have been proposed to the Australian Financial Services licensing framework under the *Corporation Act 2001* (Cth), to cover additional categories of payment service providers including providers of “payment technology and enablement services”, which facilitate the transfer of funds without taking possession or control of funds.³²
- APRA Prudential Standard CPS 230³³ is designed to strengthen the operational resilience of APRA-regulated entities including banks. This standard commenced on 1 July 2025.

These frameworks may provide an opportunity to re-consider broader regulation of ELNOs’ financial settlement functions and services. ARNECC continues to engage with Commonwealth regulators, including through meetings with CFR agencies.

6.4 Arrangements between banks and ELNOs and the interoperability reform

In relation to the interoperability reform, as noted above, in 2024, financial institutions raised issues regarding the scope of interoperability – specifically that the scope approved by ARNECC in October 2023 was not sufficient to deliver the full suite of functions and services that they receive as part of a single-ELN transaction. A key focus of ARNECC’s functional requirements review is to develop a comprehensive scope for interoperability, and to identify and address intellectual property and confidential information issues.

³² Commonwealth Treasury, *Payments System Modernisation: Regulation of payment service providers Consultation Paper* (December 2023), p. 21.

³³ *APRA, Prudential Standard CPS 230, Operational Risk Management* (July 2025).

7. Other related matters

7.1 Oversight of eConveyancing reforms should be strengthened

The eConveyancing reform has delivered significant benefits for consumers and businesses across Australia. eConveyancing is a national reform, with Registrars (or equivalents) in all states and territories working together through ARNECC, under a principle of national consistency.

ARNECC has successfully developed a regulatory framework for ELNOs that applies in all states and territories. However, ARNECC is not equipped to address all critical issues that arise in relation to oversight of ELNOs.

ARNECC has encountered challenges regarding the appropriate role of Registrars in relation to banks, as described in sections 3.4 and 6.3 above. There is also a need for appropriate ongoing regulation of competition in the ELNO market, including in relation to pricing, access to ELNO services, and separation or ring-fencing requirements – this requires expertise and capacity that goes beyond the usual remit of land titles Registrars.

In addition, the structure of ARNECC – a Council with eight Registrars, making decisions by majority vote – means that it is difficult to implement large programs of work, such as the interoperability reform, efficiently and effectively. Different jurisdictions are at different stages of the eConveyancing reform, and have different objectives, priorities and budgets. ARNECC members continue to consider ways in which its capability and expertise can be strengthened to enable it to perform its role more effectively.

The NSW Government looks forward to the findings of the ARNECC-commissioned reviews and discussions with other jurisdictions including the Commonwealth agencies on how to support more effective regulation in key areas.

The NSW Government also notes the 2025 Commonwealth Senate inquiry into micro-competition opportunities in the Australian economy in relation to eConveyancing.

7.2 Specific matters relating to Revenue NSW

7.2.1 Overview of the current state of eConveyancing for dutiable transactions in NSW

Revenue NSW is the state's principal revenue management agency. It is responsible for collecting revenues, administering grants and recovering debts on behalf of the people of NSW.

Revenue NSW has played a key role in the development and expansion of eConveyancing since its inception and worked closely with PEXA to support the launch of its Electronic Lodgment Network in 2014, authorising it to facilitate dutiable conveyancing transactions in NSW. Revenue NSW also collaborated with Sympli to enable the launch of its platform and, in 2020, authorised it to facilitate dutiable conveyancing transactions.

As eConveyancing is now mandated in NSW, most dutiable transactions are completed through ELNO platforms. Consequently, a substantial proportion of Crown revenue, particularly from transfer duty, is now collected via the eConveyancing process.

7.2.3 Revenue NSW's role in the eConveyancing ecosystem

As a core integration partner in the eConveyancing ecosystem, Revenue NSW plays a key role in facilitating dutiable conveyancing transactions and maintaining the integrity of transfer duty collection.

In NSW, there are strict legislative requirements regarding the payment of duty before a property transaction can be registered. To meet these legal requirements, Revenue NSW implemented the duties verification process as part of the eConveyancing process for dutiable conveyancing transactions.

For a dutiable conveyancing transaction to proceed through eConveyancing, Revenue NSW must first issue a duties notice of assessment for the transaction, which includes a unique Duties Assessment Number (DAN). This DAN is entered into the ELNO workspace, enabling the duties verification process. This process ensures that key details, such as property, purchaser, and consideration information, align with the information held in Revenue NSW's systems used to assess duty on the transaction. It is important to note that the duties verification process occurs at multiple stages leading up to settlement.

If verification is successful, Revenue NSW's system returns the duty payable (if any) along with the relevant payment details, including BSB, account number, and payment reference number, to the ELNO. This information is automatically populated into the financial settlement schedule and disbursed as part of the eConveyancing financial settlement process. If verification fails, the transaction cannot proceed to settlement or lodgment until the error is resolved, either by correcting data in the ELNO workspace or by contacting Revenue NSW to amend the duties assessment.

Revenue NSW works closely with ELNOs to ensure ongoing system compatibility and alignment with eConveyancing platform requirements. This collaboration includes regular engagement to support system releases, upgrades, and enhancements, as well as joint testing activities to validate functionality and data integrity. Revenue NSW provides technical support across test environment configuration, impact analysis, and issue resolution, helping to ensure that ELNO platforms continue to operate seamlessly with Revenue NSW's systems. This partnership is critical to maintaining a stable and compliant digital conveyancing environment, particularly as interoperability reforms progress.

Beyond technology integration, Revenue NSW offers operational support to subscribers, assisting with duties verification errors and other related enquiries. Together, these functions reinforce Revenue NSW's central role in enabling and supporting eConveyancing for dutiable conveyancing transactions across NSW, while fulfilling its statutory obligations.

Revenue NSW also actively collaborates with Revenue Offices across Australia to support a coordinated and consistent approach to eConveyancing. As a member of the

State Revenue Office eConveyancing Committee, Revenue NSW contributes to national efforts to engage with ELNOs, share knowledge, monitor industry developments, and align regulatory practices. This collaboration helps ensure that state revenue and duty-related processes remain effective, secure, and responsive to ongoing reforms in the eConveyancing ecosystem.

7.2.4 Preliminary considerations regarding interoperability and competition reforms in eConveyancing

While Revenue NSW supports competition and the principle of interoperability in the eConveyancing market, it is important to acknowledge that such reforms may have implications for Revenue NSW's operations, systems, and compliance obligations. As the interoperability model is still being finalised, a full impact assessment cannot yet be undertaken. In the interim, Revenue NSW has identified several preliminary considerations across operational, technical, and governance domains:

Operational considerations

- To effectively support subscribers transacting in an interoperable environment, Revenue NSW may need to invest in additional training and upskilling of staff to manage more complex or varied enquiries.
- Existing support frameworks, business processes, and associated documentation may require review and amendment to ensure they remain appropriate in an interoperability context.
- Ensuring responsibilities and processes for managing any incidents or outages with the ELNOs are clearly defined.

System, technical, and quality assurance considerations

- Revenue NSW may need to review and potentially enhance its existing technology architecture and systems to ensure they are fit for purpose and capable of supporting interoperable transactions.
- Quality assurance processes, including regression testing, will likely need to evolve to provide assurance that core duties-related functionality continues to operate as expected within the interoperability model.
- A strong focus on design and quality assurance, including regression testing, will be critical prior to the implementation of interoperability as it will ensure that new functionality does not negatively affect existing processes, including duties verification and duty disbursement processes.

Governance and compliance considerations

- Operating Agreements and governance frameworks may need to be reassessed to ensure they remain fit for purpose in an interoperable environment.
- Any interoperability solution must not compromise the performance, security, data privacy, or availability of existing systems within the eConveyancing ecosystem.
- Existing levels of upfront compliance must be maintained to ensure that the integrity of the system is not diminished as a result of interoperability reforms.

To ensure successful implementation of interoperability, it is essential that interoperability is designed and delivered in a way that:

- Preserves the integrity and accuracy of Crown revenue collection through eConveyancing processes.
- Enables consistent, secure, and reliable data exchange between ELNOs and Revenue NSW.
- Establishes clear accountability frameworks and maintains strong regulatory oversight.
- Minimises disruption to property transactions and protects public revenue streams.
- Recognises the importance of ongoing engagement with integration partners to support seamless implementation and reduce risks.
- Provides Revenue NSW with sufficient lead time to implement system and process changes required to enable interoperability for dutiable conveyancing transactions.