

OFFICIAL

Interoperability between Electronic Lodgment Network Operators

Progress Report to NSW Parliament
May 2023



Table of contents

Table of contents	2
Purpose	3
Background to this report	3
Status of the reform	4
Terminology	5
Chronology	6
Interoperability progress update - key program areas	7
1. Security report.....	7
2. Technical solution progress report.....	8
3. Regulatory framework progress report.....	9
4. Stakeholder Participation and Program Implementation.....	10
5. Pricing review by NSW Independent Pricing and Regulatory Tribunal (IPART).....	12
6. Implementation of a stronger financial settlement oversight regime for electronic conveyancing.....	12
Attachments.....	13



Purpose

The purpose of this report is to provide the NSW Parliament with an update on key developments in the national reform to facilitate interoperability between Electronic Lodgment Network Operators (**ELNOs**) in the electronic conveyancing industry.

Interoperability is an important national reform, to enable effective competition among ELNOs. It enables different ELNO systems to communicate with each other, meaning customers have a choice of which ELNO they use. Interoperability was identified as the preferred means of achieving effective competition following a number of reports and reviews, and drawing on extensive stakeholder consultation in NSW and nationally.

An overview of the interoperability reform is attached (**Attachment A**).

Background to this report

The requirement for ELNOs to interoperate in NSW was enacted under the *Electronic Conveyancing (Adoption of National Law) Amendment Act 2022* (NSW).

In February 2022, the *Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022* was referred to the Portfolio Committee No.4 – Customer Service and Natural Resources, for inquiry and report. The Committee published its Report in April 2022.

On 30 March 2022, the then NSW Registrar General wrote to Ms Abigail Boyd MLC, in her role as a member of the Committee, confirming that the NSW Registrar General would report to the Parliament on critical security aspects of the interoperability reform, and progress with other key aspects of the Bill (**Attachment B**). Specifically, the NSW Registrar General committed to the following reports being tabled to Parliament:

- **Security report**

Before interoperability is made available generally to customers in NSW – key findings and recommendations from the Program’s ICT readiness/health checks and independent security reviews.

- **Progress reports**

Each anniversary of the assent of the Bill until interoperability is made available generally to customers in NSW – progress reports covering key program workstreams relating to 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.

On 12 May 2022, Ms Abigail Boyd MLC tabled the Registrar General’s letter during the Second Reading Debate of the Bill. On 6 June 2022 the Bill received assent, introducing the ELNO interoperability requirement in the *Electronic Conveyancing National Law*.

Status of the reform

Much has been achieved over the past 12 months, and in providing this report I want to acknowledge the contributions made by many stakeholders in achieving this progress. In particular, I would like to thank the Law Council of Australia, Australian Institute of Conveyancers, Australian Banking Association and financial institutions, ELNOs, land registries and revenue offices and my colleagues in the NSW government and at the Australian Registrars' National Electronic Conveyancing Council. I am pleased to provide this update on this important reform.



Danusia Cameron
Registrar General

Terminology

APIs means Application Programming Interfaces. APIs provide the means for ELNOs to communicate electronically with each other.

ARNECC means the Australian Registrars' Electronic Conveyancing Council. ARNECC is constituted by an Intergovernmental Agreement signed by all State and Territory governments and is the body established to facilitate the implementation and ongoing management of the regulatory framework for electronic conveyancing of real property in Australia.

Australian Payments Network Ltd (AusPayNet) is the self-regulatory body and industry association for payment systems in Australia.

Day 1 transaction: a limited scope refinance relating to property in Queensland between the two ELNOs currently operating in the electronic conveyancing market, Property Exchange Australia Limited (**PEXA**) and Sympli Australia Pty Ltd (**Sympli**).

Day 2: the delivery of interoperability functionality to market. On 28 February 2023, Ministers from all States and Territories supported ARNECC's recommendation that Day 2 be delivered in stages so that functionality can be delivered to market as soon as possible (see Ministerial Statement from that forum at **Attachment C**). Those stages will involve the following:

- **Release 1** will involve a limited refinance capability with a small number of financial institution subscribers. This release will require 56 APIs built to full specification (representing an uplift in capability of the 26 APIs for the Day 1 transaction and 30 new APIs).
- **Release 2** will deliver complete refinance functionality to unlimited subscribers. This release will need 13 of the Release 1 APIs to be enhanced and the addition of 7 more APIs.
- **Release 3** will deliver full interoperability functionality to unlimited subscribers. This release will need an additional 8 APIs to be designed and delivered.

The number of APIs for each release is subject to change as the design and build process progresses.

ELNOs means Electronic Lodgment Network Operators. ELNOs provide the means for transacting parties or their representatives to collaborate electronically to complete conveyancing transactions. There are two ELNOs currently operating in the electronic conveyancing market, PEXA and Sympli.

Interoperability (between ELNOs): a connection between ELNOs that allows a customer connected to one Electronic Lodgment Network (**ELN**) to engage in a conveyancing transaction with another customer who is connected to a different ELN.¹

Interoperability between ELNOs is a national reform, led by ARNECC. It is intended to facilitate competition in the electronic conveyancing market, with resulting benefits for participants in electronic conveyancing processes, such as downward pressure on prices, improved quality in services and innovation.

¹ For more information: <https://www.registrargeneral.nsw.gov.au/regulator/interoperability/what-is-interoperability>.

Model Operating Requirements: model operational requirements for ELNOs are developed and approved by ARNECC from time to time. They are adopted by the NSW Registrar General in the form of the NSW Operating Requirements.²

Chronology

A chronology of key developments of the interoperability program since March 2022, when the Office of the Registrar General provided a progress update to the Portfolio Committee No. 4 – Customer Service and Natural Resources, is at **Attachment D**.

² NSW Office of the Registrar General, [NSW Operating Requirements](#) (accessed 27 April 2023).

Interoperability progress update - key program areas

This report provides detail on key program areas, focusing on the security, technical development and regulatory updates for the interoperability reform. It also provides an update on oversight of the financial settlement aspects of the electronic conveyancing system. Please also see the overview of interoperability at **Attachment A**.

1. Security report

The security and integrity of the electronic conveyancing system is a central concern for the NSW Office of Registrar General and ARNECC, in terms of both the technical solution and the delivery of interoperability.

NSW is working through ARNECC to ensure the process of transitioning to and maintaining interoperability is secure across all phases in that:

- the system meets agreed security protocols; and
- transactional integrity across the ecosystem is maintained and not diminished by interoperability.

Progress in respect of health checks and security reviews was considered at the Ministerial Forums held on 2 June 2022, 9 December 2022 and 28 February 2023. The Ministerial Statement from the 28 February 2023 meeting is at **Attachment C**.

Specific project security measures include the following:

- The program has planned detailed design, build and testing phases for the approximately 70 APIs required for interoperability, providing the opportunity to identify technical issues and risks in a non-production environment.
- The APIs are secure by design; ARNECC's technical team considers issues such as the need to protect against data leaks and breaches and unauthorised access as they create the APIs and supporting documentation.
- Further, ARNECC has a comprehensive test plan in which it monitors ELNOs' testing of APIs individually and together and ensures issues identified during testing are tracked and resolved.
- The interoperability program is subject to ongoing health checks, independent assessments and readiness reviews at key points of the program:
 - a) The following health checks have been undertaken:
 - In May 2022, the NSW Office of the Registrar General commissioned the NSW Department of Customer Service (**NSW DCS**) ICT Assurance team to conduct a health check of the program on behalf of the NSW Government. A summary of this health check and its recommendations is available at **Attachment E**. These recommendations are supported by the NSW Office of the Registrar General.
 - In mid-2022, ARNECC engaged independent assessor PM Solutions to conduct a health check of the interoperability program.

ARNECC has considered and implemented recommendations from both the NSW DCS and PM Solutions health checks.
 - b) A second NSW DCS health check is scheduled for Q2 2023, and further health checks will be commissioned at key points in the project.
 - c) An independent review of the security requirements of the overall electronic conveyancing regulatory framework has been conducted and is being reviewed by ARNECC.

- d) An interoperability-specific security review will be commissioned by ARNECC before the rollout of interoperability.
- e) ARNECC intends to commission an independent review of the insurance provisions in the regulatory framework, to assess the insurance that ELNOs and subscribers to ELNOs are required to maintain. This review will build on the insurance analysis commissioned by the NSW Office of the Registrar General.

The two operating ELNOs are also subject to security, testing and reporting requirements under the Electronic Conveyancing National Law and the Model Operating Requirements. Those requirements include:

- maintaining a fit for purpose Information Security Management System (ISMS). ISMS, together with other aspects of ELNO compliance with the Operating Requirements, is subject to an independent annual review;
- taking reasonable steps to ensure that data supplied to any system connected to the Electronic Lodgment Network is free from viruses, corruption and any other condition that may compromise those systems;
- that the computer infrastructure forming part of the ELNO system must be located within Australia;
- implementing appropriate procedures and controls to detect data breaches;
- arranging regular vulnerability assessments and penetration testing; and
- ensuring any cloud service provider to the ELNO maintains an information security program that complies with ISO 27001 (or successor or equivalent standards).

The Day 1 transaction will occur in a live ELNO production environment, rather than a testing environment. It will be a carefully managed proof-of-concept transaction, with a limited scope and highly sequenced program.

2. Technical solution progress report

ELNOs and the ARNECC program team are in the process of designing, building and testing the APIs for interoperability and associated business rules, process flows and non-functional requirements.

The interoperability program has planned, and is undertaking, rigorous progressive and joint-integration testing in the lead up to the Day 1 transaction and Day 2 releases of interoperability functionality to market. This is intended to support the continued secure and efficient operation of the eConveyancing system and process, help avoid disruption to ELNOs' businesses and customers and to identify issues at an early stage.

Day 1 - proof of concept transaction

- The Day 1 transaction is expected to occur in September 2023.
- The ELNOs completed the API build for the Day 1 transaction in March 2023.
- Testing is scheduled to be completed by the end of July 2023.
- ELNOs' releases are scheduled for the first week of September 2023.
- The transaction is on track to occur in the third week of September 2023.

Day 2 - release of broader functionality to market

- Since January 2023, the ARNECC program team and ELNOs have been focussed on reaching agreement on the Day 2 scope and timetable for the phased rollout of interoperability in NSW and nationally.

- ARNECC is also engaging closely with banks, land registries and state revenue offices who will need to participate in interoperable transactions and implement changes to their own systems and processes.
- ARNECC has engaged Accenture to independently assess ELNOs' proposed build cadence and approach to assist ARNECC determine a timetable for rollout which is both efficient and reasonable. ARNECC proposes to include the timetable in the Model Operating Requirements, to be implemented by Registrars in each jurisdiction, as a means of holding ELNOs to account for the timely delivery of the reform.
- The design work for the first tranche of the Release 1 APIs for Day 2 has commenced and is progressing well.

3. Regulatory framework progress report

The regulatory framework for interoperability continues to evolve to support the policy objectives of the program. Key deliverables moving forward include responding to stakeholder comments on the Electronic Conveyancing National Law (ECNL), updating the Model Operating Requirements in relation to interoperability and establishing an enhanced national enforcement regime.

Actioning stakeholder comments to the Electronic Conveyancing National Law

During submissions to the draft *Electronic Conveyancing (Adoption of National Law) Amendment Bill*, stakeholders provided comments on the definition of interoperability, digital certificates, the reliance regime and requirements around consultation. In particular:

- **Consultation provisions:** some stakeholders requested that additional processes be implemented in the ECNL to ensure Model Operating Requirements are made and amended by Registrars in accordance with appropriate principles of regulation. Jurisdictions continue to review and determine how to address this feedback. The NSW Office of the Registrar General supports formalising a procedure for the making of amendments and setting out consultation requirements in the ECNL.
- **Reliance Regime:** the June 2022 amendments to the ECNL widened the reliance regime to include ELNOs and banks as relying parties, and to apply to digitally signed payment instructions in addition to registry instruments. ARNECC received differing feedback from stakeholders on this matter and jurisdictions continue work on developing an appropriate approach.

Updates to the Model Operating Requirements

NSW continues to work collaboratively with other jurisdictions to update the national Model Operating Requirements, with a focus on the following key areas. Once these updates are settled, the NSW Registrar General will implement them in the NSW Operating Requirements. The amendments relate to:

- **Technical Requirements:** establishing the detailed technical and operational requirements for interoperability, to support the broad legislative obligation in the ECNL for ELNOs to interoperate.
- **Scope and Timetable:** establishing the scope and timetable for the rollout of interoperability. Accenture has been engaged to undertake an independent review of the timetable for implementation by the current operating ELNOs, PEXA and Sympli. Once the Day 2 scope and timetable are settled, the Model Operating Requirements will be updated to embed the overall timetable and program

milestones in regulation. In NSW, a failure by an ELNO to meet these milestones can then be the subject of enforcement action by the Registrar General under the *Electronic Conveyancing Enforcement Act 2022* (NSW).

- **Pricing:** NSW's Independent Pricing and Regulatory Tribunal (**IPART**) has been engaged to report on the pricing that should apply to interoperable transactions – please refer to section 5 for more detail. Once the final report is provided, ARNECC will consider IPART's recommendations and update the Model Operating Requirements to address pricing.
- **Industry Code:** The Electronic Conveyancing Payments Industry Code will outline processes relating to financial settlement in electronic conveyancing. Once the Code is finalised, the Model Operating Requirements will be updated to require ELNOs to comply with it. Please refer to section 6 for more detail.

Enforcement

On 14 November 2022, the *Electronic Conveyancing Enforcement Act 2022* (NSW) commenced. This Act provides stronger powers for the Registrar General to enforce ELNOs' obligations under the *Electronic Conveyancing National Law* (NSW). It provides for the following:

- enforceable undertakings
- remedial directions issued by the Registrar General
- financial penalties for:
 - breach of the requirement to interoperate (maximum penalty of \$10 million plus \$250,000 for each day the breach continues)
 - breach of the obligation to cooperate with a compliance examination (maximum penalty of \$250,000)
 - non-compliance with a remedial direction (maximum penalty of \$10 million plus \$250,000 for each day the breach continues)

NSW continues to work collaboratively with other jurisdictions to develop a national enforcement regime. The national regime will apply to both ELNOs and to subscribers to ELNOs. It is anticipated that the national regime will include:

- enforceable undertakings
- remedial directions
- financial penalties
- enhanced publication powers

4. Stakeholder Participation and Program Implementation

Key aspects of the interoperability program are developed collaboratively with stakeholders such as banks and registries to design the most effective solution for industry and the community. The program also continues to have regular engagement with industry more broadly. Key forums include the following:

Ministerial forums

NSW convenes Ministerial forums with Commonwealth, State and Territory Ministers and representatives from the Australian Competition and Consumer Commission, to monitor progress of the interoperability program. The Ministerial Statement from the 28 February 2023 forum is available at **Attachment C**.

Interoperability Industry Panel

NSW and South Australia co-chair the national Interoperability Industry Panel. The agenda and meeting pack from the most recent panel meeting on 17 April 2023 is available at **Attachment F**. The Panel membership includes:

- all Registrars
- peak industry bodies including the Law Council of Australia, the Australian Institute of Conveyancers and the Australian Banking Association
- financial institutions including Australia and New Zealand Banking Corporation, Bendigo and Adelaide Bank Limited, Commonwealth Bank of Australia, Macquarie Bank, National Australia Bank, Westpac and St George
- PEXA and Sympli

Observers to the Panel include the Australian Competition and Consumer Commission, land registries, state revenue offices, the Law Society of NSW, Purcell Partners, Lawcover, Lexon Insurance, as well as various government agencies who have functions relating to the interoperability reform and eConveyancing generally.

The Panel convenes quarterly. It is an open, consultative forum with key industry and government stakeholders. Currently, it is the primary consultation forum for conveyancers and lawyers.

ARNECC working groups

Stakeholders have the opportunity to engage in the program through a variety of ARNECC committees and working groups.

ELNOs are members of and actively engaged in all interoperability technical and program management working groups and also have a forum to meet with ARNECC to discuss issues at the executive level.

The Interoperability Stakeholder Committee was established to focus on the broader stakeholder-facing aspects of implementation. This provides stakeholders such as banks, state revenue offices, and land registries with an opportunity to engage closely with aspects of the program which will interact with their business functions.

Targeted consultation

Targeted consultation with key stakeholders, including banks, state revenue offices and land registries, is also ongoing and will increase once the scope and timetable for rollout are settled.

The implementation of interoperability is to occur progressively by jurisdiction, beginning with Queensland and New South Wales. This will inform how and when the program team consults with stakeholders who are involved in the reform.

Fit-for-purpose governance and consultation

ARNECC continues to review and adjust the program governance structure to ensure it meets the requirements for the current stage of the program. The current governance structure is attached (**Attachment G** – last slide entitled ‘Interoperability committees and working groups’).

5. Pricing review by NSW Independent Pricing and Regulatory Tribunal (IPART)

IPART is investigating and reporting on a national regulatory framework for the pricing of interoperable transactions between ELNOs. Its final report is expected to be issued in June 2023.

ARNECC will consider these recommendations and implement updates to the Model Operating Requirements that apply to ELNOs, such as provisions on the fees that ELNOs may charge other ELNOs for participating in an interoperable transaction.

IPART published a Draft Report in February 2023, which outlined their draft recommendations on interoperable transaction fees. IPART is currently considering stakeholder submissions on the Draft Report and feedback received at a public workshop and is conducting additional analysis.

6. Implementation of a stronger financial settlement oversight regime for electronic conveyancing

AusPayNet continues to lead the development of the Electronic Conveyancing Payments Industry Code (**Industry Code**) through the eConveyancing Payments Steering Committee (**eCPSC**). The Code will establish requirements for processes relating to financial settlement in electronic conveyancing; for example, in relation to misapplied or unapplied funds, liability, and privacy.

The members of the eCPSC are ELNOs and banks (Australia and New Zealand Banking Corporation, Bank of Queensland, Bendigo Bank, Commonwealth Bank of Australia, National Australia Bank and Westpac Banking Corporation). Observers are the Reserve Bank of Australia, ARNECC and the Australian Banking Association.

The inaugural meeting of the eCPSC approved the formation of two expert working groups, the Legal and Governance Working Group and the Technical Working Group. The objective of the Legal and Governance Working Group is to guide the development of the legal and governance aspects of the Industry Code, including incorporation of technical aspects as advised by the Technical Working Group. The objective of the Technical Working Group is to oversee and guide the development of the technical aspects of the Industry Code.

AusPayNet has indicated that it expects to finalise the Industry Code in mid-2023. While compliance with the Code itself is voluntary for industry, ARNECC will update the Model Operating Requirements to require ELNOs to comply with the Code.

Attachments

- A Overview of the Interoperability Reform
- B Letter from the NSW Registrar General to Ms Abigail Boyd dated 30 March 2022
- C Ministerial Statement 28 February 2023
- D Chronology of Developments
- E Summary of 2022 NSW Health Check
- F Interoperability Industry Panel Agenda and Meeting Pack dated 17 April 2023
- G Interoperability committees and working groups



Overview of Interoperability Reform

Why interoperability?

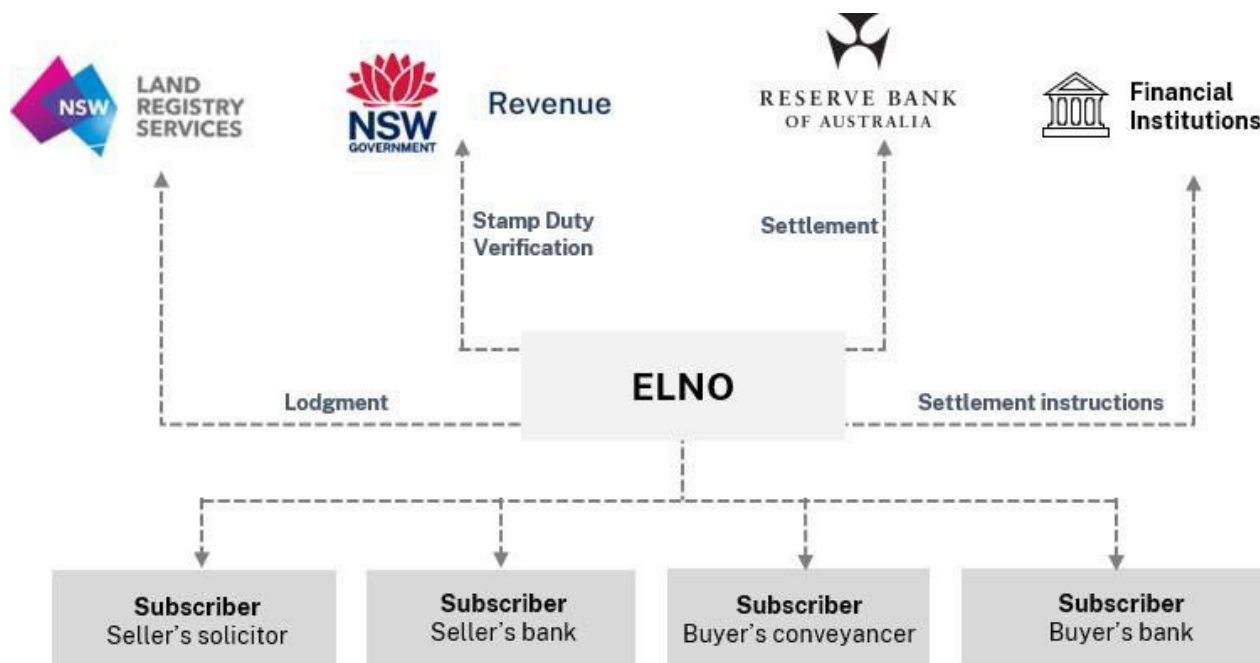
The ability of a system to communicate, share information and work with another system is a feature of many technologies in many industries. For example, in the telecommunications industry, it is possible for a Telstra customer to make calls and send text messages from an Apple iPhone to an Optus customer with a Google Android phone, as their telephony and text systems interoperate and are subject to a common standard in the market.

The current electronic conveyancing market

In NSW, all conveyancing is digital: lawyers, conveyancers and banks lodge dealings at the land titles registry through Electronic Lodgment Network Operators (**ELNOs**). Currently, all parties to a transaction must use the same ELNO. For example, when a person is selling a property, their conveyancer, the purchaser's conveyancer, and the incoming and outgoing mortgagee, all need to use the same ELNO.

This creates 'network effects', where the value of an ELNO's services increases with the number of solicitors, conveyancers, and financial institutions using it. These network effects stifle competition, giving the larger and more established ELNO a competitive advantage over newer, smaller entrants, due to its established user bases.

Selling property – single ELNO model

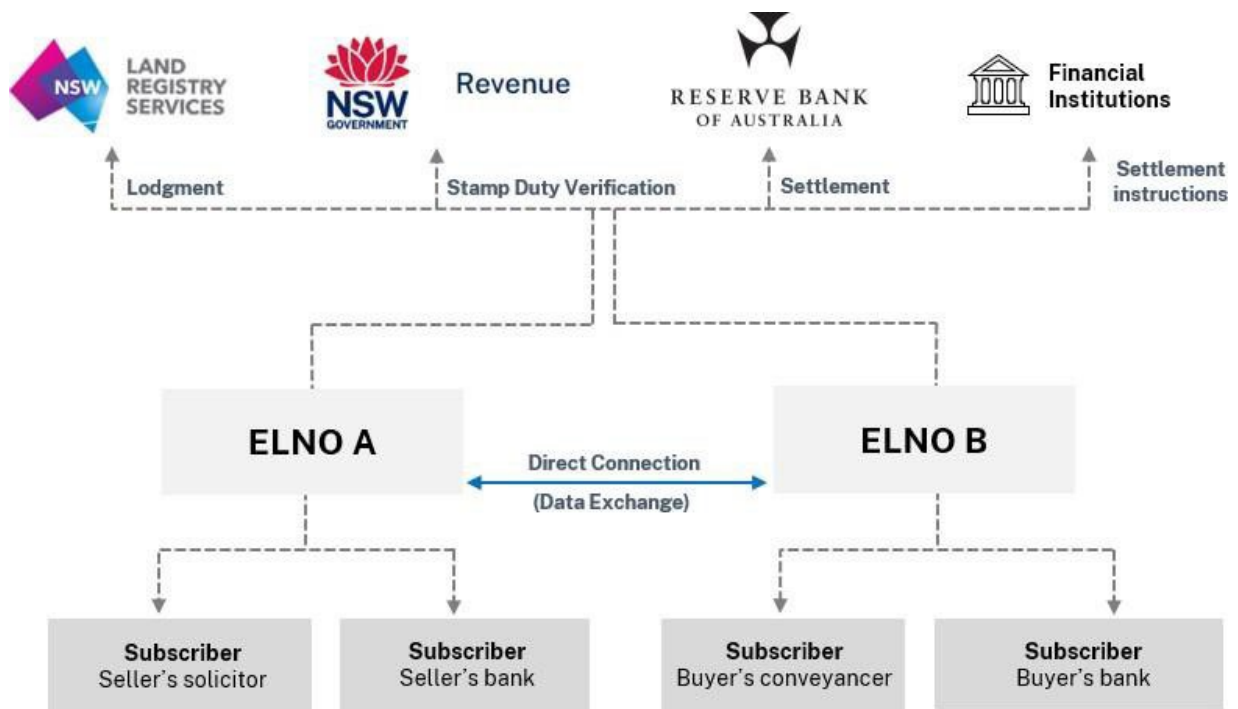


Two ELNOs are operating in NSW. Property Exchange Australia Ltd (**PEXA**) was developed as a Council of Australian Governments (COAG) reform and benefits from network effects as the original operator in the market. Sympli Australia Pty Ltd (**Sympli**) is entering the market.

The Office of the Registrar General is working in partnership with Registrars from across Australia, to develop and implement the interoperability reform. Once implemented, interoperability will allow the back-end systems of different ELNOs to integrate with one another, thereby eliminating the current requirement for all parties to use the same ELNO.

To achieve this, the Registrars have established a comprehensive system of working groups and committees to leverage expertise from industry experts to help deliver a technical and regulatory interoperability solution.

Selling property – two ELNO model using interoperability



The “direct-connect” model for interoperability is shown above, in which each ELNO uses APIs to communicate with each other ELNO in the market, and each has connections to banks, land registries and revenue offices around the country.

“Direct-connect” has been chosen as the most suitable model given the current state of the market, where there are only two ELNOs. The APIs have also been designed to work in alternative models, such as:

- in a hub or enterprise service bus (where each ELNO connects to a central hub, which in turn connects to banks, land registries and revenue offices); and
- a wholesale/retail model, where a “wholesale” ELNO connects with banks, registries and revenue offices and other “retail” ELNOs connect with the wholesale ELNO.

Once ARNECC determines the scope and timetable for rollout, it intends to conduct a review of the current and alternative technical models to ensure the model continues to be fit-for-purpose should more ELNOs join the market.

Outcomes from interoperability

Interoperability will be a critical step towards enabling effective competition among ELNOs. Competition will:

- give lawyers, conveyancers and mortgage providers choice of ELNO; and
- provide the setting for ELNOs to compete on price and services, creating incentives to innovate, which supports buyers and sellers of property and overall productivity in our economy.

This national reform has been supported at Ministerial Forums, with representation from each State and Territory and the Commonwealth.



Ms Abigail Boyd, MLC
Parliament House
Macquarie Street
SYDNEY NSW 2000

Via email: abigail.boyd@parliament.nsw.gov.au

Dear Ms Boyd

Re: Committee Portfolio Committee No. 4 – Commitment to reporting to Parliament on security and progress with interoperability

Thank you for the opportunity for the Office of the Registrar General (ORG) to provide a submission, and for inviting me and Ms Cameron to represent ORG as witnesses, during the Committee's inquiry into the *Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022*.

I am writing to confirm the NSW Registrar General will report to the Parliament on critical security aspects of the reform, and progress with other key aspects of the Bill. The NSW Registrar General will table the following reports to Parliament:

Security report

- a. Before interoperability is made available generally to customers in NSW – key findings and recommendations from the Program's independent security reviews, and ICT readiness/health checks.

Progress reports

- b. Within 12 months of the assent of this current Bill, and each year afterwards until interoperability is made available generally to customers in NSW – progress reports covering key program areas of technology, regulations, stakeholder participation and project implementation, as well as an update on the implementation of a stronger financial settlement oversight regime for eConveyancing.

This avoids the impact of delays that would result from amending the current Bill, or the associated NSW amendment legislation. Any such amendment, even if the focus is NSW only, would still require a review from the Australian Registrars' National Electronic Conveyancing Council (ARNECC) and potentially State and Territory executive approval (including some Cabinets). We anticipate this could take many months; and PEXA may not re-join this reform until a Bill is passed. The potential impact is Sympli's investors, financial institutions and land registries would lose confidence; and the opportunity to introduce competition for the benefit of consumers may pass.

Thank you again for considering the Bill and this proposed approach for reporting to Parliament on security and progress with this important reform. Please feel free to share this letter with your colleagues on the Committee.

Yours sincerely

Jeremy Cox
NSW Registrar General
30 March 2022



AUSTRALIAN REGISTRARS NATIONAL ELECTRONIC CONVEYANCING COUNCIL

Ministerial Forum: National Electronic Conveyancing Towards a sustainable, competitive national electronic conveyancing market

Government and industry partnership to develop interoperability for Australia's electronic conveyancing system

On 28 February 2023, relevant Ministers and their representatives met to review progress with the national interoperability reform, to support a sustainable, competitive market structure for electronic conveyancing.

Timing of the Day 1 transaction

The Day 1 transaction is a limited scope refinance relating to property in Queensland between the two Electronic Lodgment Network Operators (**ELNOs**) currently operating in the electronic conveyancing market, Property Exchange Australia Limited (**PEXA**) and Sympli Australia Pty Ltd (**Sympli**). Ministers noted that there has been a change in the expected date for the Day 1 transaction from March 2023 to September 2023, due to the following:

- a high volume of changes required to the Application Program Interfaces (**APIs**) to deliver the Day 1 transaction, from the original design. The impact of these changes is that ELNOs are now expected to finalise their build of the relevant APIs by mid-March 2023;
- changes in the testing regime to allow adequate time for bug fixing, retesting and full integration testing; and
- the timeline being adjusted to reflect both ELNOs' production release schedules.

The approach to Day 2

Day 2 is the delivery of interoperability functionality to market. Ministers noted the program recommendation that Day 2 be delivered in stages so that functionality can be delivered to market as soon as possible.

- Accordingly, Day 2 will be delivered over 3 releases:
 1. **Release 1** will involve a limited refinance capability with a small number of financial institution subscribers. This release will require 56 APIs built to full specification (representing an uplift in capability of the 26 APIs for the Day 1 transaction, some of which require reworking, and 30 new APIs)
 2. **Release 2** will deliver complete refinance functionality to unlimited subscribers. This release will need 13 of the Release 1 APIs to be enhanced and the addition of 7 more APIs
 3. **Release 3** will deliver full interoperability functionality to unlimited subscribers. This release will need an additional 8 APIs to be designed and delivered.
- The Day 2 build is scheduled to start in June 2023, when the Day 1 build and bug fixing is expected to complete.
- The timing for Releases 1, 2 and 3 is expected to be agreed by ELNOs and proposed to the Australian Registrars' National Electronic Conveyancing Council (**ARNECC**) for endorsement shortly. Ministers support validation of the ELNOs' development schedule and assumptions.

Once the Day 2 scope and timetable are settled, ARNECC will update the Model Operating Requirements to reflect this and will monitor the timely delivery of program milestones.

Working with stakeholders to deliver the reform

Ministers noted the importance of the program engaging with key stakeholders, to ensure the scope and timetable are well-understood and can be planned for. The program will work with banks, land registries and state revenue offices who will need to include interoperability in their technology change programs.

Ministers noted ARNECC is reviewing program governance and resourcing.

Ministers reiterated their thanks to industry on the work towards the Day 1 transaction and preparation for Day 2. Ministers support the parties building the solution as quickly as possible while minimising risk to the ecosystem. Ministers noted that clear impetus through realistic deadlines is needed for industry to develop solutions in a timely fashion.

Ministers emphasised the importance of making interoperability available to subscribers as soon as possible so that effective market competition can be achieved. Ministers noted that given the complexities of the project, a staged release would help deliver functionality to market sooner.

Ministers and their representatives also thanked all stakeholders and industry members for their engagement with the reform to date and reiterated the importance of ensuring ongoing communication and consultation with all stakeholders is maintained throughout the program.

Progress update

Ministers noted ongoing progress in other areas, including:

- ongoing independent ICT assurance reviews and health checks at key points in the interoperability program
- development of a national enforcement regime, and ongoing consideration of stakeholder comments on the Electronic Conveyancing National Law
- the NSW Independent Pricing and Regulatory Tribunal's review of an appropriate ELNO fee pricing policy for interoperability, with a review of ELNO service fees to occur as a second stage
- ongoing development of the Electronic Conveyancing Payments Industry Code, led by AusPayNet.

Ministers in attendance or represented at the Forum

Federal Ministers

The Hon. Dr Andrew Leigh, Assistant Minister for Competition, Charities and Treasury

State and Territory Ministers

The Hon. Shane Rattenbury MLA, Australian Capital Territory Attorney-General; Minister for Consumer Affairs; Minister for Gaming; Minister for Water, Energy and Emissions Reduction

The Hon. Victor Dominello MP, New South Wales Minister for Customer Service and Digital Government; Minister for Small Business; Minister for Fair Trading

The Hon. Chanston Paech MP, Northern Territory Attorney-General and Minister for Justice; Minister for Racing, Gaming and Licensing; Minister for Local Government; Minister for Arts, Culture and Heritage; Minister for Desert Knowledge Australia

The Hon. Nick Champion MP, South Australia Minister for Trade and Investment; Minister for Planning; Minister for Housing and Urban Development

The Hon. Roger Jaensch MP, Tasmanian Minister for Education, Children and Youth; Minister for Environment and Climate Change; Minister for Parks; Minister for Aboriginal Affairs

The Hon. Sonya Kilkenny MP, Victorian Minister for Planning; Minister for Outdoor Recreation

The Hon. John Carey MLA, Western Australia Minister for Housing; Minister for Lands; Homelessness; Local Government

The Hon. Scott Stewart MP, Queensland Minister for Resources did not attend the Forum but supports this Statement.

Federal Government

Ms Anna Brakey, Commissioner, Australian Competition and Consumer Commission

Attachment D - Interoperability Progress Report - May 2023

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Chronology of developments March 2022 to April 2023 inclusive

Note: the below table provides a high-level overview of key program developments only.

<p>15 March 2022</p>	<p>Interoperability Industry Panel meeting</p> <p>A key update at this meeting was that in February 2022 the <i>Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022</i> was introduced in the NSW Parliament, to, among other things, introduce a requirement for ELNOs to interoperate under the <i>Electronic Conveyancing National Law</i>.</p>
<p>May 2022</p>	<p>NSW Department of Customer Service ICT Assurance review / health check conducted. Stakeholders interviewed included NSW Land Registry Services, the Australian Institute of Conveyancers (NSW), NSW Law Society, Australian Banking Association, financial institutions, and the NSW government. The final report is dated 8 August 2022.</p>
<p>2 June 2022</p>	<p>Ministerial Forum</p> <p>Following this forum, state and territory ministers published a statement agreeing to a revised approach to the implementation timeline.</p>
<p>6 June 2022</p>	<p>The <i>Electronic Conveyancing (Adoption of National Law) Amendment Act 2022</i> was granted assent and commenced. The amendments require an ELNO to establish and maintain interoperability with each ELN operated by another ELNO in accordance with the Operating Requirements.</p>
<p>14 June 2022</p>	<p>Interoperability Industry Panel meeting</p> <p>A key update at this meeting was that ARNECC had engaged NSW's Independent Pricing and Regulatory Tribunal (IPART) to undertake a comprehensive review of the regulatory pricing framework for interoperable conveyancing transactions.</p>
<p>13 September 2022</p>	<p>Interoperability Industry Panel meeting</p> <p>A key update at this meeting was that PM Solutions (engaged by ARNECC) completed an independent health check on the interoperability program. The assurance process involved interviews with government, ELNOs and industry peak bodies.</p>
<p>14 November 2022</p>	<p>The <i>Electronic Conveyancing Enforcement Act 2022 (NSW)</i> commenced to provide for the enforcement of the <i>Electronic Conveyancing National Law (NSW)</i>, including the requirement to interoperate (a breach of which attracts a civil penalty).</p>
<p>9 December 2022</p>	<p>Ministerial Forum</p> <p>Following this forum, State and Territory Ministers published a statement, noting ongoing progress in the various program</p>

	workstreams, including that two independent assessments of the program had been undertaken, with ongoing independent assessments and readiness reviews planned at key points in the future.
13 December 2022	Interoperability Industry Panel meeting An update at this meeting was key planning being underway for Day 2 , including the development of a program scoping document and timetable. ARNECC had appointed a senior technical expert (now Program Director) to take a leadership role in the management of that work.
November 2022 to January 2023	Risk management review for the program.
28 February 2023	Ministerial Forum Following this forum, State and Territory Ministers published a statement, noting the Day 1 transaction is scheduled for September 2023, and that Day 2 would be delivered over 3 releases, so that functionality can be delivered to market as soon as possible. Ministers supported independent validation of ELNOs' proposed development and build schedules.
March 2023	ARNECC governance and resourcing review for the program.
March 2023	ELNOs completed the Application Programming Interface build for the Day 1 transaction.
March-April 2023	Procurement process underway for a systems integration expert to independently assess the Day 2 timetable proposed by ELNOs.
17 April 2023	Interoperability Industry Panel meeting Key updates at this meeting were the 28 February 2023 Ministerial Forum and that Day 2 would be delivered in stages to deliver functionality to market as soon as possible. Ongoing work was noted, including the IPART independent pricing review and development of the eConveyancing Payments Industry Code.
26 April 2023	Software integration review ARNECC engages Accenture to conduct an independent software integration review to assess ELNOs' build cadence.



Summary

NSW Health Check - Interoperability Implementation Program Report

Purpose

This document is a summary of the independent NSW health check of the interoperability implementation program undertaken on behalf of the NSW government and administered by the Department of Customer Service. The project sponsor was the NSW Registrar General.

The stakeholders interviewed as part of the health check during May 2022 included NSW Land Registry Services, the Australian Institute of Conveyancers (NSW), the NSW Law Society, the Australian Banking Association, financial institutions, and NSW government. An initial report with recommendations was prepared on the basis of these interviews. Electronic Lodgment Network Operators (**ELNO**) were interviewed in a second stage, in June 2022. The final report is dated 8 August 2022.

Scope of the review

NSW Office of the Registrar General (**ORG**) is implementing ongoing and independent health checks to review the risks and status of the national roll-out of interoperability. The health checks will be used to inform Ministers and the Australian Registrars' National Electronic Conveyancing Council (**ARNECC**), and may be used to inform industry, and guide ongoing decision-making. This is the first of a series of ongoing health checks.

The focus areas for health checks are intended to be:

- **Risk Management** - time, quality, technology, data privacy cyber security, reputation, business continuity and quality of business services.
- **Industry system readiness** - A high level review of ELNO system readiness to meet the implementation dates for interoperability, and technical due diligence more generally regarding ELNOs, Land Registries, State Revenue Offices, and financial institutions.
- **Governance** – Consideration of project governance (roles and responsibilities to deliver the project, resource allocation, time management and process management) and stakeholder governance
- **Stakeholder Management** – Consideration of the stakeholders that may contribute to or be affected by new ICT environments and capabilities, including end-users (lawyers, conveyancers and financial institutions), government staff, private sector operators of land registries (where applicable), citizens and technology providers.
- **Change Management** – Consideration of how the change will affect stakeholders, expected acceptance or resistance and actions required to move to new ways of working.
- **Readiness assessment** – an independent assessment of readiness:
 - readiness of participating parties to operate collaboratively in order to successfully lodge property transactions (interoperate).
 - interoperable transactions (or types of interoperable transactions) must not be permitted until confirmation that:

- transactions can be completed securely and in a timely manner; and
- systems are in place to respond and remediate any failing transactions or impacts on consumers, users or ELNOs.

This health check focused on confirming the proposed approach is the best value for money option to achieve the intended outcomes:

- Delivery strategy, plans and mechanisms are robust, realistic, appropriate and manageable
- The project is clearly understood and supported by users and stakeholders, and stakeholder, change management and communications plans are adequate
- Appropriate and effective governance is in place for leading, managing and monitoring the project (or individual projects of a program)
- Major risks and issues are identified, and management plans developed
- The scope and requirements specifications are realistic and unambiguous
- Whether the scale, outcomes, timescales and impact of external issues are considered
- Financing for government expenditure has been adequately assessed for the project and that it has a realistic, properly resourced and authorised plan through to the next stage
- Planning assumptions, and whether the project teams can deliver the next stage; and
- Quality plans for the project and its deliverables.

For the avoidance of doubt, the health check did not consider the merits of the government's policy of introducing a competitive market for electronic lodgement network operators nor the legislation to enable this policy.

Report recommendations and ORG response

The report made recommendations about:

- Defining three distinct phases to the program: legislative, implementation, ongoing operations, and considering the future operations phase, as part of the implementation phase.
- Engaging Cyber NSW in the program.
- Further work on the schedule for the program.
- Establishing a steering committee to report to ARNECC, responsible for program implementation governance.
- Engaging the following expertise: technical architect; and change management / communications to design and facilitate ongoing communication with stakeholders.

ORG supports these recommendations and has commenced implementation.

The report also recommended engagement of a commercial management expert, which ORG is considering further.

Next assurance review

The Review Team recommend that health checks be conducted approximately every 6 months to align with key project events or milestones. The times should be confirmed once the program schedule is revised, suggested triggers for a review are listed below.

Suggested time of future health checks:

- May 2022 – initial review (this Review)
- TBD – readiness for Day-1 transaction

- TBD – readiness for Day-2 industry-wide testing
- TBD – readiness for IOP rollout

Summary issued: 26 August 2022



INTEROPERABILITY INDUSTRY PANEL

AGENDA

Time Monday 17 April 2023, 2:30pm to 3:30pm (AEST)

Location Meeting to be held via Microsoft Teams. You can join the Microsoft Teams meeting by clicking the '**Join Microsoft Teams Meeting**' link in the email invite, or by dialing into the meeting using the details in the invite.

Agenda items

		AEST
1. Acknowledgement of Country and introduction	Jenny Cottnam, SA Registrar-General	2:30pm – 2:35pm (5 minutes)
2. Update from ARNECC workshop	Danusia Cameron, ARNECC Chair and NSW Registrar General	2:35 – 2:40pm (5 minutes)
3. Update on Independent Pricing Review	Jennifer Vincent, Director, Pricing, IPART	2:40pm – 2:45pm (5 minutes)
4. Update on eConveyancing Payments Industry Code	Andy Leigh, Senior Business Analyst, Australian Payments Network	2:45pm – 2:55pm (10 minutes)
5. Program Update (Implementation and technical workstreams)	David Backley Program Director	2:55pm – 3:05pm (10 minutes)
6. Regulatory Update	Leanne Hughes Director, Litigation & Policy, NSW ORG	3:05pm – 3:10pm (5 minutes)
7. Feedback from Representatives	All - led by Danusia Cameron	3:10pm – 3:25pm (15 minutes)
8. Summing up and next steps	Jenny Cottnam	3:25pm – 3:30pm (5 minutes)

Interoperability between ELNOs: implementing the national solution

National Interoperability Industry Panel – update

17 April 2023

Problem statement and progress update

Problem statement:

In a multi-ELNO environment, subscribers should be able to transact efficiently and securely while only subscribing to the ELNO(s) they choose. Any interoperability solution should be able to be applied at a national level, rather than solving for a particular jurisdiction.

Progress since the previous panel meeting:

- **Implementation timetable:** on 28 February 2023, Ministers or their representatives met to review progress on the reform. The Ministerial Statement published on the ARNECC website (and included in this slide deck) sets out updated timing for the Day 1 transaction and approach to Day 2.
 - The Day 1 transaction is now expected to occur in September 2023.
 - Day 2 will be delivered in stages, over 3 releases, so that functionality can be delivered to market as soon as possible.
- **Independent pricing review:** On 24 February 2023, IPART published a Draft Report outlining 11 draft recommendations in relation to interoperable transaction fees. IPART is currently considering submissions on the Draft Report. IPART has also published revised Terms of Reference providing for a **second stage** of the pricing review to consider ELNO Service Fees.
- **eConveyancing Payments Industry Code:** Australian Payments Network continues to lead development of the Code through technical and legal working groups. The Code will outline processes relating to financial settlement in electronic conveyancing (for example, in relation to mistaken payments, governance, enforcement and disputes) and is expected to be complete in May 2023.

Program update - revised implementation timetable

Day 1 transaction

Following a detailed analysis by the program team, there has been a change in the expected date for the Day 1 transaction from March 2023 to September 2023, due to the following:

- a high volume of changes required to the Application Program Interfaces (**APIs**) required to deliver the Day 1 transaction, from the original design.
- changes in the testing regime to allow adequate time for bug fixing, retesting and full integration testing; and
- the timeline being adjusted to reflect both ELNOs' production release schedules.

The **Day 1 transaction** is a limited scope refinance transaction between the two ELNOs in relation to property in Queensland.

Program update - revised implementation timetable

Day 2 approach – staged release and independent review

Day 2 will involve the delivery of interoperability functionality to market in stages, so that a viable product can be delivered to market as soon as possible.

Accordingly, Day 2 will be delivered over 3 releases:

- **Release 1** - limited refinance functionality to a restricted set of Subscribers. This release will require 56 APIs built to full specification (representing an uplift in capability of the 26 APIs for the Day 1 transaction and 30 new APIs)
 - **Release 2** - complete refinance functionality to all Subscribers. This release will require uplift of 13 of the Release 1 APIs and 7 additional APIs (63 APIs in total)
 - **Release 3** - full interoperability functionality across all documents to all Subscribers. This release will need an additional 8 APIs to be designed and delivered (71 APIs in total).
- The Day 2 build is scheduled to commence in June 2023, when the Day 1 build and bug fixing is expected to complete.
 - The timing for Releases 1, 2 and 3 is being reviewed. ARNECC supports **independent validation** of ELNOs' proposed development and build schedules, which will help determine a design and build cadence that is reasonable and appropriate for both ELNOs.

Program update - technical matters

Day 1 technical work

- Both ELNOs have now completed their build of the Day 1 APIs and are commencing the testing phase in accordance with the revised timing for the Day 1 transaction. Progress is being closely monitored and the teams meet frequently.

Day 2 technical work

- The Day 2, Release 1 build is scheduled to start in June 2023, when the Day 1 build and bug fixing is expected to complete.

ARNECC's technical design committee is currently working on:

- **API specification and baselining** all Day 2 (Release 1) methods and objects, including addressing outstanding critical change requests to the Day 1 methods and defining Day 2 methods. All Day 1 methods and objects will be reviewed to ensure they meet the Release 1 requirements.
- **The development of industry fact sheets**, to address key issues such as outage management and resilience, and the role of the Responsible ELNO and Participating ELNO in interoperable conveyancing transactions.

The security Non-Functional Requirements (NFRs) required prior to setting up test environments between the ELNOs have been agreed and implemented.

Program update – health checks, reviews and reports

ARNECC and NSW health checks: Ongoing independent assessments and readiness reviews at key points of the program

- The next NSW health check is scheduled for Q2 2023.
- The date for the next ARNECC health check will be confirmed once the timetable is settled.

Security reviews: independent ICT assurance reviews of the program

- ARNECC has engaged Kinetic IT to undertake an independent review of the security requirements in the overall eConveyancing regulatory framework and will commission an interoperability-specific security review before rollout.

IPART pricing review: IPART is conducting a review of fees charged by ELNOs for services in the eConveyancing market.

- On 24 February 2023 IPART published a Draft Report outlining 11 draft recommendations in relation to interoperable transaction fees. IPART is reviewing submissions that were due on 24 March 2023 and is, at this stage, expected to publish its final report by the end of April 2023.
- The IPART Terms of Reference have been updated to provide for a **second stage**, being a review of ELNO Service Fees generally. Stage 2 will commence on one of a range of triggers occurring - including if an ELNO applies to ARNECC to increase its fees, or if ARNECC notifies IPART to commence Stage 2.

Regulatory update – legislative changes

Electronic Conveyancing National Law (ECNL)

Following changes to the ECNL which took effect in June 2022, ARNECC is developing a second amendment Bill to address the following matters.

- **Stakeholder comments on the first ECNL Amendment:** ARNECC continues to review issues raised by stakeholders during targeted consultation on the June 2022 amendments and has sought clarification from some stakeholders on the following issues:
 - Digital Certificates
 - Reliance Regime
 - Definition of Interoperability
 - Requirements around consultation on changes to the Operating Requirements and Participation Rules
- **Enforcement Regime:** ARNECC continues to develop the national enforcement regime for electronic conveyancing. This work builds on the position paper circulated to industry in May 2021.

Regulatory update – operating requirements and participation rules

Model Operating Requirements (MOR)

ARNECC is focused on three key issues requiring updates to the MOR:

1. **Establishing scope and timetable requirements for interoperability** – once the Day 2 scope and timetable are settled, the MOR will be updated to embed the overall timetable and program milestones in regulation.
2. **Fees charged for interoperable transactions** – following IPART’s review of interoperability fees, ARNECC will consider changes to the MOR to reflect IPART’s recommendations.
3. **Electronic Conveyancing Payments Industry Code** - once the Code is finalised, the MOR will be updated to require compliance with the Code.

Model Participation Rules (MPR)

- Consultation on the MPRs has been finalised.

Working with Stakeholders

- **Conveyancers and lawyers:** The National Interoperability Industry Panel remains the primary governance forum for working with conveyancers. As the timetable for rollout is developed, this will be communicated more broadly to these stakeholders.
- **ELNOs:** ELNOs are members of all interoperability technical working groups. ARNECC has established an executive level forum for ELNO and ARNECC representatives to consider issues and refer matters for decision to ARNECC.
 - **Next steps – ELNOs and the ARNECC program team are:**
 - in the process of designing, building and testing APIs, and associated business rules, process flows, non-functional requirements and other material.
 - working towards the Day 1 Transaction scheduled for September 2023.
 - developing the scope and timetable for the Day 2 releases, which they will share for stakeholder input in the next quarter (including banks, registries and state revenue offices who need to factor interoperability into their technology change schedules and budgeting)
- **Financial institutions:** The ELNOs are continuing to engage with financial institutions individually and report on progress at monthly catch-ups.

Working with stakeholders (cont.)

- **Revenue Offices:** Once revenue offices have received a settled Day 2 scope and timetable, they can begin undertaking their own impact analysis.
 - **Next steps:** ARNECC will share the Day 2 scope and release timeframes with revenue offices once finalised.
- **Land Registries:** Representatives from the interoperability program have met with the relevant land registries.
 - **Next steps:** ARNECC will share the Day 2 scope and release timeframes with land registries once finalised.

Working with industry

Thank you for your contribution.

The ultimate objective for interoperability is that it must serve the interests of all Subscribers including conveyancers, lawyers and financial institutions and their clients or customers as the ultimate consumers of the service.

For updates:

- Further workshops with industry experts as required
- NSW ORG's interoperability webpage: <https://www.registrargeneral.nsw.gov.au/regulator/interoperability>
- Please contact NSW ORG: ORG-IOP@customerservice.nsw.gov.au

Attachment – background materials

Interoperability committees and working groups

