

5 April 2019

Dench McClean Pty Ltd
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Dear Anne Larkins & Cameron Geddes

RE: Response from SSSI-SA Land Surveying Committee to Review of the Intergovernmental Agreement for an Electronic Conveyancing National Law Issues Paper

Thank you for the opportunity to provide feedback to the issues paper currently open for consultation. The response to this document from the Surveying & Spatial Sciences Institute SA Land Surveying Committee is provided below.

Feedback is based on maintaining public confidence in the Torrens Title system that includes concerns of security and stability of mandated electronic conveyancing system.

Option 3 National regulator (page 69) is supported with the following recommendations:

- Establish new national regulator or expand governance framework of Australian Registrars' National Electronic Conveyancing Council (ARNECC) to oversee state and national registers. This will reduce duplication, enhance data accuracy and decision-making by government (local, state and national), business, and citizens to establish shared national services.
- New national regulator mandate to harmonise national land title legislation to enable real time national view of information relating to land administration in terms of tenure, use, development and value rather what than currently exists within the eight disparate systems. The successful implementation of Electronic Conveyancing National Law has demonstrated uniform national real property legislation is possible.
- National approach to land policies, land administration systems and the legal framework surrounding them, with each state and territory implementing consistent legislation. The land policy framework and land development processes specific to each jurisdiction would move towards national consistency over time.
- National legislation should provide immediate indefeasibility with provision for monetary compensation and discretion to order registration alteration where estate or interest in land has been adversely affected by the registration under a void or voidable instrument of another person
- The Federal Government requires access to current and complete jurisdictional based land information to ensure the necessary funding is available to deliver information and services for local, state and national purposes. Federal Government should therefore fund the national regulator as land registries are essential national infrastructure that underpin macroeconomic policymaking, planning, health service, security, water resources and many other national issues. This national responsibility for land administration is supported by the

Seamless National Economy (COAG Council, 2009), Infrastructure Australia, Property Law Reform Alliance (PLRA) and Cadastre 2034 (Cadastral Reform and Innovation for Australia -A National Strategy). See Cadastre 2034 Goal 5 that highlights benefits of federated cadastral system based on common standards

(https://www.icsm.gov.au/sites/default/files/Cadastre2034_0.pdf).

Australia's housing sector is worth \$7 trillion, more than twice the size of the share market. The land registration systems allow people, businesses and governments to leverage and manage this huge national asset base. Best use of this fundamental national information asset by government, land owners, investors and land managers have the potential to benefit the economy by an estimated \$4.7 billion annually (Calculated on improved return on investment of just 0.1%).

- National operating model to include multiple interoperable ELNs that creates competitive ELNO market that alleviates concern on monopoly price structure and potentially improves service, motivates innovation, and provides security of an alternate ELN in the event of single ELN failure. Federal Government guarantee required to protect the community from protracted liability allocation disputes resulting from multiple ELN's and privatisation of LTO's.
- Federal Government should accept liability for increased risk with mandated electronic conveyancing system and pay one operator to meet Universal Service Obligations for services that cannot be delivered on a commercial basis similar to telecommunications market.

Thank you and we look forward to the continuing conversation to develop harmonised national land title legislation and administration systems.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Nietschke', with a long horizontal flourish extending to the right.

Michael Nietschke
Chair, SSSI-SA Land Surveying Committee