



21st August 2019

M/s A. Larkins
Dench McClean Carlson
Level 5,
99 Queen St
MELBOURNE. 3000

Dear Anne,

Re: Final Report on Review of IGA

At the outset we wish to commend Dench McClean Carlson for the thorough and comprehensive draft Final Report on the Intergovernmental Agreement for an Electronic Conveyancing National Law.

After due consideration of the Report we agree to all the draft Recommendations as set out on pages 9 and 10 and also to the draft options for improvement on page 11.

We reiterate our concerns previously expressed that, due to the extensive information gathered by ELNOs from subscribers, that they should not be able to participate in conveyancing and related markets. An appropriate Regulator needs to determine the appropriate rules to cover this area and practitioners' concerns.

We agree with the comments in 3.23 and 3.24 regarding lack of regulatory arrangements in relation to two or more ELNOs entering the market. The proposed objectives of a governance framework as outlined in 4.30 are agreed. We support the development of a national agenda and roadmap to address issues of importance to all participants.

Australian Institute of Conveyancers (Victorian Division) Inc.

Incorporated under the Associations Incorporation Act 1981

A0022980P ABN88 094 065 126

Suite1, Level 7, 167 Queen Street,

Melbourne 3000

Telephone: 03 9328 8175

www.aicvic.com.au
Email:admin@aicvic.com.au



2.

We also agree with 4.18 which recommends that future certification of practitioners should require a reasonable level of competence in operating in an electronic environment and a good understanding of cyber security. We constantly remind members of the importance of ensuring that their cyber security processes are strong and well maintained but fear that some practitioners merely pay lip service to this issue. The banks should also focus on developing better processes for entering and verifying bank details to alleviate risk.

Stakeholder Relations

The lack of a current Stakeholder relations Committee for regular consultation between ARNECC and subscribers to the ELN is deplorable. The bodies representing conveyancers and lawyers, banks, insurers and others were involved in the precursor to NECDL, i.e. National Electronic Conveyancing Office and a Working Party met monthly for over 4 years to discuss issues and reach a solution that all parties could live with. This type of Stakeholder consultation should be face to face and should be re-introduced as soon as possible.

National Consistency

We are concerned that the NSW ORG appears to be moving quickly to develop an interoperability model without the other jurisdictions and ARNECC merely monitoring progress. For interoperability to work all enabled jurisdictions should be committed and involved to ensure that there is consistency and an ability to implement whatever model is preferred by all the jurisdictions.

Australian Institute of Conveyancers (Victorian Division) Inc.

Incorporated under the Associations Incorporation Act 1981

A0022980P ABN88 094 065 126

Suite1, Level 7, 167 Queen Street,
Melbourne 3000

Telephone: 03 9328 8175

www.aicvic.com.au
Email: admin@aicvic.com.au



3.

Risk and Liability

There is no simple answer to the issues of risk and liability and, having dealt with the repercussions of cyber crime affecting a small number of members over the past few years, it was clear that PEXA were, initially, unprepared for such circumstances. A robust and independent risk management framework needs to be established.

We agree with the comments in 5.19 'that the transition from one national system to the decision to allow competition and additional ELNOs was reached without any consideration of the benefits, costs, complexities and risks resulting from such a change.'

Following the NSW Working Party's work on interoperability, the comments appearing in 5.136 are pertinent - "The workshops have highlighted the significant issues that must be identified, assessed and resolved before a model can be decided...." A thorough cost benefit analysis of the different models is essential before the participants can fully understand the benefits and implications of interoperability.

We agree with 7.13 - 'that the current model with ARNECC operating as a Council does not have the remit or the necessary skills and resources to provide appropriate regulation and governance for the introduction of new ELNOs and interoperability.

We have read the various options for a replacement for ARNECC as suggested in the draft Report and now believe that Option No.2 New Body Corporate, is the preferred model. This new Body Corporate would need to be adequately resourced and raising funds from the participants to the system is probably the fairest way, so long as it is equitable and not too onerous.

Australian Institute of Conveyancers (Victorian Division) Inc.

Incorporated under the Associations Incorporation Act 1981

A0022980P ABN88 094 065 126

Suite1, Level 7, 167 Queen Street,

Melbourne 3000

Telephone: 03 9328 8175

www.aicvic.com.au
Email:admin@aicvic.com.au



4.

If you have any queries please contact myself or Ann Kinnear on 9328 8175.

Yours faithfully,

Jill Ludwell
Chief Executive Officer

Australian Institute of Conveyancers (Victorian Division) Inc.

Incorporated under the Associations Incorporation Act 1981

A0022980P ABN88 094 065 126

Suite1, Level 7, 167 Queen Street,
Melbourne 3000

Telephone: 03 9328 8175

www.aicvic.com.au
Email: admin@aicvic.com.au