

24 September 2019

Ms Anne Larkins and Mr Cameron Geddes  
Dench McClean Carlson Pty Ltd  
Level 5, 99 Queen Street  
Melbourne VIC 3000

By email to: [alarkins@dmcca.com.au](mailto:alarkins@dmcca.com.au) and [cgeddes@dmcca.com.au](mailto:cgeddes@dmcca.com.au)

Dear Ms Larkins and Mr Geddes

**Review of the InterGovernmental Agreement for an Electronic Conveyancing National Law:  
Comments on Draft Final Report**

Thank you for providing a further opportunity to comment on this important review, and my apologies for the delayed response.

We commend you on the draft report and support the recommendations and suggested opportunities for improvement.

In our submission to your Issues paper, we raised the operation of 'source accounts' by Electronic Lodgement Network Operators (ELNO) as an issue. We specifically sought to ensure that when a consumer engages a lawyer (or a conveyancer) to undertake conveyancing work, the same consumer protections apply regardless of whether a solicitors' trust account or an ELNO source account is used for financial settlement on an electronic lodgement network. This matter was not the subject of a specific recommendation in your report. Do you envisage that your recommendations as to embedding improved financial regulation into the framework and the mandating of consumer protection measures (such as minimum mandatory residential guarantees) overcome the issues presented by the use of ELNO source accounts?

At paragraph 4.150, an opportunity is identified where improvement could be made to the Model Participant Rules for ELNO subscribers who are lawyers, in the area of cyber security. This is a certification process for legal practitioners (for example, through continuing professional development) to ensure they have adequate levels of cyber security training to enable them to safely and successfully interact on ELNO platforms. We are certainly interested and supportive of this idea, however, it is not clear who you envisage to be administering the certification of the cybersecurity training. Presently our governing legislation does not permit us to formally approve or certify particular training for legal practitioners. However as we are responsible for administering the rules governing continuing professional development, we may be able to have some influence as to the choices legal practitioners make when deciding what learning they need. We consider that managing cyber risk is extremely important for legal practitioners to adopt as part of their practice management. Legal practitioners are required to undertake training in practice management every year.

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At paragraph 7.12 a further comment is made that:

*"The lack of sophistication in some practitioners with respect to cybersecurity has to date not resulted in changes to regulators certification requirements for practitioners. Practitioner regulators should consider this requirement especially in mandated jurisdictions where paper settlement is no longer available."*

We understand this to mean the educational certification discussed above. However, we raise with you that use of the term 'certification' here may cause readers some confusion, as it may appear that you are referring to regulators' broader licensing functions.

We look forward to receiving a copy of your Final Report. If you have any queries, the officer responsible for this matter in my office is Natalie Neal, Senior Policy Officer, who can be contacted on (03) 9679 8000 or by email at [nneal@lsbc.vic.gov.au](mailto:nneal@lsbc.vic.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Fiona', with a long, sweeping underline.

Fiona McLeay  
**Board CEO and Commissioner**