

INTEROPERABILITY REQUIREMENT

WAIVER

New South Wales

Section 18A Electronic Conveyancing National Law

Title

This instrument is New South Wales Electronic Conveyancing National Law Waiver ECNL 1/2025 – Interoperability Requirement.

Enabling Provisions

1. Under section 18A of the *Electronic Conveyancing National Law* (National Law) the Registrar General (Registrar) may waive compliance with the Interoperability Requirement.
2. Section 18A of the National Law came into operation in New South Wales on and from 6 June 2022.
3. Under sections 22 and 25 of the National Law the Registrar has determined and published Version 7.1 of the Operating Requirements which came into effect on and from 9 May 2025 (Operating Requirements).
4. Capitalised terms used in this instrument and not defined have the meaning given to those terms in the National Law or the Operating Requirements.
5. Section 27 of the National Law permits the Registrar to waive compliance with all or any provisions of the Operating Requirements if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

Explanatory Statement

Under section 18A(1) of the National Law, a person approved as an ELNO under section 15 of the National Law must, in accordance with the Operating Requirements, establish and maintain Interoperability between the ELN operated by the ELNO and each ELN operated by another ELNO.

Under section 18A(2) of the National Law, the Registrar may waive compliance with the Interoperability Requirement if the Registrar is satisfied the granting of the waiver is reasonably necessary in all the circumstances.

Under section 18A(3) of the National Law, a waiver may:

- (a) be total or partial, and
- (b) apply to particular persons approved as an ELNO under section 15 of the National Law or particular classes of those persons, and
- (c) apply generally or be limited in its application by reference to specified exceptions or factors, and
- (d) apply indefinitely or for a specified period, and

(e) be unconditional or subject to conditions or restrictions.

Operating Requirement 5.2.2(a) requires ELNOs to design, build and test all technical and functional capability for, and implement *'Release 1 – being Lodgment of an Interoperable Lodgment Case that includes a Mortgage and Discharge of Mortgage by a limited group of ADIs acting on their own behalf as approved by the Registrar'* on or before 31 July 2025.

On 26 June 2024, the Australian Registrars' National Electronic Conveyancing Council (ARNECC) paused the technical design, build and test work for interoperability due to concerns raised by banks in relation to the technical and functional scope.

The Registrar has, through ARNECC, determined to commission an in-depth review of the functional requirements for interoperability. This involves a reviewer(s) engaging with ELNOs and Subscribers to develop a functional scope for interoperability that is necessary to maintain an equivalent subscriber experience for interoperable and non-interoperable transactions.

This review will inform the Registrar to determine appropriate updates to Operating Requirement 5.2.2(a). The review will not be complete by 31 July 2025. This means that ELNOs will require additional time to comply with Operating Requirement 5.2.2(a). As a result, the Registrar has granted ELNOs a partial waiver modifying the obligations of the ELNO under Operating Requirement 5.2.2(a) (Waiver OR 3/2025).

On the basis that the requirement in Operating Requirement 5.2.2(a) has been waived, ELNOs will be unable to fully comply with their obligation to establish and maintain interoperability in accordance with the Operating Requirements.

Accordingly, the Registrar has determined that it is reasonably necessary in the circumstances to grant a partial waiver of the Interoperability Requirement while Waiver OR 3/2025 remains in effect.

Waiver

Subject to the conditions, the Registrar grants all ELNOs approved under section 15 of the National Law a partial waiver of their obligation to comply with the Interoperability Requirement to account for Waiver OR 3/2025 while it remains in effect.

Conditions

This partial waiver is granted on the conditions that:

1. The ELNO participates in, and complies with, the functional requirements review as set out in the Terms of Reference issued by ARNECC on 8 May 2025;
2. The ELNO continues to comply with their obligations under the Operating Requirements other than as waived by Waiver OR 3/2025;
3. The ELNO otherwise continues to comply with section 18A of the ECNL.

Commencement

This partial waiver commences on 31 July 2025.

Period during which this waiver applies

This partial waiver operates until the earlier of:

- (a) the effective date of any change to Operating Requirement 5.2.2(a) which removes or modifies the 31 July 2025 timeframe;
- (b) the date on which Waiver OR 5.2.2(a) ceases to apply; or
- (c) revocation of this waiver by the Registrar.

Dated: 16 July 2025

Signed by:

A handwritten signature in black ink, appearing to read 'Danusia Cameron', written in a cursive style.

Danusia Cameron
Registrar General