

Model Operating Requirements (MOR) Version 7.1 Consultation Draft 7.01 Feedback Table

This table provides feedback on the issues raised during consultation on the Model Operating Requirements Version 7.1 Consultation Draft 7.01 published in September 2024.

#	Rule / matter	Stakeholder Feedback	Action	ARNECC Response
MOR 2 – DEFINITIONS AND INTERPRETATION: 2.1 Definitions				
1.	Default Responsible ELNO Surcharge	<p>Stakeholder feedback contained the following recommendation:</p> <ul style="list-style-type: none"> The definition of 'Default Responsible ELNO Surcharge' should be amended as below to further clarify who is the ELNO who 'should have' acted as a Responsible ELNO for a particular Interoperable Lodgment Case, as follows (suggested change underlined): <p><i>Default Responsible ELNO Surcharge means the fee payable to the Responsible ELNO by a Participating ELNO for an Interoperable Lodgment Case where at Lodgment, the Participating ELNO should have been the Responsible ELNO <u>in accordance with the NECIDS</u> but does not perform the Responsible ELNO role.</i></p>	None.	<p>Feedback noted but not adopted.</p> <p>ARNECC considers this change unnecessary at this time; however, will monitor the application of this new definition and the associated new requirements.</p>
MOR 5 – OPERATION OF ELN: 5.3 General Obligations				
2.	5.3(m) - eConveyancing Payments Industry Code	<p>Several stakeholders made supportive comments in relation to the proposed changes, including that:</p> <ul style="list-style-type: none"> The Code promotes a uniform framework for obligations regarding financial settlement of conveyancing transactions. The Code provides contingency procedures that will prioritise risk mitigation when errors in financial settlements occur. The Code will establish an industry-driven governance process through which the Code can be reviewed and updated to accommodate future changes or address new risks in the market. The Code will deliver benefits for both multiple-ELNO (Interoperable) and single-ELNO transactions. <p>Stakeholders also raised the following issues and recommendations:</p> <ul style="list-style-type: none"> The draft MORs should mandate adherence to the Code, something which would promote industry confidence in the ELNOs. It is important that financial institutions also join the Code. ELNOs and financial institutions should stand up the relevant governance processes and activate the Code as soon as possible, preferably ahead of the proposed changes to the MOR coming into effect. The Code's intention to standardise parts of the financial settlement process is desirable, but stakeholders need assurance of further engagement on implementing the Code. There is a need to resolve matters such as the proposed message format for financial messages and provide for a transitional period for the Code's commencement. The introduction of obligations around the Code should be explicitly linked to the implementation of Interoperability, given that the Code is primarily required to deal with issues that arise with payments involving multiple ELNOs. 	None.	<p>Feedback noted – last recommendation not adopted. The introduction of the obligations of the Code will not be linked to the implementation of interoperability.</p> <p>AusPayNet was asked by the Council of Financial Regulators (CFR) to create an industry framework covering the regulation of the financial settlement aspects of eConveyancing transactions (the Code). AusPayNet is responsible for the implementation of the Code and ARNECC encourages stakeholders to liaise directly with AusPayNet in that respect. Registrar representatives were observers only to the development of the Code framework.</p> <p>It is intended that the Code provide standardisation of relevant parts of the financial settlement process for both Interoperable and non-Interoperable conveyancing transactions.</p>

#	Rule / matter	Stakeholder Feedback	Action	ARNECC Response
				<p>See: AusPayNet 18 September 2024 update.</p> <p>Feedback relating to the introduction of the Code has been forwarded to AusPayNet for consideration.</p>
MOR 5 – OPERATION OF ELN: 5.4 ELNO Service Fees				
3.	5.4.4(d)	<p>Stakeholder feedback on proposed changes was broadly supportive and yielded the following comments:</p> <ul style="list-style-type: none"> This proposed amendment is favourable to ELNOs and cognisant of the challenges and uncertainties involved in operating systems such as an ELN. <p>Stakeholders also raised the following concerns:</p> <ul style="list-style-type: none"> Any pricing changes should take subscribers into account and be transparent and justified, allowing consumers to understand the reasons behind any increases. A competitive market, driven by reasonable fees, encourages more players to participate, leading to greater choice and innovation for consumers. Reference to explicit broad cost factors in approving requests for ELNO price increases should also consider any cost savings enjoyed by an ELNO. An ELNO should not be able to pass on greater supplier costs directly to a Subscriber by way of updating their Pricing Table. The proposed changes require clarification as to what fees, charges or Costs imposed on an ELNO would justify changes to its Pricing Table. ARNECC should provide clear guidelines on acceptable reasons for pricing adjustments and establish a transparent review process. Regular monitoring and enforcement of ELNO pricing and market competition is needed to ensure fairness and prevent any abuse of the system. Active engagement with consumer representatives, such as Subscribers, will ensure their voices are also heard and their interests are protected throughout this process. 	None.	<p>Feedback noted.</p> <p>ARNECC will consider providing guidance on the types of acceptable reasons for pricing adjustments in the MOR Guidance Notes.</p> <p>ARNECC will consider the points raised in the context of the next review of ELNO Service Fees.</p> <p>ELNOs must already determine any ELNO Service Fees according to a publicly available, equitable and transparent pricing policy and publish a Pricing Table: MOR 5.3(e).</p>
4.	5.4.7	<p>Stakeholders made the following comments:</p> <ul style="list-style-type: none"> The proposed changes to limit the ability of an ELNO to apply differential pricing for interoperable versus non-interoperable (single-ELNO) transactions is strongly supported. It was noted with approval that the proposed changes implement Recommendation 8(b) of the NSW Independent Pricing and Regulatory Tribunal's 2023 Final Report on ELNO Interoperability pricing (2023 IPART Report). The proposed changes will provide certainty in pricing for consumers and Subscribers, which was welcomed from a practical perspective. 	None.	Feedback noted.
MOR 5 – OPERATION OF ELN: 5.9 Interoperability Fees				
5.	5.9.1	<p>Stakeholders made the following comments and recommendations:</p> <ul style="list-style-type: none"> The proposed Interoperability Fees framework in the MOR now introduces certainty in pricing for consumers and Subscribers and sends a message to industry of the importance of interoperability in facilitating market competition. Given the current pause in the development and implementation of Interoperability, consideration should be given to extending the timeframes specified in proposed MOR 5.9.1. ARNECC should delay the inclusion of Interoperability Fees into the MOR until IPART's recommendations can be evaluated against the outcomes of the NSW and QLD Interoperability review. If ARNECC chooses to implement IPART's conclusions on Interoperability Fees, then ARNECC should continue to evaluate these conclusions going forward and reset Interoperability Fees if actual experience differs from assumptions. To this end, ARNECC should monitor the following factors: <ul style="list-style-type: none"> The actual costs incurred by new ELNOs to build functionality; Whether new ELNOs in fact build comprehensive functionality; 	None.	<p>Feedback noted. No changes are proposed to the draft MOR amendments in response to the feedback received.</p> <p>ARNECC has accepted the independent recommendations of IPART.</p> <p>Timeframes will be further considered in a future version of the</p>

#	Rule / matter	Stakeholder Feedback	Action	ARNECC Response
		<ul style="list-style-type: none"> ○ The proportion of transactions in which each ELNO is involved in which it incurs a Default RELNO Surcharge; and ○ Whether there are classes of transaction types, user types, or jurisdictions in which ELNOs do not participate at all, or do not participate as a Responsible ELNO. 		MOR. Dates for Interoperability will be considered in tandem with the dates relating to Interoperability Fees.
6.	5.9.3	Stakeholders commented that the Consumer Price Index (CPI) cap on increases to the Interoperability Fee should be extended beyond 30 June 2026.	None.	<p>Feedback noted but not adopted.</p> <p>Timeframes will be further considered in a future version of the MOR. Dates for Interoperability will be considered in tandem with the dates relating to Interoperability Fees.</p>
MOR 7 – OBLIGATIONS REGARDING SYSTEM SECURITY AND INTEGRITY: 7.6 Digital Certificate Regime				
7.	7.6	<p>Stakeholders raised the following concerns:</p> <ul style="list-style-type: none"> • Subscribers may continue to face costs and complexities around obtaining digital certificates which may make switching ELNs more difficult. • If the MORs do not mandate open ELNO digital certificates, then Subscribers in Interoperable Workspaces may not be able to rapidly switch ELNs where one or more ELNs are experiencing an outage. This may put transactions in jeopardy and reduce the resilience of the eConveyancing system. • There may be technical changes required to allow other ELNOs to validate digital signatures that have occurred on other platforms, particularly in relation to Associated Financial Transactions, as these digital signatures are not validated by any other party other than the ELNO (as opposed to digital signatures on Registry Instruments, which can be validated at the Land Registry level). 	None.	<p>Feedback noted but not adopted.</p> <p>ARNECC’s policy has not changed with respect to this subject. ARNECC reiterates that ELNOs are currently required to permit Subscribers to use open Digital Certificates, subject to any reasonable requirements in the ELNOs’ Subscriber security policies. This requirement enables Subscribers to use a single Digital Certificate across multiple ELNs if they wish to do so.</p>
MOR 10 – MINIMUM SYSTEM REQUIREMENTS: 10.3 Data Standards				
8.	10.3.3 to 10.3.5	<p>(A) Stakeholders made the following comments about Draft MORs 10.3.3 – 10.3.5, generally:</p> <ul style="list-style-type: none"> • It appears the draft requirements have been included within the MOR to ensure consistency across ELNOs in respect of NECDS upgrades, and to ensure one or more ELNOs are not disadvantaged where another ELNO fails to comply with the Registrar’s direction to implement a new NECDS version. This proposed drafting may introduce unintended consequences. • By requiring that a new NECDS version must be used for all Electronic Workspaces generated on or after a specified date or time, and then prohibiting the ELNO from unilaterally deciding to use an updated version of the NECDS if that Electronic Workspace becomes Interoperable, this could lead to downstream impacts for the network. Experience suggests that specifying Workspace generation as the event for locking NECDS versions will result in an increased volume of ‘long-running workspaces’ that are susceptible to coming off support and requiring manual intervention by the participants to resolve. To counter this, ELNOs and Land Registries may decide to extend support periods for NECDS versions. However, this too may cause knock-on effects for the NECDS uplift cadence which stakeholders are presently familiar with. • Given that ELNOs must comply with the business rules and requirements of the NECIDS (under Operating Requirement 10.3.2), this mechanism should be leveraged to meet ARNECC’s policy objectives for managing Data Standard uplift, rather than prescribing obligations within the MOR itself. This would afford more flexibility to refine arrangements as ELNOs and stakeholders gain experience with these new challenges. 	Amend proposed MOR 10.3.4 and 10.3.5 to substitute each instance of the words “upgrade to” with “use”, as suggested.	<p>Feedback noted.</p> <p>(A) ARNECC considers that the changes proposed in MOR Consultation Draft V7.01 are sufficient to address this issue at this time. ARNECC will monitor the application of these new requirements.</p> <p>(B) The NECDS and Revenue Office Messaging Standards (ROMS) are separate</p>

#	Rule / matter	Stakeholder Feedback	Action	ARNECC Response
		<p>(B) Stakeholders made the following comments regarding Draft MOR 10.3.4, in particular:</p> <ul style="list-style-type: none"> All ELNOs must use the same version of the data standard for interoperable conveyancing transactions. Land registries control what version of the data standard is operating. State revenue offices and financial institutions also need to co-ordinate when upgrading to a new data standard. Draft MOR 10.3.4 should be reframed in terms of an ELNO using best endeavours to utilise the version of the data standard specified by the Registrar. Ultimately, moving to a new data standard requires a co-ordinated effort amongst all the impacted parties, and this is not within the control of the ELNOs. <p>(C) Stakeholders made the following comments regarding Draft MOR 10.3.5, in particular:</p> <ul style="list-style-type: none"> Draft MOR 10.3.5(b) sets out the requirements to maintain a NECDS version throughout the life of an Electronic Workspace that is not an Interoperable Electronic Workspace. However, at the time of creation of the Electronic Workspace, it will typically be unknown whether a transaction will become interoperable, which can happen at any stage in a transaction. It is suggested that the requirement be amended to clarify that Draft MOR 10.3.5(b) applies for Electronic Workspaces that cannot become Interoperable Electronic Workspaces (e.g. standalone workspaces with one registry instrument only), and that Draft MOR 10.3.5(c) be extended to apply to Electronic Workspaces that have the capacity to become Interoperable Electronic Workspaces. <p>(D) Stakeholders proposed the below minor drafting amendments:</p> <ul style="list-style-type: none"> Draft MOR 10.3.3 uses the word “used”, and “upgrade” in Draft MORs 10.3.4 and 10.3.5 with respect to the version of the NECDS that an ELNO uses. Typically, an ELNO will have upgraded their ELN to support a new NECDS version prior to activating it for use for a transaction. It is assumed that the intention of Draft MOR 10.3.4, for example, is to ensure that the approval is obtained to use a particular version of the NECDS for a transaction earlier than the date and time specified. Similar assumptions are made for the use of “upgrade” in Draft MOR 10.3.5. As such, the words “upgrade to” should be replaced with the word “use” in Draft MORs 10.3.4 and 10.3.5. 		<p>matters – Registrars do not oversee the ROMs and the NECDS is not dependent on the ROMS.</p> <p>(C) This suggested change to proposed MOR 10.3.5(b) is unnecessary as MOR 10.3.5(c) covers all Interoperable Electronic Workspaces regardless of when or how the Electronic Workspace was created.</p> <p>(D) The proposed drafting amendments will be adopted for clarity.</p>

MOR 14 – SUBSCRIBERS: 14.1 Subscriber Registration

9.	14.1.2	<p>Stakeholders made the following comments:</p> <ul style="list-style-type: none"> The Subscriber Identity Verification Standard referenced in Draft MOR 14.1.2 mandates a ‘face-to-face in-person’ interview between the ELNO, or its Identity Agent, and the Person Being Identified (Draft MOR, Schedule 7, cl.3.1). Since early 2013 when this Standard was introduced under Version 1 of the MOR, there have been significant advances in digital identity verification. It was suggested that ARNECC consider the merits of amending the Subscriber Identity Verification Standard to permit ELNOs to either: <ul style="list-style-type: none"> remove the face-to-face in-person interview obligation and allow for services of approved digital Identity Agents, as reviewed and then designated by the Registrar; or create a separate mechanism to identify Potential Subscribers in other ways that constitute the taking of ‘reasonable steps’ (in line with the Model Participation Rules for Subscribers verifying Client identities). 	None.	<p>Feedback noted.</p> <p>ARNECC is aware of the evolving digital verification of identity landscape.</p> <p>Any amendments to the Model Operating Requirements and the Model Participation Rules in this area will need to align with the Commonwealth digital verification of identity standard and requirements under the <i>Digital ID Act 2024</i> and accompanying rules, and any other relevant legislative framework.</p> <p>ARNECC is monitoring the implementation of that legislative framework and is considering its application to the eConveyancing regulatory framework.</p>
----	--------	---	-------	--

Additional comments

#	Rule / matter	Stakeholder Feedback	Action	ARNECC Response
10.	Schedule 3 Reporting Requirements	<p>Stakeholders made the following comments:</p> <ul style="list-style-type: none"> The sole indication of category specific requirements appears within the "<i>Self-Certification to be Provided</i>" section, which requires cross-referencing the relevant obligations appearing elsewhere in the Draft MORs. This information could be made clearer and more readily accessible. Schedule 3 should be separated into specific requirements for renewal of each Category rather than being compiled in one table. Where a renewal is not appropriate and a waiver may be applicable to meet certain requirements, guidance on when and how such waiver should be sought, would benefit applicable ELNOs and Potential ELNOs who require this consideration. 	None.	<p>Feedback noted but not adopted.</p> <p>ARNECC considers the proposed updates to Schedule 3 are sufficient in streamlining Annual Report and renewal of Approval reporting. ELNOs can seek compliance and reporting guidance from ARNECC on a case-by-case basis.</p>
11.	General including Interoperability aspects	<p>Stakeholders made the following general comments:</p> <ul style="list-style-type: none"> It is important to ensure that MOR V7.1 align with changes to the industry and are cognisant of striking a balance between ELNOs responsibilities to provide a robust and effective system, and Subscribers' needs in utilising the ELN. We support the interoperability clauses which provide clarity on interoperability matters, specifically in regard to fees. We are of the view that interoperability in the industry facilitates competition and provides choice and confidence to Subscribers in the eConveyancing industry. 		Feedback noted.