



## **OPERATING REQUIREMENTS WAIVER**

**Victoria**

### **Section 27 *Electronic Conveyancing National Law (Victoria)***

#### **Title**

This instrument is Operating Requirements Waiver OR2/2015 – Melbourne City Council - Insurance.

#### **Enabling Provisions**

1. Under sections 22 and 25 of the Electronic Conveyancing National Law (Victoria) (“the National Law”) the Registrar of Titles (“Registrar”) has determined and published Version 2 of the Operating Requirements (Operating Requirements) which came into effect on 14 May 2014.
2. Under sections 23 and 25 of the National Law the Registrar has determined and published Version 2 of the Participation Rules (Participation Rules) which came into effect on 14 May 2014.
3. Section 27 of the National Law permits the Registrar to waive compliance with all or any provisions of the Operating Requirements and the Participation Rules, if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

#### **Affected Requirement**

Operating Requirements 14.1(a), 14.4(a) and 14.7.

#### **Explanatory Statement**

Under Operating Requirement 14.1(a), an Electronic Lodgement Network Operator (“ELNO”) must only register a Subscriber if the applicant to become a Subscriber meets the eligibility criteria set out in the Participation Rules.

Under Operating Requirement 14.4(a), an ELNO must obtain and retain evidence to confirm that each Subscriber holds the insurance they are required to hold in accordance with the Participation Rules.

Under Operating Requirement 14.7, an ELNO must monitor the compliance of Subscribers with the Participation Rules and restrict, suspend or terminate as appropriate if they fail to comply.

Under Participation Rules 4.4, one of the eligibility criteria is that, a Subscriber to an Electronic Lodgement Network (“ELN”) must comply with the Insurance Rules set out in Schedule 6 of the Participation Rules.

It is understood that Melbourne City Council’s professional indemnity insurance:

- has an aggregate cap and is therefore not for an insured amount of at least \$1.5 million per claim (including legal Costs); and
- has an excess of greater than \$5,000; and
- does not include specific coverage for Conveyancing Transactions.

It is understood that Melbourne City Council’s fidelity insurance:

- has an aggregate cap and is not for an insured amount of at least \$1.5 million per claim (including legal Costs); and
- does not include specific coverage for Conveyancing Transactions.

Melbourne City Council is not able to be a Representative. The Registrar is of the view that Melbourne City Council has sufficient insurance to cover the types of Conveyancing Transactions it will undertake in the ELN, acting on its own behalf.

These requirements will be reviewed periodically.

The Registrar has determined that a waiver should be granted.

### **Waiver**

Subject to the Conditions, the Registrar grants PEXA Ltd a partial waiver of its obligations to comply with Operating Requirements 14.1(a), 14.4(a) and 14.7 in relation to Melbourne City Council and to the extent that Melbourne City Council does not meet the Insurance Requirements in the Participation Rules as set out above.

### **Conditions**

Partial waiver of Operating Requirements 14.1(a), 14.4(a) and 14.7, in relation to Melbourne City Council and to the extent that Melbourne City Council does not meet the Insurance Requirements in the Participation Rules as set out above, is granted on the condition that:

- (a) PEXA Limited prevents Melbourne City Council from acting as a Representative in the ELN.
- (b) PEXA Ltd advises the Registrar of any material changes to Melbourne City Council’s insurance.

### **Commencement**

This waiver commences on the date it is signed.

**Period during which this waiver applies**

This waiver operates until the earlier of:

- (a) Melbourne City Council fully complying with the Insurance Requirements set out in Schedule 6 of the Participation Rules; or
- (b) the publication of a revocation of the waiver by the Registrar.

**Dated: 24 February 2015**

**Signed by:**



**Ian Ireson  
Deputy Registrar of Titles**