Model Participation Rules (MPR) Consultation Draft 6.1 Feedback

This table responds to the feedback received on Consultation Draft 6.1 of the MPR published in October 2020

#	Rule	Stakeholder Feedback	Action	ARNECC Response
MPR 2.1 – Definitions				
1.	Client Authorisation	This change is not necessary. Instead it is suggested MPR 2.2 (Interpretation) include a paragraph as follows: 'a reference to any document refers to that document as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by these Participation Rules, and includes each document which effects any of those things.'	None	Feedback noted but not adopted. Experience shows that MPR 2.2 Interpretation is not always taken into account by Subscribers. The amendment also makes this definition consistent with the definition of Participation Rules.
2.	Client Authorisation - Attorney	This deletion may affect some Subscribers who act as Attorney to Digitally Sign Registry Instruments.	None	Feedback noted.
3.	Client Authorisation - Representative	Clarification is sought from ARNECC that the deletion of the Client Authorisation – Representative and the changes to the Client Authorisation does NOT require Subscribers to execute new Client Authorisations.	MPR Guidance Notes will be updated	New Client Authorisations are not required. This is clarified in the amendment to MPR 6.3(a) and the additional information provided on the Consultation Draft 6 feedback table, item 2 as follows: Participation Rules take effect prospectively, not retrospectively. Additional information will be included in the MPR Guidance Note as follows: Any properly completed Client Authorisation in the form set out in the MPR at the time of execution is valid, unless revoked earlier, until: ▪ **Specific Authority** - the conveyancing transaction(s) to which it relates are concluded ▪ **Standing Authority** - the expiry date ▪ **Batch Authority** - the conveyancing transaction(s) to which it relates are concluded. The wording 'as amended from time to time' has been included to indicate there will be different versions of the Client Authorisation at different points in time. A Subscriber is required to use the version that is in effect at the time they enter into the Client Authorisation.
4.	Donor and Donor Agent	This deletion may affect some Subscribers who act as Attorney to Digitally Sign Registry Instruments.	None	Feedback noted.

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5.	Identity Agent	This proposed change can be interpreted as requiring each individual broker who conducts VOI on behalf of a financial institution to be appointed in writing and to apply the VOI Standard. This is impractical in relation to aggregator networks and is contrary to current industry practice. Refer to previous feedback that the requirement to appoint an identity agent in writing is onerous. This is particularly the case given the definition of Identity Agent is broad and may include people who are already involved in the transaction who understand their role and are deemed to have insurance. If the requirement is to remain, refer to previous feedback that a Subscriber/mortgagee should be able to use a 'master' appointment to appoint an Identity Agent in writing. ARNECC's previous comment that it is up to the Subscriber/mortgagee to determine how to appoint an agent is noted and taken to mean that a master appointment is possible. If this is the case, ARNECC is asked to expressly clarify a master appointment is possible in the rule or in feedback to version 6.1 MPR.	None	As previously advised, ARNECC considers it important that there is an appointment in writing for Identity Agents to ensure there is no ambiguity as to what they are being asked to do, i.e. to apply the VOI Standard. Provided arrangements comply with the MPR (e.g. appointment in writing), it is otherwise a matter for a Subscriber to determine how best to appoint any Identity Agents it uses, including any 'master' appointment arrangements.
6.	Identity Agent and Representative Agent	If a reputable, competent and insured Identity Agent is used to conduct a VOI on the client, it is unnecessary to require a formal appointment in writing. Appointment of Representative Agent and Identity Agent in writing has no qualitative effect on the VOI itself. It may also inhibit competition by limiting the Subscriber and consumer's ability to use various VOI providers in the market. ARNECC should recognise it is the Subscriber who is ultimately qualified to ensure whether the VOI standard has been complied with or without an Identity Agent. It is recommended to remove the requirement to appoint agents in writing from the MPR.	None	ARNECC considers it important that there is an appointment in writing for Identity Agents and Representative Agents to ensure there is no ambiguity as to what they are being asked to do, i.e. to apply the VOI Standard and/or sign Client Authorisations.
7.	Identity Agent	The clarification in the definition of Identity Agent with the addition of a new reference to an appointment in writing is supported. For added clarity, consideration should be given to replacing the words "to act as the Subscriber or mortgagee's agent", with the words "to act as the agent of the Subscriber or mortgagee".	The MPR have been amended	Feedback noted. The suggested amendment has been adopted.
8.	Insolvency Event	This change should be removed as it will create uncertainty as to when a Person is Insolvent. Clarification is sought about why this change has been included and what issue it is seeking to address	The MPR have been amended	Further amendments have been made to the definition of Insolvency Event to ensure agreements under Section 73 and court ordered changes under Division 3 of the National Credit Code are covered. This will ensure certainty about when a Person is Insolvent for the purposes of the MPRs.
9.	Publish	The following alternative definition of 'publish' is suggested:	None	Feedback noted but not adopted.

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		Publish means, for any information, to make publicly available on a website and, in addition, in any other manner the Registrar considers appropriate.		
10.	Subscriber's Systems	This new definition is drafted too widely. To address this concern, words such as 'used to access or linked to the ELN' should be added at the end of the definition. As currently drafted, the definition could include information technology systems that are irrelevant for the operation of electronic conveyancing, such as a firm's payroll system. Strongly reiterate previous comments that the definition of "Subscriber's Systems" is too broad and should be limited specifically to those technology systems that are used by Authorised Users to conduct an electronic conveyancing transaction in accordance with the ECNL. A related requested change is that requirements to notify ARNECC should be limited to systems used in electronic conveyancing or connected systems. ARNECC's feedback is noted, however, in large financial institutions, the institution would address such risks in a number of ways under their IT and cyber security policies. As such, it is not considered this one size fits all approach is appropriate, and would impose unnecessarily burdensome electronic conveyancing specific requirements in addition to the significant obligations that banks are already subject to under prudential regulation	None	Feedback noted but not adopted. If any system has a weakness exploited, that could potentially lead to attacks on other systems including an Electronic Lodgment Network (ELN). There is no requirement in the MPR to notify ARNECC regarding a Subscriber's Systems.
MPR 4 – Eligibility Criteria – Character				
11.	4.3	1. Should the Subscriber retrospectively report to ARNECC or the ELNO in the event principals, officers and Subscriber Administrators have been subject to any of the matters noted? 2. What effect of being subject to any of the matters will have on the Subscriber or their access to the ELNO? 3. Will access to the Subscriber be denied by the ELNO or ARNECC? 4. In the event an ELNO was to suspend access to the Subscriber can the Subscriber appeal to ARNECC? 5. What penalties will be imposed in the event a person is of poor character but the matter has not been reported by the Subscriber?	None	1. The Subscriber should remove access and report to the Electronic Lodgment Network Operator (ELNO) as the ELNO is responsible for registering Subscribers, including assessing Eligibility Criteria. 2. It will depend on the role of the Person subjected to any of the matters e.g. if a Principal this may result in a Suspension Event due to a material breach of MPRs; if an Individual, they will be restricted from being a User/Subscriber Administrator, etc. 3. Refer above. 4. Suspension by an ELNO is governed by a Subscribers Participation Agreement. The process for appealing a suspension at the direction of a Registrar is in accordance with s28 of the Electronic Conveyancing National Law (ECNL). 5. A material breach of the Participation Rules is a Suspension Event or a Termination Event, so too are a Subscriber acting

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				negligently or posing a threat to the operation, security, integrity or stability of the ELN.
12.	4.3	The authority vested in an ELNO to request a Subscriber provide evidence creates a further diluting of matters pertaining to compliance. While it is somewhat reasonable for an ELNO to request evidence, it is unclear if the ELNO has a responsibility to raise any matters directly with ARNECC and or what penalties may exist for failure to report a matter.	None	Refer MOR 14.7.
13.	4.3	The expansion of the criteria that Subscribers must provide to demonstrate good character, is welcomed.	None	Feedback noted.
14.	4.3	ARNECC to confirm that notices directing suspension or termination are, and will be, sent to all ELNOs, whether or not the Subscriber is a Subscriber of that ELNO at that point in time (so that ELNOs can assess any future applications against known Suspension and Termination Event histories).	None	That is the intention of the Registrars.
15.	4.3	This particular matter continues to cause concern and is repeated as it has not been addressed. Notwithstanding the inclusion of MPR 6.15, given the complexities and lack of knowledge about conveyancing, there are continuing serious concerns regarding the inclusion of Local Government Organisations as Subscribers without limiting its ability to – ▪ act as a Representative for a Client that is not an entity related to the Local Government Organisation; or ▪ assist a self-represented party in a transaction. This concern was set out in the formal responses to previous consultation drafts of the MOR or MPR.	None	Subscribers must comply with jurisdictional laws about who can conduct conveyancing transactions. ARNECC repeats that it is not aware of any jurisdictional laws that would allow a Local Government Organisation to represent a Client. Nor is ARNECC aware of any occasion when a Local Government Organisation has sought to represent a Client.
16.	4.3.1 (a)	It may be clearer to replace the words 'not and have not…' with the words 'not be or have been…'.	The MPR has been amended	Feedback noted. The substance of the suggested amendment has been adopted.
17.	4.3.1 (a)	While MPR 4.3.1(a)(vi) refers to a "current suspension" the opening words of MPR 4.3.1(a) talk about Subscribers to "have not been subject to any of the matters listed below". Arguably a suspension which has been lifted would still constitute a breach of this paragraph. As noted previously, suspension or termination in one jurisdiction can relate to an issue peculiar to that jurisdiction. It is inappropriate that such an issue could lead to suspension or termination in another jurisdiction.	None	A current suspension cannot occur in the past. If the particular Suspension Events listed arise in one Jurisdiction, it would be of concern to Registrars in another Jurisdiction.

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18.	4.3.1 (a) (iv)	Notwithstanding that this provision is qualified so that conduct must impact on a person's conduct of conveyancing transactions, comments made with respect to previous drafts are reiterated, that there is concern that the provision does not extend to disciplinary action by the Commissioner for Consumer Affairs that may result in a reprimand, fine or registration conditions being imposed.	None	As the Commissioner for Consumer Affairs is a government or governmental authority or agency, any determination of the Commissioner will fall within the MPR 4.3.1(a)(iv) or 4.3.1(b)(iv) if it impacts on the Person's conduct of a Conveyancing Transaction.
19.	4.3.1 (a) (ii)	Should this aspect of the character definition be subject to a material test, so it refers to a conviction, etc, which may have a material impact on a Person's ability to conduct of an Electronic Conveyancing Transaction.	The MPR have been amended	MPR 4.3.1(a)(ii) and 4.3.1(b)(ii) have been amended to limit an indictable offence to that which may impact on that Person's conduct of a Conveyancing Transaction.
20.	4.3.1 (c)	ARNECC's comment that it will prepare an additional MPR Guidance Note in relation to Eligibility Criteria is supported. It is requested the note clarify what constitutes the taking of 'reasonable steps' in relation to the Subscriber's obligation ensure principals and Officers have not been subject to: (i) Any refusal of an application to subscribe to an ELS (ii) Any current suspension under PR 9.2 (iii) Termination under PR 9.3 This is important given MPR 4.3.4 and 4.3.5 permit the Registrar or the ELNO to request evidence from the Subscriber that the above has been met.	MPR Guidance Notes will be updated	ARNECC will include further guidance in the MPR Guidance Notes. However, the guidance will not be able to be definitive as reasonable steps will always be dependent upon the circumstances of each individual case.
21.	4.3.4 and 4.3.5	Concerned about the powers given to an ELNO to request a Subscriber to provide evidence with respect to certain matters. Would it not be more appropriate for the ELNO to advise the User and then report the matter to ARNECC? It is concerning that ARNECC is delegating regulatory responsibilities to an ELNO. In circumstances where the ELNO may have a proprietary interest in the User, such a provision is problematic.	None	An ELNO can only subscribe a Person of good character, so an ELNO needs to have this right. ELNOs have always been responsible for assessing Eligibility Criteria.
MPR 4 – Eligibility Criteria – Business Name				
22.	4.5	Consideration could be given to adding a new subrule (d) requiring that the business name would not easily be confused with that of another Subscriber.	None	Feedback noted but not adopted. If the law relating to business names allows the use of similar names, this cannot be prevented by the Registrars.
23.	4.5	Some banks use the Business Name field to differentiate between different divisions of their business. It is not clear as to the purpose of these changes and if a solution cannot be found by PEXA, the bank will be forced to make changes which will have a material	None	It is ARNECC's understanding that Subscriber details collected by ELNOs provide for both a business name field and a business unit field. Subscribers should record their registered business name in

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		impact on the business. If the requirement is seeking to avoid fraud risk and reduce the instances of potential mistakes, for example, someone subscribes under a 'name' which is similar or belongs to another law firm or conveyancer and transfer occurs without actual Subscriber's knowledge, please note that business names are required to legally be registered under section 18(1) of the *Business Names Registration Act 2011* (Cth). Also, where an agent Subscriber is used, there is no reason why the agent cannot be added to the PEXA workspace with the knowledge of the other parties.		the business name field and the name of different divisions of their business in the business unit field.
MPR 5 – The Role of Subscribers – Subscriber as Attorney (Deleted)				
24.	5.6, 6.3.2, Schedule 4	Rather than remove this process entirely from the MPR, ARNECC should consider adopting a less complex approach to enable third party law practices to in-source conveyancing work from instructing law firms and mortgagees.	None	Refer to Guidance Query #7 – Guidance for e-settlement Subscribers and their instructing practitioners.
25.	5.6	The removal of the Attorney Subscriber mechanism is supported.	None	Feedback noted.
26.	5.6	Previously expressed concern that this MPR could be unduly restrictive. The change may reduce the ability of institutions to change their operating model to insource settlement processing for other entities (which would have relied on a Client Authorisation – Attorney). Limiting this capability will potentially impact future mergers and/or acquisition from transacting electronically and instead via Paper. As such the proposed amendment is opposed. If ARNECC proposes to proceed with this amendment, it is requested that ARNECC provide an explanation about the concerns driving this change, and why ARNECC would prefer to defer to jurisdiction specific power of attorney requirements.	None	Due to the complex technical implementation requirements and priorities for Land Registries, the Subscriber as Attorney provisions will be removed. ARNECC would welcome and consider submissions that outline alternative options that comply with each jurisdiction's legislation including its Land Titles Legislation.
MPR 6 – General Obligations – Client Authorisation				
27.	6.3	It is suggested that consideration be given to removing the current exemption from obtaining a Client Authorisation for a caveat or priority notice. It is understood that originally the exemption was provided on the basis that a practitioner may need to lodge a caveat urgently and, as such, it was appropriate to carve out caveats from the obligation to obtain a Client Authorisation. Given that there is now no doubt that a Client Authorisation can be prepared and signed electronically, the carve out may no longer be appropriate.	None	Feedback noted but not adopted at this time. ARNECC may consider removing the current exemptions in a future version of the MPR.

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		As a priority notice contemplates another dealing to 'complete' or 'perfect' the conveyancing transaction, for which a Client Authorisation will be required, it is queried whether the exemption for priority notices (and withdrawals or extensions) should be retained. In any event, priority notices will not tend to be used in urgent circumstances, as distinct from caveats.		
28.	6.3	There is also an inconsistency between the optional requirement of a Client Authorisation for a caveat or priority notice, and Certification 2 of MPR Schedule 3 that a Subscriber holds a properly completed Client Authorisation. Currently, this inconsistency is remedied by Guidance Note #3: Certifications, which specifies that a Client Authorisation is not required for a caveat, priority notice, or an extension or withdrawal of a priority notice. Removing the current exemptions for caveats and priority notices would provide simplicity and consistency in the regulatory framework. Certification 2 in MPR Schedule 3 would then, on its face, more accurately reflect the true position, without further recourse to a separate Guidance Note.	None	Certification 2 in MPR Schedule 3 is not required for caveats or priority notices. System Business Rules dictate which certifications are required for each instrument type, and ensure the correct ones are presented for Digital Signing. Also refer MPR 7.10.
29.	6.3 (a)	We often act for clients who are Attorneys under a Power of Attorney or are the appointed Receiver and Manager of a corporate entity. As such, they would be Client Agents as defined by the Client Authorisation. Often, it is necessary to change or expand the execution block to accurately reflect the capacity under which the individual is signing the Client Authorisation It is unclear whether a change to the execution block would constitute "a superficial change" or a change to the "layout of the form". We request that ARNECC update Guidance Note #1 - Client Authorisation to clarify whether a change to the execution block is in substantial compliance with the form set out in Schedule 4 of the MPR.	MPR Guidance Notes will be updated	ARNECC considers that the inclusion of specific execution blocks does not affect the Client Authorisation being in substantial compliance with the form set out in Schedule 4 of the MPR. Further guidance relating to the adaption of execution blocks for particular circumstances will be provided in Guidance Note #1 - Client Authorisation.
30.	6.3 (a)	To avoid doubt, it is preferable that this MPR state that the Client Authorisation must be 'on the same terms' as the form in Schedule 4 (as amended from time to time). ARNECC's previous comments that substantial compliance is set out in the guidance notes and that it is appropriate for information to be retained here are noted, however, it is considered the above amendment will clarify ARNECC's expectations.	None	Feedback noted but not adopted. The Registrars consider that 'substantial compliance' is appropriate for a form.
31.	6.3 (f)	Can ARNECC please clarify what constitutes taking reasonable steps to verify authority. For example, can a Subscriber rely on the statutory assumptions available under the *Corporations Act 2001*	MPR Guidance Notes will be updated	A Subscriber is best placed to make the assessment using their professional judgement. ARNECC will include further guidance on reasonable steps in a Guidance Note. However, reasonable steps

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		(Cth) and not make further enquiries or take further actions to verify authority? It is noted in most states, a solicitor or conveyancer who lodges documents such as caveats without instructions or a proper basis can lose their practicing certificate/registration and be personally liable for any loss resulting from their action. The governing bodies take this quite seriously.		will always be dependent upon the circumstances of each individual case.
32.	6.3 (f)	The inclusion of (f) requiring a Subscriber to undertake a Verification of Identity in circumstances where a Client Authorisation is not required, i.e. for caveats, priority notices, etc., is a necessary inclusion.	None	Feedback noted.
33.	6.3 (f)	It is suggested that the proposed MPR 6.3(f) should be relocated to MPR 6.4 (Right to Deal) as it does not make sense to include the requirements for situations where a Client Authorisation is not obtained in MPR 6.3, which deals with the requirements of obtaining a Client Authorisation. The words 'bind the Client to' could also be replaced with the word 'lodge' in proposed MPR 6.3(f).	None	Feedback noted but not adopted as ARNECC considers that MPR 6.3 to be a better location..
MPR 6 – General Obligations – Right to Deal				
34.	6.4.2	Should be redrafted so that the obligation extends to each mortgagor's agent so as to be consistent with Proposed MPR (MPR 6.5.1(b)(ii)).	None	MPR 6.4 relates to the transacting party's right to deal.
MPR 6 – General Obligations – Verification of Identity				
35.	6.5	We appreciate and support ARNECC's clarification response in relation to responsibilities for VOI of existing digital certificate holders.	None	Feedback noted.
36.	6.5	Support and advocate the use of the VOI Standard wherever practically possible, however, the practicalities of applying the standard in circumstances such as those presented by COVID 19 suggest some thought should be given to the use of digital technology. It is understood that Australia Post have written to ARNECC with regards to some practical and effective solutions, however, as yet, ARNECC have provided little to no indication or guidance on the use of digital technology. When will this matter be addressed? As previously outlined, it is requested ARNECC consider an approach aligned to the current AML/CTF requirements, allowing ARNECC to acknowledge electronic verification as an established and essential means of identity verification and to provide	None	ARNECC has been engaging with, and will continue to engage with, the Commonwealth Digital Transformation Agency on the development of the Trusted Digital Identity Framework. The ARNECC position statement relating to digital verification of identity published in July 2020 provides additional information. Digital VOI is not prohibited but does not yet form part of the VOI Standard. Identity Agents are specifically required to apply the face-to-face standard. A Subscriber may make its own assessment as to whether digital VOI constitutes the taking of its own reasonable steps.

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		Subscribers with best practice models to carry out electronic verification. It is additionally requested that ARNECC consider the adoption of an electronic form of identity verification into the VOI Standard. Clarification is sought whether VOI must be 'in person', or whether artificial intelligence (AI) facial recognition technology can be used to identify a client. Should AI facial recognition be prohibited, this is likely to stifle innovation in the industry with flow-on effects for the property market. It is suggested that before this method of verification be prohibited (in opposition to the wider societal move towards this sort of technology), the wider industry should be consulted further. It is proposed that the VOI Standard at Schedule 8 to the MPR permit the use of video technology to satisfy the face-to-face component. This amendment is important given the drafting of the MPR seems to require Identity Agents (i.e. a Broker) to follow the VOI Standard, including a face-to-face interview. A video interview achieves a similar outcome to an in-person interview and will allow efficiencies where brokers, conveyancers and lawyers do not always meet with mortgagors in person. If there was concern about the use of video interviews, perhaps they could be permitted for brokers, conveyancers and lawyers who are licensed or have professional obligations. We propose that Web VOI be implemented using document verification services as it improves efficiency, reduces costs, improves the customer experience, improves security, and enhances privacy. The Document Verification Service and Face Verification Service check whether the biographic information on an identity document matches the original record and utilises optical and facial recognition software to compare a photo against the image used on identity documents. We acknowledge that ARNECC does not endorse, approve or otherwise regulate technology based VOI solutions, however, we recommend that MPR 6.5 be amended to provide directions as to what ARNECC considers an acceptable standard of Web VOI. This will prevent Subscribers from trying to fit technology based VOI solutions into what is considered as "reasonable steps".		
37.	6.5	ARNECC verbal guidance at item 23 of the PDF titled "ARNECC – Industry Engagement Forum – consultation drafts 6 MPR and MOR – Q&A session" – 26 February 2020 confirms there is no ongoing requirement to VOI instructors where there is a properly signed	MPR Guidance Notes may be updated	It is for a Subscriber to take reasonable steps to assess the authority of the person giving the instructions to bind the Client. This will vary depending on the nature and set up of the Client's organisation.

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		Client Authorisation in place. ARNECC advised that the Subscriber must then be satisfied that the person giving instructions has the authority to bind the Client. We would greatly appreciate this guidance being incorporated into the ARNECC VOI guidance note.		ARNECC may include further guidance in the MPR Guidance Notes.
38.	6.5	ARNECC's position that the proposed amendment to the verification of identity (VOI) regime requiring Subscribers to first apply the VOI Standard prior to utilising reasonable steps will not form part of MPR Version 6.1 is welcomed. However, there is concern that ARNECC may still consider such changes in the future. The MPR should never be amended to require that Subscribers first seek to apply the VOI Standard requiring a face-to-face interaction prior to utilising other reasonable steps.	None	ARNECC does not currently intend to adopt this approach but is unable to give assurances that this approach will never be adopted.
39.	6.5	If an Identity Agent did not in fact correctly apply the VOI Standard, and the Subscriber had no way of knowing that, it is nevertheless a strict liability issue. The strict liability is not appropriate in this instance. If an Identity Agent is used and supplies a certificate that appears correct on its face, and the practitioner has no way of knowing that the Identity Agent made a mistake, the practitioner should not be liable for failing to use the VOI Standard.	None	A Subscriber elects whether or not to utilise the services of an Identity Agent. It is therefore the Subscriber's responsibility to ensure the obligations under the MPR are met, noting that Identity Agents are required to be insured.
40.	6.5.1 (b)	Clarification or guidance is sought as to what is to be interpreted as 'amendment or variation of mortgage'. For example, does a change of name of the registered proprietor require the Subscriber to undertake a new VOI?	None	An amendment or variation of mortgage is a specific instrument lodged under each jurisdiction's Land Titles Legislation. Refer, for example, to section 75A of the *Transfer of Land Act 1958* (Vic) or section 76 of the *Land Title Act 1994* (Qld).
41.	6.5.1 (b)	Previously submission highlighted the need for ARNECC to take into account the effects this MPR may have on the Australian securitisation market. Mortgage securitisations are an important source of funding for Australian banks and non-bank lenders. Note that in Australia mortgage securitisations typically entail equitable assignments of mortgages with the result that a legal transfer of the mortgage is not required. Circumstances can however arise in which the registered mortgagee is required to transfer securitised mortgages in bulk to the securitisation trustee or custodian. This new identification requirement would make the completion of such a bulk transfer extremely difficult. This may in turn require a restructuring of standard securitisation documentation with consequences for the Australian mortgage securitisation market. The proposed modifications to require the verification of the identity of mortgagors when mortgages are being transferred are strongly opposed.	None	The MPR do not apply to off-Register assignments. For a transfer of mortgage, the amendments have been made to align the MPR to existing statutory requirements. Refer, for example, to section 87B of the *Transfer of Land Act 1958* (Vic) or section 11B of the *Land Title Act 1994* (Qld). The requirement is: The Subscriber must take reasonable steps to verify the identity of: (b) Mortgagors (iii) for a transfer of mortgage, by ensuring the transferee mortgagee has complied with the requirements under the Land Titles Legislation and any Prescribed Requirements of the

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		This MPR appears to introduce a VOI obligation on a transferee mortgagee. The drafting of this MPR needs amendment. There is no grammatical object and consequently it is unclear whose identity needs to be verified by the Subscriber.		Jurisdiction in which the land the subject of the Conveyancing Transaction is situated
42.	6.5.1 (b) (ii)	1. Remove the words "is reasonably satisfied that" and replace them with "or" so that the applicable standard required of Subscribers in relation to verification of identity matches the standard required of Subscribers in relation to right to deal. Consequential changes should be made to the relevant Schedule 3 Certification Item 5. 2. If recommendation (1) is not accepted a new Proposed MPR (MPR 6.5.7) should be added with the effect that a Subscriber may only be reasonably satisfied under MPR (MPR 6.5.1(b) (ii)) if the mortgagee it represents (or its agent) has certified (in writing) that it has taken reasonable steps to verify the identity of each mortgagor (or each of their agents) AND ONLY if that Subscriber receives either: (a) a written certification, duly authorised by the mortgagee it represents (or its agent), that the mortgagee (or its agent) has taken reasonable steps to verify the identity of each mortgagor (or each of their agents) and all further steps otherwise required under MPR (MPR 6.5.3) if the mortgagee was the Subscriber; OR (b) a written certification, duly authorised by the mortgagee it represents, the Verification of Identity Standard in Schedule 8 of the MPR was employed by the mortgagee and/or the mortgagee's Identity Agent in relation to each mortgagor (or each of their agents); OR (c) an original or copy of an Identity Agent Certification addressed to the mortgagee the Subscriber represents in relation to each mortgagor (or each of their agents). 3. If neither recommendation (1) or (2) is accepted ARNECC Guidance Note 2 should be amended to contain clear guidance that a Subscriber may only be reasonably satisfied under MPR (MPR 6.5.1(b) (ii)) if the mortgagee it represents (or its agent) has certified (in writing) that it has taken reasonable steps to verify the identity of each mortgagor (or each of their agents) AND ONLY if that Subscriber receives either: (a) a written certification, duly authorised by the mortgagee it represents (or its agent), that the mortgagee (or its agent)	1. The MPR have been amended 2. None 3. None	1. The suggested amendment not adopted. However, MPR 6.4.2 has been amended to cover Representatives relying on the mortgagee they represent to fulfill this requirement. In both cases the applicable standard is reasonable steps. 2. and 3. Feedback noted but not adopted. It is for a Subscriber to assess how it can be reasonably satisfied in the circumstances. There are a range of ways in which this can be achieved, which are to be decided by the mortgagee and its Representative.

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		has taken reasonable steps to verify the identity of each mortgagor (or each of their agents) and all further steps otherwise required under MPR 6.5.3 if the mortgagee was the Subscriber; OR (b) a written certification, duly authorised by the mortgagee it represents, the Verification of Identity Standard in Schedule 8 of the MPR was employed by the mortgagee and/or the mortgagee's Identity Agent in relation to each mortgagor (or each of their agents); OR (c) an original or copy of an Identity Agent Certification addressed to the mortgagee the Subscriber represents in relation to each mortgagor (or each of their agents).		
43.	6.5.1 (b) (iii)	The word "or" should be deleted and replaced with the word "and" ensuring that both the requirements of Land Titles Legislation and Prescribed Requirements are satisfied as distinct from one or the other. Consequential changes should be made to the Schedule 3 Certification Item 4 noting that the requirement relates to Land Titles Legislation rather than "relevant law".	The MPR have been amended	The substance of the suggested amendment has been partially adopted – 'or' has been amended to 'and'. An amendment to Certification 4 is not required as 'relevant law' covers the Land Titles Legislation.
44.	6.5.1 (b) (iii)	It is assumed the requirements of specific jurisdictions in relation to transfers of mortgages are: ▪ section 87B of the Transfer of Land Act 1958 (Vic) (see also clause 3.1.2(b) of Registrar's Requirements for Paper Conveyancing Transactions); and ▪ sections 11B(2) and 288B of the Land Title Act 1994 (Qld) (see also paragraph 1-2495 of the Land Title Practice Manual which states that 'section 11B of the Land Title Act 1994 and s. 288B of the Land Act 1994 place an onus on all mortgage transferees to confirm the identity of mortgagors prior to lodging a transfer of mortgage for registration'). Are there any other jurisdictional requirements regarding transfers of mortgages that are intended to be captured by MPR 6.5.1(b)(iii)?	None	Correct for Victoria and Queensland. Additional Jurisdictional requirements as follows: NSW: section 56C *Real Property Act 1900* SA: section 152A *Real Property Act 1886* ACT: sections 48BA and 48BB of the *Land Titles Act 1925*
45.	6.5.1 (b) (iii)	It is considered that this MPR should be its own standalone provision (perhaps MPR 6.5.2) because it is not necessarily concerned with verifying the identity of mortgagor. Rather, it deals with a process that transferee mortgagees must follow. Further, the current drafting of proposed MPR does not work because the opening wording in 6.5.1 states, 'The Subscriber must take reasonable steps to verify the identity of,,,' and then 6.5.1(b)(iii) reads, 'for a transfer of	None	No change required. MPR 6.5.1(b)(iii) reads – 'The Subscriber must take reasonable steps to verify the identity of:… **(b) Mortgagors:**… for a transfer of mortgage, by ensuring the transferee mortgagee has…'.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
		mortgage, by ensuring the transferee mortgagee has…'.		
46.	6.5.2	Disappointed that the reform which was outlined in the draft Version 6 requiring the VOI Standard to be mandatory, has not been included in the new draft. We initially welcomed the strengthening of the VOI requirements and believe it would have encouraged good practice in relation to VOI. Mandating the VOI Standard, we believe, would have improved compliance, as some practitioners only pay lip service to the rules.	None	Feedback noted.
47.	6.5.2	Whilst supporting the use of the Standard in the first instance, it is recommended that rather than imposing the Standard at this time that each State which has introduced the Standard undertake extensive training/education on the requirements and expectations in the first instance.	None	ARNECC provides MPR Guidance Notes. ARNECC does not provide training, however, it is understood that some peak bodies and insurers offer training in this area.
48.	6.5.2	It is disappointing that ARNECC has not investigated nor provided guidance on the use of digital technology, including, but not limited to, the Document Verification Service, facial recognition and digital documents (e.g. digital drivers' licence). Given the advancement and propensity for people and businesses to use digital options, it is essential that ARNECC are not only conscious of these trends but are driving the industry response as to use of this technology. This is most necessary when considering risks associated with fraud and cyber security which, given ARNECC's apparent desire to address these issues through amendments to the MOR and MPR, would signal a need to have this addressed without delay. It is recommended ARNECC actively approach this matter and provide resources and a position on the use of current and emerging technology relevant to VOI and electronic conveyancing generally. It is requested ARNECC consider amending this MPR to allow the VOI standard to be achieved via electronic means, and not just as constituting 'reasonable steps'. This change would be aligned with current reforms at Commonwealth and some States to facilitate a greater range of transactions, including witnessing, to be conducted electronically. Not permitting electronic means to be used to meet the VOI Standard would impede innovation and choice, as well as locking out digital alternatives that can make for an improved client experience.	None	ARNECC has been engaging with, and will continue to engage with, the Commonwealth Digital Transformation Agency on the development of the Trusted Digital Identity Framework. The ARNECC position statement relating to digital verification of identity published in July 2020 provides additional information. A Subscriber may make its own assessment as to whether digital VOI constitutes the taking of its own reasonable steps.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
49.	6.5.2 (b)	Strongly support the reinstatement of MPR 6.5.2 (b) of the MPR, allowing Subscribers to verify the identity of a Person in some other way that constitutes the taking of reasonable steps. It is submitted that the inclusion of this MPR is beneficial and in the best interests of Subscribers as it allows Subscribers to rely on secure electronic verification as a means of conducting identity verification. Remote electronic verification has proven crucial in the current climate and will continue to benefit Subscribers seeking to permanently shift to a remote working environment.	None	Feedback noted.
50.	6.5.4	Delete the semicolon between the words “years” and “and”.	The MPR have been amended	MPR 6.5.4 has been amended as suggested.
51.	6.5.4 (a)	For large institutional clients such as banks, it is common practice for a Subscriber to hold a standing Client Authorisation, but to receive instructions on specific Conveyancing Transactions from a Client employee (Instructor), some of whom may not be formal attorneys, but who are nonetheless authorised to provide instructions to the Subscriber, for example under to the retainer agreement between the Client and the Subscriber. In most cases the Instructor for the Conveyancing Transaction is not the person who actually signed the Client Authorisation on behalf of the Client. It is unclear currently whether Subscribers are required to conduct verification of identity on an Instructor. Current market practice varies. Could ARNECC please confirm that MPR 6.5.4 means that the Subscriber is not required to conduct verification of identity on an Instructor if the Subscriber: (i) holds a signed Client Authorisation from the Client; and (ii) conducted verification of identity on the Client as required by MPR 6.5.1(a) at the time that the Client Authorisation was entered into. This is a very important issue for law firms dealing with large institutional clients. It would be administratively very burdensome if Subscribers are in fact required to conduct VOI on an Instructor.	MPR Guidance Notes may be amended	MPR 6.5.4(a), relates to the Client or Client Agent, not an instructor if they are not the Client Agent. A Subscriber needs to ensure the instructor has the authority to instruct the conveyancing transaction on behalf of the Client, and that they are dealing with the instructor. ARNECC may include further guidance relating to instructors in the MPR Guidance Notes.
52.	6.5.4 (a)	The drafting amendment in MPR 6.5.4(a) was intended to clarify that a Subscriber is not required to re-verify the identity of their client every two years when complying with the verification of identity requirements in MPR 6.5.1(a). We suggest that this amendment be re-drafted as the current wording is ambiguous and not sufficiently clear.	None	Amendment to clarify that a Subscriber is not required to re-verify the identity of their Client (or a Client Agent) every two years where they are acting under a current Client Authorisation and complied with the verification of identity requirements in MPR 6.5.1(a) prior to acting for that Client in the ELN. Where a Client Authorisation has ended, and the initial VOI was conducted more than two years ago, re-verification is required.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
53.	6.5.4 (a)	It is understood that the intention behind this is to clarify that a Subscriber need not re-verify the identity of the Client (or an individual appointed as attorney to sign for the Client) where it had already done so at the time of obtaining the current Client Authorisation (noting that MPR 6.3(b) requires that a Client Authorisation be obtained "before the Subscriber Digitally Signs any electronic Registry Instrument or other electronic Document in the ELN…)". However, it is suggested the following drafting would make this intention clearer: The Subscriber need not re-verify the identity of the Person Being Identified if: (a) a Client or Client Agent if the Subscriber is acting on behalf of that Client under a current Client Authorisation and the Subscriber previously complied with Participation Rule 6.5.1(a) ~~prior to the Subscriber Digitally Signing any Registry Instrument or other electronic Document on behalf of the Client under~~ when obtaining that Client Authorisation; or	The MPR have been amended	The suggested amendment has been partially adopted – 'previously' has been included in MPR 6.5.4(a). The original drafting is required to ensure that VOI was conducted before Digital Signing occurred.
54.	6.5.4 (a) and (b)	Based on the definition of 'Client Authorisation' in the ECNL, we conclude that whether a 'Client Authorisation' is current depends on its terms. Accordingly, we interpret 'current Client Authorisation' to mean a 'Standing Authority' Client Authorisation that has not been revoked. On this basis, we assume that the intention of MPR 6.5.4(a) is to provide that, if a Subscriber is acting pursuant to a 'Standing Authority' Client Authorisation (and complied with MPR 6.5.1(a) in respect of that Client Authorisation by verifying the identity of the Client), the Subscriber is not required to reverify the identity of that Client while the Client Authorisation is in force. If our interpretation is correct, we consider that the drafting of MPR 6.5.4(a) needs to be amended to make this clearer. We assume that the intention is for MPR 6.5.4(b) to apply where the Subscriber does not have a 'Standing Authority' Client Authorisation (i.e. where MPR 6.5.4(a) does not apply), such that the Subscriber does not have to re-verify the identity of the relevant person (e.g. Client, mortgagor etc) if it has verified that person's identity in the previous two years. If our interpretation is correct, we consider that the drafting of MPR 6.5.4(b) needs to be amended to make this clearer.	None	A current Client Authorisation is any properly completed Client Authorisation in the form set out in the MPR at the time of execution is valid, unless revoked earlier, until: ▪ **Specific Authority** - the conveyancing transaction(s) to which it relates are concluded. ▪ **Standing Authority** - the expiry date. ▪ **Batch Authority** - the conveyancing transaction(s) to which it relates are concluded.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
55.	6.5.4 (a) and (b)	The definitions of Client, Client Agent and Person Being Identified all refer back to the definition of Person. "Person" is defined in Part 3 of Schedule 1 of the ECNL as including "an individual or body politic or corporation". If we undertake the VOI of: (a) the directors or company secretary of a corporate client; or (b) Attorneys appointed under a Power of Attorney for that corporate client, and the same directors or attorneys signed a Standing Authority Client Authorisation (with no revocation date), would we need to re-verify the identity of our corporate client if the directors, company secretary or attorney subsequently leaves the corporation within the 2 years after the signing of the Standing Authority Client Authorisation? In essence, we are no longer dealing with the same individuals but we are still dealing with the same corporation. We request that ARNECC clarify this situation either through the MPR or Guidance Note #2 - Verification of Identity.	MPR Guidance Notes may be updated	MPR 6.5.4(a), relates to the Client or Client Agent, an instructor if they are not the Client Agent. A Subscriber needs to ensure the instructor has the authority to instruct on behalf of the Client, and that they are dealing with the instructor. ARNECC may include further clarification in the MPR Guidance Notes.
MPR 6 – General Obligations – Supporting Evidence				
56.	6.6	It is unclear if this rule requires the Subscriber to retain the original, or merely an electronic copy, of the evidence supporting an electronic Registry Instrument or other electronic Document, specifically the Client Authorisation. It is suggested this be clarified to remove any uncertainty.	None	Refer to MPR Guidance Note #5 – Retention of Evidence, paragraph 5.
MPR 6 – General Obligations – Mortgages				
57.	6.13.1 (a) and (b)	An amendment to MPR 6.13(1)(a) and MPR 5 of Schedule 3, relating to the requirement for a 'same terms' mortgage is requested. This requirement has been interpreted by some in the electronic conveyancing industry as requiring the supporting or counterpart mortgage to comply with the same execution and (where applicable) witnessing requirements as apply to the mortgage lodged for registration. This requirement – particularly in jurisdictions that require the mortgagor's signature to be witnessed – has been a significant impediment to the industry's ability to introduce fully electronic process for the supporting or counterpart mortgage. This may not be the intended outcome for this MPR. Instead, it is understood the intention is likely to be that the counterpart mortgage should contain the same substantive terms as the mortgage lodged	None	ARNECC is unable to make this amendment as the MPR mirrors legislation, for example, section 74(1A) of the *Transfer of Land Act 1958* (Vic). It is for the Subscriber to assess what is required in light of all relevant law. Ultimately a Court will decide what 'on the same terms' means.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
		for registration, but differences in formatting and how the document is executed are permitted. However, in the absence of the MPR making this intention clear, industry participants including financial institutions are likely to take the more conservative approach of requiring counterpart mortgages to be executed and witnessed (as applicable) in compliance with the requirements for the mortgage lodged for registration. This outcome is reducing the benefits (including efficiencies and timeliness) of electronic conveyancing. As such, it is strongly proposed for ARNECC to consider amending MPR 6.13(1)(a) to clarify that the counterpart or supporting mortgage must be granted on the same substantive terms, but differences in formatting and execution would not affect compliance with this MPR. This MPR requires that the mortgagee or the mortgagee's Representative must ensure that the mortgagee or the mortgagee's Representative holds the mortgage granted by the mortgagor. It is unclear whether a fully executed scanned copy of the mortgage is sufficient for the purposes of MPR 6.13.1(b). We request that ARNECC clarify the above either in the MPR or in Guidance Note #5 - Retention of Evidence.		
MPR 7 – System Security and Integrity – Users				
58.	7.2	Supportive of Subscribers undertaking cyber security awareness training. It is important that the training is delivered by a suitably qualified trainer or industry repressive association independently of any ELNO. This will ensure that training is not subsidised, offered as an incentive or ELNO platform specific so as to unfairly encourage use and preference of one ELNO over a competitor ELNO. The requirement for ensuing “cyber security awareness training” raises some questions that should be addressed by ARNECC: ▪ How often should training occur? ▪ Will ARNECC require the issuing of a “completion certificate” for audit and compliance purposes? ▪ What are the penalties for failure to comply with completing “cyber security awareness training”?	None	▪ It is for the Subscriber to assess frequency in light of the changing landscape of cyber security. It is possible that an ELNO may require training at specified times. ▪ ARNECC will not issue completion certificates. ▪ A material breach of the Participation Rules is a Suspension Event or a Termination Event, so too are a Subscriber acting negligently or posing a threat to the operation, security, integrity or stability of the ELN.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
59.	7.2	Support the amendment requiring cyber security awareness training but believe it should go further than requiring as a minimum training in secure use of email. Compulsory training in cyber-security awareness is considered essential and should be included as a component of licensing or continual professional development requirements. It is recommended that each Registrar confer with their State licensing body to ascertain how this can be most effectively managed with respect to time, cost and content. Clarity is requested around the measures that will be put in place to monitor and audit the compliance with this requirement (if not attached to registration renewal) as well as expectations around how often it is expected conveyancers will undertake this training – annually, biennial or only once.	The MPR have been amended	MPR 7.2.1(b) has been amended to include secure use of the Subscriber's Systems. Subscribers should liaise with their professional regulators as to managing their obligations under these requirements. An ELNO monitors compliance as part of its Subscriber Review Process. The Registrars review this process and any amendments to it annually. It is for the Subscriber to assess frequency in light of the changing landscape of cyber security. It is possible that an ELNO may require training at specified times.
60.	7.2.1	Whilst the expansion of the requirements for Subscribers to ensure its Users have been properly trained is welcomed, especially in cyber security awareness, we believe that it does not go far enough. We therefore propose the inclusion of the following wording: **"Users:** Cyber security awareness training covering, as a minimum, secure use of the ELN and secure use of email and other electronic communication; **Principals, Officers, employees, agents and contractors:** Cyber security awareness training covering, as a minimum, secure use of the Subscriber's systems and secure use of email and other electronic communication."	None	Suggested amendment not adopted as there are some contractors, for example, cleaning services and office plant services, that never access a Subscriber's Systems.
61.	7.2.1 (b)	The wording of this MPR seems contrary to the information provided at various consultation sessions conducted for proposed version 6 of the MPR which suggested standard bank cyber training would be compliant. The banks are very keen to ensure this obligation is able to be met and incorporated into existing training, and not require staff to take additional training which would likely be duplicative. If the intended effect of this MPR is to require mandatory training specifically about secure use of the ELN, then the strong view is this obligation should sit with the ELN and should be a prerequisite to the ELN allowing access to the system. The ELN should provide the standard training or alternatively provide the cyber security awareness terms via the user interface as a "tick to accept" prior to allowing full access to the system. This is similar to what has previously been suggested for requirements for users to be aware of the PEXA Security Policy.	None	ARNECC has not made an assessment that standard bank cyber training would be compliant. MOR 7.1(b)(ii)D and MOR 14.6 require an ELNO to make adequate training resources and information available to Subscribers and Users in relation to their use of the ELN. MPR 7.2.1 requires that Subscribers ensure their Users have undertaken the training provided by an ELNO.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
62.	7.2.1 (c)	It is considered the amendment is far too broad and may apply to all employees, contractors and other persons beyond those Users of the ELN. This should be limited to those employees who are Users or Administrators of an ELN.	None	Feedback noted but not adopted. Anyone accessing a Subscriber's System could exploit a weakness that could potentially lead to attacks on other systems including an ELN.
63.	7.2.3	Agree with the expansion of the criteria that the Subscriber must provide to ensure the Users' bona fides.	None	Feedback noted.
64.	7.2.3	A change has been made to the paragraph of the "Insolvency Event" definition dealing with arrangements and compositions with creditors. The definition is too broad as it covers anyone who: ▪ "is, or states they are, unable to pay all the Person's debts as and when they become due and payable", which would include anyone who has given a lender a "hardship notice" pursuant to the National Credit Code ▪ with regard to the paragraph dealing with arrangements or compositions with creditors, the new wording ("temporary arrangement to postpone a debt") is not sufficiently broad to cover all hardship variations which may be made pursuant to the National Credit Code. The width of the definition means Subscribers cannot employ as Users many people who have in the past been in financial difficulty, even where this financial difficulty did not result in bankruptcy and the issue was subsequently resolved or the debt repaid. Financial difficulties of this type can occur as a result of unanticipated life events such as the breakdown of a marriage, the loss of employment or a natural disaster and do not necessarily mean the affected individual is untrustworthy or of bad character. It is suggested the concern could be addressed by: ▪ replacing the definition of "Insolvency Event" with a definition of "Insolvent" which covers persons currently: - in bankruptcy - are, or states they are, unable to pay their debts as and when they become due and payable - subject to an arrangement, composition or compromise with a lender except where the lender regards the debt as being up to date; and ▪ modifying MPR 7.2.3 so that it only applies to Users who are currently "Insolvent" (instead of the current wording which refers	None	Further amendments have been made to the definition of Insolvency Event to ensure agreements under Section 73 and court ordered changes under Division 3 of the National Credit Code are covered. This will ensure certainty about when a Person is Insolvent for the purposes of the MPRs.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
		to Users who have been subject to "an Insolvency Event within the last five years"). It is requested a further round of consultation be conducted to narrow down and refine the definition of insolvency events.		
65.	7.2.3	Previous comments reiterated that this requirement is difficult for Subscribers to meet. Noting ARNECC's feedback that it does not have the ability to publish a list, it is strongly advocated for an alternative approach that requires the ELNO to maintain a list of people restricted from accessing an ELN. This is because, in the absence of such a list, it would be difficult for the Bank to ensure that any users had not been restricted from accessing an ELN.	None	Feedback noted but not adopted for reasons previously advised.
66.	7.2.3	ARNECC's comment that MPR 7.2.3 only applies to Signers and Subscriber Administrators is noted, however, the drafting appears to include all Users. It is suggested MPR 7.2.3(a) be amended to clarify that it only applies to Signers and Subscriber Administrators if that's the intention. Such an amendment is strongly supported. If this requirement is interpreted to apply to all Users, this may pose issues for law firms and conveyancers where they can legally have criminal records or been disciplined in the past and be a conveyancer or lawyer. If ARNECC decides to retain MPR 7.2.3(a) as currently drafted, it is suggested a transitional period of 6-12 months to implement the requirement. It will take a significant period of time to organise probity checks for all Users.	None	MPR 7.2.3(a) applies to all Users. MPR 7.2.3(b) applies to Signers and Subscriber Administrators only. If, after the consultation period, together with the determination period, a Subscriber requires additional time to implement the changes, a Subscriber may request a temporary waiver..
67.	7.2.3. (a) (v)	There is no current list to cross check this at a bank level. It is considered the onus for this should sit with the ELN and will also need to be considered as part of the interoperability discussions.	None	Feedback noted.
68.	7.2.3 (b)	The revised approach in new MPR 7.2.3(b), which limits the obligation to obtain a police check prior to the initial allocation of a Digital Certificate to a Signer or prior to the appointment of a Subscriber Administrator is noted. It is submitted that where the Signer or Subscriber Administrator is an Australian legal practitioner, this obligation should not apply. The deeming provision set out in MPR 7.2.4, applicable to MPR 7.2.3(a), should similarly apply in relation to MPR 7.2.3(b).	None	Feedback noted but not adopted as police checks are not necessarily mandatory for the parties shown in MPR 7.2.4.
69.	7.2.3 (b)	Several stakeholders raised issues about what kind of police check should be required (state or federal) and the period of the check. It is noted that the Feedback Table provided that further guidance may be issued. However, this should be addressed in the MPR itself,	MPR Guidance Notes will be amended	Feedback noted but not adopted. Due to the variation in jurisdictional police checks it is appropriate to include the detailed information in the MPR Guidance Notes.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
		possibly by inserting a definition of a police check. If a new requirement is being introduced, there should be no ambiguity about exactly what Subscribers must do to comply.		
70.	7.2.3 (b)	It is questioned whether an upfront police check is always required for Signers or Subscriber Administrator, or whether there can be some flexibility to allow financial institutions to leverage existing processes for staff onboarding.	None	If staff have already been the subject of a police background check, and that was before the initial allocation of a Digital Certificate to a Signer or prior to the appointment of a Subscriber Administrator, then it appears this provision has been complied with.
71.	7.2.3 (c)	Support this amendment.	None	Feedback noted.
72.	7.2.4	MPR 7.2.4 should be amended such that legal practitioners and the other listed classes of Users are deemed to comply with MPR 7.2.3(b). MPR should be amended to also refer to MPR 7.2.3 (b). At a minimum this should be done for Australian Legal Practitioners and Licenced Conveyancers, who cannot practice if they have been subject to a conviction of fraud or an indictable offence or an offence for dishonesty. In addition, it should be clarified that the obligations in MPR 7.2.3 do not apply retrospectively to people who are already Users, Signers or Subscriber Administrators. If Australian Legal Practitioners and Licenced Conveyancers are not excepted from this MPR there will be an onerous and unnecessary administrative burden on large law firms with large numbers of PEXA users.	The MPR have been amended	Feedback noted but not adopted as police checks are not necessarily mandatory for the parties shown in MPR 7.2.4. MPR 7.2.3(b) has been refined to only apply to Signers and Subscriber Administrators. MPR 7.2.3(a)(ii) and (b) have also been amended to limit indictable offences. Current Signers and Subscriber Administrators are not captured by MPR 7.2.3(b).
73.	7.2.5	Concerned about the powers given to an ELNO to request a Subscriber to provide evidence with respect to certain matters. Would it not be more appropriate for the ELNO to advise the User and then report the matter to ARNECC? It is concerning that ARNECC is delegating regulatory responsibilities to an ELNO. In circumstances where the ELNO may have a proprietary interest in the User, such a provision is problematic.	None	An ELNO is responsible for ensuring that Subscribers comply with the Eligibility Criteria.
74.	7.2.5	What evidence they would be expected to see, for example, ASIC Searches, Bankruptcy Searches, Police Checks, statutory declarations?	MPR Guidance will be updated.	The evidence requested would depend on the circumstances. ARNECC will provide further information in the MPR Guidance Notes.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
MPR 7 – System Security and Integrity – Digital Certificates				
75.	7.5	We appreciate and support ARNECC's clarification response in relation to responsibilities for VOI of existing digital certificate holders.	None	Feedback noted.
76.	7.5.5	Agree with the tightening with respect to the security of Digital Certificates to ensure their safety.	None	Feedback noted.
77.	7.5.5	The focus of MPR 7.5.5 should be that the access credentials are not shared in the first place, rather than just focusing on actual misuse.	None	The intent of MPR 7.5.5 is to ensure safe custody and prevent misuse of Access Credentials or Digital Certificates.
78.	7.5.5	In light of the Ministerial Direction on interoperability, the processes may differ depending on the ELN used.	None	Feedback noted.
MPR 7 – System Security and Integrity - Notification of Jeopardised Conveyancing Transaction				
79.	7.7.1	▪ which Registrar and in which Jurisdiction should be notified? ▪ does the ELNO or the Registrar have a Direct Contact Number where Members can immediately report Conveyancing Transactions that has been Jeopardised? ▪ who is responsible for investigating a suspicious transaction on PEXA? ▪ are there current obligations on Members to report suspicious transaction on PEXA? Also, to be considered is that a Subscriber may be under a court order and may not be able to disclose or notify other parties that they are being investigated. In light of the queries above, the procedures surrounding Jeopardised Conveyancing Transactions need to be set out in greater detail. It is also recommended: there needs to be drafting inserted to protect a Subscriber ▪ against the risk of tipping off other parties that may be involved in a fraud. ▪ the reference to "The Subscriber must immediately notify" be changed to read: "The Subscriber must immediately notify (only to the extent permitted by law and where practicable to do so) the ELNO and the Registrar".	The MPR have been amended	The Registrar in the affected jurisdiction should be notified. A direct phone line is not necessary as emails can be marked high priority and will be received instantaneously. Each Land Registry provides information on email addresses to be used. All parties to the transaction should investigate a suspicious transaction. The obligation to report to the ELNO has always existed. The substance of the suggested amendment has been partially adopted.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
80.	7.7.1 (b)	Consideration should be given to adding the Land Registry as a party that requires notification under MPR 7.7.1(b).	None	Feedback noted but not adopted.
81.	7.7.2	Cannot be enforced under PEXA systems as communication between certain parties within workspaces is blocked. For example, this requirement is to advise the other Subscribers within the workspace that something is not accurate. If communication between all Subscribers is not possible, then this cannot be enforced. This will require review or the PEXA system would require amending to enable compliance.	None	The communication need not be through the ELN and, dependent on the situation, the ELN may not be the appropriate channel.
82.	7.7.2	There needs to be some drafting inserted to protect a Subscriber against the risk of tipping off other parties that may be involved in a fraud. It is recommended the reference to "The Subscriber must immediately notify" be changed to read: "The Subscriber must immediately notify (only to the extent permitted by law and where practicable to do so) the other Participating Subscribers".	The MPR have been amended	The substance of the suggested amendment has been partially adopted.
MPR 9 – Restriction, Suspension and Termination				
83.	9	It is proposed MPR 9 should be modified to: ▪ limit suspensions to a specified time adequate to permit an investigation as to whether the Subscriber should be terminated ▪ set out the procedures which should be followed prior to a termination (for example, natural justice requirements which allow the Subscriber an opportunity to provide evidence and arguments) ▪ set out the applicable appeal mechanisms. It is noted that the recent report on the Intergovernmental Agreement under which ARNECC was established recommended the modification of the Participation Rules to include potential actions by the Registrar such as warnings and fines of Subscribers. The current penalties are limited to suspension or termination, either of which would have drastic and possibly excessive consequences for the relevant Subscriber and, in the case of significant lenders, could have significant consequences for the jurisdiction, which suspends or terminates the lender. It is recommended expanding the options available to Registrar to include warnings and fines for Subscribers, and notes ARNECC is	None	Feedback noted but not adopted. ▪ A Suspension will continue until a final determination is made by the Registrar. ▪ The Suspension and Termination procedure is detailed in Schedule 7 of the MPR. ▪ Sections 28 to 31 of the ECNL outline the appeal process against decisions by the Registrar.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
		considering an enforcement regime under the ECNL.		
MPR Schedule 1 - Additional Participation Rules				
84.	Schedule 1	States that Certification 6 only applies in Victoria and Western Australia. What is the process if the paper certificate of title cannot be found or does not exist?	None	In Victoria, a lost title application should be made under section 31 of the *Transfer of Land Act 1958* (Vic). In Western Australia if a duplicate Certificate of Title is lost or destroyed, an application should be made under section 75 of the *Transfer of Land Act 1893* (WA)
MPR Schedule 2 – Amendment to Participation Rules Procedure				
85.	Schedule 2	Significant changes require long implementation periods. 20 Business Days' notice is an inadequate period for the implementation of the proposed changes or the proposed additional screening of Users and other staff. At least 6 months should be allowed for the implementation of the changes outlined in this Consultation Draft. Schedule 2 should be amended to require consultation with Subscribers and their associations on the time reasonably required to implement any proposed changes. All future MPR changes should have a 3-6-month implementation timeframe following the publication of the final MPRs for simple changes and a minimum of 12 months for complex changes.	None	If, after the consultation period, together with the determination period, a Subscriber requires additional time to implement the changes, a Subscriber may request a temporary waiver.
MPR Schedule 3 - Certification Rules				
86.	Schedule 3	The implementation of changes in the certifications requires a substantial lead time.	None	Feedback noted.
MPR Schedule 4 - Client Authorisation				
87.	Schedule 4	The proposed amendments are supported.	None	Feedback noted.
88.	Schedule 4	Please confirm that the proposed changes to the Client Authorisation does not require a financial institution or Subscribers to execute new Client Authorisations where they hold valid Client Authorisations.	None	There is no need to sign a new Client Authorisation if the existing Client Authorisation is still valid. Any new and/or amended MPR takes effect prospectively.
89.	Schedule 4	We felt there is value in adding this Client Authorisation feedback again. It is believed the below feedback could help eliminate confusion for practitioners and identity agents alike. The existing Client Authorisation template PDF and webform are inconsistent:	None	The Client Authorisation flatform provides for the most common scenario of two clients, and the Client Authorisation smartform allows up to five clients to be added.

<table>
<tr><th>#</th><th>Rule</th><th>Stakeholder Feedback</th><th>Action</th><th>ARNECC Response</th></tr>
<tr><td></td><td></td><td>
<table>
<tr><td>CA Template</td><td>CA Webform</td></tr>
<tr><td>Provision for 2 applicants</td><td>Provision for 1 applicant</td></tr>
<tr><td>Where 2 applicants, provision for certification by either 1x Representative or 1x Representative Agent but not 2 of the same</td><td>Provision for certification by either 1x Representative or 1x Representative Agent</td></tr>
<tr><td>Number printed pages 1 (excluding terms)</td><td>Number of printed pages 2 (excluding terms</td></tr>
</table>
The current Client Authorisation template is only ideal for two applicants if both applicants have their VOI performed together. The preference is provision for only one applicant per Client Authorisation – bringing the format into line with the webform. One applicant per Client Authorisation also avoids the potential for challenges in passing the Client Authorisation from one applicant to another.
Further, consideration could be given to simplifying the form layout relating to the requirement for certification from 1 of the 3 options: Consular Office Witness, Representative or Representative Agent, as this is often confused and completed by the Client or completed by Consular Office Witness or Representative in the incorrect location.
</td><td></td><td>Whichever format is used, an Identity Agent can witness the signing of the Client Authorisation by different Clients separately and copies of the same Client Authorisation separately.

Feedback regarding form layout noted but not adopted at this time. ARNECC may consider amendments in a future version of the MPR.</td></tr>
<tr><td>90.</td><td>Schedule 4, Clause 2</td><td>The approved use terms contained in Clause 4 - the limitations on collection, storage, and use - may be at odds with the current practice of this data usage by State Land Registries and Private Operators.

The current approved use as stated in Clause 4.1 of the Client Authorisation terms does not provide sufficient flexibility in the use of the data and may unnecessarily impact both State Land Registry’s and Private Operators/3rd party interest and use of the data where such use deviates from being for the “purpose of completing and processing the Conveyancing Transaction(s) or as required by law, including for the purpose of a Compliance Examination”, in which such use is in practice today.

To this end, it is proposed an expansion of rights in the drafting of Clause 4 of the Client Authorisation to include downstream usage and on-provision of rights by the State to 3rd party entities.</td><td>None</td><td>Clause 4 does not affect the Privacy Collection Statement on both the Client Authorisation form and individual Registry Instruments which permits use of information for publicly searchable registers and indexes.</td></tr>
</table>

#	Rule	Stakeholder Feedback	Action	ARNECC Response
91.	Schedule 4, Clause 4.1	Personal Information provided by a Subscriber to a Panel Law Firm must NOT be used for any other purpose, including a Compliance Examination to be conducted by ARNECC of the relevant Panel Law Firm. If ARNECC requires any Personal Information from a Subscriber, the request should come directly to a Subscriber, not via a Third-Party Service Provider. It is recommended that the reference to "for the purpose of a Compliance Examination" must be removed.	None	Compliance Examinations relate to Subscribers and are provided for under sections 32 to 36 of the ECNL. Refer MPR Guidance Note #6 – Compliance Examinations for further information.
92.	Schedule 4, Clause 4.1 and 4.2	In the context of a Subscriber (as a Client), it is unclear what Personal Information is required from Staff in order to complete a Conveyancing Transaction. It is requested that ARNECC publish the revised draft MPRs such that it is clear to industry what Personal Information is required. It is recommended MPR 4.2 should include an exception relating to any Staff that work with an ELNO – their Personal Information is not relevant for the purposes of completing a Conveyancing Transaction. The reference to Client should be limited to Customers or Mortgagors.	None	Personal Information refers to any information contained in the Client Authorisation, for example, the Client/Client Agent name, address and Capacity.
MPR Schedule 8 – Verification of Identity Standard				
93.	Paragraph 3.4	The MPR does not provide a definition as to what is accepted as a foreign government identity document, nor does it specify how to identify fraudulent foreign government identity documents. It is proposed that ARNECC creates a register of identity documents from foreign governments that are considered as an acceptable form of foreign identification to prevent Subscribers from being subjected to fraudulent identification documents.	None	It would be unworkable for ARNECC to maintain such a register. To provide a list of acceptable documents would not prevent the production of fraudulent identification documents.
94.	Paragraph 2	The industry can now provide a fully digital customer journey for lending transactions from application to settlement, with the exception of Verification of Identity where the customer is forced out of the digital journey to attend an identity agent such as Australia Post. The face-to-face only standard is outdated, inefficient and costly for customers. Non-bank and small ADI lenders need certainty in the regulatory framework, which is not possible while utilising "reasonable steps" for identity verification. There is still a lack of case law to provide comfort that the Verification of Identity Standard can be deviated from. ARNECC must provide this regulatory certainty by providing a digital Verification of Identity Standard. The following amendments are recommended:	None	Feedback noted but not adopted. ARNECC has been engaging with, and will continue to engage with, the Commonwealth Digital Transformation Agency on the development of the Trusted Digital Identity Framework. The ARNECC position statement relating to digital verification of identity published in July 2020 provides additional information. A Subscriber may make its own assessment as to whether digital VOI constitutes the taking of its own reasonable steps.

#	Rule	Stakeholder Feedback	Action	ARNECC Response
		2 ~~Face-to-face regime~~ Verification of Identity interview 2.1 The verification of identity ~~must~~ may be conducted during a face-to-face in-person interview between the Identity Verifier and the Person Being Identified or by an electronic verification of the Person Being Identified. 2.2 Where Documents containing photographs are produced by the Person Being Identified, the Identity Verifier must be satisfied that the Person Being Identified is a reasonable likeness (for example the shape of his or her mouth, nose, eyes and the position of his or her cheek bones) to the Person depicted in those photographs. 2.3 Where an interview is conducted by an electronic verification service, this service must at a minimum include the following checks; (a) Verification of Document validity through the Australian Government's Document Verification Service; (b) Biometric verification between identity Documents and the Person Being Identified; and (c) A liveness test of the Person Being Identified; and (d) Geolocation confirming the location of the Person Being Identified.		
Additional Comments				
95.	Cyber Security	It is pleasing to see the tightening of cyber security requirements imposed on ELNOs and Subscribers.	None	Feedback noted
96.	Consultation	Supportive of ARNECC in its role to review and evolve the MPR & MOR. With regards to future draft proposals it would be appreciated and recommend that accompanying notes be provided by ARNECC so as to provide some further understanding of the context in which the amendments are being made	None	Feedback noted
97.	Consultation	Enhance the current consultation process by issuing explanatory notes on substantive changes proposed in Consultation Draft MOR and MPR version and issue Consultation Draft Guidance Notes during consultation rounds, to assist industry to understand the ARNECC's position on policy drivers and anticipated approach to implementation.	None	Feedback noted. Consideration will be given to providing explanatory notes on substantive changes in the future. Guidance Notes are revised once the MPR are settled to reflect the final position.

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		Industry would also benefit greatly if ARNECC began consulting on proposed changes to Guidance Notes. This could occur at the same time as consultation on Consultation Draft MOR and MPR versions, to further assist industry participants to understand how ARNECC envisages ELNOs and Subscribers will comply with obligations once finalised.		
98.	e-Settlement Subscribers	The publication of Guidance Query #7 – Guidance to e-settlement Subscribers and their instructing practitioners is welcomed. However, consideration should be given to incorporating the clarifications provided in the Guidance Query into the MPR. It is suggested that, in keeping with the statutory relationship created by sections 10 and 11 of the ECNL between the client and the Subscriber, the MPR make it clear that in preparing, signing and lodging electronic documents and authorising settlement of a transaction, an e-settlement Subscriber is acting for the client and not the conveyancing practitioner that engaged them.	None	Feedback noted but not adopted. A Subscriber's obligations are clearly set out in the MPR. The intent of the Guidance Query is to explain that it is the Subscriber who is responsible for meeting its obligations under the MPR, not the Instructing Practitioner.
99.	Guidance Notes	We do not have any concerns with the proposed changes to the MPR and MOR. It is suggested that some prescriptive guidance notes be added as to situations where a practitioner must meet the VOI standard and when reasonable steps would be permitted as an exception. These guidance notes would help to eliminate practitioner confusion or incorrect interpretation of their requirements and perhaps highlight consideration risks associated with reasonable steps, engaging third party identity services and maintaining suitable insurance cover, ultimately to better protect consumers and governments from the consequences of property fraud.	None	Refer to MPR Guidance Note #2 – Verification of Identity.
100.	Guidance Notes	ARNECC Guidance Note 2 should be amended to contain clear guidance that a Subscriber or a mortgagee should consider certifications made pursuant to Schedule 3 Certification Rules (or the certifications suggested of the mortgagee or Subscriber in recommendation (2) and (3) above) may create liability under the Australian Consumer Law (or ASIC Act, Corporations Law in respect of financial services) to the extent a person suffers loss or damage as a result of conduct that is misleading or deceptive or likely to mislead or deceive. In more specific circumstances, liability may also accrue in respect of representations made in connection with the supply of goods or services by the Subscriber to a relevant party (to whom a Registrar may be subrogated).	None	This type of guidance constitutes legal advice and is beyond ARNECC's remit.

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101.	Guidance Notes	ARNECC Guidance Note #5 – Retention of Evidence should be updated to make it clear that a Subscriber must retain evidence of : (a) the written certification, duly authorised by the mortgagee it represents (or its agent), that the mortgagee has taken reasonable steps to verify the identity of each mortgagor (or each of their agents) and all further steps otherwise required under MPR 6.5.3 if the mortgagee was the Subscriber; OR (b) the written certification, duly authorised by the mortgagee it represents, the Verification of Identity Standard in Schedule 8 of the MPR was employed by the mortgagee and/or the mortgagee's Identity Agent in relation to each mortgagor (or each of their agents); OR (c) the Identity Agent Certification addressed to the mortgagee the Subscriber represents in relation to each mortgagor (or each of their agents).	None	Feedback noted but not adopted. It is for a Subscriber to assess how it can be reasonably satisfied in the circumstances. There are a range of ways in which this can be achieved, which are to be decided by the mortgagee and its Representative.
102.	Guidance Notes	As a result of the Proposed MPR (MPR 2.1 definition of Identity Agent) it is possible that mortgagees will take steps to update arrangements with brokers who might act as their Identity Agent. As a result, ARNECC Guidance note 2 should be amended to clarify in respect of Identity Agents: (a) The appointment must be in writing and evidence an agreement between the Subscriber/mortgagee and the Identity Agent; (b) An appointment in writing can be paper or electronic so long as it meets the requirement of being an agreement in the relevant Jurisdiction; (c) The appointment in writing must contain a direction to use the VOI Standard in MPR Schedule 8; (d) The appointment in writing must occur prior to the Identity Agent meeting with the mortgagor using the VOI Standard. (Note: it may otherwise be common for brokers to complete a paper or digital form after they have collected identity documentation from a mortgagor which may give rise to issues about whether an agent's role may be ratified to being an Identity Agent after the interview is completed.); (e) An Identity Agent must provide a certification substantially in the form contained in MPR Schedule 9; (f) An Identity Agent must meet the insurance requirements detailed in the MPR Schedule 6; (g) The Subscriber or mortgagee must reasonably believe that the Identity Agent is reputable, competent and appropriately insured; (h) Only a Subscriber, a mortgagee or an Identity Agent may use the VOI Standard. A Subscriber or mortgagee that uses an agent that does not meet the MPR requirements applicable to	MPR Guidance Notes may be amended	ARNECC will consider amendments to the MPR Guidance Notes in light of the amendments made to the MPR.

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		an Identity Agent cannot rely on compliance with the VOI Standard pursuant to MPR (MPR 6.5.6).		
103.	Guidance Notes	It is recommended that ARNECC updates Guidance Note 2 – Verification of Identity and Guidance Note 5- Retention of Evidence to include a clear and unambiguous guidance statement such as: "In the absence of the relevant Registrar: (a) waiving compliance with provisions of the Model Participation Rules in accordance with Section 27 of the ECNL (as adopted or implemented in a Jurisdiction by the Application Law); and/or (b) determining and publishing Participation Rules in accordance with Section 23 and 25 of the ECNL (as adopted or implemented in a Jurisdiction by the Application Law), with effect that is contrary to this guidance, ARNECC's guidance is that Subscribers and mortgagees should employ the VOI Standard contained in Schedule 8 of the Model Participation Rules, which continues to remain the preferred approach to satisfying the "reasonable steps" requirement in respect of identity verification and should be applied by Subscribers and mortgagees in the first instance wherever possible." Guidance Note 2 – Verification of Identity and Guidance Note 5- Retention of Evidence should be amended to include a clear and unambiguous guidance statement such as: "In the absence of clear and unambiguous written guidance to the contrary Subscribers and mortgagee's should not interpret any ARNECC position statement or update as changing ARNECC's guidance that the VOI Standard contained in Schedule 8 of the Model Participation Rules remains the preferred approach to satisfying the "reasonable steps" requirement in respect of identity verification and should be applied by Subscribers and mortgagees in the first instance wherever possible." Guidance Note 2 – Verification of Identity and Guidance Note 5- Retention of Evidence should be amended to include a clear and unambiguous guidance statement such as: "Where a Subscriber or mortgagee adopts temporary verification of identity procedures in response to prevailing influences (including for example in bushfire fire affected areas, during lockdowns associated with the COVID 19 pandemic or in respect of socially disadvantaged clients) ARNECC's guidance is that consideration should be given	MPR Guidance Notes may be amended	ARNECC will consider amendments to the MPR Guidance Notes.

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		(and evidence maintained) why those procedures should be applied to the facts and circumstances relevant to each Person Being Identified. While compliance with the VOI Standard is not mandatory a Subscriber or mortgagee can verify the identity of a Person Being Identified in any way that constitutes reasonable steps. ARNECC's Guidance does not remove the discretion or professional judgment of practitioners, Subscribers or mortgagees. Similarly a Compliance Examination carried out by a Registrar involving production of a Document that purports to evidence reasonable steps other than those described in the VOI Standard should not be taken as affirmation of the procedure adopted in that or any other circumstance. Where discretion or judgment is applied to adopt "reasonable steps" other than those contained in the VOI Standard a Registrar makes no determination on whether the steps are reasonable or not during a Compliance Examination. Only a court can make that determination and the consequence of the judgment or discretion exercised lies with the mortgagee and/or Subscriber. The VOI Standard contained in Schedule 8 of the Model Participation Rules remains the preferred approach to satisfying the "reasonable steps" requirement in respect of identity verification and should be applied by Subscribers and mortgagees in the first instance wherever possible." Guidance Note 2 – Verification of Identity and Guidance Note 5- Retention of Evidence should be amended to include a statement such as "Whilst not determinative of views that may be taken by all stakeholders (for example other regulators, professional bodies, industry associations, professional indemnity insurers and consumers) ARNECC's view is that the Model Participation Rules and the procedures contained in the VOI Standard are consistent with the VOI procedures that should be implemented by reasonable and prudent Subscribers and mortgagees in respect of Conveyancing Transactions. The VOI Standard contained in Schedule 8 of the Model Participation Rules remains ARNECC's preferred approach to satisfying the "reasonable steps" requirement in respect of identity verification and should be applied by Subscribers and mortgagees in the first instance wherever possible." Guidance Note 2 – Verification of Identity and Guidance Note 5- Retention of Evidence should be amended to include a statement such as: "Subscribers and mortgagees that determine to apply identity verification procedures other than the VOI Standard in Schedule 8 of		

#	Rule	Stakeholder Feedback	Action	ARNECC Response
		the Model Participation Rules should consider that position carefully in the context of the potentially significant consequences that may follow from a decision not to employ the VOI Standard in Schedule 8 of the MPR wherever possible. Case law in various states illustrates that the consequences may include: (1) Liability in negligence or breach of fiduciary obligations; (2) Suspension or Termination of the Subscriber by or at the direction of a Registrar; (3) Breach of obligations prohibiting misleading and deceptive conduct (pursuant to s18 of the Australian Consumer Law); (4) Breach of obligations prohibiting false or misleading representations (pursuant to s29 of the Australian Consumer Law); (5) Breach of obligations prohibiting misleading and deceptive conduct in relation to financial services (pursuant to s12 DA of the ASIC Act or S 1041H of the Corporations Act); (6) Litigation conflict with a Registrar arising in connection with a claim made against a Torrens assurance fund; (7) unsatisfactory professional conduct. Many of these should also be considered in the context of proportionate liability regimes that apply differently in each State and Territory of Australia. The list above is not an exhaustive list of potential consequences and ARNECC's guidance is that Subscribers and mortgagees should make a full assessment of the potential consequences of a decision not to employ the VOI Standard in Schedule 8 of the MPR wherever possible"		
104.	Resourcing	Again, raising concerns that ARNECC are increasing their regulatory burden without having communicated how they intend to be resourced and effect adequate compliance. In this regard, it would be welcomed and encouraged for ARNECC to be more forthcoming in outlining how it will meet its regulatory and compliance resourcing challenges.	None	Feedback noted.