

## MINISTERIAL DIRECTIONS STATEMENT

### **Ministerial direction on implementation dates to deliver a secure national interoperability regime and effective competition**

Relevant Ministers and their representatives from all jurisdictions met on 18 October 2021 to discuss progress with the national interoperability reform, to support a sustainable competitive market structure for electronic conveyancing.

Ministers and industry continue to work together to implement this important national reform so that effective market competition can be achieved in order to facilitate an environment so all Australians may benefit from lower prices, better service and more innovation.

Ministers noted progress with the reform:

- The Electronic Conveyancing National Law Amendment Bill is ready for targeted consultation,
- Industry and jurisdiction officials have developed the initial version of the Application Programming Interface (API) specification describing communication between Electronic Lodgment Network Operators (ELNOs) and are finalising the design of the API specifications required for the first interoperable transaction,
- National Model Operating Requirements version 7 has been updated with stakeholder feedback for a second round of consultation in November 2021, and
- Jurisdictions, peak bodies and ELNOs continue to work together to define an approach for the ELNO interoperability agreement, with the Australian Competition and Consumer Commission as an observer to this working group.

National peak bodies and operating ELNOs provided feedback on reform progress.

The incumbent operator, Property Exchange Australia Ltd (PEXA), proposes revising the date for the first transaction to October 2022, from the previously agreed date of the first quarter of 2022. This would mean potentially interoperability for all transactions not being available until 2024.

Incoming operator (Sympli Australia Pty Ltd) advised it was working to the Ministers' original timetable for the first transaction, and supported a more ambitious timetable for all interoperability transactions being functional by the first half of 2023 and live in some jurisdictions in 2023.

National peak bodies being the Australian Banking Association, the Australian Institute of Conveyancers and the Law Council of Australia called for the timely introduction of interoperability that will preserve the security of electronic conveyancing and deliver vigorous competition.

ACCC Chair emphasised the potential delays to interoperability have now risked putting competition in the electronic conveyancing market beyond reach. Mr Sims asked governments to enable legislation and national regulations immediately to require interoperability. He urged governments to include clear and accountable timeframes, and consequences for ELNOs not meeting these.

All State and Territory ministers agreed to the following key dates for implementation to deliver a secure national interoperability regime and effective competition:

- **February 2022:** NSW to introduce changes to the national law into NSW Parliament,
- **3<sup>rd</sup> Quarter 2022:** Commence with 'Day 1 transaction' (being a limited scope refinance, not available in the market generally), and
- **Mid-2023:** all interoperable transactions functional, with roll-out commencing in jurisdictions in the second half of 2023.

Federal ministers were unable to attend this forum due to Federal parliament commitments, however, subsequently endorsed this timetable that will see roll-out of interoperability from no later than mid-2023.

This gives stakeholders 21 months to prepare for updating their systems to support interoperability, building on three years of work so far. Ministers agreed a priority for all governments is ensuring all risks are managed and mitigated.

Ministers are arranging for their jurisdictional approvals to be ready for introducing the changes to the national law in early February 2022, and for the Model Operating Requirements to require interoperability be available by the first half of 2023.

In addition, jurisdictions noted NSW may update its licence conditions for ELNOs who wish to operate in NSW to require interoperability be available by the first half of 2023 to further support this nationally agreed timetable.

Ministers thanked national industry peak bodies, ELNOs, ARNECC, Revenue Offices electronic conveyancing Committee and other jurisdictional experts.

Ministers agreed to meet next in early 2022 to coincide with the introduction of the amendments to the ECNL.

## **Background**

### **Interoperability to support customer choice**

The national electronic conveyancing system is a world first and allows legal practitioners, conveyancers and financial institutions to electronically prepare and lodge land property dealings with title registries.

Practitioners and financial institutions can also transmit settlement funds and pay associated duties and tax, removing the need to physically attend property settlements.

As there is currently no interoperability between ELNOs, all parties to conveyancing transactions must use the same ELNO to complete the transaction. Interoperability refers to different ELNOs' systems being able to communicate with each other to complete a property transaction. For multi-party transactions, interoperability would allow practitioners to use the ELNO of their choosing, without having to subscribe to all ELNOs to complete a property transaction.

A key priority is cyber security to ensure that our land title systems remain safe and secure. This will be paramount in instilling trust in, confidence in and support for interoperability. ELNOs have become critical national economic infrastructure to facilitate the buying and selling of property in Australia. Around 9,000 small-to-large businesses in conveyancing, legal and financial sectors, rely on the infrastructure provided by ELNOs. Currently, ELNOs process around 1.8 million electronic property transactions per year.

## **Participants in attendance or represented at the Forum**

### **State and Territory Ministers**

- The Hon. Victor Dominello MP, New South Wales Minister for Digital and Minister for Customer Service
- The Hon. Vickie Chapman MP, South Australia Deputy Premier, Attorney-General, Minister for Planning and Local Government
- Mr Shane Rattenbury MLA, Australian Capital Territory Attorney-General, Minister for Consumer Affairs, Minister for Water, Energy and Emissions Reduction, and Minister for Gaming
- The Hon. Selena Uibo MLA, Northern Territory Attorney-General and Minister for Justice; Minister for Treaty and Local Decision Making; Minister for Aboriginal Affairs; Minister for Parks and Rangers
- The Hon. Scott Stewart MP, Queensland Minister for Resources
- The Hon. Jacquie Petrusma MP, Tasmania Minister for Police, Fire and Emergency Management; Minister for Parks; Minister for the Prevention of Family Violence
- The Hon. Richard Wynne MP, Victorian Minister for Planning and Minister for Housing (represented by Melissa Harris Registrar of Titles)
- The Hon. Dr Antonio De Paulo Buti MLA Western Australia Minister for Finance; Lands; Sports and Recreation; Citizenship and Multicultural Interests

### **Federal Ministers** (unable to attend due to Federal parliament sitting)

- The Hon. Senator Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy, Minister for Women's Economic Security
- The Hon. Michael Sukkar MP, Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing

**Australian Competition and Consumer Commission**

- Rod Sims, Chair, Australian Competition and Consumer Commission
- Anna Brakey, Commissioner, Australian Competition and Consumer Commission

**Industry representatives**

- Property Exchange Australia Ltd
- Sympli Australia Pty Ltd
- Australian Banking Association
- Australian Institute of Conveyancers National Council
- Law Council of Australia