

## Model Operating Requirements (MOR) Consultation Draft 7.2 – Explanatory Notes

This table outlines the key proposed amendments in Consultation Draft 7.2 of the MOR published in September 2023.

### IMPORTANT NOTE:

ARNECC has released Consultation Draft 7.2 of the MOR in the interest of obtaining stakeholder feedback prior to MOR Version 7 taking effect. This Consultation Draft includes Version 7.1 markups made in 2021 and 2022 (following stakeholder consultation) and Version 7.2 markups made in 2023 (outlined below). ARNECC welcomes stakeholder feedback.

ARNECC will consider any amendments to the MOR, relating to Interoperability Service Fees (as mentioned in the below table) and compliance with the Electronic Conveyancing Payments Industry Code (once completed), for Version 8.

#	Rule	Amendments	Explanatory Notes
<b>MOR 2.1 – Definitions</b>			
1.	Licensed Conveyancer	Amended definition of Licensed Conveyancer.	Amended to align with the definition of Licensed Conveyancer proposed in Model Participation Rules Consultation Draft 7.  This definition was amended because: <ul style="list-style-type: none"> <li>• a Licensed Conveyancer is not known as such in every Jurisdiction;</li> <li>• the new wording is consistent with other definitions in the MPR and MOR referring to other legislation; and</li> <li>• of changes to the mutual recognition scheme.</li> </ul>
<b>MOR 5.2 – National system and electronic Registry Instrument and other electronic Document capability</b>			
2.	5.2.1	Added Operating Requirement '5.2.1' reference.	Due to the addition of new paragraphs 5.2.2 and 5.2.3 (see rows 3 and 4 below).
3.	5.2.2	Added Operating Requirement 5.2.2, requiring, subject to the Interoperable Lodgment Case being capable of Lodgment in the Jurisdiction, an ELNO Approved before Operating Requirements Version 7 taking effect, to: <p>a) on or before 31 July 2025, design, build, test all technical and functional capability for, and implement:</p> <p><b>Release 1</b> – being Lodgment of an Interoperable Lodgment Case that includes a Mortgage and Discharge of Mortgage by a limited group of ADIs acting on their own behalf as approved by the Registrar; and</p>	This addition outlines the interoperability release timetable, in line with ARNECC's announcement published on 7 July 2023: <a href="https://www.arnecc.gov.au/wp-content/uploads/2023/07/ARNECC-announcement-July-2023.pdf">https://www.arnecc.gov.au/wp-content/uploads/2023/07/ARNECC-announcement-July-2023.pdf</a> .  ARNECC intends to update the MOR Guidance Notes to provide guidance on requirements for meeting this Operating Requirement. It is intended that jurisdictions not ready or scheduled to meet this timetable will issue a waiver to ELNOs, under section 27 of the ECNL, in addition to the section 18A ECNL waivers currently in place.

		<p>b) on or before 31 December 2025, design, build and test all technical and functional capability for:</p> <p><b>Release 2</b> – being Lodgment of an Interoperable Lodgment Case that includes a Mortgage and Discharge of Mortgage by any Subscriber; and</p> <p><b>Release 3</b> – being Lodgment of all available electronic Registry Instruments and other electronic Documents required under Operating Requirement 5.2.1 as part of an Interoperable Lodgment Case by any Subscriber.</p>	
4.	5.2.3	<p>Added Operating Requirement 5.2.3 to provide that if an event occurs, which the Registrar determines is outside an ELNO's control and which prevents the ELNO from complying with Operating Requirement 5.2.2, the Registrar may by written notice extend the date for compliance of any part of Operating Requirement 5.2.2.</p>	<p>This addition allows the Registrar to alter the interoperability release timetable if the Registrar determines that circumstances outside of an ELNO's control have prevented that ELNO from complying with it. In such a circumstance, the Registrar may give a written notice extending the date for compliance.</p>
5.	5.2.4	<p>Added Operating Requirement 5.2.4, requiring ELNOs Approved after Operating Requirements Version 7 taking effect, to be capable of Lodging any electronic Registry Instrument and other electronic Document required under OR 5.2.1(b) as part of an Interoperable Lodgment Case.</p> <p>After 5.2.4, added a note that 'The implementation of Operating Requirement 5.2 in relation to Interoperability is subject to the Registrar being reasonably satisfied that independent system readiness reviews recommend that Interoperability is ready to commence in the Jurisdiction for the types of Registry Instruments referenced'.</p>	<p>This addition recognises that the Interoperability Requirement in section 18A of the ECNL applies to all ELNOs including those yet to be Approved.</p> <p>The drafting for MOR 5.2.4 follows the existing drafting in MOR 5.2.1, which allows ELNOs to reasonably stage implementation in accordance with the ELNO's Business Plan in other words as Registry Instruments become available in their ELN.</p> <p>The note after 5.2.4 is intended to assure industry that ARNECC will undertake independent system readiness reviews before Interoperability is implemented and indicates dependencies on that implementation.</p>
<b>MOR 5.4 – ELNO Service Fees</b>			
6.	5.4.3	<p>Amended the end date for the period during which an ELNO may increase the ELNO Service Fees in accordance with the Consumer Price Index from 30 June '2024' (as appears in MOR Version 6.2) to 30 June '2025'.</p>	<p>The intention of MOR 5.4.3 is to restrict ELNO Service Fee increases until there is effective competition in the market, which has not yet occurred.</p>
7.	5.4	<p>Removed any paragraphs relating to (and the definition of) Interoperability Service Fees.</p>	<p>The NSW Independent Pricing and Regulatory Tribunal has now completed its review of interoperability pricing and has issued a Final Report with recommendations. ARNECC is reviewing those recommendations and will</p>

			consider any amendments to the MOR for Version 8.
<b>MOR 10.3 – Data standards</b>			
8.	10.3.2(a)	Amended to require an ELN to use the NECIDS to participate in an Interoperable Lodgment Case ‘to complete a Conveyancing Transaction...’.	This addition requires ELNOs to use the NECIDS to complete a Conveyancing Transaction, as defined in the ECNL, by means of Interoperability. In essence, this addition requires ELNOs to implement the scope (functions and features) of Interoperability; the scope items for each Interoperability release being outlined in the NECIDS.
<b>MOR 10.10 – Land Registry Fees</b>			
9.	10.10(a)	Amended to specify that any irrevocable commitment to pay Lodgment Fees would be in relation to a payment to ‘the ELNO, or the ELNO whose ELN is being used by the Responsible Subscriber’.	This amendment adds to proposed updates included in MOR Consultation Draft 7.1. It provides clarification and recognises that there will be both non-Interoperable and Interoperable Lodgment Cases.