

Waiver No: OR3/2024

OPERATING REQUIREMENTS WAIVER

South Australia

Section 27 Electronic Conveyancing National Law South Australia

Title

This instrument is South Australia Operating Requirements Waiver OR3/2024 – Supplier and ELNO legally binding agreement requirement

Enabling Provisions

1. Under sections 22 and 25 of the *Electronic Conveyancing National Law South Australia* (the National Law) the Registrar-General (Registrar) as determined and published Version 7 of the Operating Requirements which came into effect on and from 28 March 2024 (Operating Requirements).
2. Capitalised terms used in this instrument and not defined have the meaning given to those terms in the National Law or the Operating Requirements.
3. Section 27 of the National Law permits the Registrar to waive compliance with all or any provisions of the Operating Requirements if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

Affected Operating Requirements

Operating Requirement 7.3.1(g).

Explanatory Statement

Operating Requirement 7.3.1(g) requires ELNOs to take reasonable steps to ensure that they have a legally binding agreement with any Supplier, which includes certain undertakings by the Supplier.

Operating Requirement 2.1.2 defines Supplier broadly, to be:

Supplier means a Person that provides services to the ELNO in relation to the development, operation, maintenance and security of the ELN. This includes a Cloud Service Provider and any other Person that handles, stores or processes Land Information, but does not include a Land Registry, Duty Authority, the Australian Taxation Office or an ELNO with which it Interoperates.

NECDS Limited has certain functions relating to maintaining and curating the NECDS and has granted a licence to ELNOs to use the NECDS and other related material.

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NECDS Limited does not fall within the exceptions to the definition of Supplier but was not intended to be a Supplier for the purposes of the Operating Requirements.

For the avoidance of doubt, the Registrar has determined to grant a partial waiver modifying the obligations of ELNO(s) under the Affected Operating Requirements.

Waiver

The Registrar grants ELNO(s) a partial waiver of their obligations to comply with the Affected Operating Requirement in respect of any agreement entered into between the ELNO and NECDS Limited.

Commencement

This partial waiver commences on the date it is signed.

Period during which this waiver applies

This partial waiver operates until the earlier of:

- (a) the amendment of the Operating Requirements to exclude NECDS Limited from the definition of Supplier; or
- (b) the revocation of this waiver by the Registrar.

Dated: 20 December 2024

Signed by:



**Gemma Wallace
Registrar-General**