

**29 March 2023**

Ms Carmel Donnelly PSM  
Chair  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop  
SYDNEY NSW 1240

By [online submission form](#)

Dear Ms Donnelly

**Draft Report—Interoperability pricing for Electronic Lodgment Network Operators**

The Law Council of Australia is pleased to provide this submission to the Independent Pricing and Regulatory Tribunal (**IPART**) in response to the *Draft Report—Interoperability pricing for Electronic Lodgment Network Operators (Draft Report)*. This submission has been prepared with the assistance of the Law Council's National Electronic Conveyancing System Committee.

The Law Council generally supports the 11 draft recommendations set out in the Draft Report.

The Law Council is pleased to note that IPART has determined an interoperability fee that nominally reflects only the marginal costs that are unique to the Responsible Electronic Lodgment Network Operator (**ELNO**) that completes the lodging and financial settlement, and recognises that overheads and variable costs associated with provisioning an ELNO in compliance with Australian Registrars' National Electronic Conveyancing Council requirements are common to all ELNOs.

The Law Council is not necessarily persuaded that the proposed 75 cent fee reflects a Responsible ELNO's likely marginal costs of 'issue-handling'. The Law Council is though supportive of setting that initial rate with a review after three years of interoperability to determine whether the fee is over-recovering or under-recovering a Responsible ELNO's unique marginal costs of performing that role.

The Law Council notes that the Law Society of New South Wales (**LSNSW**) has also provided a separate submission in response to the Draft Report. The Law Council has had the opportunity to consider the LSNSW's submission and endorses the comments made in the submission.

Like the LSNSW, the Law Council strongly supports the inclusion of recommendation 8.b: that subscribers who participate in an interoperable transaction should not pay more than subscribers in a single Electronic Lodgment Network Operator (**ELNO**) transaction. This principle was a core tenet of the Law Council's submission to the initial Issues Paper.<sup>1</sup>

The Law Council also notes the LSNSW's view, in respect of recommendation 5, that consideration could be given to adjusting the regulatory period and timing of the review of interoperability fees currently specified, given the extension of the interoperability timetable documented in the most recent Ministerial Statement published by the Australian Registrars' National Electronic Conveyancing Council.<sup>2</sup> As noted by the LSNSW, the updated timetable may also require an extension of the timeline in which IPART will undertake the additional forthcoming review of ELNO service fees.

Please contact [REDACTED] in the first instance, if you require further information or clarification.

Yours sincerely

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<sup>1</sup> Law Council of Australia, Submission to Independent Pricing and Regulatory Tribunal, [Interoperability pricing for Electronic Lodgment Network Operators - Issues Paper](#) (12 August 2022) attachment, 3.

<sup>2</sup> Australian Registrars' National Electronic Conveyancing Council, [Ministerial Forum: National Electronic Conveyancing Towards a sustainable, competitive national electronic conveyancing market](#) (Ministerial Statement, March 2023).